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Public Land and Mineral Ownership in Minnesota



A Guide for Teachers

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Minnesota Department of Natural Resources
Division of Lands and Minerals
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Preface

This book is written to provide an understanding of public land ownership in Minnesota to high school teachers and other people interested in public land history and management. It is intended to be used as a resource to supplement discussions on Minnesota's history, government or geography.

Section 8, titled "Suggested Discussion or Research Topics," is included to identify stories or topics for discussion in the classroom or for further research by students.

The statistics used in this report are based on what is deemed the most reliable resource for the information presented. However, the statistics are often only an "educated guess," since there is no comprehensive inventory, past or present, of publicly-owned lands.

Land was used by both the federal and state governments as a means to encourage settlement in the state and the development of the state's resources. Individuals and families were able to obtain lands through hard work and small payments, a goal that brought many immigrants to the state.

The story of land ownership also includes tales of fraudulent acts, scandals, corrupt practices, legislative investigations, and lawsuits. Nevertheless, Minnesota is different from many states in that while there were large conveyances of the publicly owned lands, there was also a recognition of the need to conserve lands and the revenue generated from the lands and minerals to benefit future generations.

Federal land ownership is concentrated in the Superior National Forest, which is located in Cook, Lake and northern St. Louis counties, and the Chippewa National Forest, which is located in western Itasca and northern Cass counties. State land ownership is more widely dispersed than the federal government's, with state land ownership concentrated in 9 counties. (See Figures 4, 5 and 5A.)

About 1½% of the lands in Minnesota are held in trust by the federal government for Indian tribes and individual Indians. Most of the eleven Indian reservations are found in northern Minnesota, with the Red Lake Indian Reservation being the largest in size.

This book will explain how this pattern of land ownership came about. It will also explain some of the commitments that were made that affect how the land is managed today.

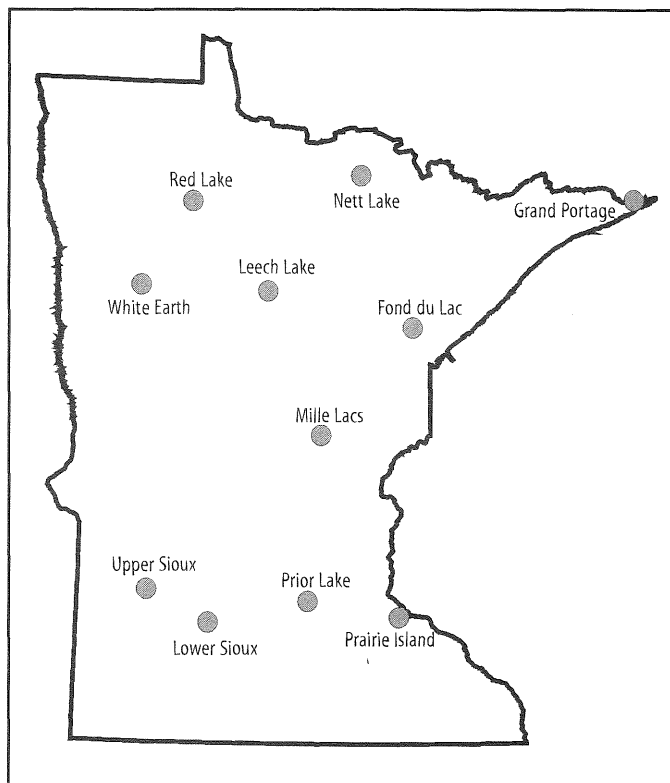


Figure 2 – Indian reservations in Minnesota.

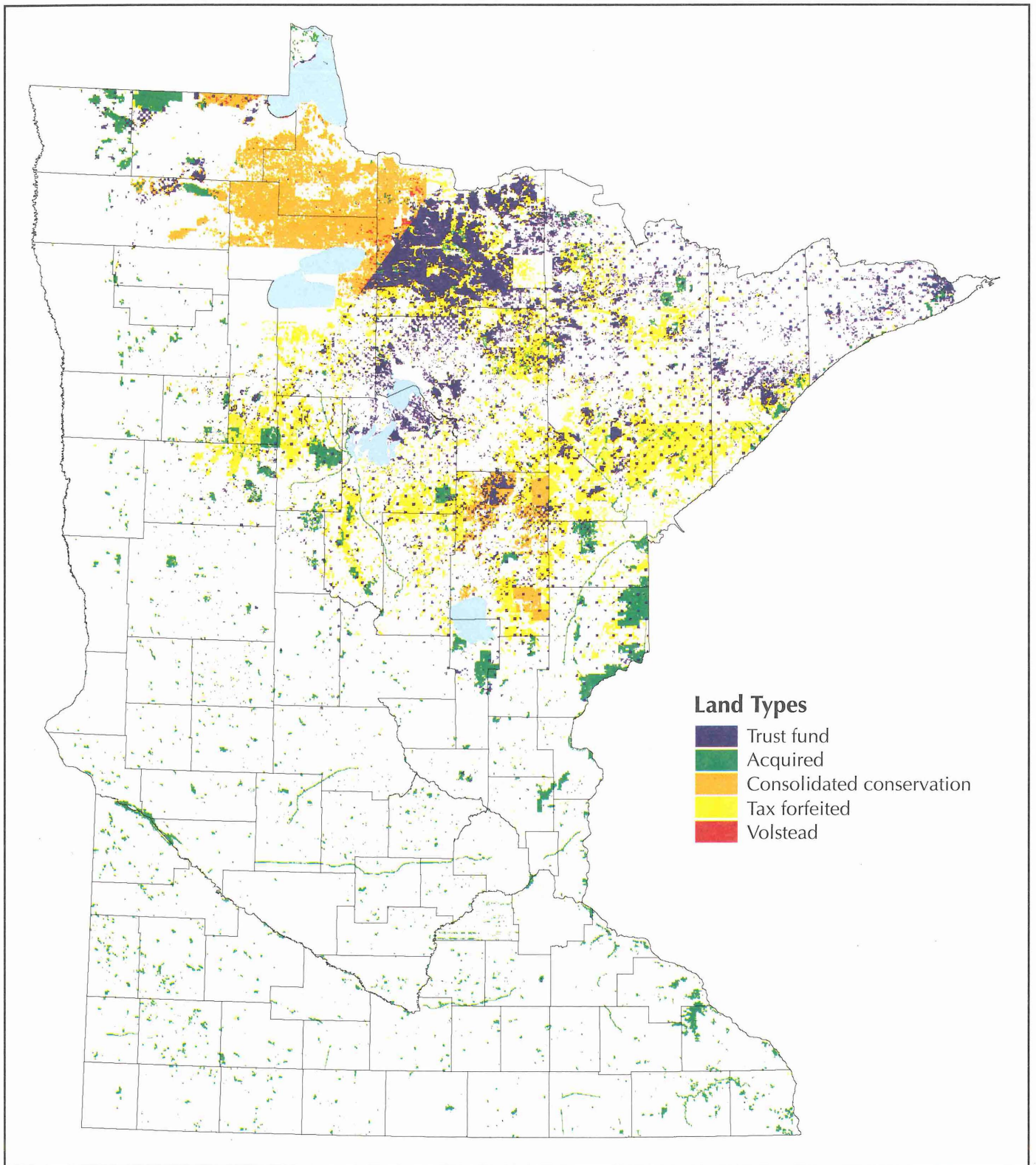


Figure 3 – State-owned lands administered by DNR and county, by land type, 2000.
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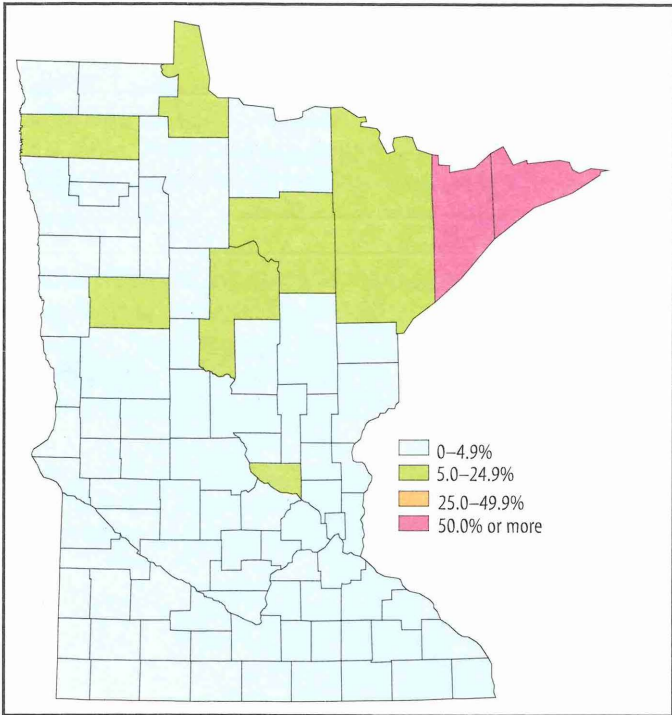


Figure 4 – Federal land ownership, as a percent of county land area.

