Dear Editor,

Evidently a little history is needed on School Trust Lands in the Boundary Waters, as our federal government, the U.S. Forest Service, has recently proposed another plan to purchase 80,000 acres of these School Trust Lands in the Boundary Waters.

The history of school trust lands in Minnesota begins in March 1849, when the United States Congress established a territorial government for Minnesota, and reserved sections 16 and 36 of each township for the purpose of being applied to school and education in the territory.

Revenue generated on these lands would go into the School Trust Fund. Over the years, revenue has mainly been generated by mining and logging. Since the BWCAW founding, the School Trust land within the Boundary Waters has not been earning money for the Trust, as specified in Minnesota law.

In the late 1800s, state policy encouraged selling the lands to private owners. The Constitutional Convention of 1857 discussed the handling of school lands, and it was determined that if the lands were sold, it must be at public auction.

By 1900, many of the original lands had been sold, and the proceeds, along with income from retained lands, were deposited into a Permanent School Fund. The state Board of Investment manages the fund to provide ongoing funding for public education for all Minnesota schools.

More than 92 percent of remaining school trust land is located within ten northern Minnesota counties. School trust land represents 46 percent of the 5.4 million acres of state-owned, DNR-administered land in Minnesota.

In 2002, Minnesota State Representative David Dill had proposed a public sale. But with many people interested in bidding on School Trust Lands in the Boundary Waters in the Trout Lake area, this public sale was dropped.

With respect to conflicts between state and federal law, my research has found that the Supremacy Clause establishes a different hierarchy: federal law wins regardless of the order of enactment.

The Constitution gave the Supreme Court final authority to determine the extent and limits of federal power and that the states therefore do not have the power to nullify federal law.

The Supremacy Clause refers to the foundational principle that, in general, federal law takes precedence over any conflicting state law. Federal law is the highest authority; therefore, federal law supersedes or supplants any state or local regulation or statute that conflicts it. This doctrine comes from the Supremacy Clause of the United States Constitution (U.S. Const. art. VI., § 2).

Opposition of any sale of the School Trust Lands by northern Minnesota lawmakers has been to follow federal law. In this case, it is the 1964 Wilderness Act that our Rep. Roger Skraba upholds.

The 1964 Wilderness Act states:

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

SECTION 5. (a) In any case where State-owned or privately owned land is completely surrounded by national forest lands within areas designated by this Act as wilderness, such State or private owners shall be given such rights as may be necessary to assure adequate access to such State-owned or privately owned land by such State or private owner and their successors in interest, or the State-owned land or privately owned land shall be exchanged for federally owned land in the same State of approximately equal value under authorities available to the Secretary of Agriculture

So, it is not legal for states to disregard federal laws they disagree with. A state cannot “nullify” a federal law unless and until the federal statute has been found by a federal court as being unconstitutional. Even then, it is not nullification, and the state is bound by the federal law.

In addition, S.F.1750 passed by Minnesota legislature and signed by Governor Dayton on April 27, 2012 supported the 1964 Wilderness Act in the matter of School Trust Lands.

Minnesota State Statute states:

Sec. 4.

92.80 EXPEDITED EXCHANGE OF LAND WITHIN BOUNDARY WATERS CANOE AREA WILDERNESS FOR FEDERALLY OWNED LANDS.

(a) The purpose of this section is to expedite the exchange of a portion of the state-owned lands located within the Boundary Waters Canoe Area Wilderness. The state owns 116,559 acres of land within the wilderness area, 86,295 acres of which are school trust land.

(b) Exchange of school trust lands within the Boundary Waters Canoe Area Wilderness for federally owned lands located outside the wilderness area will preserve the spectacular wild areas while producing economic benefits for Minnesota's public schools.

I suggest the U.S. Forest Service adhere to federal laws in place regarding state lands in the Boundary Waters. Exchange the 80,000 acres for equal value outside of the wilderness area.

Nancy McReady