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Comments: Regarding School Trust Lands in the Boundary Waters

The Forest Service, DNR and environmental groups say The Weeks Act of 1911 allows them to purchase state lands in the Boundary Waters. No so. The Weeks Act of was enacted in 1911, and it authorized the federal government to purchase and maintain land in the eastern United States as national forests. The Boundary Waters is not in the eastern United States.

The Land and Water Conservation Fund (LWCF) was established by Congress in 1964 to fulfill a bipartisan commitment to safeguard natural areas, water resources and cultural heritage, and to provide recreation opportunities to all Americans. The fund helps strengthen communities, preserve history and protect the national endowment of lands and waters. Since its inception in 1965, the LWCF has funded more than 46,000 projects in every county in the country. The School Trust Lands in the Boundary Waters is not a project.

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

The Wilderness Act is specifically about designated wilderness, and how to address private and state lands surrounded by the designated wilderness. There has been on assured access to state-owned or private lands within the wilderness. The lands must be exchanged for equal value outside of the wilderness.

There was an attempt by Rep. David Dill in 2012 to sell School Trust Lands in the Boundary Waters to the highest bidder, according to School Trust Lands law, but that failed when people realized there would be private ownership in the Boundary Waters.

MN 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. State lands sales, easements, and lease terms and state parks, forest, and recreation areas modifications; BWCA expedited land exchange; Minnesota wild, scenic, and recreational rivers system designation exemption.

Minnesota State Statute states:

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.

In 2017, the Conservation Fund tried to push through a three-way sale. Their plan was the following, which failed.

(1) The Conservation Fund will purchase high-value private forestlands, held by a single company, located throughout northeastern Minnesota

(2) These forestlands (now owned by The Conservation Fund) will be exchanged, in phases, with equivalently valued Minnesota School Trust lands located within the BWCAW

(3) The Conservation Fund will sell, in phases, the former-School Trust

lands to Superior National Forest for incorporation into the BWCAW

As to the 2020 The Great American Outdoors Act, the GAOA is a historic investment in the protection and sustainment of our public lands and Bureau of Indian Education funded schools. GAOA established the National Parks and Public Land Legacy Restoration Fund to address overdue maintenance needs. This fund does not allow the purchase of School Trust Lands in the Boundary Waters. The Land and Water Conservation Fund (LWCF) was fully and permanently funded by the Great American Outdoors Act (GAOA) in August 2020. The law provides \$900 million in annual deposits to the LWCF. The fund helps strengthen communities, preserve history and protect the national endowment of lands and waters.

To use the 100+ year old Weeks Act, the Land and Conservation Fund and the Great American Outdoors Act to purchase state lands in the Boundary Waters is not acceptable, especially when the 1965 Wilderness Act specifically addresses this issue.

It is not legal for states and federal agencies 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.

What the state and the Forest Service should be looking to do is to reimburse the School Trust Fund for lost revenue for all Minnesota schools for the past 60 years.

The 1964 Wilderness Act must be followed!

Nancy McReady