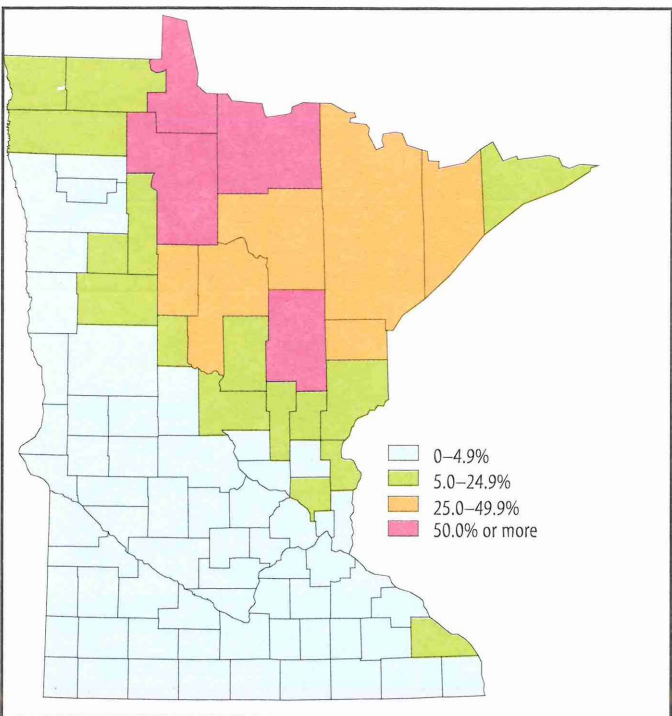


Figure 5 – State land ownership, including trust fund, acquired, and tax-forfeited lands, as a percent of county land area.

Data for these maps (Figure 4, Figure 5, and Figure 5A) was obtained from the 1983 Department of Natural Resources and Land Management Information Center Inventory.

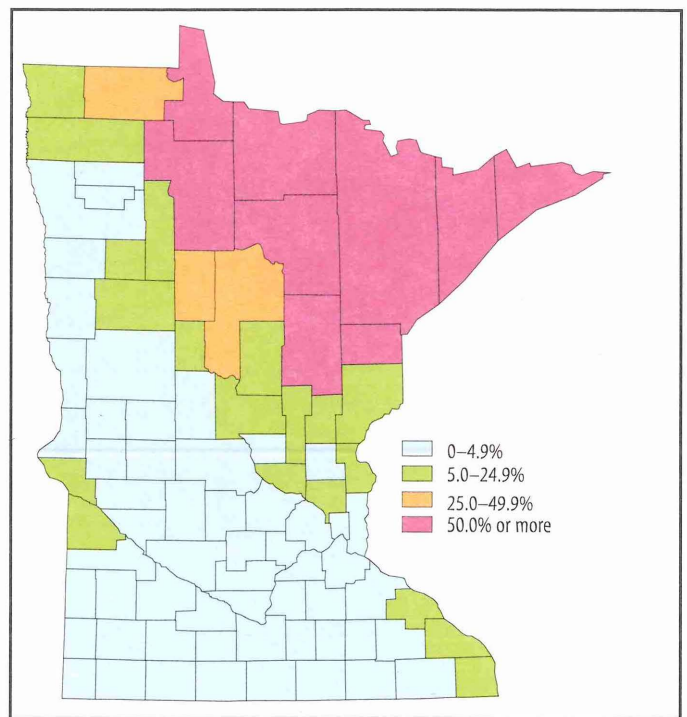


Figure 5A – Public land ownership, including federal and state lands.

Section 2

Origins of Federal Ownership

Most of the land in Minnesota has at one time been owned by the federal government. The federal government's ownership was acquired through treaties between the government and foreign nations and between the government and Indian tribes.

It was accepted among the European countries that discovery gave title of the land to the government that was represented by the individual making the discovery. These countries also recognized the Indians' right to the lands they used and occupied.

In the late 1600s, France claimed the area now covered by Minnesota. By the Treaty of Paris of 1763, following the French and Indian War in America and the Seven Years War in Europe, France conveyed to England all their possessions on the continent of North America that were east of the Mississippi River, except for the island of New Orleans. The lands west of the Mississippi River and the island of New Orleans had earlier been transferred from France to Spain by a secret treaty in 1762.

Parts of the area now covered by Minnesota were transferred again at the end of the Revolutionary War between England and America. In the 1783 treaty, England transferred to the United States all lands claimed by England that were east of the Mississippi River. The exact boundary between Minnesota and Canada would not be determined until 1872, through additional treaties and a survey.

Another secret treaty between Spain and France, this time in 1800, resulted in the transfer back to France of the Spanish lands held west of the Mississippi River. Finally, on April 30, 1803 through the "Louisiana Purchase," the United States acquired the lands France had claimed west of the Mississippi River.

The federal government also had to deal with land claims by the original colonies. The State of Virginia claimed to own parts of Minnesota based on its charter of 1609 from

the King of England. General George Rogers Clark (brother of William Clark of Lewis and Clark expedition fame) led a Virginian army in

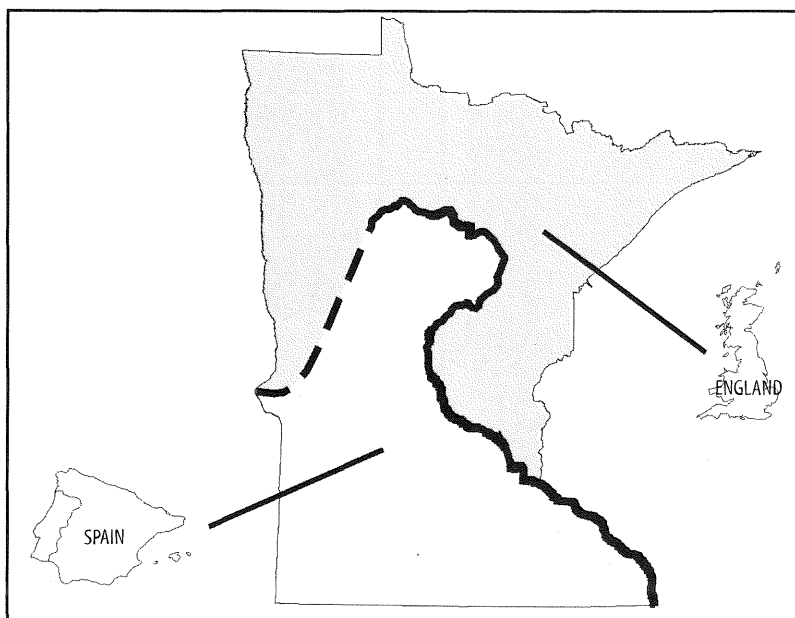


Figure 6 – This map shows the boundary between the Spanish and English land claims during the years of 1763–1783 in what is now Minnesota.

1778 to establish control over an area that included those parts of Minnesota east of the Mississippi River. This claim was ceded to the United States in 1784.

After acquiring the land claims from England, France and the original colonies, the federal government started to negotiate treaties with the Indian tribes. The federal government recognized the Indian tribes as having a possessory right to the land — a right to the land they occupied. Through treaties or federal legislation, the Indians' right to occupy specified lands were transferred to the federal government. Sometimes certain rights, such as hunting and fishing, were reserved to the Indians in the treaties. In some treaties reservations were also created, with areas of land set aside to be held in trust for the Indians and managed for them by the United States.

By the early 1800s, bands of the Dakota tribe dominated southern and west central Minnesota and bands of the Objive tribe dominated northern and east central Minnesota. The first Indian treaty affecting land in Minnesota was signed by Lt. Zebulon M. Pike and the Dakota in 1805. It provided for the cession of two tracts of land that were going to be used to establish military posts. One tract of land was nine miles square at the mouth of the St. Croix River. The other tract started from below the confluence of the St. Peter's River (later renamed the Minnesota River) and the Mississippi River, went up the Mis-

issippi to include St. Anthony Falls, and extended nine miles each side of the river. This tract became the site of Fort Snelling.

Major land cessions by the Dakota occurred in treaties signed in 1837 and 1851. Many of these treaty provisions were revised by Congress following the Dakota outbreak of 1862. Major land cessions by the Objive occurred in treaties signed between 1837 and 1866. After completing these agreements with the Indians, the federal government opened many of the lands for settlement.

Minnesota's Boundaries

Minnesota's boundaries were established as a result of international treaties and the admittance of the states to the union. The southern border for Minnesota was established in 1846, when Iowa was admitted to the union. The eastern border of Minnesota was established in 1848, upon the entrance of Wisconsin to the union. The Enabling Act of February 26, 1857, by which the U.S. Congress authorized Minnesota to form a state constitution, established the western border of the state.

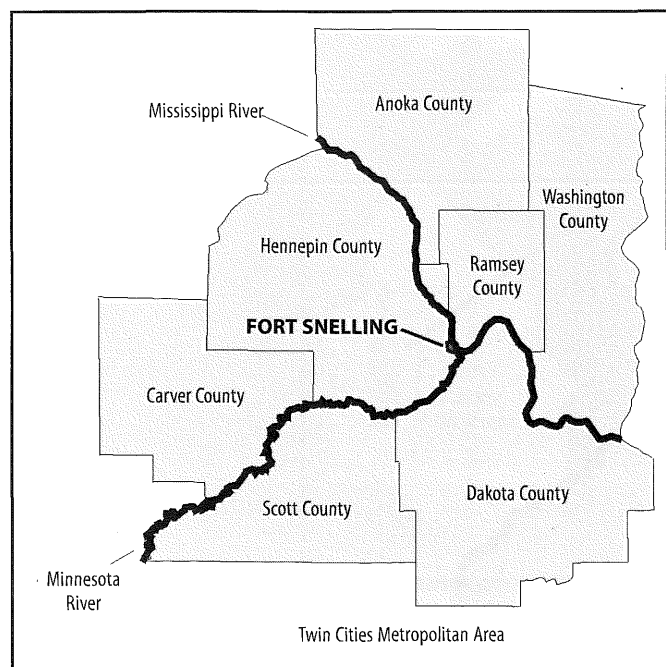


Figure 7 – Fort Snelling. Located at the meeting of the Minnesota and Mississippi rivers.



Figure 8 – Dates of Minnesota boundary establishment. Areas are labeled as they are named today.

The northern border of Minnesota is also an international boundary. The September 3, 1783 treaty between England and America, at the end of the Revolutionary War, established the boundary between the two countries through the Great lakes to the northwestern point of Lake of the Woods. However, the 1783 treaty assumed that Lake of the Woods drained into Lake Superior and that the source of the Mississippi River was north of Lake of the Woods. Both assumptions were wrong.

