# EVALUATION OF STATE LAND ACQUISITION AND DISPOSAL

March 14, 1983

## PROGRAM EVALUATION DIVISION
## Office of the Legislative Auditor
## State of Minnesota

Report # 83-04

OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

MARCH 1983

# Evaluation of State Land Acquisition and Disposal

PROGRAM EVALUATION DIVISION
Centennial Building - Suite 140
658 Cedar Street - St. Paul, MN 55155
Telephone: 651-296-4708 • Fax: 651-296-4712
E-mail: auditor@state.mn.us • Web Site: http://www.auditor.leg.state.mn.us

# PREFACE

In June 1982, the Legislative Audit Commission directed the Program Evaluation Division to conduct an evaluation of state land acquisition and disposal practices. Legislators wanted to know about land acquisition decision making and questioned the adequacy of procedures to identify and sell surplus state land. Our study focused on the efficiency of the acquisition process, the success of existing programs in identifying current and future land needs, and the potential for stepped up land sales. We also studied whether the state could profitably use alternative methods of acquiring land--aside from land purchase--to reach program goals, to avoid adding to the state's land inventory, and to save money.

Although we studied acquisition and disposal of all state lands, this report primarily addresses the disposition of natural resource lands since they comprise 94 percent of state managed land. Most of our recommendations are directed to the Department of Natural Resources. A second report will focus on DNR's Land Exchange Program.

We would like to thank employees of the Departments of Natural Resources, Transportation, and Administration for their assistance and cooperation. In addition, we wish to thank those outside of state government with whom we consulted.

This study was directed by Roger Brooks. Major research components were conducted by Tom Hiendlmayr, Sherry Enzler, and Lee Tischler.

Gerald W. Christenson
Legislative Auditor

James Nobles
Deputy Legislative Auditor
for Program Evaluation

TABLE OF CONTENTS

LIST OF TABLES AND FIGURES

INDEX OF APPENDICES

# EXECUTIVE SUMMARY

Government's role as a trustee of land has long been a matter of controversy. Few question the role of government in managing certain lands in the public interest, but there is no consensus on how much land government should own and on the advisability of disposing of some lands now owned by government.

This study was designed to gather information on how the state of Minnesota makes land acquisition and disposal decisions and to determine whether there may be alternative methods of acquiring or controlling land which avoid the high cost and controversy of past methods. We have not set out to recommend how much land the state should own nor what specific parcels of land should be bought or sold by the state. Nor have we sought to evaluate the quality of park, forest, or highway land management. Instead, the questions we addressed include the following:

- How much land does the state own? Where is it, and how did the state acquire it?
- Who decides what land to acquire for the state and when?
- How closely does the state follow its land acquisition plans?
- Can the state reduce the time and administrative expense required for land acquisition?
- Could the state use alternative methods of acquiring and controlling land?
- Are the proper procedures in place to identify and locate surplus state lands?
- Does the state have an adequate decision-making mechanism to determine which lands it needs?
- What was the result of past attempts to sell state land?

Because most state lands are used for natural resource purposes, our study focused primarily on the Department of Natural Resources (DNR) and its programs for land acquisition and disposal. But we examined the practices of the Departments of Administration (DOA) and Transportation (MnDOT) as well.

Our findings and conclusions are noted below; specific recommendations for improving the state's land acquisition and disposal programs conclude this summary.

Minnesota Lands

Over the past 125 years, the state of Minnesota has acquired and disposed of enormous quantities of land. In the 19th century the federal government gave the state 16.5 million acres for railroads, schools, and internal improvements. Most of these lands were disposed of before 1885, but the state retains some 2.6 million acres today, mostly School Trust lands which continue to be managed to produce income (from timber sales and mineral leases) for the Permanent School Trust Fund.

During the 1920s and 1930s the state acquired millions of acres of private lands forfeited because of tax delinquencies. At one point these lands totaled more than 6 million acres. Today the state manages nearly 2 million acres of tax-forfeited lands, the bulk of which are organized into so-called "Consolidated Conservation" areas and managed by DNR under a separate statutory authority. Another 2.8 million acres is technically owned by the state, but administered by the counties.

Finally, approximately 1 million acres have been acquired by the state since 1900 by gift or purchase for purposes approved by the Legislature, including state parks and recreation areas, forests, wildlife areas, and highways. Matching federal funds have been used for many of these acquisitions.

The decade of the 1970s was a period of extensive state land acquisition.

- Between 1977 and 1982 the state acquired more than 117,000 acres of private land and expended more than $140 million for land. Relocation and administrative costs added an estimated $47 million to these expenditures.

Ninety-two percent of all acreage acquired by the state during this period has been for natural resources programs, mostly for state wildlife preserves, state parks, and state forests. Approximately 68 percent of acquisition dollars were spent for highway projects.

Today, the state of Minnesota owns and manages approximately 5.6 million acres of land--some 11 percent of the state's area--making it one of the largest landowners in the United States. DNR manages 94 percent of this land, mostly in management units, like state forests or trails, which have been explicitly set aside by the Legislature. Altogether, DNR lands in management units total 3.7 million acres. Another 1.5 million acres, mostly tax-forfeited and School Trust lands, is outside of formal management units but managed for forestry purposes.

About four percent of all state land is managed by the Department of Transportation, mostly for highway right-of-way, gravel pits, and rest areas. The remaining two percent of state land is managed by other agencies such as the Department of Military Affairs and the University of Minnesota.

Nearly all state land, including School Trust land, is located in the northeast quadrant of the state. In some northeastern counties the state owns more than one-half of all land; in most, the federal government is also a major landowner.

## Current Land Acquisition Processes

There are already extensive provisions for natural resource land planning. DNR is required to develop "master plans" for all of its major management units, and it has also developed a statewide Comprehensive Outdoor Recreation Plan (SCORP) in response to federal requirements. However, better planning for land acquisition is needed:

- Much authority to direct and implement land acquisition policy at DNR rests at the program level; a comprehensive land acquisition plan is needed.
- Although progress has been made, DNR has not completed all master plans required by the Legislature in 1975.
- Completed master plans give limited attention to land acquisition priorities and alternatives.
- DNR has been unable to acquire many key land parcels identified for acquisition in earlier plans. In some cases, low priority parcels, or parcels not identified for acquisition at all, have been bought by DNR.

A 1978 study by the Governor's Task Force on Waste and Mismanagement criticized DNR for expending acquisition money prior to identifying which landowners were willing to sell to the state, for procedural inefficiencies, and for conducting too many appraisals in-house. We reviewed all of DNR's land transactions begun in fiscal year 1980 and found that:

- DNR has successfully reduced the number of fruitless appraisals done on parcels that are later not sold to the state.
- But, approximately one-quarter of all attempts to buy land begun in fiscal year 1980 were terminated because the potential seller proved unwilling to sell to the state.
- At least $63,000 was spent on appraisals and other acquisition activities that were not consummated.
- DNR has reduced the average time required to buy land from 607 days to 436 days, but further improvement is possible.
- DNR has significantly increased its dependence on private contract appraisals, but contrary to earlier findings private appraisals now appear to be less efficient than in-house appraisals.

- Although state negotiators are authorized to offer up to 10 percent over a parcel's appraised value, this occurs only once in every five DNR land transactions. Current limitations appear adequate to protect the state's interest.

State Land Acquisition Methods

Despite a decade of intense acquisition activity, there are still many specific natural resource acquisition needs. The state owns only 85 percent of the land within state parks, and needs to carry out acquisition plans for state forests, wildlife areas, water access sites, and recreational trails. But rising land costs, declining state appropriations, and localized public opposition to land acquisition have made it increasingly difficult for DNR to meet its natural resource acquisition goals.

The average value of an acre of Minnesota farm land rose from $232 in 1971 to $1,310 in 1981. Legislative appropriations for natural resources land acquisition reached a peak in the 1975-76 biennium and dropped by one-half in the 1981-82 biennium. Opposition to land acquisition has occurred when the acquisition resulted in limiting local use of the land, when there is apprehension over state land use or management, or when acquisition set aside economically productive lands, including agricultural land.

The Legislature has already acted to reduce the amount of agricultural land acquired by the state and it has passed legislation compensating local units of government for the negative impact of state land acquisition on the local tax base. But public skepticism about traditional approaches to natural resource land acquisition may continue in this era of program cut-backs and unbalanced budgets. And, unless a new strategy is adopted, DNR acquisition goals may simply not be reached.

- DNR has no overall statewide plan for land acquisition which will permit the state to reach its remaining acquisition goals in an orderly and cost-effective fashion. DNR has no well-defined policies regarding the use of alternatives to regular fee title purchase of natural resource land.

Many DNR staff members have expressed opposition or resistance to alternatives on the grounds that they are ineffective, expensive, or difficult to administer. However, under certain conditions--particularly when the objectives of a project are limited to preservation or when a narrow public use is anticipated--the state may not need to own all of the land within a given management unit. Alternatives, such as easements, leases, or zoning, may allow the state the degree of control it needs without requiring the outright purchase of land.

There are examples of successful implementation of alternatives within DNR itself. The Fisheries Section has negotiated trout stream easements along more than 145 miles of designated trout streams to permit anglers to use private property up to 66 feet from the edge of the stream. The costs to the state range between 40 and 80 percent of the land's fee value. There have been no major problems in the implementation or enforcement of trout stream easements.

The state's Waterbank Program is a second example of the use of alternatives to fee purchase. In order to preserve wetlands, the Legislature has authorized DNR to negotiate 10-20 year waterbank agreements, acquire easements or conservation restrictions, or lease land from private landowners. Although the state must purchase the land if the private landowner insists, landowners have been four times more likely to choose a less-than-fee alternative since the program began in 1980. Fee purchases under the program up to mid-1982 cost the state an average of $1,058 per acre; alternatives cost the state an average of $726 per acre.

A third example is the Wildlife Habitat Improvement Program, designed to provide expertise and financial assistance to private landowners who agree to preserve permanent nesting cover for wildlife, or who establish food plots for wildlife. As an alternative to the purchase of wildlife lands, this program has been cost-effective with more than 700 cooperating landowners in the program, total costs for fiscal year 1983 are less than $170,000.

- In many specific instances, there is no substitute for conventional acquisition approaches. But alternatives need to be explored, considered, and tried.

Aside from the potential for cost savings, alternatives could offer other benefits. Opposition to state land acquisition might be reduced, since the state would be stressing programs that permitted land to remain in private hands and on the local tax rolls. Under most alternatives, residents would remain on their land, so relocation costs would decline. Some agricultural land might remain in productive use, with the scenic values or wildlife habitat protected. Finally, state land management costs would decline, although there could be costs associated with enforcement and maintenance of easements.

Outright land purchase often pits the state against private landowners; alternatives stress the role of the state as a partner with local and regional interests. Confrontation may sometimes be hard to avoid, but the state should seek to build partnerships whenever possible with private landowners and local governments.

Possible applications of alternatives to fee acquisition include: 1) easements for northern pike spawning areas where the use of private lands would be brief and intermittant; 2) conservation restrictions for areas in state forests whose main functions are habitat or watershed protection; 3) conservation restrictions for wildlife areas in which there is little need to manage intensively or alter existing cover; and 4) easements for recreational trail corridors and state park buffer lands.

Cooperative zoning arrangements between the state and local governments offer potential for low cost land use controls in and around state parks and natural and scientific areas. Alternatively, a legislative mandate concerning development and land use in and around such areas is possible.

Finally, there is room for more innovative approaches to the problems of state land acquisition and management.

- A state "Conservation Land Bank" program could more actively solicit gifts of land from individuals and corporations. Those lands suitable for incorporation in existing management units--such as state forests or wildlife preserves--could be so designated and named for the donor. Lands that were unsuitable for such incorporation--including urban or residential property--could be sold with the proceeds deposited in a "Conservation Land Bank" fund for the purchase of other private lands needed by the state and identified in acquisition plans.

Such a program could maximize the use of gifts to the state and give private individuals tangible tax benefits.

Another possibility is a "Conservation Easement Gift" program which could clarify and publicize the tax advantages of giving easements on private land to the state. Such a program could help preserve rural or suburban open spaces and aesthetic vistas without the need for expensive land acquisition by the state.

Disposing of State Lands

Compared with acquisition activity, Minnesota's land disposal programs have been relatively quiescent over the past several years. Since 1977, the state has disposed of approximately 21,000 acres, including Consolidated Conservation lands.

Land disposal authority rests at the agency level in Minnesota. Except for certain legislatively mandated conveyances, each agency has its own policy on what lands should be retained and what lands sold.

- State agencies currently make decisions about land retention on a parcel-by-parcel basis. There is no overall policy to guide such decision making nor to review periodically the total holdings of each agency.

- With few exceptions, DNR only sells land parcels that have been specifically identified and requested by members of the public.

- DNR's Land Suitability Project is gathering information needed to make decisions about land retention and land use, but it does not yet constitute an effective and on-going mechanism to make those decisions.

- MnDOT has an incentive to identify and sell its surplus lands: all proceeds are deposited in the Trunk Highway Fund. However, DNR lacks such incentives to identify and sell marginal resource lands. School Trust land sale receipts are deposited in the Permanent School Trust Fund, and most other land sale receipts are deposited in the state's General Fund.

- Past attempts to sell state land in public auctions have not always been successful. MnDOT, for example, was able to sell about 83 percent of all parcels offered in 1980 and 1981. DNR met with success in just 73 percent of sale attempts from 1977 to 1982.

- In general, land with less desirable characteristics (e.g., lowland, without access) is less likely to sell than high quality state land. But many quality parcels have gone unsold as well, perhaps due to adverse market conditions.

While there is potential for further state land sales, particularly among the 157,000 acres of land identified by DNR in the early 1970s as available for disposal by sale or exchange, DNR is moving cautiously:

- If successful, the current Land Suitability Project may be applied to identify lands not needed for natural resource programs.

- Several specific provisions in state and federal laws prevent the sale of certain types of land or spell out the procedure which must be followed in disposing of the land. Most state land is part of one or more management units expressly created or authorized by the Legislature. In most instances these lands cannot be sold without legislative action.

In general, we endorse DNR's caution. Market conditions are not optimal and the total revenue that could be generated from land sales would not be large. Under current laws, land sales generate little direct revenues for the General Fund. For example, School Trust Lands generate revenue for the Permanent School Trust Fund. Selling more trust land would bring limited short-term gains for that fund, but diminish long-term prospects since revenues now earned from timber sales and mineral leases would be reduced. Tax-forfeited lands are managed and sold by the counties; the state derives no direct benefits from their sale. Consolidated Conservation land sales currently generate revenues for the Consolidated Conservation Account, most of which is used for forestry purposes. Under current law, only receipts from sales of acquired lands go into the General Fund. Over the past six years, only $59,000 has been deposited in the General Fund from natural resource land sales.

Recommendations

(1) The Legislature should recodify and simplify existing statutes relating to land acquisition, giving DNR general grants of acquisition authority in place of the many project-specific provisions now in law.

(2) DNR needs to adopt a comprehensive and coordinated policy for state natural resources land protection and acquisition. The Land Bureau needs to further explore alternatives to fee acquisition, including easements, and provide stronger

policy guidance to DNR's program divisions concerning when lands should be purchased and when various alternatives might be used to carry out program goals.

(3) DNR should conduct periodic in-service training sessions on innovative approaches to land acquisition for personnel responsible for planning or implementing acquisition strategies. Workshops for negotiators would help them identify situations in which alternatives should be explored with private landowners.

(4) Based on its Land Suitability Project, DNR should develop a statewide comprehensive land acquisition and disposal plan. The plan should outline alternative strategies for acquisition and show how acquisition for individual units will conform to the plan.

(5) Aside from gifts or lands in programs like the Waterbank Program, no land should be acquired unless it is specifically designated for acquisition in a project plan. Project plans should identify the lands that are needed to meet project goals, consider alternative land protection strategies, weigh the need for the land against the costs and impacts on private landowners and state and local government, and consider whether minor project changes--such as boundary changes--might ease the difficulties and costs of acquisition.

(6) DNR and the Department of Administration should continue steps to shorten the time required to buy land from private landowners.

(7) DNR should continue efforts to better identify which private landowners are willing sellers prior to expending acquisition monies.

(8) DNR should reconsider its practice of hiring private appraisers for land acquisition.

(9) The state needs a comprehensive land inventory system. The departments of Administration, Natural Resources, and Transportation should cooperate in developing a coordinated system to keep track of all land owned by the state, including easements, mineral rights, and other land interests.

(10) The Legislature should establish a "State Land Acquisition Revolving Fund" to give the state greater flexibility in managing its assets and in meeting its natural resource goals. The fund would consist of all revenues from natural resource land sales, including those derived from the liquidation of gifts, that would otherwise be deposited in the General Fund or the Consolidated Conservation Account. The fund would be dedicated for acquisition of fee title, easements, or other interests in land as determined by DNR and the Legislature and would serve as an incentive for DNR to identify and sell its marginal resource lands.

(11) The Legislature should consider establishing a "Conservation Land Bank" program to solicit and make productive use of gifts of land. Non-conservation lands or parcels that do not conform to DNR's program needs could be sold, with the proceeds deposited in the Land Acquisition Revolving Fund for purchase of lands needed elsewhere.

(12) The Legislature should consider a law providing for the sale of state land by means other than public auction. State agencies should be permitted, at their discretion, to submit land parcels offered and not sold at a public land auction to a private land broker for sale by a negotiated process. In order to protect the state's interest, no land should be submitted to a private broker without first having been offered for sale at a public auction as now provided in law.

(13) DNR should continue its program of compensating the Permanent School Trust Fund for Trust lands within the boundaries of state natural resources units that do not permit the generation of revenue for the Trust Fund.

(14) Because of fluctuating market conditions, the state needs to retain flexibility in determining what specific lands to dispose of at what particular time. Although pressures on the state budget may create incentives to liquidate surplus state lands, the best time to dispose of such lands is when market conditions are good. In addition, DNR should determine which of its lands are surplus after completing its Land Suitability Project.

# I. MINNESOTA LANDS

Land issues are hardly new in Minnesota. Many contemporary controversies have deep roots in the past. In this chapter, we trace the evolution of state landownership since statehood. Our chronology reviews the origin of certain classes of land, such as School Trust, Consolidated Conservation, and tax-forfeited land, and shows how state landownership has fluctuated over the past 125 years. In addition, we present up-to-date information on Minnesota's state owned land: how much there is, who manages it, and where it is.