The 1814 Treaty of Ghent, between England and the United States at the end of the War of 1812, established a joint commission to study and resolve this boundary location. The commission selected three possible locations for the border from Lake Superior to the northwestern point on Lake of the Woods. It was in the Webster-Asburton Treaty of 1842 that the Pigeon River was the location finally selected.

The October 20, 1818 treaty between England and the United States further established the international boundary along the forty-ninth parallel from the northwestern point of Lake of the Woods to the "Stony" (Rocky) Mountains. The 1818 treaty also directed how to tie in this new boundary from the northwestern point of Lake of the Woods to the forty-ninth parallel if the point was not on the forty-ninth parallel. The boundary line between Lake of the Woods and the forty-ninth parallel was determined by a survey in 1872, with the northwestern point of the lake being found in a marsh under several feet of water.

Section 3

The Public Land Survey

Ownership of land has different meanings in different cultures. For some societies, land is only owned by the tribe or by the government and not by individuals. Sometimes the boundaries of land ownership are not well defined, and only through possession or fighting are claims laid to an area. The land ownership philosophy in the United States and in Minnesota is based on the idea that you can identify boundaries of land, and that individuals and governmental entities can own specific, identifiable pieces of the land.

In order to open up all the land for settlement that it had acquired, the federal government recognized the need for an orderly system of conveying the land to Revolutionary soldiers, other individuals, and companies. Therefore, the U.S. Congress adopted the Land Ordinance of 1785. This ordinance created what became known as the United States Public Land Survey.

The public land survey divides all land into regular rectangular areas called townships and townships are divided into sections. Each section of a township is numbered from one to 36, starting at number one in the northeastern corner and proceeding alternatively west and east through section 36. Each section is divided into quarter sections of 160 acres, and quarter sections are divided into quarter-quarter (forty) sections. Irregular sized quarter-quarters are identified by government lot numbers. (See Figure 9.)

Minnesota is one of the public land survey states. Surveyors went into the wilderness of Minnesota to establish and set corners every half mile and township corners every six miles. Further work was done to establish section corners, quarter corners, define boundaries along water bodies, and make other measurements to handle excesses or deficiencies in size from standard sized sections and townships. From their field notes, the surveyors prepared survey plats showing the bearing and length of each line measured, the description of boundaries and the acreage of tracts surveyed.

The result of this surveying system is that land in Minnesota can be uniquely identified by a description consisting of a government lot or forty, section, township and range. For more heavily populated areas, such as in cities, the land has been further subdivided into platted areas.

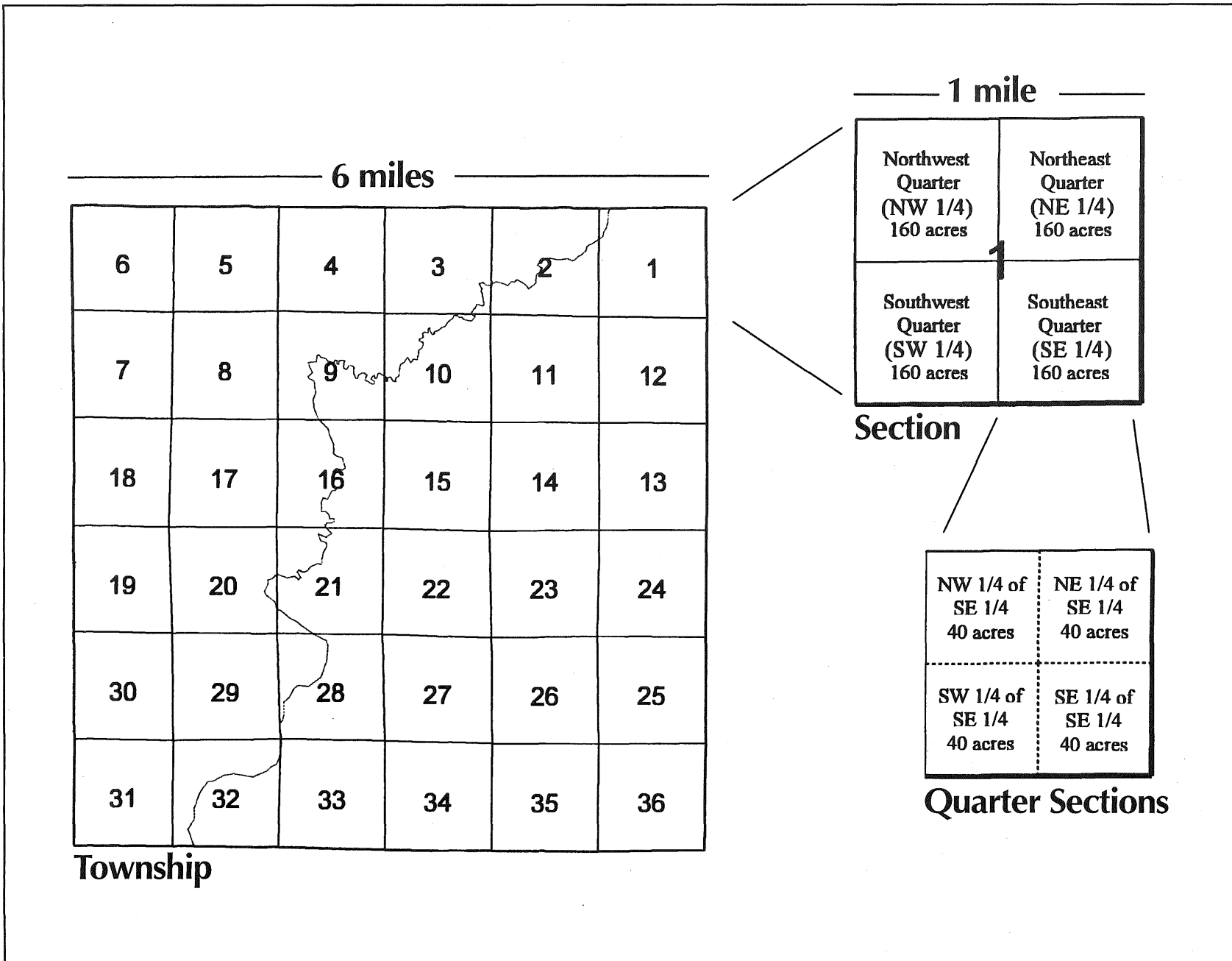


Figure 9 - Public land survey units.

Section 4

Federal Land Grants

Land has often been used by governments to encourage its citizens to take certain action. Payments of money and exemptions from taxation are other tools used to encourage some types of activities. Alternatively, fines and high taxes are used to discourage some activities.

Since colonial times in this country, the conveyance of land has been used to encourage settlement, construction of new industries, development of schools and universities, construction of roads and bridges, drainage of land for agriculture, and construction of public buildings. Land ownership has been used as a means of encouraging settlement and development of this country rather than as a source of revenue for the federal government.

Almost all the land in Minnesota was conveyed by the federal government to individuals, companies and the State of Minnesota. There were conditions and restrictions imposed on many of these grants of land. Sometimes the conditions related directly to the land being granted. Sometimes the conditions required action or commitments by the party receiving the grant, but did not relate directly to the land being granted.

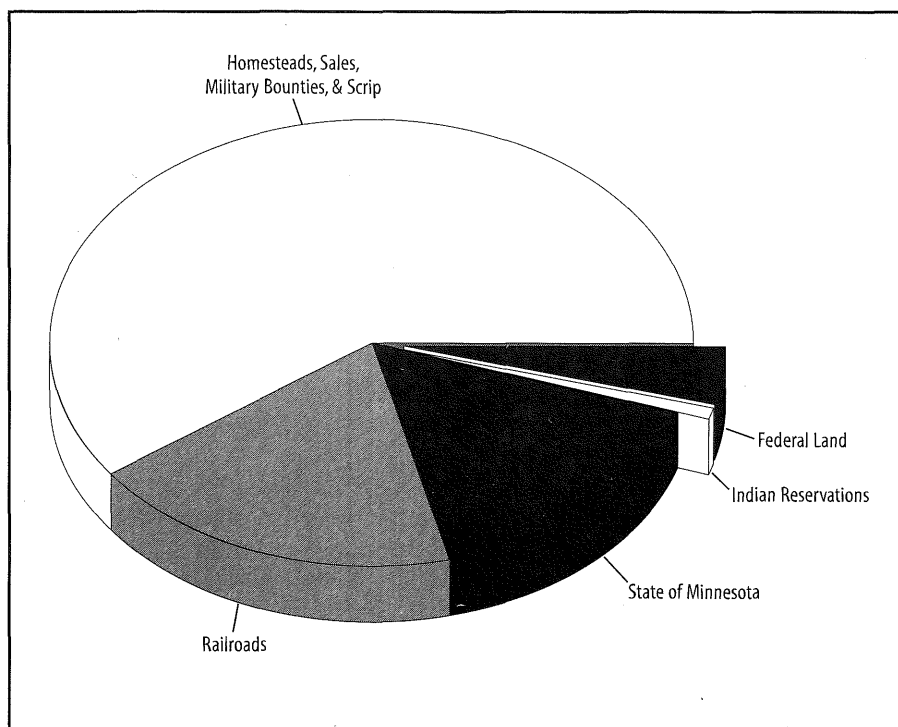


Figure 10 – Conveyance of land in Minnesota, by the federal government.

Federal Land Grants to Individuals

Over half of the total lands in the state were conveyed from the federal government directly to individuals and companies. The initial policy was that the public land would only be sold through a public auction with a minimum price per acre. Also, the lands could not be offered for sale until the lands had been surveyed. The land was not to be settled or timber cut until the land was sold. The Indians' rights of occupancy had to be conveyed to the federal government before the land was sold; this was generally done through treaty.

The first sale of public land in Minnesota took place in 1848 at the land office in St. Croix Falls. The minimum price was \$1.25 per acre.

Settlers and lumbermen started entering the new territories before the land was available to be sold. The amount of activity was so high that the U.S. Congress created a right of "preemption" through the "Log Cabin Bill" of 1841, which provided a right to a settler to purchase land to the exclusion of all other people. The person had to be either the head of a family, a widow, or a single man more than 21, and had either to be a citizen of the U.S. or declared their intent to become a citizen. Settlers were required to inhabit and improve the land and build a dwelling. It was required that they swear in an affidavit that the land was for their own use and benefit. If they met these requirements, they had the right to purchase the land at \$1.25 per acre. The amount of land could not exceed 160 acres. This law applied to lands in Minnesota starting in 1854.

Approximately nine million acres of land were sold in Minnesota through public sales and preemption.

A major federal land policy was decided during the Civil War. It was the "Homestead Act of May 20, 1862." Land was free if you resided on and cultivated the land for five years. To qualify, you needed to be either the head of a family or more than 21, and either a citizen of the U.S. or had declared your intent to become a citizen. Title to the land was obtained after the payment of fees and the submission of proof that you had resided and cultivated the land for five years. The amount of land was limited to 160 acres if the land had been subject to sale at a minimum price of \$1.25 per acre, and the amount of land was limited to 80 acres if the land had been subject to sale at a

minimum price of \$2.50 per acre. It was also possible to purchase the land at the minimum price at any time after six months from the date of filing intent to homestead the land.

The effect of the Homestead Act was the settlement and cultivation of large areas of Minnesota. It is estimated that more than 11 million acres of land were conveyed under this law.

Another sizeable amount of land was conveyed through military bounties. Soldiers participating in any war between the Revolutionary War and the Mexican War received a grant of public land in return for their services. The grants were issued through warrants, a document stating that the holder had the right to acquire a specific amount of vacant land anywhere in the nation. Most of the warrants were sold rather than being used by the soldier, and the price was often quite low. It is estimated that about six million acres of land in Minnesota were claimed by military bounties.

There was widespread abuse of the land acquisition laws in the areas valuable for timber or minerals. Timber companies preceded farmers in claiming preemption of lands. People were hired to claim land under the homestead act and pay for it at the minimum rate after six months. Those people would then convey the land to the lumber or mining company. Fictitious names were used as well as people's names being used without their knowledge or permission.

One of the large timber companies obtained thousands of acres of land containing pine using the St. Paul and Chicago telephone directories. Names of persons listed in the directories were fraudulently used to file preemption claims. An investigation in 1904 found that some local land officers knowingly accepted these false claims and received payment of \$25 per claim for doing so.

The federal government also conveyed the right to claim other public land as part of the terms of some treaties with the Indians. The United States issued scrip, which was a document showing that the holder was entitled to select a certain amount of public land.

The largest issuance of scrip in Minnesota occurred because of the Wabasha Reservation. This reservation was set aside by treaty in 1830 for Dakota mixed breeds. The Indians refused to occupy the reservation. In 1854 the

federal government decided to eliminate any claims by the issuance of scrip to the Indians who had a claim to the reservation. The scrip allowed the holder to select surveyed or unsurveyed public land anywhere in the United States.

In most instances, the Indians who received the scrip did not use it but sold it for small amounts of money or goods. To protect against fraud and unfair sales, the law provided that no transfer of the scrip was valid. One method to avoid an illegal transfer was to have the Indians sign two documents, one providing for the location of the land and one providing for the sale of the land.

About a quarter million acres of land were located in Minnesota using the Wabasha Reservation scrip, and many of those lands were valuable for pine or iron ore. A large portion of the scrip was used to claim lands elsewhere in the country, especially in California. The Wabasha Reservation area was opened for settlement in 1857, and it was rapidly occupied.

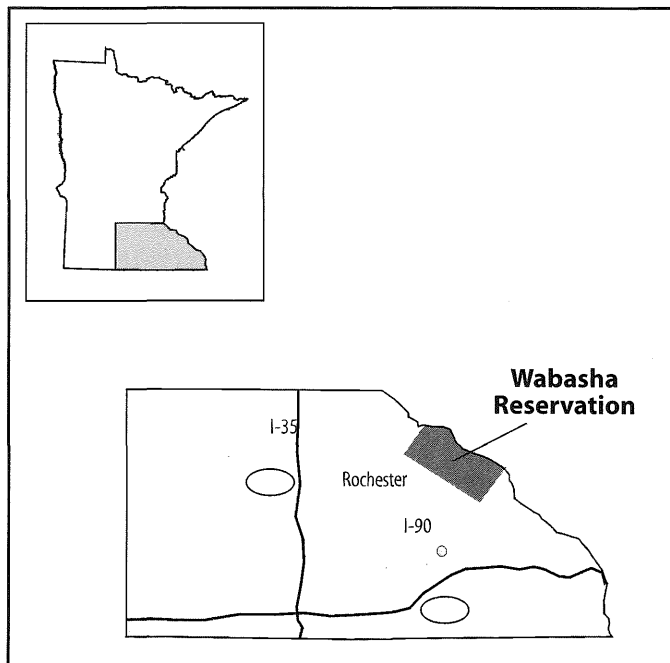


Figure 11 – The Wabasha Reservation area.

Federal Land Grants to Railroads

To help “unlock our icebound home,” Territorial Governor Willis Gorman proposed in 1854 that the territory request land from Congress for the construction of one railroad system. The land conveyed by Congress in 1854 was later withdrawn due to conflicting claims. However, within the next twelve years about 20 percent of the land area in the state was conveyed by the federal government for the purposes of constructing railroads.

In 1857 the U.S. Congress provided land grants to Minnesota for the construction of four railroads. The railroads were to be selected by the state. The land grant was alternate, odd numbered sections at a distance of six miles on each side of the railroads. Three months after the federal grant, the state selected the four railroads and subsequently transferred all the land conveyed by the federal government to those railroads.

In 1865 the federal land grant for railroads was increased by two-thirds, when the distance from each side of the railroad was increased to ten miles. The grant was expanded in the mid-1860s to cover three more railroads. The total federal grant of lands to the state for railroad purposes was eight million acres.

The federal land grant to the Northern Pacific Railway Company, which was for the purpose of encouraging the construction of a railroad to the Pacific Ocean, included 1.9 million acres in Minnesota. This was the only federal land grant for railroad purposes that went directly to a railroad instead of going through Minnesota’s government to a railroad selected by the state. The grant was alternate, odd-numbered sections to a distance of 20 miles on each side of the railroad.

Federal Land Grants to the State of Minnesota

A long term practice in England was followed by the colonial government in this country. Tracts of land were set aside for the support of schools. When Minnesota was created as a territory in 1849, sections 16 and 36 of every township were reserved for the purpose of being applied to the schools in the territory. In 1851, at the request of the territorial legislature, the U.S. Congress reserved from sale 72 sections of land for the support of a university in the territory.

By the Enabling Act of February 26, 1857, the U.S. Congress authorized the Territory of Minnesota to form a constitution and state government. The Enabling Act provided for the following grants of land, totaling about three million acres, to the state:

- (1) Sections 16 and 36 of every township for the use of schools. If any part of a Section 16 or 36 had already been sold or disposed of or was reserved for an Indian reservation, then other lands would be granted. (These alternative lands are called "indemnity" school lands.)
- (2) Seventy-two sections of land for use and support of a state university.
- (3) Ten sections of land for the completion of public buildings, or the erection of other public buildings, at the seat of government.
- (4) All salt springs within the state, provided that they did not exceed 12 in number, along with six sections of land adjoining or contiguous to the salt springs. The use or sale of the salt spring lands was to be as directed by the state legislature.

The Enabling Act also provided that 5% of the proceeds from all federally owned lands within the state, after deducting expenses, would be paid to the state for the use of making roads and internal improvements as directed by the state legislature.

The acceptance of this grant of lands by the State of Minnesota was also conditioned on Minnesota agreeing to:

- (1) Not interfere with the sale of lands within the state by the United States or with any regulation that the U.S. Congress found necessary to secure title to the lands.
- (2) Not impose a tax on any United States owned lands.
- (3) Not tax nonresidents higher than residents.

These conditions remain in Minnesota's Constitution and are irrevocable without the consent of the United States.

At the time the state was admitted to the union, the state also received the ownership of the beds of navigable waters. There is no list of the navigable waters in Minnesota. It is a factual test as to whether the waters were used or usable as of 1858 as a highway for commerce, whether by steamboat, sail vessel, flatboat or canoe.

The Morrill Act of 1862 provided another land grant for education purposes. To establish colleges of agriculture and mechanic arts, each state was granted an amount of land based on the number of members of its congressional delegation. Minnesota had two senators and two representative, and the state received a total of 94,439 acres.

A grant that ended up to be about 4.7 million acres happened in 1860, when the U.S. Congress granted Minnesota all the swamp and overflowed waters in the state that had not been previously reserved or conveyed. The money from the sale of the lands was to be used to construct levees and drains. Only 15 states received this land grant. Minnesota chose the option of identifying the swamp lands by the plats and field notes of the government surveys.

In 1866, upon recognition of the applicability of a 1841 federal law for new states, Minnesota received half a million acres of land to be used for internal improvements. In 1870 the U.S. Congress granted an additional 72 sections of land to the state for the university. Minnesota had won its argument that the 1857 grant of lands was in addition to the 1851 grant of lands for the university.

Minnesota's Use and Conveyance of the Federal Lands

Minnesota's system of managing its lands was somewhat different from the federal government's. The lands the state received from the federal government were often sold for cash, rather than given away for free upon settlement. There was the recognition of conserving some land, or some interests in the land, and the revenue from sales of the land.