## A. STATE OWNED LAND TODAY

The State of Minnesota is one of the largest landowners in the nation. Aside from the federal government, only the states of Alaska, New Mexico, Arizona, and Montana own more land. Out of Minnesota's approximately 51.2 million acres, state agencies own and manage over 5.6 million acres, or nearly 11 percent of the state's total land area.[1] County administered tax-forfeited land accounts for another 2.8 million acres (about 6 percent of the total). The federal government owns more than 3.4 million acres of Minnesota land (almost 7 percent of the total). Altogether, public agencies own and manage approximately 24 percent of Minnesota's land (see Figure 1.1). While public ownership in many western states is much higher, among eastern states only Michigan approaches Minnesota.

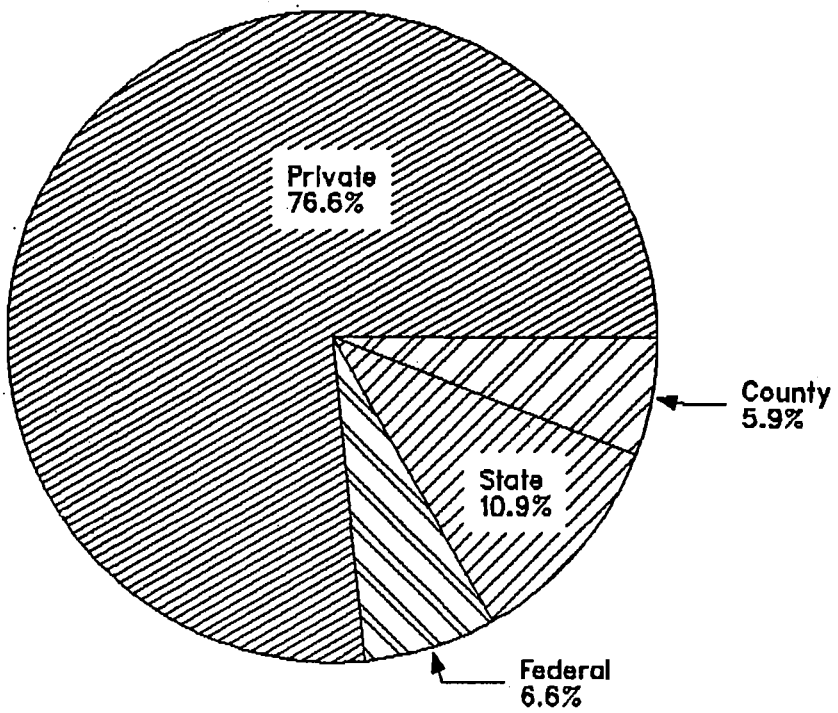
No state agency maintains a comprehensive inventory of all state owned land. The Department of Administration is required by statute to keep an updated inventory of all state holdings, but it has never had the capability.[2] Eighteen agencies manage at least some state land and each has its own system for keeping track of that land. This decentralization complicates any attempt to summarize the state's holdings.

---

[1]Estimates of the state's total land area vary by as much as 3 million acres, resulting in part from errors in the original ordinance surveys and from the inclusion or exclusion of various waters. Our estimate, from the U.S. Bureau of Land Management, excludes inland waters.

[2]Minn. Stat. §16.02, Subd. 7 (1982). Currently, the Planning Division of the Department of Energy, Planning, and Development is assuming responsibility for compiling and maintaining accurate and complete landownership records for the state. Its Land Management and Information Center (LMIC) possesses the state's most sophisticated land data system.

# FIGURE 1.1
# LAND OWNERSHIP IN MINNESOTA




Source: Minnesota Land Management Information Center, Land Data, 1982.

As part of a larger study of the fiscal impact of public landownership, a consultant for the Legislative Commission on Minnesota Resources (LCMR) provided an inventory of state land in 1978.[3] We have verified and updated this inventory and estimate that over the last four years the state's total landownership has increased by nearly ~~25,000~~ 37,000 acres. Table 1.1 identifies the agencies that manage these lands and indicates the changes in each agency's holdings since 1978.

These estimates include fee title ownership only, leaving out other lands in which the state is not the sole owner (such as easements, joint tenancy, or mineral rights). The lack of a comprehensive landownership reporting system and the failure of most state agencies to keep summary records on less-than-fee ownership makes it virtually impossible to estimate the additional lands over which the state has control.

---

[3] Barton-Aschman Associates, Inc., Minnesota Public Lands Impact Study, 2 vols. (1978).

TABLE 1.1

INVENTORY OF STATE OWNED LAND
October 1, 1982

| State Agency/Department | Acres 1978[a] | | Acres 1982 | | Change (1978-1982) | |
|---|---|---|---|---|---|---|
| Administration | 45.41 | | 226.11 | | + 180.70 | |
| Agricultural Society (State Fair) | 300.00 | | 295.55 | | - 4.45 | |
| Agriculture, Department of | 13.50 | | 13.30 | | - .20 | |
| Community Colleges Board | 1,391.70 | | 1,375.70 | | - 16.00 | |
| Corrections, Department of | 1,800.00 | | 1,449.66 | | - 350.34 | |
| Economic Security, Department of | 1.90 | | 1.90 | | -- | |
| Education, Department of | 92.00 | | 393.25 | | + 301.25 | |
| Historical Society | -0- | | 464.70 | | + 464.70 | |
| Iron Range Resources and Rehabilitation Board | 520.00 | | 400.00 | | - 120.00 | |
| Metropolitan Waste Control Com. | 1,335.00 | | 2,008.50 | | + 673.50 | |
| Military Affairs, Department of | 52,840.34[b] | | 52,838.53 | | - 1.81 | |
| Natural Resources, Department of | 5,231,521.45 | | 5,275,534.16 | | +44,012.71 | |
| Forestry (outside state forest) | | 1,542,705.93 | | 1,528,957.13 | | -13,748.80 |
| Forestry (inside state forest) | | 3,010,537.43 | | 3,020,405.29 | | + 9,867.86 |
| Wildlife | | 479,494.34 | | 505,918.17 | | +26,423.83 |
| Fisheries | | 25,746.49 | | 26,450.87 | | + 704.38 |
| Parks & Recreation | | 167,459.66 | | 188,002.00 | | +20,542.34 |
| Waters or Minerals | | 2,098.49 | | 2,396.82 | | + 298.33 |
| Law Enforcement | | 1,571.64 | | 1,534.24 | | - 37.40 |
| Department Administered Lands | | 1,907.47 | | 1,746.06 | | - 161.41 |
| Scientific & Natural | | -0- | | 123.58 | | + 123.58 |
| Public Welfare, Department of | 3,577.00 | | 3,258.39 | | - 318.61 | |
| State University Board | 1,724.31 | | 1,970.50 | | + 246.19 | |
| Transportation, Department of | 237,037.00 | | 242,496.00 | | + 5,459.00 | |
| Highway Right of Way[c] | | 224,738.00 | | 230,681.00 | | + 5,943.00 |
| Buildings & Sites | | 1,130.00 | | 1,250.69[d] | | + 120.69 |
| Rest Areas | | 2,209.60 | | 2,209.60[d] | | -- |
| Gravel Pits | | 5,302.00 | | 5,231.33 | | - 70.67 |
| Excess Land | | 262.72 | | 153.39 | | - 109.33 |
| Surplus Easement | | 1,770.00 | | 1,566.29 | | - 203.71 |
| Surplus Fee | | 1,570.00 | | 1,335.24 | | - 234.76 |
| Division of Aeronautics | | 54.50 | | 68.80 | | + 14.30 |
| University of Minnesota[e] | 30,677.30 | | 32,050.10 | | + 1,372.80 | |
| Veterans Affairs, Department of | 114.00 | | 310.00 | | + 196.00 | |
| Zoological Garden | 480.00 | | 467.00 | | - 13.00 | |
| SUBTOTAL | 5,563,470.91 | | 5,615,553.35 | | +52,082.44 | |
| Tax-Forfeited Land (state owned, county administered) | 2,815,291.87 | | 2,800,020.82 | | -15,271.05 | |
| GRAND TOTAL | 8,378,762.78 | | 8,415,574.17 | | +36,811.39 | |

[a] Minnesota Public Lands Impact Study, Legislative Commission on Minnesota Resources in cooperation with the Tax Study Commission and Barton-Aschman Associates, Inc.
[b] DNR Land Ownership Records, 1978.
[c] Figures are approximated.
[d] Not updated.
[e] Includes salt springs but not trust fund lands.

## 1. WHO MANAGES STATE LAND?

The most important agency managing the state's land is the Department of Natural Resources (DNR) which has jurisdiction over nearly 5.3 million acres or 94 percent of all state managed land. DNR's land is used for timber or mineral production, wildlife habitat, recreation, and environmental preservation.

Most of DNR's land, some 4.5 million acres, is managed for forestry purposes. Over 3 million acres are situated within the state's 55 state forests and serve the multiple goals of timber and pulp production, wildlife protection, and recreation. An additional 1.5 million acres are either school trust or tax-forfeited lands outside of designated management units. Minnesota's forest lands are predominantly in the northeast quadrant of the state.

The second largest category of natural resource land is wildlife land. DNR currently manages over one-half million acres of wildlife lands in more than 1,250 separate units, nine of which are sufficiently large to warrant on-site managers. Wildlife management areas are designated to protect game and non-game species and most are open to hunting. Minnesota's wildlife lands are predominantly located in the transitional farmland areas in the west and central part of the state.

State parks and recreation areas occupy only 188,000 acres of state land, although they are the best known and most heavily used units in the state's natural resource system. These lands include 65 state parks and waysides, 280 miles of developed corridor trails, land adjacent to canoe and boating rivers, water access sites, and 2,000 acres of scientific and natural areas.

Fisheries lands account for another 26,000 acres of DNR administered land. These lands are located along designated trout streams or serve as sites for hatcheries or rough fish control.

The remaining acres under DNR jurisdiction are used for shoreline management, dam maintenance, wetland preservation, mineral research or production, and law enforcement. These lands, totalling less than 6,000 acres, are scattered throughout the state.

The Department of Transportation (MnDOT) manages the second largest group of state lands. The department manages more than 242,000 acres of land for highway rights-of-way, gravel pits, rest areas, and other transportation facilities. These lands represent about four percent of all state owned land.

Minnesota has approximately 12,000 miles of state maintained highways: 762 miles of interstate highways (with minimum 300-foot rights-of-way), 1,888 miles of urban trunk highways (with minimum 140-foot rights-of-way), and 9,557 miles of rural trunk highways (with minimum 140-foot rights-of-way). Altogether, these highways lands occupy more than 230,000 acres.

MnDOT's other lands are primarily used for highway transportation purposes. These lands, totalling some 12,000 acres, supply gravel for road maintenance, serve as rest areas along state highways, or store maintenance equipment. Some acreage has been rendered surplus by changing highway plans or existing routes.

The remaining two percent of state managed land, some 96,000 acres, is scattered among 16 agencies. Most significant of these is the Department of Military Affairs which manages the 52,000 acre Camp Ripley in central Minnesota. Another 32,000 acres, including salt spring grant lands, are managed by the University of Minnesota. Ten state hospitals and nursing homes occupy another 3,000 acres of land managed by the Department of Public Welfare. Other state agencies managing smaller amounts of land include the Departments of Administration, Agriculture, Corrections, Economic Security, Education, and Veterans Affairs as well as the State Fair, Community College Board, Historical Society, Iron Range Resources and Rehabilitation Board, Metropolitan Waste Control Board, State University Board, and State Zoo.

Finally, 2.8 million acres of tax-forfeited lands, which have reverted to public ownership due to private landowners' inability to pay property taxes and assessments, are legally owned by the state but--except for 400,000 acres--managed by the counties. Mostly comprised of marginal agricultural and forest land, these properties are managed for a variety of purposes, including forestry, wildlife, and nonconservation programs. Virtually all of Minnesota's county administered tax forfeited lands are located in 16 counties in the northern and northeastern parts of the state.

## 2. WHAT IS STATE LAND WORTH?

The total value of state owned lands is difficult to calculate since much of the land has unique characteristics and most of it has not been appraised recently by any formal or systematic process. Undoubtedly, state lands vary significantly in value since quality and characteristics vary significantly. A major proportion of DNR land is lowland, of little current value for timber, agriculture, or development. On the other hand, certain parcels of land in the state parks, on lakeshores or located near population centers are very desirable and would have high valuations.

In 1975, DNR estimated the total value of timber, recreation and wildlife lands at nearly $12 billion. Today, the value of these lands alone may approach $20 billion. The value of other state owned lands, including those on which the state holds mineral rights and those serving as highway rights-of-way are unknown.[4]

---

[4]By way of comparison, the total market value of the state's private, taxable lands is estimated to be more than $135 billion in 1982, according to data gathered for the Legislative Auditor's current study of property tax relief programs.

### 3. WHERE IS STATE LAND LOCATED?

Figures 1.2 through 1.5 show the distribution of public lands throughout the state, including all lands owned by federal, state, and local governments. Tax-forfeited lands are owned by the state but managed by counties. In general, there is a heavy concentration of public lands in the northern and northeastern parts of the state. Nine counties in this area have at least 50 percent of their area in public ownership and another eight counties have at least 25 percent of their area in public ownership. More than 65 percent of all state owned land is located in just seven counties: Koochiching, Beltrami, St. Louis, Lake of the Woods, Aitkin, Itasca, and Roseau. The total land area of these counties is 12.4 million acres. More than 3.6 million acres (29 percent) are state owned. In these counties the federal government is also a major landowner.

## B. EVOLUTION OF STATE LANDOWNERSHIP

State landownership has evolved in distinct phases. Although these phases are not marked in time by abrupt beginnings and endings, they are readily identifiable and represent different philosophies concerning the role of the state in managing Minnesota's land.

The phases are: (1) acquisition, during which the state received vast land grants from the federal government; (2) disposal, during which the state transferred most of its federally granted lands to private individuals and corporations in accordance with the terms under which they were given to the state; (3) reservation, during which the state set aside some of its lands in state parks and refuges for permanent public use; and finally (4) acquisition, during which private lands have been acquired by purchase or tax forfeiture and incorporated into a system of natural resource and other governmental management units designed to meet the needs of a growing population.

In the 125 years since statehood, Minnesota has evolved from a land broker to a land nurturer. Initially, the state merely presided over the disposal of the public domain. The state distributed government land for railroads, development projects, and homesteads. Today, state government is more often expected to protect, preserve, and maintain specific lands in the interests of all Minnesotans.[5]

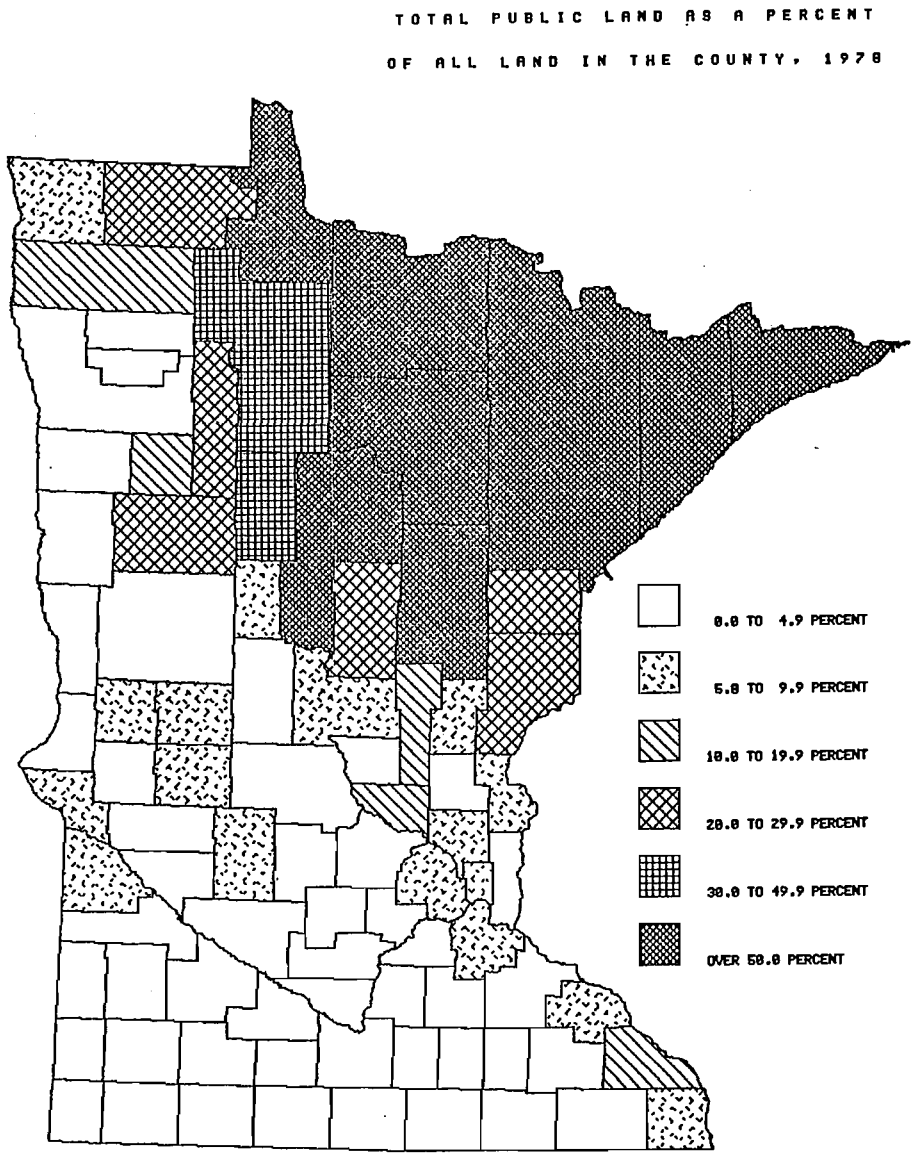
### 1. ACQUISITION OF FEDERAL LANDS

Beginning in 1781, the original 13 states turned over to the federal government most of their land in the unexplored area west of the Alleghenies. All of the land that was to become Minnesota was