Minnesota's original Constitution included provisions on the lands conveyed from the federal government to the state for the purpose of schools. The school lands could only be disposed of by public sale, a condition that is still found in the state's Constitution. A permanent fund was created for the money from the use and sale of the lands. The principal of the fund is preserved, and only interest earned on the fund may be used each year. As of 1996, the permanent school fund is valued at \$416 million.

The first sale of school lands was in 1862. The lands in the southern part of the state that were valuable for agriculture were sold more quickly than the lands in the northern part of the state. About two-thirds of the 2.9 million acres of school lands were sold.

Valuable timber was located on many of the school lands, and laws were passed to assess and sell timber separately from the land. Unfortunately, thousands of acres of school lands were illegally stripped of the timber, and often the value of the timber was not correctly determined. The state probably lost millions of dollars before new laws stopped the trespasses, provided for more inspections, and improved the timber sale procedures.

The federal government granted swamp land to the state with the condition that the money from the sale of the lands be used to drain the lands. Instead of following this requirement, the state granted about 2.8 million acres of the 4.7 million acres of swamp lands to the railroads. Specific grants of swamp lands were also made for the Stevens Seminary in McLeod County, the Madelia and Sioux Falls Wagon Road, and the Cannon River Manufacturing Association. Swamp lands were also granted for an insane asylum, a state prison, three normal schools, and an institute for the education of the deaf, dumb and blind at Faribault.

The federal government took no action to stop the manner in which the state granted swamp lands. The practice was halted by an amendment to the state's Constitution in 1891. After that time, the swamp lands were sold in the same manner as the school lands. Money from the sale of the swamp lands was placed into a permanent trust fund that eventually merged with the permanent school fund. About three-fourths of the swamp lands were sold or given away.

The 10 sections of land granted for public buildings and the lands granted for internal improvements were sold in the same manner as the school lands. Money from the sale of the lands granted for public buildings was used to complete the state capitol building. Almost all the internal improvement lands were sold, with the revenue used to liquidate state railroad bonds issued in 1858 to fund railroad construction. The remaining money from the sale of internal improvement lands was deposited into a permanent fund that eventually merged with the permanent school fund.

The University of Minnesota was established by the territorial legislature in 1851. A permanent fund was created for the revenue from the use and sale of any lands that the United States would grant to the territory for the support of a university. The principal of the fund was to be preserved and only interest earned on the fund used each year.

Early management of the University created debts from purchasing land and constructing buildings at higher costs than authorized. About a third of the lands granted in 1851 to support the university were sold and other lands were leased to pay off the debts. The remaining lands were transferred in 1868 to the Commissioner of State Land for management, and the lands from the second federal grant to the university also were transferred to this state office for management. Money from the sale or lease of the lands is invested in the permanent university fund, with the interest made available for use each year. About a third of the university lands from the two land grants remain in state ownership and are managed by the Department of Natural Resources. As of 1996, the permanent university fund is valued at \$167 million.

The 94,439 acres granted for an agricultural and mechanic arts college were sold, with the money deposited into a permanent fund that eventually merged with the permanent university fund. There were no restrictions on the sale or use of the 46,080 acres of salt spring lands granted in 1857. The Belle Plaine Salt Company was granted 7,643 acres of salt spring lands, but it failed to

find any salt spring water of commercial value. The remaining salt spring lands were turned over to the University in 1873 to manage, with the proceeds used to support the geological and natural history survey. Most of the lands have been sold, with the proceeds used to prepare geological reports.

Section 5

Federal and State Acquisitions of Land

Land policy began to change at the end of the 1800s. Starting with the forests and mineral interests, the policy became one of keeping certain lands and mineral interests that remained in government ownership. By the 1920s, there was a recognition of the need to conserve public lands for recreational use and wildlife protection. During the depression of the 1930s, lands came into public ownership due to the economy, and the governments also purchased lands to help economic recovery.

Forests

In 1899 it was proposed that the white pine forest on the south side of Cass Lake become a state health and pleasure resort. The Minnesota Federation of Women's Clubs became involved in the project and suggested that the area around Cass, Leech, and Winnibigoshish lakes in northern Cass and western Itasca counties become a state or national park. Some groups and individuals supported the idea of a park, while some of the local communities opposed the idea. The lumber companies strongly opposed the proposal.

The area did not become a park, but a federal law, passed in 1902, was the foundation for the formal establishment of the area as the Chippewa National Forest a few years later. The law created a system to manage the cutting of timber and reserved the public lands for forest management rather than sale and settlement.

It was during the depression that the federal government started purchasing lands within the boundaries of the Chippewa National Forest. The forest has now grown in size to cover more than 640,000 acres.

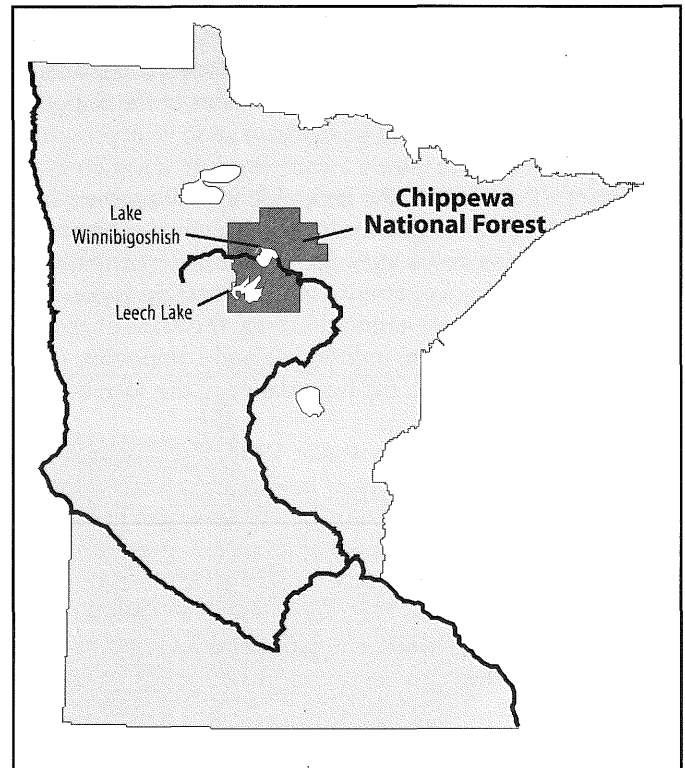


Figure 12 – The Chippewa National Forest is located in northern Cass and western Itasca counties.

In 1902 more than 500,000 acres of federal land in Lake and Cook counties were withdrawn from sale and settlement. The lands had been identified as another area that should be preserved for forest management since the lands were hilly and rocky and not good for settlement. President Theodore Roosevelt established this area as the Superior National Forest in 1909.

The land acquisition program for the Superior National Forest started in 1926, and sizeable areas were added in St. Louis, Lake and Cook counties. Today, the Superior National Forest covers about three million acres of water and land. The Boundary Waters Canoe Area Wilderness (BWCAW) is located within the boundaries of the Superior National Forest.

Outside of the BWCAW, the federal lands within the national forests are managed for timber growth and harvesting, and the lands and waters are available for recreation. While the federal government's land ownership is concentrated within these two national forests, the State of Minnesota, as well as private individuals and companies, own and manage land within the boundaries of the forests.

The first state forest reserve was in 1902. It was started with a donation of 991 acres of land in Cass County from former Governor John S. Pillsbury. The law under which the donation was made allowed him to designate a public education institution to receive two-thirds of the money from the use of the land. The University of Minnesota was the designated beneficiary. The lands are now part of the Pillsbury State Forest.

It was in the 1930s and 1940s that the State of Minnesota established most of its state forests. Today, the Department of Natural Resources manages state-owned lands within the boundaries of 57 state forests. The 3.2 million acres of state-owned lands managed for forest purposes include school lands, swamp lands, university lands, consolidated conservation lands, and acquired lands.

Parks

The State of Minnesota established its first state park in 1891. The United States granted the state all federally-owned lands within Itasca State Park that had not been sold. Lumber companies owned almost 9,000 acres within the new park. Logging continued on the privately-owned lands for many years as the lands were slowly purchased by the state.

There was a gradual development of the state park system, with a more rapid expansion in the 1930s through the 1950s. Today, the Department of Natural Resources manages 231,000 acres of state-owned lands within the boundaries of 66 state parks, three state recreation areas and nine waysides.

If permanent school lands are included within a boundary of a state park, there is an issue of whether the state is meeting the federal land grant requirement that the school lands be used to support the state's schools. A resolution of this issue has been to condemn specific school lands included within the state parks. (Condemnation is a legal action by which the title to the land is taken for a public purpose with compensation made to the landowner.) Through condemnation the permanent school fund receives revenue from the lands, and the lands remain in state ownership for use by the public for park purposes.

Voyageurs National Park, the only national park in the state, is located along the Canadian border in northern St. Louis County and a small portion of Koochiching County. The park is about 220,000 acres in size, more than a third of which is water.

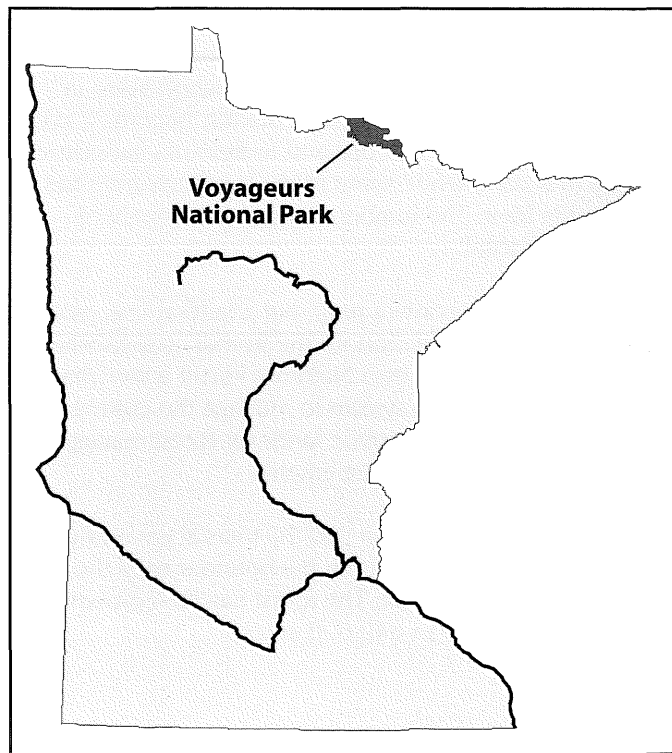


Figure 13 – Voyageurs National Park is located along the Canadian border in northern St. Louis County and a small part of Koochiching County. It is the only national park in Minnesota.

Federal legislation authorized the creation of Voyageurs National Park in 1971. The legislation provided that the state owned lands, and any lands owned by state political subdivisions, could only be acquired by donation. Also, other lands in the park could not be acquired until after the state lands were donated.

The State of Minnesota enacted legislation in 1971 that donated the state owned lands to the federal government for the park. The legislation provided that the donation offer was only good for five years; if a park was not established, the lands would remain as state lands. The donation also provides that the lands will revert to the state if they are no longer used for national park purposes. State bonds were issued to make payments that compensated the trust funds and local taxing districts for the donation of the state lands. Voyageurs National Park was formally established in 1975.

Boundary Waters Canoe Area Wilderness

Shortly after the creation of the Superior National Forest, public debate began concerning use of the lakes and lands along the northern border. The first major issue focused on the building of roads. People wanted roads to open the area for recreation, or to control and protect against forest fires, or to develop the natural resources of the forest. Other people wanted no roads. In 1926 the U.S. Forest Service agreed that roads would not be built in some areas in order to protect the wilderness character.

The next major issue concerned control of the waters of the Rainy Lake watershed in Minnesota and Ontario. The wilderness character of the land across the border had also been recognized in Canada, and the area was known as the Quetico Provincial Forest Reserve.

In 1930 the U.S. Congress took action by passing a law, known as the Shipstead-Nolan Act, that withdrew from sale and settlement federal lands in a large portion of the Superior National Forest along the northern boundary of Minnesota. Legislators recognized that this area might become an international recreational area that would be used by the people of two countries in peace.

The Shipstead-Nolan Act provided for conserving the natural features of the region, and preserving the shorelines, rapids, waterfalls and beaches. The law provided that the natural water levels could not be changed without

the permission of Congress. Restrictions on cutting timber were established for a specified distance from all shores. The State of Minnesota adopted a similar law that applied to the state lands and waters.

Primitive roadless areas were established by the U.S. Forest Service in 1936. The federal government purchased lands within the roadless areas to manage certain logging and recreational activities. An order was issued by President Harry Truman in 1949 to prohibit most navigation of aircraft below 4,000 feet above sea level over the roadless area. In 1958 the roadless areas were renamed the Boundary Waters Canoe Area (BWCA).

From the time of its establishment as a roadless area, there were different and sometimes conflicting views on the use and management of the lands within the BWCA. The attempts to reconcile these views resulted in public and political debates, laws enacted by the state and the U.S., and court actions.

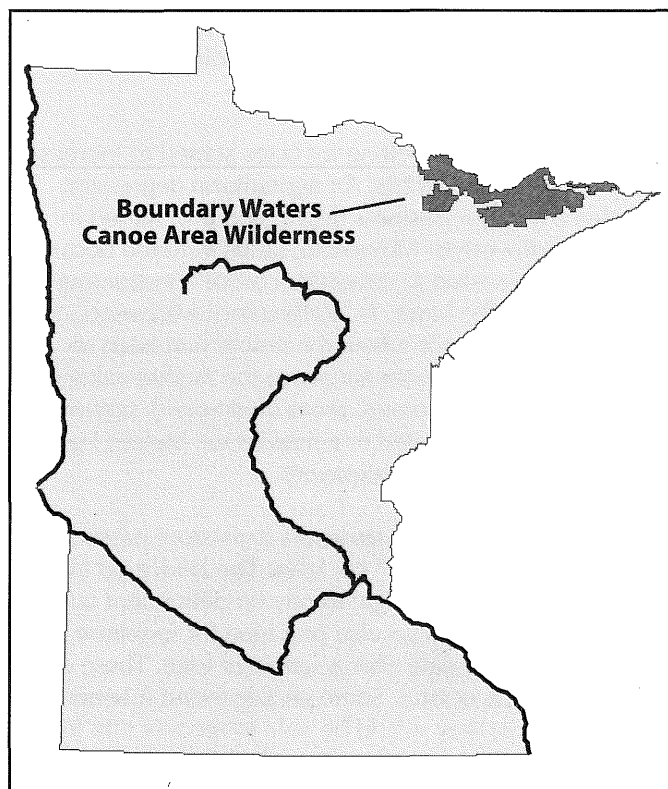


Figure 14 – The Boundary Waters Canoe Area Wilderness is bordered on the north by Canada's Quetico Provincial Forest Reserve.

In 1978 the U.S. Congress established the area as the Boundary Waters Canoe Area Wilderness. Its size is close to one million acres. The wilderness classification means that humans are to be only visitors and the area is to be protected and preserved for its natural values. The federal government has now purchased most of the private (non-state) lands remaining within the BWCAW.

Tax-forfeited Lands

A basic land policy is that local governments may assess a property tax on most privately-owned lands to provide revenue for public services such as roads, schools and public buildings. Failure to pay property tax will result in the forfeiture of ownership of the property to the state.

During the first few decades of the state's history, there were forfeitures when the owners could not pay the taxes because their crops were destroyed or their businesses failed due to economic depressions. After forfeiture, the state's goal was to return the land to private ownership. The original landowner was encouraged to buy back the land that forfeited. Also, another party could pay the taxes and penalties to acquire the land.

The amount of land forfeiting for taxes started to increase tremendously in the 1920s. An agricultural depression preceded the major business depression that started in 1929. In northwestern Minnesota, lands forfeited because of high taxes assessed to cover the cost of constructing ditches to drain the lands. In northeastern Minnesota, marginal agricultural lands where the timber had been removed were taxed at rates far above the market value of the land. As taxes increased, more landowners stopped paying taxes. This resulted in a heavier tax burden being placed on the remaining taxpayers.

From 1925 to 1935, the Minnesota legislature passed a series of "bargain counter" tax laws. The laws tried to provide relief by giving the right to pay up delinquent taxes at very low prices. The laws also provided for forfeiture of the property to the state after a specified time. These efforts were not successful. Some people found it better not to pay the taxes; they would be able to recover title to the property by paying much less than the original taxes. By 1935 there were millions of acres of tax delinquent land, with the delinquencies concentrated in northern and central Minnesota. The bargain counter laws had failed to return the lands to private ownership and the state's title to the land was questioned.

Major revisions of the tax forfeiture laws occurred in 1935. The procedures for tax forfeiture and administration of the tax forfeited land were changed. If the land forfeited for nonpayment of taxes, it would forfeit to the State of Minnesota in trust for the taxing districts.

It is estimated that between six and eight million acres of land forfeited for taxes between 1926 and 1950. A large portion of those lands has been sold. Today, there are about 2.8 million acres of tax forfeited lands, with the amount fluctuating due to new tax forfeitures, land sales, and land transfers. Generally, the surface and timber of the tax forfeited lands are managed by the counties, and the mineral rights are managed by the Minnesota Department of Natural Resources.

A significant portion of the tax forfeited lands in seven northern counties became consolidated conservation area lands. These lands were established due to a law concerning drainage ditches. A small number of people could petition their local government to construct a drainage ditch. All property owners were assessed for payment of the ditch, whether or not they had requested the ditch. Many property owners did not make their ditch payments so the counties could not pay the amounts due on bonds issued to cover the cost of constructing the ditches. The state assumed the obligation to pay the bond debts between 1929 and 1933. In return for relieving the counties of the debt, the state took title to lands that forfeited within the ditch areas.

The approximately 1.6 million acres of consolidated conservation area lands are managed by the Department of Natural Resources. Unlike the tax forfeited lands, these state owned lands are not held in trust for the taxing districts, although the counties do receive a portion of the revenue from the lands.

The federal government also authorized the assessment of ditch costs for some unsold federal lands within drainage districts. The State of Minnesota purchased some of these lands in 1961.

Other Acquired Lands

A federal law passed in 1933 authorized the purchase of submarginal agricultural lands. More than 200,000 acres were acquired by the federal government. Many of these federally-owned lands are under a long term lease to the state for wildlife, forestry and other conservation purposes. The State of Minnesota also purchased some of these lands from the United States.

Additional land acquisitions by the United States include the Pipestone National Monument, the Grand Portage Monument, and wildlife and fish refuges.

The State of Minnesota's land acquisition program has not been as large as the federal government's. State acquisitions are usually for small areas, such as a state park or public access site. The Department of Natural Resources has acquired and continues to acquire lands for parks, scientific and natural areas, forests, fish and wildlife management, trails, public accesses, and other public purposes. The Department of Transportation acquires land for highway purposes.

Camp Ripley, in Morrison County, is managed by the Minnesota Department of Military Affairs. A small portion of state land is used for the state capitol, state office buildings, the State Fair, the Minnesota Zoo, and the state university system. The University of Minnesota owned lands are primarily used for its campuses and related educational purposes, with the University also owning some scattered lands elsewhere in the state, such as the Glensheen mansion in Duluth.

Section 6

Mineral Rights

Land is sometimes most valuable for the mineral resources located on the land. Speculation for iron ore was a significant factor in land acquisitions in Minnesota. Fortunes were made and lost over who acquired lands on the state's three major iron ranges.