---

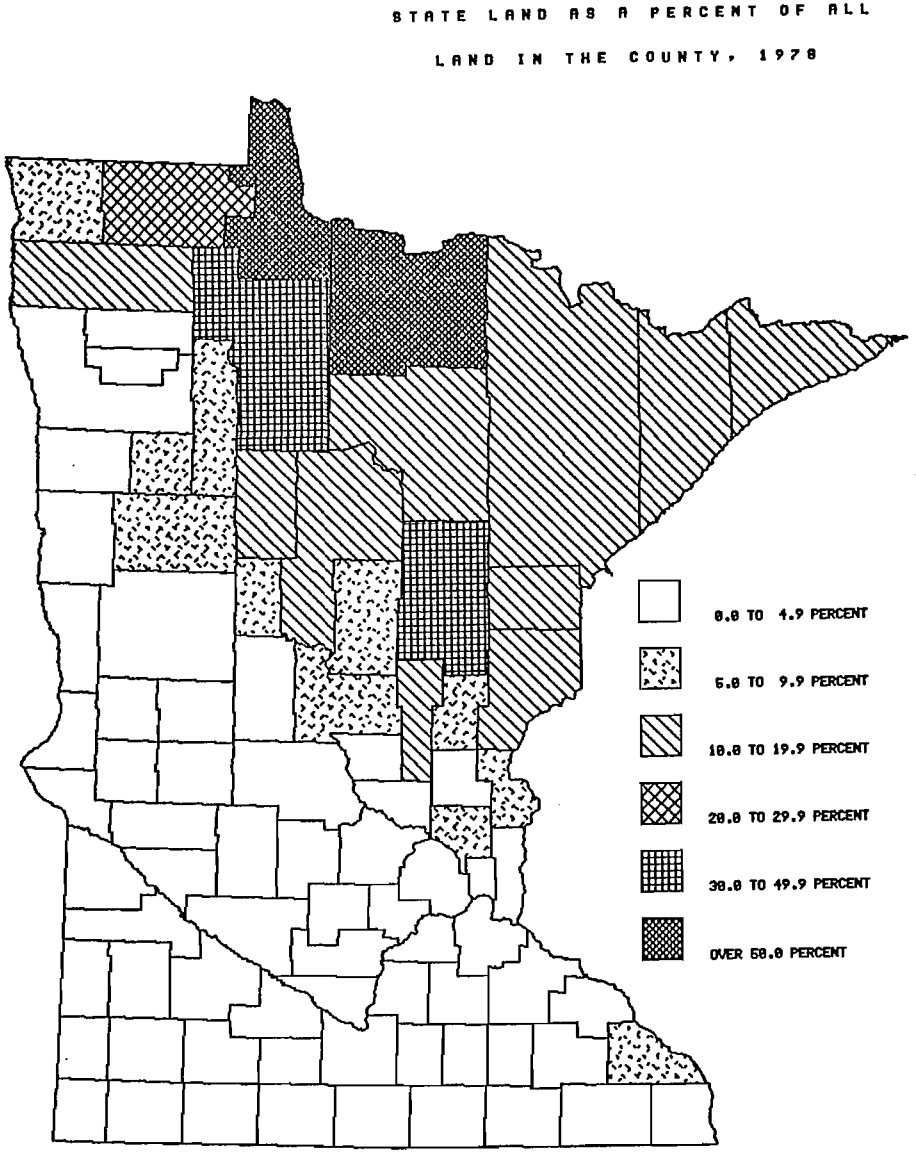
[5]The best general discussion of the history of state land ownership is Samuel Trask Dana, John Allison, and Russell Cunningham's Minnesota Lands (Washington, D.C.: American Forestry Association, 1960), Part II.

Figure 1.2




Source: Minnesota Land Management Information Center, Landowner Data Base, 1982.

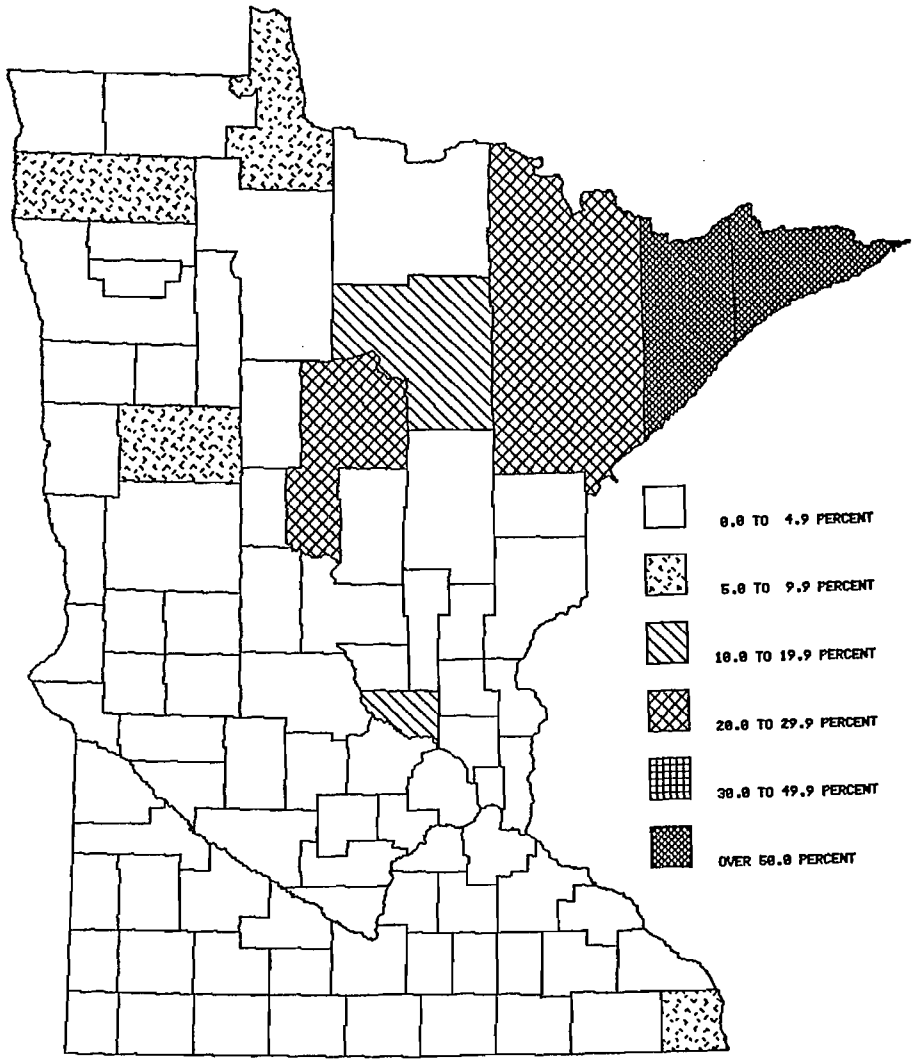
Figure 1.3




Source: Minnesota Land Management Information Center, Landowner Data Base, 1982.

Figure 1.4

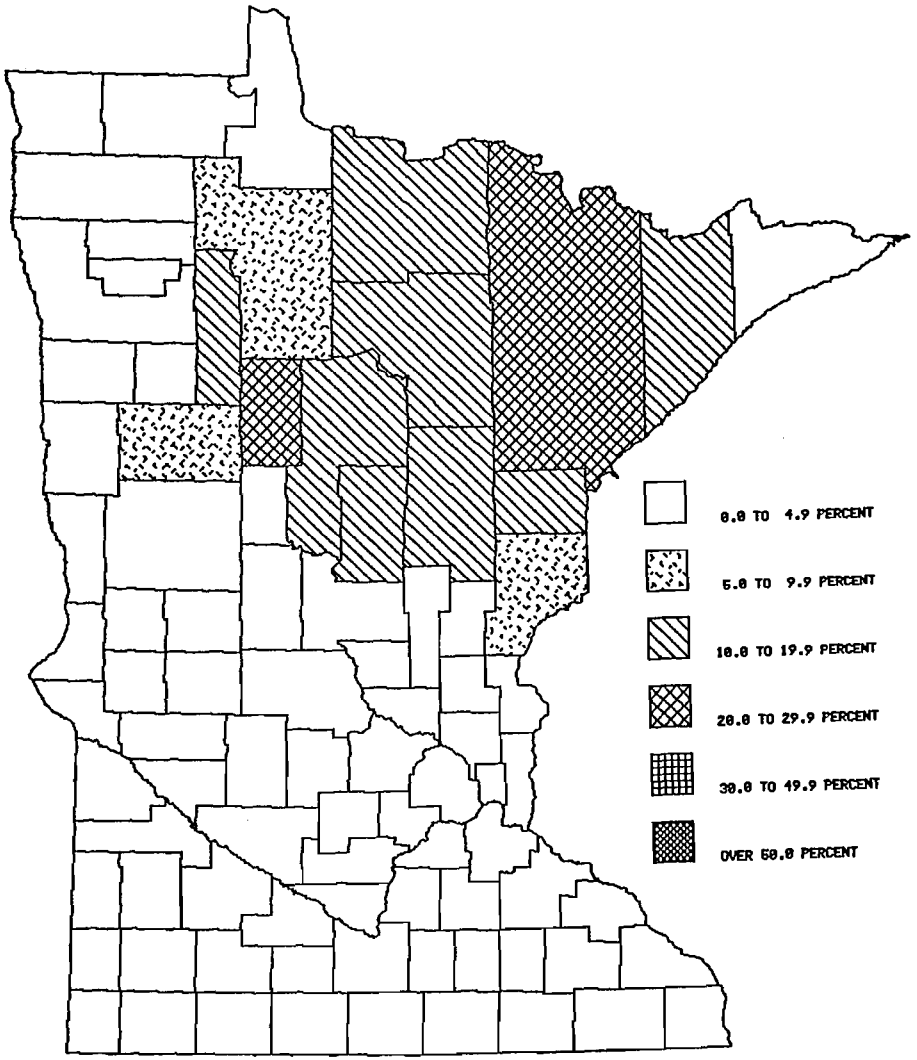
FEDERAL LAND AS A PERCENT OF ALL LAND IN THE COUNTY, 1978




Source: Minnesota Land Management Information Center, Landowner Data Base, 1982.

Figure 1.5

COUNTY LAND AS A PERCENT OF ALL LAND IN THE COUNTY, 1978




Source: Minnesota Land Management Information Center, Landowner Data Base, 1982.

ceded to the United States by Virginia in 1784. During the next century, it was the policy of the federal government to transfer ownership of these lands to individuals, private corporations, and the separate states.

In 1849, Congress passed the Organic Act, creating the Territory of Minnesota and reserving sections 16 and 36 of each township for the benefit of schools within the territory.[6] Two years later Congress reserved two whole townships for the use and support of a university in the territory.

Lands granted for the benefit of education, were actually transferred to state control through the Enabling Act of 1857, which also authorized the territory to write a constitution and prepare for statehood. The Act granted additional lands to the state for erecting public buildings and for other purposes to be determined by the new state government.

Altogether the state acquired more than 3 million acres of federal lands in 1857, nearly all of it earmarked for specific purposes: 2,888,608 acres for schools (with the proceeds from any land sales, timber or mineral sales, or rental to be dedicated to a Permanent School Trust Fund), 92,160 acres for the support of a state university, 6,397 acres for public buildings (including a capitol in St. Peter), and 46,080 acres of salt spring lands for other purposes (7,643 acres were given to Belle Plaine Salt Co. and the rest to the university).

In 1860, Congress granted Minnesota 4,706,503 acres of swamp and over-flowed land unfit for cultivation. The proceeds from the sale of the lands were to be used for the construction of dams, levees, and drainage systems. Since many of the original surveys were inaccurate or fraudulent, the state acquired some lands that were neither swampy nor subject to overflow. Later these were dedicated for the benefit of schools and merged with the original school lands.

The 1862 Morrill Act granted the state 30,000 acres of federal land for each of Minnesota's four congressional delegates. These lands were to support a school of agriculture. The lands selected by the state were supposed to be valued at $1.25 per acre or less. However, since some of the lands chosen by the state were valued at more than $1.25 per acre, the total size of the grant was prorated and reduced to 94,439 acres instead of the full 120,000 acres for which Minnesota was eligible.

Under a federal statute enacted in 1841, each state entering the Union was eligible to receive an additional 500,000 acres of federal land for purposes of internal improvement, including road and railway construction. Through an apparent oversight, Minnesota officials were unaware of the state's eligibility for these lands until 1866, at

---

[6] A section is one square mile, or 640 acres. If the designated sections had previously been disposed of, the state selected other sections in the township.

which time the U.S. Interior Department verified the terms of the grant and the state received title to the lands.

In 1865, the state received the last and largest of its major land grants from the federal government. In order to encourage the building of railroads in Minnesota, Congress voted to give the state a certain amount of land adjacent to any completed railroad. The lands, which extended from 10 to 20 miles from the track itself, were conveyed to the state as fast as each 10-mile stretch of railroad was built. By prior agreement, the state then turned the lands over to the railroad companies. By 1872, the total grant, amounting to 8,047,469 acres, had been reconveyed to the railroads.

In addition to these major land grants, the federal government has given the state several smaller grants for specific natural resource projects: 7,000 acres in 1892 for Itasca State Park, 20,000 acres in 1904-05 for park and forest reserves, 1,313 acres in 1940 for the Pine Island Development Project, and 30,000 acres in 1943 for the St. Croix Recreational Development Project.

Since statehood, Minnesota has received 16,532,129 acres of land from the federal government (see Table 1.2). This represents almost one-third of the entire area of the state. Most of these lands were given to the state to accomplish specific goals deemed desirable by the Congress--namely to encourage the construction of railroads (about one-half of the total grants), to provide support for education (about one-third of the grants), and to reclaim overflowed lands (most of the rest).

Appendix A summarizes the nature of each grant and the circumstances surrounding the acquisition and subsequent disposition of each.

## 2. DISPOSAL OF FEDERAL LAND GRANTS

During the first 20 years of statehood, Minnesota's primary land management role was to act as the agent of the federal government in transferring the public domain to private ownership. Almost as quickly as the state received its vast land grants from the federal government, it began to reconvey most of them to individuals and private corporations according to the terms under which they were given to the state.

Actions by federal and state governments to liquidate the public domain in the 19th century were consistent with the popular conviction that private enterprise was preferred over government initiative as an engine of change and development. In addition, these actions reflect a government policy of selling the public domain to raise money needed for schools and other public works. In large enough quantities, even wilderness land was a valuable commodity which the government could translate into cash.

Initially, however, the policy was to give away the land. The state acted as little more than a trustee for the 8 million acres of railroad grant lands which were completely given away by 1872. With

TABLE 1.2

FEDERAL LAND GRANTS TO MINNESOTA

| Year | Purpose | Acres Granted | Acres Retained (1982) |
|---|---|---|---|
| 1851 | Establishment and support of a university | 92,160 | 18,432 |
| 1857 | Support for public schools | 2,888,608 | 953,171 |
| 1857 | Support for university | 92,160 | -- |
| 1857 | Public buildings | 6,397 | -- |
| 1857 | Discretionary (salt springs) | 46,080 | 5,751 |
| 1860 | Drainage projects (swampland) | 4,706,503 | 1,559,914 |
| 1862 | Agricultural college (Morrill Act) | 94,439 | -- |
| 1865 | Support for railroads | 8,047,469 | -- |
| 1866 | Internal improvements | 500,000 | 5,000 |
| 1892 | Itasca State Park | 7,000 | 7,000 |
| 1904-5 | Park and forest reserves | 20,000 | 20,000 |
| 1940 | Pine Island Development Project | 1,313 | 1,313 |
| 1943 | St. Croix Recreational Development Project | 30,000 | 30,000 |
| | TOTAL | 16,532,129 | 2,600,581 |

the swamplands, however, the state was supposed to sell the lands and use the proceeds to construct drainage systems. Nevertheless, between 1861 and 1881, the state gave away more than 2.8 million acres of swamplands to eight railroad companies and granted another 400,000 acres for a variety of other purposes, including a prison, an insane asylum, and a seminary. The legality of these gifts was questioned, but never finally established. In addition to these grants, the state made several smaller gifts of federally granted lands to private parties, including 7,643 acres of salt spring lands, and at least 28,874 acres of swampland.

But the rest of the land given to Minnesota by the federal government was sold for cash rather than given away. And most of these sales reflected the original purposes of the grants.

The school lands, for example, were given for the establishment and support of public schools. Only by selling, leasing, or otherwise receiving income from school lands could the state carry out the intent of the Congress. The Permanent School Trust Fund was set up in 1862, when the first 32,247 acres of school lands were sold for $242,876. By the 1880s, approximately 1.5 million acres of school lands had been sold and the proceeds used to augment the Permanent School Trust Fund.

At about the same time, in 1881, what was left of the swampland grant was set aside and designated for merger with the school lands that had not yet been sold. From that time to the present, the original school lands and the swamplands have been managed together by DNR to produce income for the Permanent School Trust Fund.

According to the state constitution, the school lands of highest value were to be sold first. Those lands good for farming or near populated areas were largely disposed of in the first 25 years, leaving large tracts of school lands and swamplands only in the northern and northeastern parts of the state today.

By 1982, all but 953,171 acres of the original school lands and 1,559,914 of the swamplands had been sold. From the remaining lands, the Permanent School Trust Fund continues to receive income from rental, timber sales, and mineral leases. The fund itself has grown to have a market value in excess of $252 million.

Although the state continues to dispose of a few parcels of its school lands and swamplands on a nearly annual basis (See Chapter IV), large-scale disposal activities ended during the last two decades of the 19th century. The end of the era of wholesale land disposal in Minnesota was brought about by three major factors. First, most of the valuable land had already been sold or given away. Most of the remaining lands were of marginal value for farming or development. Second, there was a growing recognition that the Permanent School Trust Fund would have fewer future opportunities for growth if more of the school and swamplands were sold. Third, there were growing pressures on the state to reserve some lands for public use and enjoyment and to increase its own role as a land manager in the public interest.

Accordingly, land disposal waned in the 1880s. Of the original 16.5 million acres of federal land grants, the state had managed to dispose of all but about 3 million acres. Table 1.2 shows how much of the original federal land grants remained in state ownership in 1982.

## 3. RESERVATION OF STATE LANDS

As state land holdings dwindled, state policy underwent a slow but clearly distinguishable transformation. Between 1860 and 1900, Minnesota's population grew ten-fold, from 172,000 to 1.75 million. This increased population pressure helped change the way Minnesotans thought about their state's land and its resources. In addition, the depletion of the state's virgin forests and the discovery of vast mineral wealth affected that perspective.

During the period 1889 to 1935, the state took steps to reserve certain lands for public use and to retain partial interest in other lands that were to be sold.

In 1889, the Legislature made it "proper" for the state land commissioner to retain the mineral rights on all state lands sold in St. Louis, Lake, and Cook counties. In 1901, this policy became mandatory throughout the entire state. This policy also applied to lands that the state subsequently acquired, including tax-forfeited lands. As a result, state mineral rights have grown significantly over the years even though total state landownership has fluctuated.

In 1891, the Legislature set aside certain forest lands, creating Itasca State Park. As the source of the Mississippi River, the park was a tourist mecca and forest preserve. The state had a multiple-use policy for state parks, so logging in Itasca continued until the 1930s. Nevertheless, the creation of Itasca State Park marked the beginning of a state program to set aside certain lands for general public enjoyment and recreation and for preservation. By the end of the 1930s, 26 state parks had been created.