Just as the right to remove timber can be sold without selling the land, mineral rights can be sold and owned separately from the surface interests. Most often separate mineral ownership happens when the surface is sold and the seller keeps the mineral rights. Once owned separately, mineral rights may be sold or transferred to others in the same manner as the surface.

In some countries, all mineral rights are owned the government even if the surface of the land is owned by companies and individuals. In Minnesota the federal government did not usually retain mineral rights when it granted land to the state, the railroads, and individuals. The state, railroads, companies, and individuals received the mineral rights to the lands they obtained from the federal government.

Throughout the state's history, there has been a lot of speculation in the existence of valuable minerals in different areas of the state. Even if no valuable minerals were known to exist on a piece of land, the mineral rights were often separated from the surface interests by private sellers in case valuable minerals were discovered in the future. It was a common practice for the timber, railroad, and mining companies to reserve minerals when transferring the surface interests to other parties. Timber companies would often remove the timber, transfer the mineral interests to another company while retaining surface ownership, and let the surface forfeit for nonpayment of taxes.

The State of Minnesota's Mineral Rights

The State of Minnesota did not reserve mineral rights when it started to sell and convey its lands. In 1888 State Auditor William Braden reported to the legislature that he was refusing to sell state lands in the iron range area of St. Louis, Lake and Cook counties. He believed that laws should be changed to reserve all mineral rights to the state. Auditor Braden also proposed that laws be changed to authorize the state to lease the minerals and receive a payment per ton of ore mined. In 1889 the Minnesota Legislature authorized the reservation of mineral rights when certain state lands were sold in the counties of Cook, Lake and St. Louis. It was still possible for the state to sell the mineral rights with the land in these counties because the reservation of mineral rights was discretionary.

In 1901 it became mandatory that the state reserve the mineral rights upon the sale of any land that had been acquired by the state due to an act of the U.S. Congress, except for the lands granted to aid in the construction of railroads. The policy of reserving mineral rights has now been extended to all other lands owned by the state, such as tax forfeited lands and consolidated conservation area lands.

The state's policy of reserving mineral rights when it sells the land means that the state owns more mineral rights than surface rights. It is estimated that the state owns approximately 12 million acres of mineral rights, which are about 24% of the mineral rights in the state. (See Figure 15.) The exact amount of mineral rights owned by the state is not known due to the lack of clarity in some tax forfeiture records and the lack of a comprehensive state inventory of all lands that have ever forfeited for taxes.

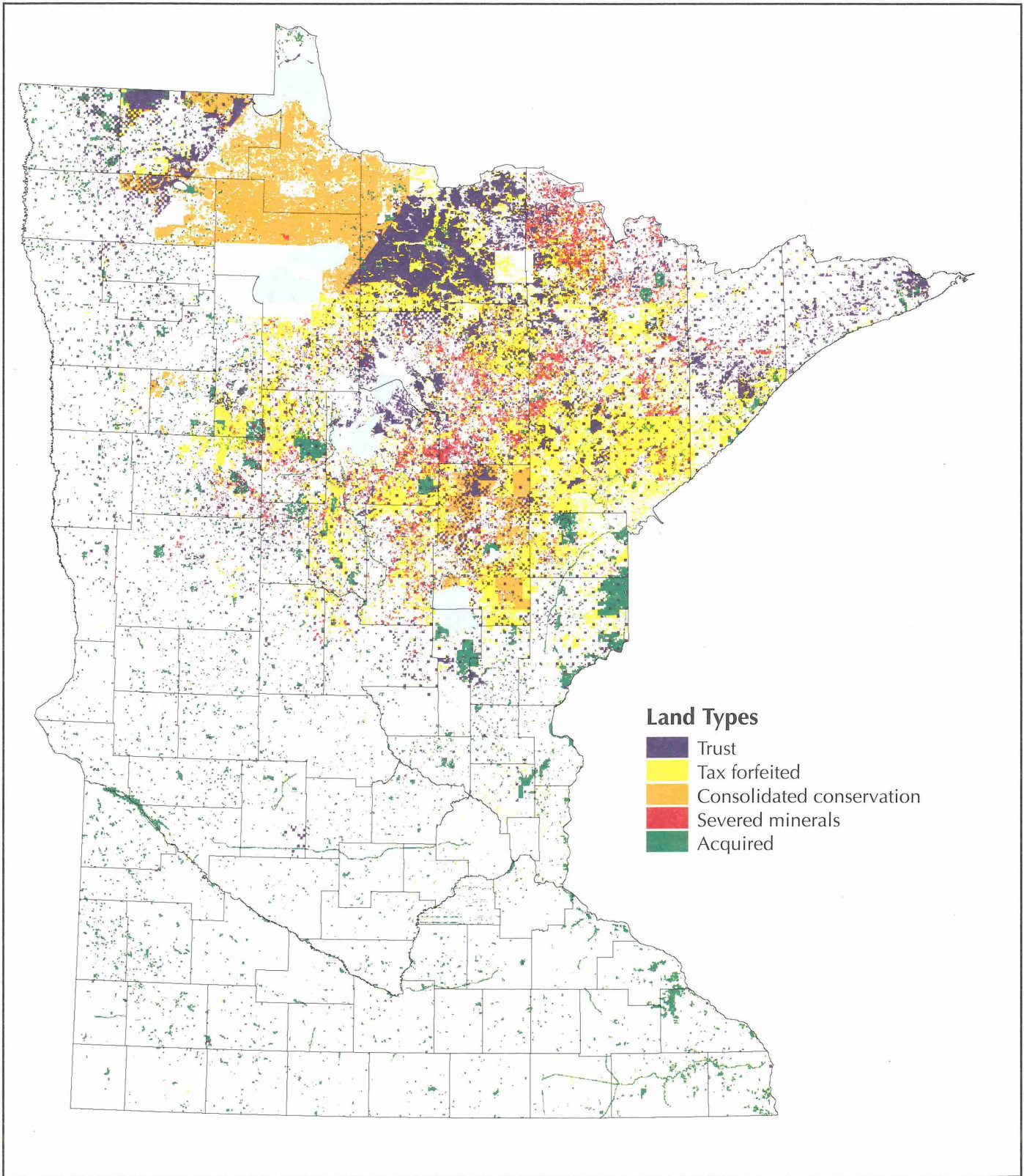


Figure 15 – State-owned minerals, administered by DNR and county, by land type, 2000.
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The state's policy of reserving mineral rights upon the sale of lands also includes the policy to never sell state-owned mineral rights. The state may lease its lands and mineral rights for mineral exploration and development. In some areas, such as the BWCAW, the state is prohibited by state law from leasing minerals under almost any circumstance. In some areas, such as an airport, the state does not offer mineral rights for leasing due to the use of the surface of the land.

The Minnesota Department of Natural Resources has the authority to lease most of the state owned mineral rights. Revenue from the state mineral leases is distributed based on the type of land which is leased. For example, eighty percent of the revenue from mineral leasing of tax forfeited lands and tax forfeited minerals is returned to the counties in which the leased lands are located. This eighty percent is distributed three-ninths to the county, two-ninths to the town or city and four-ninths to the school district. Fifty percent of the mineral lease revenue from consolidated conservation area lands is distributed to the counties in which the leased lands are located. More than 80% of the principal of the permanent school fund is from revenues from state mineral leases and mining taxes.

Some of the remaining permanent university lands are located on the Mesabi Iron Range and contain valuable deposits of taconite. Mining of taconite from permanent university lands in the last five years has resulted in the payment of \$21.5 million to the permanent university fund. Since July of 1992, state mineral lease revenue from the mining of university trust fund lands is split between a mineral research account of the permanent university fund and the Iron Range Scholarship account of the permanent university fund. The annual interest from this revenue is used for mineral research (including mineral related environmental research) at the Natural Resources Research Institute in Duluth and Coleraine, and for scholarships for freshmen on the four campuses of the University of Minnesota. The Iron Range Scholarship Program is the fastest growing scholarship program at the University of Minnesota, with a total \$2.6 million in scholarships awarded since 1995.

Severed Mineral Interests Law

The practice of separating mineral ownership from surface ownership resulted in the speculative interests escaping taxation. Unless the minerals were being mined or known to exist, the mineral interests owned separately from the surface interests were usually not taxed and so the mineral interests did not forfeit for nonpayment of taxes.

Over the years the ownership of severed minerals became very obscure or fractionalized. Some interests had been transferred through several companies. Some interests remaining in families for several generations had been divided among so many descendants of the original party to the severance that their fractional interests had become extremely small. It was also quite common that the conveyance of severed mineral interests was not placed of public record in the county courthouse. The obscure ownerships were requiring expensive title searches to determine the current owners of the mineral rights.

The Minnesota Legislature addressed this issue and the issue of taxation of the mineral interests in the 1970s. Parties that own mineral interests separate from the surface interests are now required to be identifiable in the county records. They must file a statement of ownership and pay an annual tax. The failure to pay the annual tax will result in forfeiture to the state. Numerous mineral rights owners have decided not to pay the annual tax. This has resulted in the forfeiture of over half a million acres of severed mineral interests to the state.

Failure to file the statement of severed mineral ownership will also result in forfeiture of the mineral interests to the state. In order for the severed mineral interests to completely forfeit, the state must bring an action in court. To bring the action, the state needs to do a title search to find the last owner of record who should have filed the statement.

Determination of Severed Minerals Ownership

In order to find out if and what mineral rights are owned separately from surface interests, it is necessary to review the document for the land transfer that separated the mineral ownership. There is a broad range of possibilities: specific minerals might be covered, such as "all iron ore and coal," or the mineral separation may simply say "all minerals and mineral rights." There is no depth level between surface and mineral rights (unless the document separating the surface and mineral ownership specifies a depth). One person may own the surface, and if another person owns the taconite, the taconite owner may mine the taconite that appears on and below the surface of the property.

The issue of what rights are associated with mineral ownership are also affected by the document that separated the mineral ownership. The issue of what mineral rights ownership means in Minnesota has never been addressed by the Minnesota Supreme Court. The general rule that has developed in other parts of the country is that, unless otherwise stated in the severance deed, mineral rights ownership carries with it the right to use as much as the surface as may be reasonably necessary to reach and remove the minerals. This means that the mineral owner has a right of entry or access to explore for and mine minerals on and beneath the surface of the land. Generally, it is recognized that the surface owner would be paid for any damages to the surface that occurred because of the mining activities.

Section 7

Land Ownership Statistics

The federal government conveyed about 96% of the 51.2 million acres of land in Minnesota to individuals, companies, and the State of Minnesota. Most of this land went to individuals and companies. The railroads received about 10 million acres.

The State of Minnesota received about 8.37 million acres from the federal government. While there is no one accurate source of the exact amount of land conveyed, the breakdown has been approximated as follows:

- 2,900,000 acres of school land
- 92,160 acres of university land
- 6,397 acres for public buildings at the seat of government
- 46,080 acres of salt spring lands
- 94,439 acres for colleges of agriculture and mechanic arts
- 496,482 acres for internal improvements
- 4,706,503 acres of swamp land
- 7,000 acres for Itasca State Park
- 20,000 acres for Burntside State Forest

Most of the lands deeded from the federal government to the State of Minnesota were sold or transferred. Of the original lands from the United States, less than 2.5 million acres remain in State of Minnesota ownership. However, the State has subsequently acquired lands, primarily through tax forfeiture and purchase. Also, the policy of reserving mineral rights upon the sale of land means that the state owns more mineral rights than surface interests. Currently the State of Minnesota owns about 8.3 million acres of land and an additional four million acres of mineral rights. This ownership may be broken down into the following land types:

Land Type	State Owns Surface*	State Owns Minerals Only
School, indemnity school, swamp, and internal improvement lands	2,509,798	1,011,765
University	25,990	20,947
Tax forfeited lands	2,854,300	787,100
Consolidated conservation area lands	1,552,350	369,600
Volstead lands	31,929	1,700
Acquired lands	1,318,300	703,950
Tax forfeited severed minerals	N/A	1,895,500

*The state owns some but not all the mineral rights in these lands. Mineral rights ownership is uncertain for state-owned lands except for lands acquired directly from the federal government.

Section 8

Suggested Discussion or Research Topics

Section 1 – Introduction

1. How much publicly-owned land is located within the county in which the student lives?
2. How much land does the federal government own within the boundaries of other states? For example, about 52% of the land in Oregon is in federal ownership.
3. How did the counties get their names? Who are some of the people honored by county names?

Section 2 – Origins of Federal Ownership

Why did France sell the “Louisiana” area to the United States? What was the public’s reaction to the purchase? The Louisiana area was the last of the lands on the North American continent that were claimed by France. One opinion is that the sale was a strategic political move by Napoleon Bonaparte. The sale of the lands to the U.S. removed a threat to the security of the U.S. and allowed the U.S. to pursue a policy of neutrality in the upcoming war between England and France.

Section 3 – The Public Land Survey

1. The public land survey system is not used in the states that were the original colonies. How are the boundaries of land described in those states?
2. Discuss how other countries handle land ownership.
3. Owning land in the United States does not mean that you can do anything you want with the land. Discuss the kinds of limitations that are imposed on private land ownership in the United States. For example, environmental laws regulate certain activities that may cause pollution.
4. Thomas Jefferson is often credited with devising the public land survey system. However, most of his ideas were not accepted. What did Jefferson propose and who is responsible for the survey system that was adopted in 1785?
5. Due to the curvature of the earth, the public land survey system makes adjustments to keep townships to their full size as much as possible. Explore the building blocks of the public land survey system and the standard methods of adjustments.

Section 4 – Federal Land Grants

Federal Land Grants to Individuals

1. Discuss how land records are retained in the county recorder's office. Investigate how a person may research the records to determine if the land they live on was acquired from the federal government through homesteading.
2. A treaty entered into in 1854 provided for the grant of 80 acres of land to each head of a family or single person over 21 of the mixed bloods belonging to the Chippewas of Lake Superior. Explore what happened with this land grant and the subsequent use of scrip.

Federal Land Grants to Railroads

1. The interpretation of the language of the 1854 legislation and the rights of a newly formed railroad company in Minnesota was a matter of controversy in the Minnesota territorial legislature, the U.S. Congress, and the court system. Investigate what happened and how some of the state's prominent politicians and businessmen were involved.
2. Which early railroads were in the student's area of the state? Did the railroads go out of business or merge with other railroads?

Federal Land Grants to the State of Minnesota

1. Thomas Jefferson had a role in establishing the Constitutional conditions concerning federal lands and property and the taxation of nonresidents. Explore his role in developing conditions that were imposed on the western territory and the future states.
2. Discuss riparian rights (the property rights arising from owning shoreland), the duties of riparian owners, and the public's rights when the state is a riparian owner.
3. The University of Minnesota is known as a "land grant college" because of the lands received under the Morrill Act of 1862. The Minnesota Legislature first planned to use income from the Morrill grant lands for the Agricultural College of Minnesota at Glencoe. Investigate what happened to these plans and the college at Glencoe.
4. Explore how the university received the double land grant of 72 sections each by putting forth the argument about the words and intent of two federal laws. The attorney hired by the university to pursue the claim in Congress received three sections of prime pine timber land for his work.

Minnesota's Use and Conveyance of the Federal Lands

1. Some tracts of land that became one of the more valuable mines on the Mesabi Iron Range appeared on one of the indemnity school lists filed in 1884 by the state auditor, but the tracts were not on a new list that replaced 11 previous lists in 1888. Investigate the facts behind this story and the legislative investigations of why the Mountain Iron Mine property was lost to state ownership.
2. The state capitol might have been in Kandiyohi County. This is the county in which the Governor selected lands under the federal grant of ten sections of lands for public buildings. Explore the history of the 1869 legislation that would have moved the capitol to the county.

Section 5 – Federal and State Acquisitions of Land

Forests

1. Investigate the history of the creation of a nearby state forest. What timber management and recreation activities currently take place within the forest?
2. Not all the land purchases for the Superior National Forest were successful or welcome. Explore the history of the land purchases and the state's change in policy on the sale of its lands to the U.S. for the Superior National Forest.

Parks

1. Investigate the history of the creation of a nearby state park. How large is the park and what are its important features and uses?
2. Charles Lindbergh became a supporter of the legislation for Voyageurs National Park. Investigate how former Governor Elmer L. Andersen, one of the advocates of the park, got him involved.
3. The management of recreation within Voyageurs National Park remains an issue of public debate. Discuss some of the differing viewpoints on the use of the park.

Boundary Waters Canoe Area Wilderness

1. The management of the BWCAW remains an issue of public debate. Discuss some of the differing viewpoints on the types of recreation that should be allowed within the area.
2. The establishment of the BWCAW had an impact on political careers. Investigate what happened to the politicians involved in the BWCAW legislation.

Tax-forfeited Lands

1. The amount of land forfeited for non-payment of taxes was much higher in northern Minnesota, where the land often was not suitable for agriculture and the growing season was shorter. Why didn't people recognize problems in using northern lands for agriculture?
2. Wetlands make up a large amount of the lands that forfeited for non-payment of taxes. Discuss the current viewpoints on the value of wetlands in today's environment, as compared to past viewpoints on the need to drain the wetlands for agriculture and settlement.

Other Acquired Lands

1. Investigate some of the new government programs to acquire lands, or programs developed by private organizations. For example, the Reinvest in Minnesota Program was established in 1985. Lands are purchased by the Department of Natural Resources to establish and protect critical habitat and to protect wildlife and native plants. Easements are also used to control flooding and reduce excess runoff.
2. Discuss some of the issues that governmental units must consider when offered lands through sale or donation. For example, a state agency may need money to make the land suitable for use by the public.

Section 6 – Mineral Rights

1. To encourage exploration and development of the nation's mineral resources while controlling conveyance of federally-owned lands, the U.S. Congress enacted a major mining law in 1872. Minnesota, Wisconsin, and Michigan were excluded from this federal law in 1873. The Mining Law of 1872 is still in effect as of 2000 as to certain metallic minerals found on federally-owned lands in the western states. If a mineral discovery is made, the discoverer may obtain the federally-owned lands for only a small amount of money and the federal government and its citizens receive no payment for the minerals removed from the ground. There has been significant debate in the U.S. Congress on changing the law. Investigate the differing viewpoints on whether this law should remain in effect.
2. Explore the acquisition of land and mineral rights on the Mesabi Iron Range by business tycoons such as John D. Rockefeller, Andrew Carnegie, and James J. Hill.
3. Which communities were established for the development of Minnesota's iron ore resources? Which companies were created? How does the mining of the state's mineral resource impact where people live and work?

Section 9

Bibliography

The Minnesota Historical Society Press has several publications covering topics discussed in this book. William Folwell's *History of Minnesota*, is a commonly available resource that will provide answers to many of the discussion and research topics. There are a multitude of books on some of the topics, such as Thomas Jefferson or Voyageurs National Park. Newspapers and magazines will be a source for some of the topics, such as wetlands and the Boundary Waters Canoe Area Wilderness. The county auditor, land commissioner, and recorder, are sources of information for some of the research topics concerning the county in which the student lives.

One of the best sources for detailed information on the history of public land ownership is *Minnesota Lands: Ownership, Use and Management of Forest and Related Lands*, published by the American Forestry Association. Unfortunately, it may be difficult to find in most library systems. (A copy is available in the Department of Natural Resources' library in St. Paul.)

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This information is available in an alternative format upon request.

Minnesota Counties