In 1899, the Legislature passed a law permitting the creation of forest preserves from existing state lands or from gifts to the state. A gift formed the nucleus of the first forest preserve in 1902. By 1935, 26 state forest preserves had been created.

These actions marked the transition from the state's original policy of land disposal to a policy of retention and active acquisition.

## 4. ACQUISITION OF LANDS BY THE STATE

After 1903, the state had the authority to purchase lands for forestry purposes. But few actual purchases were made for several decades. Instead, the state began to acquire lands by gift and tax forfeiture.

From the time of statehood, the goal of the state was to return to private use those lands left vacant as a result of tax delinquency. However, the extent of tax delinquency--particularly during times of economic hardship--was unanticipated.

In order to discourage tax delinquency, the Legislature passed a law in 1899 providing for forfeiture of land to the state when tax bills were delinquent for three or more years. But because the law was to be carried out by county auditors who wanted to keep lands on the tax rolls, the law was not effectively implemented.

However, the depression years, the rate of delinquencies rose and the state began acquiring large quantities of private lands. The crux of the problem was three-fold: marginal agricultural lands simply were not productive enough, land prices stayed low, and taxes rose as the tax base narrowed through past forfeitures. At one point the state held approximately 6 million acres of tax-forfeited lands.

In response, the Legislature passed a series of "bargain counter" tax laws to turn these lands back into private hands by offering reduced tax payment plans. These laws allowed the county auditor to sell tax-forfeited lands at public auction for a price equal to or greater than the taxes owed. But even these provisions failed to reduce significantly the amount of tax-forfeited land held by the state. As a result, the Legislature concluded that tax-forfeited lands were a permanent state responsibility and thus it passed a series of laws to govern the handling of such lands in Minnesota.

It became the policy of the state to take full title to tax-forfeited lands but to allow the counties to administer them. Counties were required to classify all lands as either conservation or agricultural lands. With the approval of the state, agricultural lands could be sold by the county auditor for not less than the appraised value; conservation lands were to be retained.

Today, the state retains approximately 2.8 million acres of county administered tax-forfeited lands. DNR administers another 400,000 acres, mostly in parks and forests.

In addition, the state now has title to other tax-forfeited lands known as the Consolidated Conservation Area lands. To encourage the settlement and productivity of northern Minnesota lands, several counties issued drainage bonds in the 1920s. When local property owners failed to pay the bonds and taxes, the land was forfeited to the counties along with the delinquent bonds. Because the counties were unable to meet the fiscal obligations of the bonds, the state, in three successive legislative actions, agreed to undertake the debt in exchange for clear title to the land. In 1929, the state assumed the debts of Beltrami, Lake of the Woods, and Koochiching counties. Some of these lands were set aside by the Legislature as the Red Lake Game Preserve. In 1931, the state assumed the drainage debts of Aitkin, Roseau, and Mahnomen counties (simultaneously creating state reforestation and flood control areas), and in 1933 it acquired similar lands from Marshall county.

Altogether, between 1929 and 1933, the state acquired a total of 1,564,461 acres of conservation area lands in seven counties. In 1949, the Legislature consolidated the receipts from income from these lands into a Consolidated Conservation Areas Fund, 50 percent of which is directed to the state's General Fund and 50 percent of which is paid to the county in which the land is located.[7]

More recently, state land acquisition has occurred primarily through direct purchase of private land for natural resource purposes. Since the turn of the century, Minnesota has purchased approximately 1 million acres of land for forests, parks, wildlife areas, and other programs sponsored by the Department of Natural Resources.

Many of these acquisitions have been accomplished with the help of various federal funding programs, such as the 1937 Wildlife Restoration Act (Pittman-Robertson) and the Land and Water Conservation Act (LAWCON). Among other things, these programs have provided federal matching funds for the purchase of lands for conservation purposes.

The Volstead Act, passed by Congress in 1908, authorized the establishment of liens against certain federal lands in order to meet the federal cost of the state's wetland drainage program. In 1958 a second act was passed establishing provisions for the sale of debted land to the state. In 1963 these "Volstead" lands--some 32,786 acres in northern Minnesota--were purchased by the state. They are retained in their entirety today.

This brief review of the four phases of Minnesota's land tenure demonstrates that state landownership has fluctuated significantly since statehood. While state landownership has increased slightly in recent years, it is far less today than it was during earlier periods in the state's history.

---

[7]Minn. Stat. 84A.51 specifies that county monies are to be divided: 30 percent for the county development fund, 40 percent for schools, 20 percent for the county revenue fund, and 10 percent for roads.

# II. CURRENT LAND ACQUISITION PRACTICES

During the last decade, land acquisition has been a major activity of state government. In this chapter we summarize recent acquisitions by the state, evaluate acquisition procedures, and review the existing structure for making decisions about state land acquisition in Minnesota. Throughout, our focus is primarily on the acquisition of natural resource lands.

## A. STATE LAND ACQUISITION, 1974-81

Between 1977 and 1982, the state acquired approximately 117,000 acres--an area larger than Ramsey County. Nearly all these lands were acquired by two departments: Natural Resources and Transportation. Leaving aside expenditures for administration, appraisals, and relocation, these lands cost the state almost $140 million. Table 2.1 summarizes these acquisitions since fiscal year 1977.

Most of the land acquired has been for natural resource programs. Between 1977 and 1982, DNR acquired 107,561 acres, or nearly 92 percent of all acreage acquired by the state. Most notable have been DNR's wildlife area acquisitions which have amounted to 45,774 acres, or 43 percent of all DNR acquisitions. Park acquisitions totalled some 26,450 acres and state forest acquisitions totalled 14,803 acres during this period (see Figure 2.1).

Between 1977 and 1982, DNR spent almost $43 million for interests in land. Based on our study of DNR acquisition transactions in fiscal year 1980, we estimate that administrative overhead for staff, appraisals, relocation, and other activities related to land acquisition may add another 23 percent over raw land costs. Accordingly, total DNR land acquisition costs for the period 1977-82 may be nearly $53 million.

DNR acquisition activity, summarized by management program, is presented in Appendix B.

Land acquisition for highway programs has been far less extensive than that for natural resource programs, but because of the characteristics and quality of individual parcels, state expenditures for transportation land have far exceeded those for natural resource land. Between 1977 and 1982, the Department of Transportation acquired only 9,567 acres, mostly for highway right-of-way for state-aid and interstate highways. Expenditures for these lands were in excess of $94.4 million. The department's own tally of administrative costs, including expenditures for appraisals and relocation, amounts to $37 million for calendar 1977 to 1982, bringing the total for all transportation land acquisition to roughly $131.6 million. Appendix C summarizes all Mn/DOT land acquisition from 1974 to 1982.

TABLE 2.1

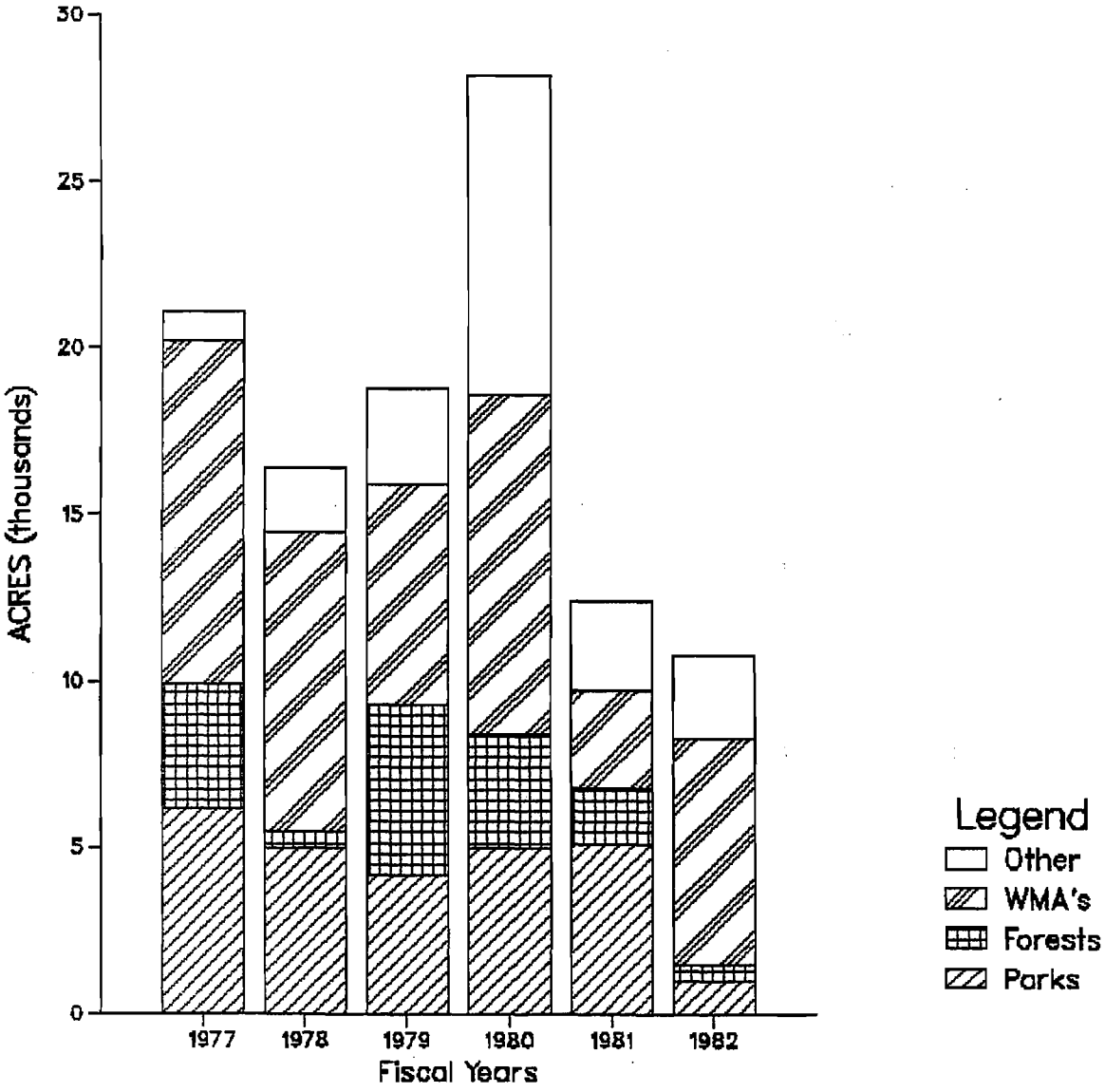
STATE EXPENDITURES FOR ACQUISITION OF INTERESTS IN LAND AND ACRES ACQUIRED
F.Y. 1977-82

| Fiscal Year | Expenditures | | | | Acres | | | |
|---|---|---|---|---|---|---|---|---|
| | DNR | MnDOT[a] | Other Agencies | Total | DNR | MnDOT[a] | Other Agencies | Total |
| 1977 | $ 5,104,475 | $ 9,035,477 | $ 583,300 | $ 14,723,252 | 21,101.34 | 2,673 | 21.24 | 23,795.58 |
| 1978 | 4,926,292 | 12,048,031 | 573,100 | 17,547,423 | 16,417.14 | 1,489 | 30.92 | 17,937.06 |
| 1979 | 8,995,488 | 17,597,450 | 67,000 | 26,659,938 | 18,770.76 | 1,467 | .52 | 20,238.28 |
| 1980 | 12,229,833 | 14,577,132 | 721,332 | 27,528,297 | 28,152.84 | 1,785 | 1.12 | 29,938.96 |
| 1981 | 6,442,308 | 20,071,796 | 430,750 | 26,944,854 | 12,367.00 | 855 | .10 | 13,222.10 |
| 1982 | 5,261,335 | 21,132,250 | -0- | 26,393,585 | 10,751.89 | 1,298 | -0- | 12,049.89 |
| TOTAL | $42,959,731 | $94,462,136 | $2,375,482 | $139,797,349 | 107,560.97 | 9,567 | 53.90 | 117,181.87 |

Sources: DNR: Land Bureau, Annual Acquisition Reports, F.Y. 1977-82.
MnDOT: Division of Right of Way, Annual Land Cost Reports, 1977-82.
Other Agencies: Department of Administration, Real Estate Management Division.

[a]Calendar years.

# FIGURE 2.1
# DNR LAND ACQUISITION BY PROGRAM, F.Y. 1977–1982




Source: DNR, Land Bureau, Annual Acquisition Reports, F.Y. 1977–82.

Total expenditures for all remaining land acquistion by state agencies between 1977 and 1982 were about $2.4 million for 54 acres. Some of these properties included buildings or other improvements, accounting for the relatively high costs per acre.

## B. ACQUISITION PROCESS

### 1. PLANNING

The Department of Natural Resources follows a planning process outlined in the 1975 Outdoor Recreation Act. The act requires DNR to develop a master plan and hold public hearings for each authorized unit prior to any new construction or development. Specifically exempted from this requirement are wildlife management areas that do not have resident managers, water access sites, and rest areas.

- DNR's master plan development is incomplete. Existing plans do not extensively address land acquisition problems and methods even though acquisition is often necessary before the plan can be implemented.

As of January 1983, master plans had been developed for all 9 wild and scenic river areas, and all 9 wildlife management areas that have resident managers. But there are plans for only 43 of 64 state parks and recreation areas, 8 of 12 recreational trails, and just 4 of 27 scientific and natural areas. In addition, there is a plan for only one of the 55 state forests and no site-specific plans for fisheries units, small wildlife management areas, or water access sites. Appendicies D through H discuss the land acquisition planning process for various DNR management units. Case studies analyze how acquisition problems have affected plan implementation.

State law does not specify that land acquisition issues should be incorporated in master plans. Apart from an identification of parcels targetted for acquisition, completed master plans are devoid of serious consideration of acquisition issues, including the possibility of using alternatives to land purchase in order to achieve the project's goals.

In addition to the master plans, DNR has developed a State Comprehensive Outdoor Recreation Plan (SCORP) in compliance with federal requirements under the Land and Water Conservation (LAW CON) program. While this document provides detailed information on the state's existing recreational and conservation resources, it does not attempt to address acquisition issues directly.

Perhaps the most ambitious attempt to develop a coordinated and comprehensive land acquisition plan was the Resource 2000 accelerated land acquisition proposal presented to the Legislature in 1975. In what amounted to a detailed request for acquisition appropriations, the proposal identified specific private "in-holdings" in state parks

and forests which DNR had targetted for acquisition. It also outlined acquisition criteria, and in many cases pinpointed the exact location of parcels it wanted to acquire for wildlife management areas, water access, and other management units.

Over the past eight years, a great deal of development and acquisition activity has occurred in those units described in the Resource 2000 proposal. As early as 1978, however, there was evidence that acquisition was not proceeding as anticipated in the 1975 proposal. The Governor's Task Force on Waste and Mismanagement found that the acquisition process itself was cumbersome and slow, and that DNR was not acquiring the specific parcels that it had previously identified. Our review suggests that:

- DNR's overall land acquisition process has been improved somewhat, but DNR has been unable to acquire many key parcels identified in original plans. In many instances, low priority parcels, or parcels not identified for acquisition at all, have been bought by DNR.

In the 1977 Lac Qui Parle Wildlife Management Area master plan for example, 52 parcels were identified as acquisition priorities. By September 1982, only nine of these had been acquired. But five other parcels had been acquired that were not identified at all in the 1977 plan (see Appendix F).

In those instances where acquisition plans have not been carried out, or where they have been carried out imperfectly, DNR staff have suggested that the plans were old, not realistic, or failed to take into account the frequent difficulty of convincing private landowners to sell to the state. This problem of failing to identify willing sellers in the development of acquisition plans was pointed out in the 1978 Governor's Task Force report and appears to remain a problem. Failure to acquire key parcels delays implementation of plans. Perhaps management plans should include alternatives that could be implemented if priority parcels cannot be purchased.

We conclude that, despite the Outdoor Recreation Act master plans, the SCORP report and the Resource 2000 documentation, better land acquisition planning is needed.

- DNR should develop a state-wide comprehensive natural resources land acquisition and disposal plan. The plan should show how acquisition for individual management units will conform to the plan and what methods and procedures will be used. At each planning stage, alternative methods and outcomes should be considered.

We have found that much authority to direct and implement land acquisition policy rests at the program level in DNR. This decentralization pre-empts coordinated planning and accounts for a general lack of coherence in land acquisition policy making and implementation. DNR could use the Land Bureau to better coordinate land acquisition policy and procedures within the department and to provide a more coherent departmental approach to natural resources land acquisition.

## 2. PROCEDURES

The actual process of land acquisition is complex and lengthy. Once an agency determines that a given parcel is necessary for a project and the Legislature has appropriated the needed funds, an appraisal must be conducted and reviewed, a price must be negotiated with the private landowner, a title opinion must be made, and the sale consummated. In cases where highway right-of-way is acquired, eminent domain proceedings are often initiated. Because the procedures are somewhat different for the departments of Natural Resources, Transportation, and other state agencies, we have summarized the general steps for each in Appendices J, K, and L. Since most state land acquisition involves DNR, the remainder of this section concentrates on DNR acquisition procedures.

The state has an obvious interest in ensuring an efficient and swift acquisition process. Because of delays in the natural resource acquisition process in the mid-1970s, the Governor's Task Force on Waste and Mismanagement conducted a parcel-by-parcel analysis of DNR's acquisition steps in 1978.[1] The task force found that DNR often initiated the acquisition process (and expended money for appraisals) without adequately identifying which landowners were willing to sell to the state. Since DNR cannot generally complete an acquisition transaction without the willingness of the seller, the point was a crucial one. In addition, the task force found various administrative inefficiencies, delays, and bottlenecks. And it found that land appraisals done under private contract were often cheaper and more likely to pass administrative review than those done by DNR in-house.

The task force made several detailed recommendations. Among the most important suggestions were: 1) DNR should concentrate on identifying willing sellers before proceeding with acquisition activities, 2) DNR should simplify its procedures and shorten the average acquisition time from 607 days to 257 days, and 3) DNR should conduct fewer in-house appraisals and place greater reliance on private contract appraisals.

In order to monitor the progress of DNR in carrying out these recommendations and to develop a data base for other analyses, we collected independent information on all 262 DNR land acquisition transactions initiated in fiscal year 1980. For each transaction, we collected financial and appraisal data as well as noting the time it took DNR to move the transaction from one stage to the next.

- DNR has made progress in improving its acquisition procedures and in carrying out the task force's recommendations, but further improvements are possible.

The task force found that between 1975 and 1978, 49 percent of the appraisals completed by the state were done on parcels

---

[1] Governor's Task Force on Waste and Mismanagement, State Land Acquisition Study: Natural Resources Lands (August 14, 1978).

which were ultimately not sold to the state. The task force recommended lowering that proportion to 30 percent. We found that by 1980, DNR had lowered the proportion to about 38 percent. This represents a significant improvement, but it indicates that DNR should show still greater discrimination in deciding when to do appraisals.

Altogether, just 56 percent of the transactions begun in fiscal year 1980 were completed by September 1982. We found that over $63,000 was directly expended on uncompleted transactions--mostly for contract appraisals (see Table 2.2). An indeterminant proportion of an estimated $581,000 in other administrative costs was also spent on uncompleted transactions (see Table 2.3). DNR needs to make an effort to reduce these expenditures.

TABLE 2.2

COSTS FOR DNR LAND ACQUISITION TRANSACTIONS
INITIATED IN F.Y. 1980
(Directly Attributable Costs Only)

| | Completed Acquisitions (N = 148) | Uncompleted Acquisitions (N = 114) | Total (N = 262) |
|---|---|---|---|
| Private Fee Appraisals | $ 99,970 | $61,750 | $ 161,720 |
| Other Costs (abstracting, relocation, etc.) | 259,938 | 2,566 | 262,504 |
| Raw Land Costs | 4,370,245 | -- | 4,370,245 |
| Total | $4,730,153 | $63,316 | $4,794,469 |

Source: DNR, Land Bureau, Acquisition Files.

We studied the reasons why so many DNR acquisition transactions were still incomplete after more than two years. The most significant reason was the lack of a willing seller. Altogether, more than 13 percent of the transactions begun in fiscal year 1980 were terminated because the landowner turned out to be unwilling to sell to the state (see Table 2.4). Another nine percent of all transactions were terminated because the landowner was unwilling to sell at the price offered by the state.

- DNR needs to continue its efforts to more accurately identify willing sellers before proceeding with the acquisition process.

A focused study to identify the circumstances that determine whether a prospective seller will ultimately consummate a transaction with the state may be needed.

TABLE 2.3

ADMINISTRATIVE COSTS FOR DNR LAND ACQUISITION ACTIVITIES IN F.Y. 1980
(Excluding Directly Attributable Costs)

| | F.Y. 1980 Expenditures | |
|---|---|---|
| DNR Land Bureau: | | |
| Professional Salaries | $228,959 | |
| Clerical Salaries | 137,203 | |
| Travel | 22,992 | |
| Total | | $389,154 |
| DOA Real Estate Management: | | |
| Total | | $102,211 |
| Attorney General's Office: | | |
| Total | | $ 89,657 |
| Total Costs | | $581,022 |

Source: Compiled from DNR, DOA, and Attorney General's Office budget data.

In the mid-1970s, DNR took an average of almost two years to process the average acquisition transaction. The greatest delays were the time required to file a Fact Sheet after the initial contact with the landowner (two months), the time for an in-house appraisal (three months), and the negotiation period (nearly three months). Table 2.5 shows the average time required for each stage in 1978, the task force recommendations, and our findings on the average time required in 1980.

The average time for the whole process has been reduced from 607 days in 436 days, but some parts of the process have actually been lengthened. Some of these, such as the time required for negotiation, may be out of the state's control.

- One part of the acquisition process still needing attention is the appraisal review process at the Department of Administration. On the average, this step took more than one month.

Given the fact that the DOA review is most often a desk operation, only occasionally involving field work, the department should be able to shorten the time. Alternatively, the Legislature could eliminate the provision requiring DOA review of DNR appraisals. MnDOT currently acquires land with no independent review.

TABLE 2.4

DISPOSITION OF DNR LAND ACQUISITION TRANSACTONS INITIATED DURING F.Y. 1980 (as of September 1982)

| | | Percent of Transactions Initiated N = 262 |
|---|---|---|
| Completed Acquisitions | | 56.5% |
| Acquisitions Still Open | | 9.5 |
| Acquisitions Terminated | | 34.1 |
| • Unwilling Sellers | 13.4% | |
| • Insufficient Funds | 9.2 | |
| • Project Altered | 6.5 | |
| • Other | 5.0 | |
| TOTAL | | 100.1% |

Source: DNR, Land Bureau, Acquisition Files.

Finally, following the recommendations of the Governor's task force, DNR increased its dependence on the services of private contract appraisers. Between 1975 and 1978, 63 percent of the appraisals were done by DNR appraisers and 37 percent by private appraisers. In 1980, just 19 percent of all land transactions were appraised by DNR and 74 percent by private contractors. Another 7 percent were appraised by both DNR and private appraisers. Although it is difficult to assess the qualities of the appraisals done by each group, the advantages of private appraisers over DNR appraisers seem somewhat less compelling today than they did in 1978. In the mid-1970s, DNR appraisals took more than twice as long as private appraisals. Our review of 1980 acquisition transactions shows that private appraisers took an average of 51 days to complete their work while DNR appraisers were finished after just 30 days. In addition, the Department of Administration review of private appraisals took longer than that required for DNR appraisals. However, we found that when both a private and a DNR appraisal were done for a given parcel, the Department of Administration certified the private appraisal 69 percent of the time, suggesting greater confidence in private versus DNR appraisals. These points suggest that:

- DNR should review again the various advantages and disadvantages of in-house versus private contract appraisals and determine whether its current dependence on private contract appraisals is warranted.

TABLE 2.5

AVERAGE CALENDAR DAYS REQUIRED TO COMPLETE DNR LAND ACQUISITIONS: 1978 and 1980

| Selected Steps in DNR Acquisition Process | Average Time Taken in 1978 | Governor's Task Force Recommendation | Average Time Taken in 1980 |
|---|---|---|---|
| First contact with landowner to Fact Sheet received by Land Bureau | 60 | 15 | 38 |
| Fact Sheet received by Land Bureau to request for appraisal | 15 | 5 | 15 |
| Request for staff appraisal to staff appraisal assigned | 32 | 10 | 9 |
| Staff appraisal assigned to staff appraisal received by DOA | 86 | 30 | 30 |
| Staff appraisal received by DOA to appraisal certification by DOA | 56 | 14 | 25 |
| Request for outside appraisal to outside appraiser assigned | 20 | 10 | 17 |
| Outside appraisal assigned to outside appraisal received by DOA | 34 | 30 | 51 |
| Outside appraisal received by DOA to appraisal certification by DOA | 37 | 14 | 39 |
| Appraisal received by Land Bureau to request for negotiations | 5 | 3 | 6 |
| Negotiator assigned to option date | 82 | 60 | 112 |
| Option date to election to purchase | 70 | 60 | 73 |
| Abstract received by Land Bureau to abstract sent to Attorney General | 11 | 7 | 24 |
| Total: First contact with landowner to warrant mailed to landowner (successful purchase) | 607* | 257* | 436* |

Sources: Governor's Task Force on Waste and Mismanagement. State Land Acquisition Study - Natural Resource Lands. August 14, 1978; DNR, Land Bureau, Acquisition Files.

*Steps overlap and some are eliminated so totals do not equal the sum of all steps.

## 3. NEGOTIATING FLEXIBILITY

According to state law, state land negotiators are allowed to offer ten percent over the appraised value for any natural resource land.[2] This negotiating leeway affords the state a degree of flexibility state negotiators say is needed to bargain successfully with private landowners.

There is concern, however, that the very existence of a legally fixed negotiating framework places the state at a bargaining disadvantage. Landowners learning of the negotiator's ability to pay ten percent over a parcel's appraised value might simply pressure the negotiator to raise the state's offer up to the maximum.

However, the evidence suggests that this is not a widespread problem. For those land transactions begun in fiscal year 1980 and completed by September 1982, nearly 65 percent were purchased by the state at the appraised value. Just 21 percent were purchased at the maximum level allowable under state law (see Table 2.6).

TABLE 2.6

EFFECTS OF NEGOTIATING FLEXIBILITY ON LAND PRICES PAID BY DNR

| Price Paid by State | Percent of DNR Land Transactions (N = 131) |
|---|---|
| Appraised Value | 64.9% |
| 1 - 5 Percent over Appraised Value | 6.9 |
| 5 - 9 Percent over Appraised Value | 6.9 |
| 10 Percent over Appraised Value | 21.3 |
| | 100.0% |

Source: DNR, Land Bureau, Acquisition Files.

[2] Laws of Minn. (1979), Ch. 248, §1, Subd. 1.

## C. IMPACT OF STATE LAND ACQUISITION

The acquisition of private land by the state affects individuals and local communities in complex ways. Whether the impact is positive or negative, significant or negligible, depends on several factors, including the size of the acquired tract, its location and productivity, the difference between past private uses of the land and future state plans, and the methods used by the state to acquire it.

Conflict between the state and individual landowners is common and may be unavoidable. State natural resource and highway programs are designed to accomplish specific purposes in the public interest. Local landowners, on the other hand, have a natural desire to use the lands for their own benefit. The degree and intensity of state-local conflict depends largely on the local perception of economic gains and losses accruing from a specific state project.

Projects that are expected to generate local economic activity, such as tourism, or expand the availability of a key natural resource, such as timber or minerals, may win widespread local support. But projects that limit local use, for hunting or snowmobiling for example, or set aside economically productive lands from the local economy, such as farm land or timber land, are bound to generate opposition.

In the mid-1970s, attempts by DNR to carry out its land acquisition plan for the Richard J. Dorer Memorial Hardwood Forest in the southeast part of the state met with widespread opposition from local farmers who accused the state of buying up productive agricultural land for inclusion in the forest boundaries. In some instances, DNR had purchased farms that included both wooded and agricultural portions. Although DNR does not have general condemnation authority and only purchased land from willing sellers, some local residents thought that DNR's acquisitions were detrimental to the local agricultural economy (see Appendix D).

Another DNR project that has generated local opposition is the Minnesota Valley Trail, which is designed to provide a variety of recreational opportunities for hikers, snowmobilers, and others. In this instance, the issue has not been the amount or type of land being taken by the state, but rather the expectation that any added economic gains from increased tourism would be outweighed by a rise in trespass and vandalism to local properties (see Appendix G).

Still more opposition to state land acquisition and ownership during the 1970s came from northern counties such as St. Louis and Koochiching where state and federal governments own a large percentage of the land area, reducing the local tax base and restricting the flow of tax revenues to local governmental units. Particularly in the northeast part the state, but elsewhere as well, opposition to state land acquisition has been broad and generalized, prompted by the opinion that the state owns too much land or by the belief that private land management is preferable to government management.

The Legislature has taken steps to address some of these concerns. In 1979 it passed a law requiring DNR to exchange or declare surplus any parcel of land acquired after 1977 in the Dorer Memorial Hardwood Forest if it contains more than 10 acres of tillable land or a farm homestead along a public road.[3] But the results of this program are difficult to assess. So far, DNR has exchanged only 47 acres of acquired agricultural land in the forest. Another 376 acres are in the process of being exchanged. Of concern to DNR has been the high cost of conducting surveys needed to prepare parcels for disposal. The overall results of the program appear to be a greater wariness on the part of DNR about acquiring any parcels in the future that have significant amounts of tillable land (see Appendix D).

Also in 1979, the Legislature enacted a program to compensate local jurisdictions for property tax revenues lost to them as a result of the state's natural resource land holdings within their boundaries.[4] Under the "payments in lieu of tax" program, money is transferred from the state's General Fund and the Game and Fish Fund to county governments according to the following formula: $3 per acre of acquired natural resource land in the county, 75¢ per acre of county administered resource land, and 37.5¢ per acre of other natural resource land administered by the Department of Natural Resources. The counties are then responsible for transferring a portion of these payments to affected townships.

Despite some complaints from townships about the manner of county dispersal of these funds and a concern that a single statwide formula for payments fails to take account of the real market values of land in different parts of the state, the program appears to have allayed much of the criticism of state land ownership from the counties. In some counties there is a new perspective on state-local relations. If state lands were transferred back to private ownership, the cost of delivering county services such as road maintenance and snowplowing might not be offset by the newly generated property tax revenues.

Altogether in fiscal year 1981, the Department of Natural Resources dispersed payments in lieu of taxes to counties totalling approximately $5.3 million.

## D. LAND ACQUISITION AUTHORITY

Who is empowered to acquire land for the state? Who decides whether to purchase a specific parcel of land for inclusion in a state forest or wildlife preserve? These questions are not difficult to answer, but they suggest a deeper and more controversial debate: who <u>should</u> make land acquisition decisions? Much of the criticism of

---

[3] Laws of Minn. (1979), Ch. 248, §1, Subd. 1.

[4] Laws of Minn. (1979), Ch. 303, Article VIII.

recent land acquisition has been directed at DNR. Some question the degree of autonomy the agency should have as a land acquisition agent. However,

- virtually all state land acquisition since the early 20th century has been authorized, explicitly or implicitly, by the Legislature.

The first such authorization was given by the Legislature in 1903 to the State Forestry Board to purchase lands for forestry purposes. Today, there are more than two dozen statutory references to natural resource land acquisition alone.

Current acquisition statutes fall into three general categories: 1) those that are project-specific, such as the authorization for acquisition of lands for the St. Croix Wild and Scenic River Area;[5] 2) those that permit acquisition of lands in previously designated natural resource management units, such as state parks, trails, and forests;[6] and 3) those that constitute a general grant of authority to the DNR to acquire lands for certain purposes, such as water access or wildlife management, even though the specific sites have not been explicitly approved by the Legislature.[7]

Legislative involvement is greatest in the first two acquisition categories. Projects such as the St. Croix Wild and Scenic River Area, Tettegouche State Park, or the Minnesota Valley Trail have been the subject of considerable legislative debate and attention. Once the boundaries of these units are established by the Legislature, DNR is authorized to proceed with acquisition of private tracts within those boundaries.

The Legislature is less involved in the last acquisition category. In this instance, the Legislature has provided DNR with unit definitions and acquisition guidelines, but it has not pin-pointed specific acquisition sites. For example, the Legislature has defined a water access site as a place "adjacent to public waters to which the public (has) no access or where the access is inadequate and upon which the public has a right to hunt and fish."[8] The Legislature has prohibited sites larger than seven acres and provided DNR with other guidelines, but it has left the selection of specific sites to DNR. This legislative grant of power to DNR has sparked a certain amount of controversy. In view of the fact that in the past few years between a quarter and a third of all land acquired by DNR has been under general grants of authority, such as that for wildlife areas, the controversy is not surprising.

---

[5]Minn. Stat. §104.25, Subd. 3 (1982).

[6]Minn. Stat. §§85.012, 85.015, and 89.032 (1982).

[7]Minn. Stat. §97.48, Subd. 15, and §97.481 (1982).

[8]Minn. Stat. §97.48, Subd. 15 (1982).

However, the role of the Legislature does not end with the grant of specific or general acquisition authority.

- Legislative control of the purse strings constitutes a second important method by which the type and degree of land acquisition is determined.

In 1963, the Legislature created the Legislative Commission on Minnesota Resources (LCMR) to study the state's natural resource needs, to recommend legislation to address those needs, to recommend how money in the natural resources account should be allocated, and to oversee the programs funded as a result of LCMR recommendations.[9] Although there have been exceptions, LCMR's recommendations on natural resource expenditures are generally accepted by the full Legislature.

LCMR is expressly designated in statute as an advisory body for natural resource land acquisition. For all of its programs involving land acquisition, including those for which it has general acquisition authority, DNR is obligated to consult with LCMR prior to acquiring lands. Accordingly, from 1963 onward all natural resource land acquisition has been reviewed and approved in advance by LCMR--an arm of the Legislature. In addition, appropriations for land acquisition, including all matching federal funds, are made through LCMR.

As a result of these arrangements, the state has a central control mechanism for natural resources land acquisition. Through LCMR, the Legislature provides advice to DNR, gives approval for acquisition plans, and provides acquisition funding. In acquiring land over the past decade, DNR has carried out its statutory obligations. Under the current arrangements, the Legislature, through LCMR, is the valid and legitimate decision maker for most land acquisition questions.

There are, of course, various alternative arrangements by which land might be acquired by the state. In general, alternatives might substitute one set of actors for another, or reallocate policy-making and policy-implementing powers among existing actors. There could be a requirement, for example, that the State Executive Council approve all specific acquisition proposals before they are sent to LCMR for review. This would increase the role of elected officials in land acquisition and give more weight to priorities other than natural resources in making land acquisition decisions.

A second possibility would be to create a new citizens' board with broad powers to review DNR's acquisition plans and to set acquisition priorities for legislative action. Like the state's Waste Management Board, this land board could review specific acquisition

---

[9] The natural resources account has three primary sources of income: a state cigarette tax (Minn. Stat. §297.13 (1982)), general legislative appropriations, and federal matching funds.

sites proposed by DNR and decide which ones should be acquired first. This arrangement would broaden public input on land acquisition questions and help set priorities among programs.

While each of these possibilities has merits worth considering, we do not recommend them at this time. Each alternative minimizes the role of natural resource professionals in decision making and each adds another bureaucratic layer to the already complex acquisition structure. Instead, we think that the Legislature should consider the following:

- Recodify and simplify existing statutes relating to land acquisition, giving DNR several broad grants of acquisition authority in place of the many project-specific provisions now in law.

This would involve making uniform guidelines for acquisitions within each management division. Forest acquisitions would be undertaken according to one set of guidelines and wildlife acquisitions would be undertaken according to another. The Legislature could eliminate most project-specific acquisition laws, limiting the numbers of such laws in the future. Acquisition methods should be broadly defined, although certain methods, such as condemnation, could be reserved for use only upon the approval of the State Executive Council. This reform would greatly simplify the state's complex acquisition laws, provide DNR greater leeway in deciding how and where to acquire, and still leave the Legislature the final say on all acquisitions through its appropriation process and through LCMR's review and oversight functions.

Second, we think that:

- The Legislature should establish a state revolving fund for land acquisition which DNR could use for acquiring key land parcels which were either explicitly approved in advance by LCMR or which meet certain acquisition guidelines established by the Legislature. The fund itself would be financed from DNR non-School Trust land receipts.

Perhaps the most important reasons for establishing such a fund are the effects that it would have on DNR land disposal (discussed in Chapter IV). But in addition, it would smooth the acquisition process and provide a source of funds for land acquisition to supplement current sources which are expected to diminish in the future. To ensure that the Legislature retains ultimate control over the acquisition process, the law establishing the revolving fund could require legislative or LCMR approval for all plans to spend acquisition money.

# III. LAND CONTROL METHODS IN MINNESOTA

State land acquisition is often controversial. The debate most often concerns what land, and how much land, the state should acquire. Far less frequently is there much discussion about how the state should acquire land. In this chapter we show why acquisition methods should be an important part of the acquisition debate. We review several alternative techniques for gaining state control over land for public purposes and suggest some ways that the state might acquire land more cheaply and efficiently than in the past.

## A. LAND COSTS AND FUTURE NEEDS

### 1. ESCALATION OF LAND COSTS

Inflation has influenced the American economy for years. Nowhere is this more true than in the real estate market. Between 1949 and 1977 land costs throughout the nation rose by 1,275 percent, according to the National Association of Homebuilders. The U. S. Department of Agriculture's price index for agricultural land doubled between 1972 and 1977; by 1981 it had gone up another 56 percent. In Minnesota the average value of an acre of cropland went from $232 in 1971 to $1,310 in 1981.

As a result of these price increases, state purchasing power for land has declined. For example, the average expenditure for an acre of natural resource land rose from $285 in fiscal year 1974 to $547 in fiscal year 1982. With certain types of land, such as water access sites and highway right-of-way, the rise has been more dramatic. In absolute dollars, state land acquisition expenditures have risen slightly during the last decade, but the amount of land the state has been able to acquire with these dollars has declined.

Declining state purchasing power for land is primarily brought about by the steady inflation of land prices over the past decades. But another factor, particularly with natural resource land, is the operation of a simple supply-demand mechanism. As potential water access sites dwindle, for example, the price that a private landowner can reasonably demand from the state goes up. By the same token, one reason the state may have to pay more for the last in-holding in a state park than it did for earlier acquisitions is that private landowners know when they have a rare and desirable commodity. Just as the cost of mineral extraction increases as the resource becomes depleted, the cost of land acquisition may be expected to increase as acquisition plans approach completion and as available lands diminish.

At the same time that land costs have risen, state legislative appropriations have begun to decline. Appropriations for natural resources land acquisition reached a peak in the middle 1970s and

declined as Minnesota entered the 1980s. As shown in Table 3.1, appropriations totalled $18.5 million for both the 1975-76 biennium and the 1977-78 biennium. In 1979-80 the Legislature provided $11.7 million and in 1981-82 only $8.7 million.

In 1975, the Legislature initiated a special accelerated land acquisition program--Resource 2000--to speed up the rate of natural resources land acquisition. Originally conceived as a six-year $100 million program, funded by three biennial appropriation phases of $20, $40, and $40 million, the program was supposed to provide the money needed to acquire certain key parcels of land before impending development could detract from their resource value and before inflation increased the ultimate cost of acquisition. The funds were to come from the natural resources account, the general fund, and the sale of bonds.

For various reasons, the Resource 2000 program was significantly curtailed in subsequent bienniums. Instead of rising, as we have seen, legislative appropriations for land acquisition dropped. Some of the reasons for this drop may include the following: 1) partial achievement of the state's acquisition goals as defined by DNR in the early and middle 1970s, 2) competing demands for increasingly scarce state dollars and other constraints on the state's overall budget, 3) reduced public support for additional state land acquisition, and 4) the inability of DNR to expend acquisition appropriations as quickly as anticipated.

## 2. FUTURE ACQUISITION NEEDS

Despite more than a decade of intense land acquisition activity and the achievement of many natural resource development goals, many acquisition needs remain. Many parcels that were assigned a high priority for acquisition in the mid-1970s are still privately held.

Private "in-holdings" in management units previously created by the Legislature, such as state parks and state forests, constitute one future target of DNR acquisition efforts. For example, the state's 63 state parks and recreation areas encompass a total of approximately 205,000 acres. But 20,000 acres are in private ownership and another 15,000 are School Trust lands or lands owned by other governmental units.

The total acreage within the boundaries of the state's 55 state forests exceeds 8.3 million, but about 5.3 million acres are privately owned. Table 3.2 shows the proportion of state-owned land in Minnesota forests. There has never been a goal of 100 percent ownership in all state forests, but DNR hopes to add thousands of acres to this system in the near future. The plan for the Richard J. Dorer Memorial Hardwood Forest alone anticipates the addition of 48,000 acres over the next 10 years.

The state's 12 recreational trails total 1,300 miles as designated by the Legislature. But the state only owns or controls 400 miles of this total, leaving some 900 miles left to acquire.

TABLE 3.1

STATE BIENNIAL APPROPRIATIONS FOR NATURAL RESOURCE LAND ACQUISITION
F.Y. 1975-76 TO F.Y. 1981-82

| | 1975-76 | 1977-78 | 1979-80 | 1981-82 |
|---|---|---|---|---|
| Parks and Recreation Areas | $ 7,000,000 | $ 7,783,000 | $ 1,880,000 | $2,200,000 |
| Trails | 1,000,000 | 1,805,000 | 750,000 | 290,000 |
| Forests | 2,000,000 | 2,760,000 | 2,000,000 | 200,000 |
| Fisheries | 1,000,000 | 1,008,000 | 1,008,000 | 400,000 |
| Wildlife | 2,750,000 | 2,500,000 | 4,000,000 | 4,500,000[a] |
| Wild and Scenic Rivers | 500,000 | 1,706,000 | -- | 400,000 |
| Scientific and Natural Areas | -- | 538,000 | 538,000 | 300,000 |
| Water Access | -- | -- | 1,500,000 | 650,000 |
| Other and Miscellaneous | 4,325,000 | 400,000 | -- | -- |
| TOTAL | $18,575,000 | $18,500,000 | $11,676,000 | $8,740,000 |

Source: Laws of Minnesota

[a]Including funds for wetland acquisition.

TABLE 3.2

PROPORTION OF STATE OWNED LAND IN MINNESOTA STATE FORESTS

| | Acres Established by Legislature | Acres Owned by State | Percent State Owned |
|---|---|---|---|
| R. J. Dorer | 1,978,819 | 41,497 | 2.1% |
| Pine Island | 878,039 | 641,194 | 73.0 |
| Kabetogama | 697,363 | 155,388 | 22.2 |
| Beltrami Island | 669,032 | 505,474 | 75.6 |
| Bowstring | 414,090 | 118,043 | 28.5 |
| Koochiching | 352,582 | 224,064 | 63.5 |
| Cloquet Valley | 316,467 | 39,628 | 12.5 |
| Finland | 307,648 | 101,997 | 33.2 |
| George Washington | 306,828 | 95,974 | 31.2 |
| Savanna | 218,451 | 121,204 | 55.4 |
| 45 Other State Forests | 2,187,956 | 913,625 | 41.8 |
| TOTAL | 8,327,275 | 2,958,088 | 35.5% |

Source: DNR, Land Ownership/Classification Report, December 1981.

The state's 1,250 wildlife management areas encompass approximately 1.4 million acres. The state owns, or has cooperative management agreements for, only 900,000 acres, leaving some 500,000 acres to acquire.

In addition, DNR has plans to acquire some 300 more water access sites to add to the 1,200 it already has developed on Minnesota lakes and waterways. And there are plans to add at least 225 miles of trout stream easements to the 145 miles already acquired by the state.

Given inflated land prices, reduced state capabilities, and remaining acquisition needs, it is important to determine whether the state's current methods of achieving control over land for public purposes are adequate. Does the state have the tools it needs to accomplish its acquisition goals efficiently and effectively? The rest of this chapter addresses this question.

## B. LAND CONTROL METHODS

The Legislature has not authorized state land acquisition as a goal in and of itself. The underlying goal of all state land acquisition is to enable the state to carry out some program or undertake some public project that is deemed to be in the public interest. In some instances, the state buys and improves land to provide direct public services--to build a prison, construct a highway, or develop a recreation area. In other cases, the state's goal is merely preservation--of wetlands, open space, or scenic values. Frequently the state acquires land to accomplish several goals at the same time. For example, state forest land may serve simultaneously as wildlife habitat, recreation facility, and economic resource. It may protect against runoff, and serve a variety of special groups, including hunters, loggers, bird watchers, and campers.

Program goals determine which land control methods are feasible. The challenge for the state is to select from among many possible land control methods--from land purchase to leases to zoning--the ones best suited for a particular set of circumstances and for a particular program. A method ideal for one project may be ill-suited for another. Most importantly, state land managers need to re-evaluate continually the goals of each program and determine which land control methods best enable the state to meet those goals.

Documenting the land control methods currently used in the state of Minnesota is made difficult by the lack of a comprehensive data reporting system. Not only is it difficult, as we noted in Chapter I, to describe what lands the state owns, it is virtually impossible to identify less-than-fee interests in land held by the state. All three agencies acquiring land for the state--the departments of Administration, Natural Resources, and Transportation--can report on fee and less-than-fee interests acquired over the past decade (the past three decades for MnDOT), but none can provide summaries of

less-than-fee interest currently held.[1] Perhaps the biggest deficiency is the state's inability to describe and summarize the extent and nature of mineral rights owned on private lands throughout the state.

Despite these problems, it is possible to evaluate the variety of land control methods currently used by the state. In this section, we review the advantages and disadvantages of state land control methods that involve acquiring a) a tangible interest in land or b) the right to use private lands for public purposes. In the final section, we review other land control methods. Our purpose is to determine whether alternative land control methods may enable the state to carry on its land acquisition programs in an era of rising land costs, state budgetary constraints, and localized opposition to state land ownership.

## 1. LAND CONTROL THROUGH ACQUISITION OF INTERESTS OR RIGHTS

Most land control methods consist of an interest in or right to use land, such as fee simple interest or an easement, plus a method of acquiring that interest, such as purchase, gift, or condemnation. Both elements are highly legalistic and complex, but they are best understood in terms of what is acquired, and how it's acquired.

In Minnesota the principal land control method used by the state is the acquisition of fee title by purchase from willing sellers. With a few notable exceptions, DNR acquisition programs are designed with the assumption that full state ownership is preferable to any less-than-fee ownership arrangement, such as easements, and that negotiated purchase is preferable to condemnation or gift solicitation. In addition, most other state lands, including highway right-of-way, are acquired through negotiated purchase. However, the Department of Transportation also acquires fee interests for highway right-of-way by eminent domain.

### a. Purchasing Land in Fee

Under American common law, one does not own land, one owns an interest in land. The fee simple is the most common interest, and if absolute, the holder of such an interest has the greatest aggregate of rights in an estate recognized by the law. A fee simple absolute is an estate in which the owner has full rights of possession. When a fee simple interest in land is acquired, all rights associated with the property are transferred to the new owner.

The main advantage of this type of land interest is that the new owner has total control over most land uses. There are no questions about who possesses what rights, and legal documents are relatively simple and straight-forward. When the state owns land in fee, it encounters fewer problems if program goals change and the land is put to other uses than originally envisioned.

---

[1] LCMR has provided funds to DNR to compile an inventory of less-than-fee lands. So far, only wildlife lands have been summarized.

The main disadvantages of fee simple ownership are the high initial costs of acquisition and the on-going costs of administering and maintaining the land. Although these costs are difficult to calculate, they are higher than those associated with other interests as noted below. Other disadvantages include the negative public attitude toward extensive public landownership in some localities. The state has sometimes been criticized for its management methods and there is sometimes apprehension about how state land will eventually be used.

Although fee interest may be acquired in several ways, the most common method is by purchase from willing sellers. A land purchase is a simple exchange of property rights in return for an agreed upon amount of money. When land is purchased by negotiation, private property owners retain the right of refusal if the terms or conditions are unsatisfactory. It is also a convenient and flexible method for the state; it can decide how much it is willing to spend for various parcels. But reliance on negotiated purchases often means that transactions begun are sometimes not completed. Negotiations can break down, landowners may feign an interest in selling in order to obtain a state-paid appraisals, or a competing offer may exceed what the state is willing and able to pay.

With the exception of those lands incorporated into the state management units as a result of the original federal government land grants from the 19th century, nearly all state land in state parks, forests, wildlife preserves, and highway projects are fee title lands which were acquired through negotiated purchase from willing sellers.

Between fiscal years 1974 and 1982, DNR acquired a total of 143,511 acres of land for $45.1 million. Of this total, more than 88 percent of the acreage was in fee title (see Figure 3.1). More than 92 percent of the expenditures were for these fee lands (see Appendix B for a program-by-program analysis of DNR acquisitions).

During roughly the same period, calendar 1974 through 1982, MnDOT acquired a total of 19,706 acres for $133.1 million. Fee lands accounted for more than 96 percent of MnDOT's acquired acreage and nearly 99 percent of acquisition expenditures (see Appendix C).

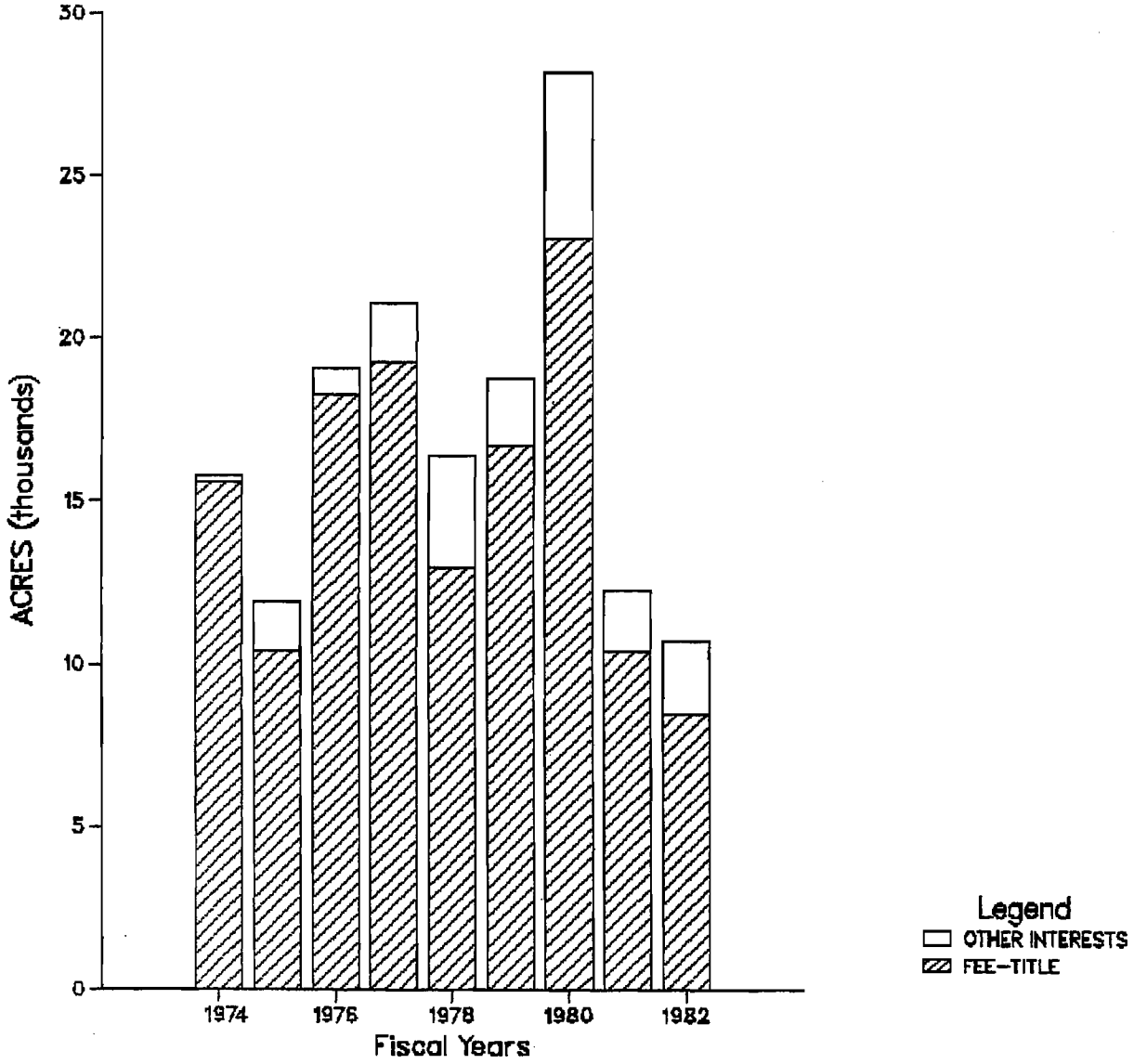
Our review of state land management programs, including case studies of land acquisition in several state parks, forests, wildlife management areas, and other sites (see Appendices D through I), has convinced us that:

- Most of these acquisitions were probably justifiable and apparently conducted in accordance with current laws.

In addition, we acknowledge that:

- In many cases, there is no alternative to purchase of fee title for natural resource and highway lands.

# FIGURE 3.1
# LAND ACQUISITION BY DNR
# BY TYPE OF INTEREST, F.Y. 1974–82




Source: DNR, Land Bureau, Acquisition Reports, F.Y. 1974–82.

Acquisition of fee title is necessary when the state anticipates heavy public use, plans even moderate construction or development, or needs to alter or modify the characteristics of the land for wildlife protection or preservation of natural values. Land in state parks, for example, is often subject to a variety of public uses and it is sometimes intensively managed by DNR. Wildlife management areas are often set aside and managed differently than when the lands were privately owned. With some projects, vegetation is changed, lands are flooded, or reforestation takes place. Highway projects entail perhaps the most dramatic example of intensive (and expensive) state construction. In all of these cases, the lands in question are best owned outright, free of any encumbrances or restrictions.

However, our review of the state's land management programs and visits to individual management sites, and our interviews with land management officials in St. Paul, field and district personnel, and private landowners has convinced us that:

- Alternatives to purchase of fee title from willing sellers are feasible and, in some instances, would be preferable to current methods.

There are many alternatives to purchase of fee title, including easements and leases. We evaluated the potential for purchase-leasebacks, purchase-sellbacks, life estates, cooperative management agreements, and programs to encourage gifts. Although we examined the eminent domain procedures used by the Department of Transportation, and reviewed recent attempts in the Legislature to expand the DNR's eminent domain powers, we have not specifically reviewed the impact that a wider condemnation authority would have on DNR acquisition programs.

We found that:

- The Department of Natural Resources lacks well-defined policies regarding the use of alternatives to regular fee acquisition.

No serious attempt has been made to identify those circumstances under which alternatives may be considered and to develop guidelines for negotiators or program managers for determining when fee purchase is appropriate and when alternatives might be applied.

- We think DNR should develop guidelines for alternative land acquisition methods for inclusion in its Land Manual.

These deficiencies need to be corrected because alternatives to fee acquisition are often cheaper and more acceptable to local residents than outright land ownership by the state. Moreover, current acquisition plans for the 1980s must be weighed in light of inflated land costs and shrinking state appropriations for land acquisition.

We met considerable skepticism about alternative land control strategies among the natural resources staff who are responsible

for designing and implementing Minnesota's land policies. There was particular doubt about easements, which many considered ineffective, expensive, and difficult to administer.

Nevertheless, there are many individual examples of the successful use of alternatives within DNR itself. In addition, the Legislature and DNR have initiated several innovative land control programs which illustrate the potential for land control strategies which transcend traditional state land acquisition methods. Some of these alternatives are discussed below.

b. Buying Easements

An easement is a right or privilege to use someone else's land for some special purpose. Although only a non-possessory interest in land, it can be an important interest (such as the right to restrict the building of a structure on a river bank). Most easements "run with the land" in perpetuity; they are binding on subsequent owners.

Easements are perhaps the most widely used alternative land control method, varying considerably in their nature and application. They have often proved ideal when a narrow goal is sought or limited use is anticipated.

The amount of land acquired for highway right-of-way through interests other than fee has been minimal. Temporary easements and land use agreements may be purchased during the construction phase but permanent easements are seldom sought. Prior to acquisition for a project, MnDOT evaluates each parcel to determine the type of acquisition required. Fee-title purchase is considered normal and easement purchase exceptional. Easements are only required for new locations where mineral rights are involved, acquisition of railroad property where the railroad company has easement only, and bodies of water under the jurisdiction of the federal government.

We found many individual examples of easements already in use in DNR programs. Easements are used in some state parks, for example, to provide public access across private lands. They are used to secure scenic vistas and prevent development close to the Lower St. Croix Riverway. And they are used in DNR's trails program to allow a trail to cross private land. We have determined, however, that:

- Easements are seldom actively sought by DNR. In most cases, easements are accepted by DNR only after a failed attempt to purchase lands in fee.

One major exception to the above generalization exists in DNR: the state's "Trout Stream Easement Program." This program, which involves more than 80 percent of the Fisheries Section's land acquisition expenditures, is designed to secure limited angling rights on private property along parts of 450 designated trout streams in the state. As of 1982, the department had negotiated easements along

more than 145 miles of trout streams. The easements, which are perpetual and fully binding on future owners, allow the public to use private property up to 66 feet from the edge of the stream. There is no state development on these lands and they are used only during a portion of the year. With few exceptions, DNR does not stock state trout streams unless some easements or fee purchases have been made along them.

In rare instances, private landowners have refused to sell easements along trout streams, forcing DNR to purchase their lands in fee. These private landowners may have felt uncomfortable with easements or wanted to dispose of the property anyway. But DNR's goal is to purchase easements and, thus far, there have been no problems with enforcement or implementation.

A major attraction of the Trout Stream Easement Program has been the cost savings. The administrative costs of acquisition are not notably different than those for fee acquisition, but the easements themselves represent significant cost savings over fee interest. In determining the fair price for trout stream easements, DNR offers between 40 and 80 percent of the parcel's fee appraisal. Trout stream easements cost approximately $400,000 in fiscal year 1980. Purchased in fee, these lands might have cost the state an additional $250,000.

That easements can save money is demonstrated in land acquisition transactions for selected DNR management programs between fiscal years 1977 and 1982 (see Table 3.3). These three programs are the only programs of DNR that have a significant amount of land acquired through both fee and easement purchase. The cost per acre for easement acquisitions averages 19-27 percent less than for fee acquisitions. Although it is important to remember that an easement represents only limited property rights, an easement may be all that is required by the program for which the land interest is being acquired.

TABLE 3.3

AVERAGE COST FOR SELECTED DNR LANDS BY INTEREST ACQUIRED, F.Y. 1977-82

| | Fee | | Easement | |
|---|---|---|---|---|
| | Acres | Cost Per Acre | Acres | Cost Per Acre |
| Wild and Scenic Rivers | 870 | $ 747 | 3,055 | $542 |
| Trails | 3,417 | $ 803 | 167 | $618 |
| Fish Management Areas | 540 | $1,236 | 1,980 | $998 |

Source: DNR, Land Bureau, Acquisition Reports, F.Y. 1977-82.

While the principal advantage of an easement is that it is cheaper than fee simple interest, there are other important benefits. Easements can be crafted to meet a variety of special needs and conditions, they allow the actual title to the land to remain in private hands, property remains on the tax rolls, and the costs of maintenance remain with the owner. Scenic easements may preserve open space, or restrict development, adding to aesthetic values and enhancing the economic value of neighboring properties not subject to the easement.

In addition, easements may not be as complicated nor as difficult to negotiate with private landowners as widely perceived. In any case, the amount of time required to process easement acquisitions by the state is actually less than that required for fee lands. For those DNR transactions begun in fiscal year 1980, the average time for completing a fee title acquisition was 443 days; the average time required to complete an easement acquisition was just 377 days (see Table 3.4).

TABLE 3.4

TIME REQUIRED TO PROCESS LAND ACQUISITION TRANSACTIONS INITIATED IN F.Y. 1980, BY INTEREST ACQUIRED

| | Fee | Easement |
|---|---|---|
| Transactions completed within 12 months | 22.5% | 37.9% |
| Transactions not completed as of 10/82 | 47.2% | 31.6% |
| Average number of days from start date to finish | 443 | 337 |

Source: DNR, Land Bureau, Acquisition Files.

However, easements are not panaceas. Because they represent only part of the interest in a land parcel, it is sometimes difficult to estimate their true value. What, for example, is a pristine view worth? Although they nearly always cost less than fee interest, some scenic easements in urban or popular recreation areas may cost up to 90 percent of fee.

Being somewhat exotic and unusual, easements are sometimes misunderstood and therefore resisted by landowners. Successfully acquired easements, particularly those that seek to restrict private activities, are sometimes ignored or even forgotten. The U.S. Fish and Wildlife Service has experienced considerable difficulty in enforcing the terms of wetland easements acquired recently from private landowners in western Minnesota and North Dakota. Because of these kinds of problems, there may be a "hidden cost" associated with easements to ensure enforcement and compliance with the terms

originally agreed to, especially after the passage of time and the transfer of the property to new owners. It is therefore important for any holder of easements, including the state, to keep an accurate and up-to-date record of each easement and to check periodically to make sure that it is being honored. We support the current effort by DNR to establish a computerized data base for all less-than-fee lands held by the department.

As a result of our review, we conclude that:

- There are opportunities to purchase easements in place of regular fee acquisition. Although these opportunities must, in general, be identified on a case by case basis, general guidelines can--and should--be developed.

Trout Stream Easements work because the land acquired is not targetted for heavy state development or public use. Enforcement is unlikely to be a problem because the easements place few demands on private landowners. The experience of this program can be a source of insight in developing successful easement opportunities for other DNR lands.

Examples of other lands which might be controlled through the purchase of easements include:

- State forest land which is acquired primarily for run-off control and which is not suited for logging or for state development. Some lands have been added to the Richard J. Dorer Memorial Hardwood Forest mainly for watershed protection. These lands are important to control in order to prevent logging and chemical run-off from nearby farms. But there is no compelling reason why the state needs to purchase these lands in fee. Easements would permit the state to reach its management goals.

- State recreational trail land. In order to add needed trail segments, the state has often purchased large tracts from private landowners. Although this is sometimes unavoidable, narrow easements through private property are feasible, particularly in cases where the trail plan runs through the middle of a large private parcel. Some easements of this nature do exist now; DNR could show more initiative in seeking easements rather than expensive fee purchases.

- State fish spawning sites and rearing ponds. The state now has 176 such sites, averaging 16 acres per site. Nearly 100 of these are undeveloped and were acquired principally for preservation and conservation purposes. These sites, purchased in fee, might have been equally well protected with easements, and the state should explore such alternatives for any remaining acquisition.

- Non-game wildlife management areas not targetted for intensive management or cover alteration. Lands open to hunters, or lands which are drained or flooded, or where

vegetative cover is completely changed should probably be acquired in fee. But where these conditions are not present, opportunities for easements exist and should be explored.

- Buffer lands in state parks and scientific and natural areas. Land designated for full protection or recreational development should be purchased in fee; lands within designated boundaries that are sought merely to provide a protective buffer area between the key areas of the unit and private farms or development outside the unit may be candidates for easements.

Although legally distinct, covenants and conditions may be used like easements. A "covenant" is an agreement between two parties that something will or will not be done. It may be framed in general terms (so as to prohibit activities which would be inconsistent with the goals or purposes of a project) or specific (such as controlling the dimensions or placement of a road sign). Although covenants are interests which "run with the land", they may automatically expire after 30 years under Minnesota law unless renewed by mutual consent. A "condition" is a stipulation in a deed that something will or will not be done. It is simlar to a covenant except that it is imposed solely by the grantor and it provides for the forfeiture of the land in the event of a breach of the condition.

Although we found few examples of their use by the state, covenants and conditions may have some of the same advantages as easements, particularly the opportunity for cost savings. In addition, because they are not permanent they may be more attractive to private landowners skeptical about easements. Of course the same impermanence makes covenants and conditions less attractive for the state, especially if the program use is expected to be permanent. Although cheaper in the short-run, the long-term costs of covenants and conditions are incalculable since they must be renegotiated and renewed periodically.

The state needs to explore and try other alternative methods of controlling land through conditions or covenants. Title conditions preventing certain kinds of development or establishing "performance standards" by which private activities could be judged might make certain kinds of land disposal possible by the state--particularly for land that is now managed exclusively for preservation of scenic or habitat values.

Alternatively, the state might buy land in fee, place conditions on the deed, and sell it--complete with deed restrictions--to another buyer. The land would remain in private hands, but the state's most important goal--preventing incompatible development or retention of stable buffer lands--could be attained cheaply. Used by the Montana Highway Commission, this so-called "purchase-sellback" procedure allows program flexibility as well as cost savings. On an experimental basis, DNR should test the viability of such an innovative approach for its natural resources programs.

c. Purchasing Leases and Licenses

A lease is a contract for exclusive possession of lands for a determinate period. In general, the lessee has full rights of possession and use for the term of the lease. A license is a revocable privilege to do something upon the land of another without possessing any tangible interest in that land. The fundamental difference between a license and a lease is that the grantor can revoke a license at any time.

The state acquires few leases and licenses in carrying out its various management programs. Both are short-term land control techniques and most state programs require the use of land for long periods of time--often permanently. One example of the current use of leases is the Waterbank Program, which is designed to offer several options to private landowners who agree to leave their agriculturally promising wetlands undrained. In a few cases, landowners have leased their land to the state for state wetland management.

The main advantages of leases and licenses over fee purchase are related to cost. The license is perhaps the cheapest strategy because it is technically not an interest in land at all. But it does permit a specific activity and, in cases where program goals are limited, it may be sufficient. The main disadvantages of leases and licenses are their impermanence. A license is revocable and gives the licensee few rights.

Keeping in mind the shortcomings and limitations, we think that:

- DNR should review its management and program goals and consider whether leases or licenses might be used in place of regular fee acquisition for such activities as spawn taking, fish stocking, or other programs requiring only temporary DNR presence on private lands.

One creative use of leases in reverse involves "leasebacks": the purchase of land in fee with a prior agreement that the state will lease the parcel back to the seller for a specified purpose and limited period of time. DNR currently uses a few such leaseback arrangements to allow state park in-holders to retain homesteads for up to 10 years and to permit farmers to continue using productive agricultural land for up to 3 years. These arrangements help to ease the transition from private to public ownership and we endorse their use whenever long-run program goals may be as well accomplished as under more traditional methods. In addition to advantages for the private landowner, purchase-leasebacks allow the state over time to offset part of the initial cost of acquiring land in fee.

d. Granting Life Estates

A life estate is a possessory land interest lasting the lifetime of the person who holds it. Buying land in fee and granting the seller a life estate is a flexible way for the state to handle some of

the problems encountered in land acquisition: many private landowners do not want to leave their land or be faced with the disruption of moving, especially late in life. However, many such landowners have no heirs who wish to remain on the property and selling to the state with an agreement allowing property owners to occupy their lands for the rest of their own lives is a viable option which permits both parties to achieve what they want.

The federal government has granted life estates as part of its acquisition efforts in northern Minnesota. DNR has also agreed to leave selected landowners with life estates in order to consummate desired land transactions. Life estates are sensitive to the needs and desires of present landowners while ensuring that land desired for state programs comes into the state's possession. However, the state does not obtain immediate control and program goals may be delayed for many decades. In the meantime, the land in question may be damaged or used for undesirable purposes. For these reasons, we think that:

- DNR should continue and expand its flexible program of offering life estates to residents living on lands needed for natural resource programs when program goals permit and when current land uses are compatible with state management of adjacent lands.

e. Soliciting Gifts

Gifts or donations of land to the state by private individuals or corporations are often overlooked as a method of acquisition. Because the decision to make a gift is a private one, the role for state initiative is minimized. However, gifts have formed the core of many important state reserves, including parks and forests. The state's first forest reserve, now Pillsbury State Forest, was formed from a 990 acre gift of land in 1902. More recently gifts have been used for parkland or wildlife refuges. In fiscal year 1982, some 1,141 acres were given to DNR.

A gift has the obvious advantage of being free--at least insofar as the raw land costs are concerned. In addition, the donor (whether private individual or corporate) may be able to realize significant income tax advantages through giving land or interest in land to the state.

But gifts entail certain disadvantages as well: they involve certain administrative processing expenses; they are sometimes given subject to certain conditions or designated for a particular use, therefore limiting the freedom of the state to use the gift in the way judged most appropriate; and they may provide lands in areas or for projects that do not need them.

Because of the disadvantages, DNR has adopted a skeptical attitude toward gifts. Many gifts proffered are not accepted by the state. And there is no program to solicit gifts or to publicize the potential tax advantages of gift giving to the potential donor.

We think these policies need to be reviewed by DNR. A policy of passive acceptance of only some lands donated to the state ignores opportunities to save money for the state. We think that, with the advice of DNR,

- The Legislature should establish a "Conservation Land Bank" program to solicit gifts of land from private sources, incorporating conservation lands into existing management units, reconveying non-conservation or urban lands, and reserving the proceeds from such reconveyances for needed acquisition projects elsewhere.

Such a program, perhaps modeled after Nature Conservancy's "Land Trade" program, could appeal strongly to corporations or conservation-minded citizens who could realize certain income tax advantages. It might also appeal to those who wish to make a significant gesture on behalf of wildlife or wilderness conservation in their wills.

A key element of such a program would be the state's willingness to accept gifts of urban, residential, industrial, or other non-conservation lands. Most landowners to whom such a program would appeal would not happen to possess land easily incorporated into state parks, forests, or wildlife preserves. However, a program giving DNR authority to sell lands judged unsuited for prescribed conservation purposes would have, in effect, the power to transmutate any land parcel into one needed and desired by the state. Under this concept, even a city lot has indirect natural resource value and conservation potential.

DNR has demonstrated through the Turn in Poachers (TIP) program that it can successfully solicit public financial support for worthy public conservation causes. We think that a Conservation Land Bank program, formulated with imagination and taste and providing due recognition to those who make donations, has potential and should be considered strongly by the Legislature.

In addition, there may be potential for a program to solicit gifts of other interest in land in Minnesota. For example, most easements now possessed by the state have been purchased. Some trout stream easements, however, have been purchased for a nominal fee, indicating a willingness of some individuals to donate valuable property rights to the state for conservation purposes.

Although there is no existing program to solicit gifts of land rights of any kind to the state, there may be benefits to private landowners in making such gifts that need to be explored. We think that:

- DNR should explore the possibility for a workable "Conservation Easement Gift Program" that would publicize the willingness of DNR to accept private gifts of scenic or conservation easements on private lands.

Such a program could help the state control development in rural or fringe areas where conservation programs were already underway. The success of such a program might depend on the eligibility of conservation easement gifts for federal or state tax benefits. DNR should determine the conditions for such eligibility and, if it is desirable or necessary, propose changes in the state tax law to encourage private or corporate easement gifts to the state.

Finally, promotional programs to solicit funds for land acquisition, reforestation, or other conservation purposes should not be ignored. Large areas in Israel have been reforested through voluntary contributions. In many states the help of school children and scouts to raise money and participate in tree-planting and Arbor Day observances pays direct educational dividends while supplementing regular state efforts. Such programs yield a secondary benefit for the state as well since they publicize state conservation needs and develop cooperative natural resources networks throughout the state.

The Nongame Wildlife Checkoff Program, popularly known as the "Chickadee Checkoff," is a good example of a how a program can yield substantial results by tapping the public's good will towards preserving and enhancing state natural resources. Costing about $10,000 a year to promote, the program netted $523,000 and $634,000 during its first two years from taxpayers voluntarily donating part of their income tax refunds to DNR. Despite economic hard times, the number of donations increased from six percent of taxpayer returns in 1980 to eight percent in 1981. Clearly, when given information and the opportunity to contribute, the public can be both a resource for supplementing DNR efforts and an ally in promoting specific natural resource objectives.

f. Eminent Domain

Eminent domain is the right of a government to take private lands for public uses by virtue of the government's sovereign dominance over lands within its jurisdiction. Eminent domain is a court proceeding which consist of two separate processes: 1) the determination of the authority for and necessity of the taking, and 2) the determination of a fair compensation for the property taken by the state. This proceeding is usually an adversarial one, with private landowner and state on opposite sides. However, the eminent domain process can be used with the full support and encouragement of the private landowner. Such a process, known as "friendly condemnation," is undertaken when the private landowner wants to sell to the government but a price cannot be agreed upon. The formal court proceeding allows the court to set the price and removes the normal limitations on what the government is permitted to pay.

Eminent domain is commonly used for highway programs since--unlike most natural resource programs--project completion depends on state acquisition of every private parcel in the project boundaries. Perhaps the Legislature used a similar logic in granting DNR eminent domain powers for recreational trail acquisition but--with a few specific exceptions--for no other natural resource acquisitions.

Eminent domain may be used to acquire lands in fee or it may be used to acquire easements. Thus far, despite its potential, DNR has not used the powers for trail easement acquisition.

The advantage for government is that eminent domain nearly always brings results, permitting programs to go forward as planned. It removes the need for costly negotiation and the need to find "willing sellers." It also allows the government to step in and acquire lands which are threatened by development or private uses inconsistent with government program goals. Friendly condemnation allows private landowners and government to arrive at a fair price.

However, eminent domain is generally unpopular. The exercise of government power over individuals and their private property is offensive to many people regardless of the desirability of the program or the fairness of the court-ordered compensation. The loss of popular goodwill can cripple an otherwise worthy government program. In addition, eminent domain is often a lengthy and expensive proceeding which burdens an already full court schedule.

Because eminent domain is costly--both in dollars paid for land and in public goodwill--we do not recommend its expansion for natural resource land acquisition at this time.

g. Exchanging Land

A land exchange is a transfer of title for properties that are approximately equal. Legislation permitting exchange of state land for private or federal land was established in 1939. In 1979, the transfer of land between the state and other governmental units was also permitted. All rights associated with a property are transferred to the state so the state has total control over all land uses.

Exchanges have been primarily used to consolidate state land holdings. Scattered parcels are often better managed when added to an existing management unit. Between fiscal year 1973 and fiscal year 1982, 81 exchanges were completed. Exchanges can be initiated by either party and exchanges tend to benefit each party.

Less funding for acquisition could make land exchanges a more viable method for obtaining desired parcels. Nevertheless, exchanges are not without costs. Administrative and appraisal costs can be high though usually much less than acquisition costs. In addition, exchanges have limited application. Few current owners would accept a land trade unless they also were consolidating their land holdings. The highest priority parcels for acquisition may be difficult to acquire through exchange.

The exchange program will be investigated further in a follow-up report. Specific recommendations for the program will be made in that report.

## 2. OTHER LAND CONTROL METHODS

In any jurisdiction where public landownership is already common or when public resources for outright landownership are limited, other land control methods need to be carefully explored and tested. In this section we review some alternatives to acquisition of interest in land or rights to use land. As noted, the state of Minnesota already uses some of these methods. Most depend on the provision of incentives to encourage certain private land management practices, or penalties to discourage other practices.

Although an interest in land is not actually acquired by the state under these methods, the goals of land acquisition--that is, the achievement of the ability to carry out state programs--may still be reached. In some instances, those goals may be reached more efficiently and more quickly through these alternatives.

### a. Cooperative Management Agreements

A cooperative management agreement is a contract between government and a private landowner that provides for the delivery of government expertise or advice in return for desirable practices or land uses on the part of the landowner. In order to encourage the provision of wildlife food plots, proper forest management, or soil conservation practices, or other measurable activities, formal agreements with landowners may offer important alternatives to regular fee ownership of land by government.

Three examples of programs already established by the Legislature and implemented by DNR illustrate the potential for cooperative management agreements. Wildlife habitat programs--including the "Deer Habitat Improvement Program" and the "Wildlife Habitat Improvement Program"--have been developed to provide expertise and limited financial assistance to private landowners who agree to preserve permanent nesting cover for wildlife, or who establish food plots for wildlife. As an alternative to the purchase of wildlife lands, these programs have been successful and cost effective. With more than 700 cooperating landowners in the Wildlife Habitat Improvement Program, total costs for fiscal year 1983 are less than $170,000.

Another innovative program implemented by the Wildlife Section is the "Minnesota Acres for Wildlife" program. A voluntary program to give official recognition to private landowners who observe conservation practices, the program encourages provision of food plots, reservation of habitat, and maintenance of wetlands. Although small, the program develops a good rapport between state wildlife managers and private landowners. Acres for Wildlife is no substitute for wildlife land acquisition and the use of other land control methods, but it can supplement those efforts at a negligable cost to the state. We encourage this program and urge DNR to consider what other applications there might be for similar programs of public recognition for good private land management practices.

A third example of a state program designed to develop cooperative, working relationships between state resource managers and private landowners is the "Private Forest Management Program"

administered by DNR's Forestry Division. In return for an agreement to follow standard silvicultural and reforestation practices, nearly 6,000 private landowners receive state assistance, advice, and partial state and federal financial reimbursement for private woodlot management. Like Acres for Wildlife, a "Tree Farm" program provides recognition for cooperating landowners as well as technical assistance.

These programs involving cooperative management agreements permit many forestry or conservation goals to be reached without direct state ownership or management of the land. Accordingly, the expense of regular land acquisition and the administrative burdens of state land management are avoided. In addition, such programs place a premium on cooperation between the state and private landowners, rather than on competition over land rights. In the long run, it is effective for the state to teach and encourage widespread private land management practices that are consistent with overall state policy.

Of course, cooperative management agreements are not permanent and they may result in a variety of inconsistent practices in a given area unless there is 100 percent landowner cooperation over an extended period. Such programs present challenges to state managers to attract and maintain active landowner participants. Finally, even though the land being managed is not owned by the state, cooperative management agreements are expensive and time consuming for state land managers. In southern Minnesota, for example, DNR estimates that more than one-third of all forest management expenses are directed toward providing assistance to private landowners.

Nevertheless, such programs offer attractive alternatives to state landownership and deserve encouragement. In providing funds for alternative programs, the Legislature needs to weigh their success in managing private lands against the costs and benefits of additional state landownership.

b. Taxation

Though governments generally impose taxes simply to raise revenues, they sometimes use tax policy to encourage or discourage certain personal or corporate practices. Federal and state tax laws are full of provisions which provide incentives or disincentives for individuals and businesses. Income tax deductions favor and encourage business investments and home ownership; sales tax exemptions encourage charities and non-profit enterprises.

In Minnesota, land use is influenced by a system of state enacted property tax credits. For example, the wetlands credit program provides tax relief for landowners who refrain from draining wetlands, thus preserving them for wildlife habitat. Such programs have been used to control private lands for natural resource purposes. Some have proposed other tax credit programs to encourage the preservation of woodlots or wildlife food plots. Others might favor tax credits to offset property taxes for landowners adjacent to designated parks, wild and scenic rivers, or scientific and natural sites whose lands have development potential.

Some states have adopted a preferential tax policy wherein the government encourages current land uses by lessening pressures for other uses. In the determination of tax rates, assessors estimate the fair market value of land based on its highest and best use. In urban fringe areas, where development pressures are greatest, landowners are sometimes forced to change the uses of their land from open or agricultural to residential or industrial because they are taxed based on the land's potential uses rather than its current uses. A preferential tax policy, if considered legal by the courts, would consist of an outright foregiveness of part of the property tax that would otherwise be levied if the parcel were taxed at its fair market value.

The use of tax policy to replace outright government land acquisition permits land to remain on the tax rolls (albeit at a reduced rate), leaves land management responsibilities in private hands, and keeps government involvement at a minimum. On the other hand, if successful, tax policies such as those discussed above do cost money. Although perhaps less costly than fee acquisition, tax incentives or tax forgiveness results in lowered revenues or a shift in tax burden, which should be estimated when such policies are considered. In addition, these approaches complicate the tax laws and may provide incentives and tax breaks for many who would follow the desired practice even without the tax incentives.

c. Zoning

Zoning is perhaps the most common method of controlling land use throughout the nation. Primarily used in cities and other built-up areas, zoning codes prescribe what types of development and land uses are permitted in each area. Although zoning is generally considered a local responsibility, in some states local zoning must conform to state guidelines and natural resource protection is afforded through state-local cooperation on zoning codes.

Zoning encourages the use of land according to its suitability and character. In addition, it provides for stability in land use and protects both public and private land interests against undesirable uses of adjacent properties while keeping obnoxious uses in the least objectionable areas. Finally, zoning may help control the upward pressure on farm property taxes brought about by urban sprawl.

On the other hand, zoning codes eventually become outdated and they are not permanent. Zoning to restrict development may limit the local tax base. In addition, zoning is always controversial and, even when cooperation between state and local governments are successful, may appear an unwarranted intrusion of state government into local affairs.

One option for Minnesota is a statewide zoning law that would centralize land use planning and decision making. Alternatively, legislation could limit the kinds and extent of land use on private in-holdings in conservation units such as state parks or forests. Legislation introduced in 1977 would have prohibited new

construction, logging, mining, and other similar activities on private lands inside state parks. However, the proposal generated opposition from those who considered it a form of condemnation and it failed in committee.

In Minnesota, there is little systematic cooperation between the state and local zoning districts. However, on a county-by-county basis, there are implicit cooperative agreements with the state and land use in and around state management units is controlled by those agreements. For example, zoning prevents certain kinds of development on private lands in some state parks and provides for waiting periods of up to six months before private in-holdings can be sold to private buyers in order to give the state a chance to acquire desirable parcels.

One example of successful local initiative to control development has occurred along the upper Mississippi River in Minnesota. By mutual consent, and with legislative approval, eight counties have adopted a common zoning ordinance defining acceptable riverfront development and have established a joint powers board to review the counties' implementation of the ordinances.[2] The wide acceptance of this alternative to direct federal or state control suggests that it may have potential for use in other parts of the state and in other circumstances.

- We encourage DNR to develop close working relationships with local zoning authorities and to develop "model" zoning ordinances that could help local zoning districts as well as the state meet their mutual goals of controlling land use and planning for development in a rational manner.

## C. CONCLUSIONS

In conclusion, we want to emphasize that in many instances there is no acceptable substitute for negotiated purchase of fee title from willing sellers. For many program uses the state needs the full bundle of rights and privileges that accompany fee title. But in an era of state budget constraints and reduced public funds for land acquisition, the state needs to explore alternatives. As we have shown, alternatives do exist and may be applied more broadly and more imaginatively than is done at present. Perhaps most importantly, the state needs better land acquisition planning, including guidelines to determine when alternatives to fee acquisition are appropriate, possible, and desirable.

As elsewhere in state government, agencies with land management responsibility need to explore different ways of operating and accomplishing their program goals. Change for its own sake is risky, but change that helps an organization--particularly a public agency--adapt to new realities is responsive and prudent.

---

[2]Minn. Stat. §114B (1982).

# IV. DISPOSING OF STATE LAND

State land disposal is no less controversial than land acquisition. In fact, it involves many of the same issues, including disagreements about what kinds of lands the state needs and how much land the state should own.

Our purpose in this chapter is to present information on how state land disposal decisions are made and suggest ways that that process might be improved. Specifically, this chapter evaluates the mechanisms now in place to identify and locate surplus state lands, reviews various land sale procedures, and considers the potential for more extensive land disposal by the state.

## A. LAND DISPOSAL AUTHORITY

No single agency within state government is solely responsible for disposing of state owned land, nor is there a central authority that makes land disposal decisions. Numerous statutes assign responsibility for disposal of state lands among several executive branch agencies, primarily the Departments of Natural Resources, Transportation, and Administration. Tax-forfeited land, whose title is held by the state, is sold by counties.

Most state land, approximately 94 percent, is administered by DNR for natural resource programs. But DNR's Land Bureau has authority only to dispose of School Trust lands, about one-quarter of DNR's holdings. Land acquired by the department by purchase or gift is disposed of by the Department of Administration's Real Estate Management office, unless an agreement is made with this office for DNR to sell the land. The land sales associated with establishing Tettagouche State Park, for example, were sold by DNR under such a special agreement. But, generally, DNR's sales activities are limited to an annual auction of School Trust Land parcels.

The Real Estate Management office not only sells most natural resource land, but also all land not needed by most other state agencies. In addition, the office disposes of any state land which the Legislature, in special laws, designates for sale.

The Department of Transportation's Office of Right of Way conveys land which is surplus to needs for highway right-of-way or other transportation purposes. Highway right-of-way, rest areas, maintenance sites and depleted gravel pits may be candidates for disposal.

Finally, tax-forfeited land, including Consolidated Conservation land is sold by county auditors in the county in which it is situated. All tax-forfeited land, however, is owned by the state and disposal must have the approval of the Commissioner of Natural Resources before any sale is possible.

- Relative to acquisitions, state land sales have been small, resulting in little revenue generation for the state's General Fund.

Table 4.1 summarizes the sales activities of these three state agencies over the past six years. During this period, the state has sold over 21,000 acres worth some $8.2 million (approximately $2,500 per acre). At the same time, the state acquired nearly six times this acreage, resulting in a net gain of some 95,800 acres over the six-year span (see Figure 4.1).

The Department of Natural Resources has disposed of the most acreage and generated the greatest revenues. However, over 86 percent of the acres and over 46 percent of the dollars came from DNR approved sales of tax-forfeited Consolidated Conservation land. Over the six-year period, Consolidated Conservation land sales totalled $507,000. After one year, one-half of the dollars generated from such sales go to counties and other political subdivisions, and most of the balance is appropriated for forestry purposes. In addition, some of DNR's land sale dollar volume is from sales of School Trust Land; all these revenues go to the School Trust Fund. Thus, little money from land sales finds its way to the General Fund. Over the last six years, only $59,000 was deposited into the General Fund from DNR land sales.

Similarly, none of MnDOT's land conveyance revenues--$2.5 million between 1977 and 1982--were deposited into the General Fund. First, MnDOT is required to reimburse the Federal Highway Administration for their share of the sale amount, and then, in accordance with state law, the remaining revenues are deposited into the Trunk Highway Fund for use to construct and maintain state trunk highways.

## B. IDENTIFICATION OF SURPLUS LAND

The procedures for identifying and selling surplus state lands differ from agency to agency. There is no single agency which reviews state land holdings, coordinates the identification of surplus lands, and possesses authority to dispose of lands. At least indirectly, state land acquisition is controlled and approved by the Legislature, but land disposal authority is dispersed to the individual agencies which manage lands.

The state lacks an overall policy on what land should be retained and what should be disposed of. Aside from several specific legislative mandates requiring the retention of certain lands (e.g., parks, peat lands, and lakeshore) and the disposal of other lands (e.g., tillable land in Dorer State Forest), each agency managing land decides autonomously what land to retain, what land to sell, and when to dispose of land.

In general, the initiation of procedures for disposal of state land may begin in one of three ways:

TABLE 4.1

SUMMARY OF LAND DISPOSAL
F.Y. 1977-82

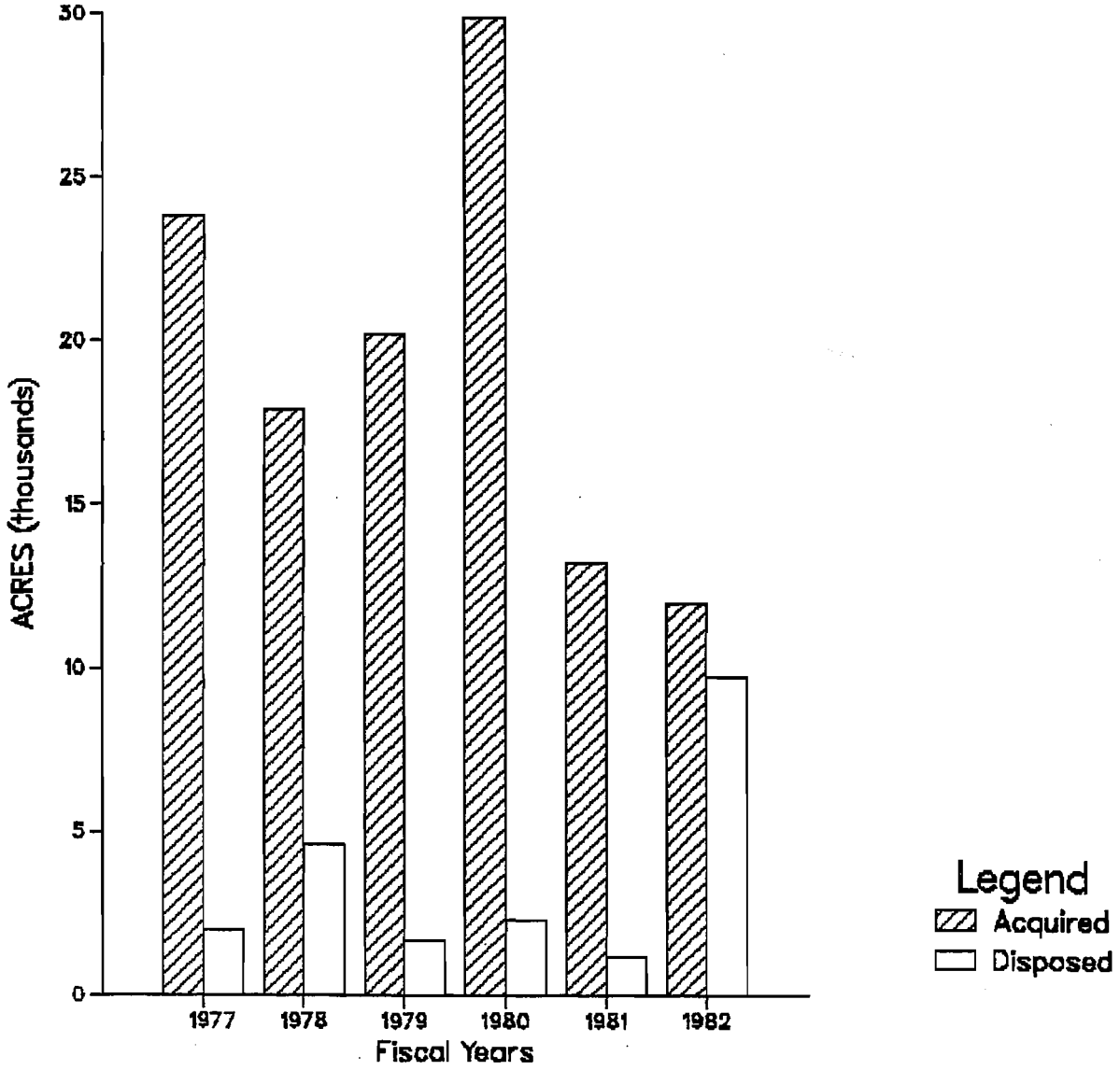
| Fiscal Year | RECEIPTS | | | | ACRES | | | |
|---|---|---|---|---|---|---|---|---|
| | DNR[1] | MnDOT[2] | Other Agencies | Total | DNR[1] | MnDOT | Other Agencies | Total |
| 1977 | $ 124,490 | $ 221,546 | $ 40,003 | $ 386,039 | 1,823 acres<br>56 lots | N/A | 201.07 acres | 2,033 acres<br>56 lots |
| 1978 | 403,618 | 153,983 | 945,000 | 1,502,601 | 4,182 acres<br>21 lots | 53.12 acres | 346.56 | 4,582 acres<br>21 lots |
| 1979 | 218,287 | 249,834 | 14,700 | 482,821 | 1,605 acres<br>35 lots | 90.44 | 9.45 | 1,705 acres<br>35 lots |
| 1980 | 1,523,527 | 448,293 | 331,437 | 2,303,257 | 1,958 acres<br>965 lots | 41.80 | 283.40 | 2,283 acres<br>965 lots |
| 1981 | 296,592 | 325,489 | 365,928 | 988,009 | 962 acres<br>29 lots | 54.31 | 138.45 | 1,155 acres<br>29 lots |
| 1982 | 1,203,250 | 1,187,520 | 231,931 | 2,622,701 | 9,578 acres<br>214 lots | 87.27 | 43.38 | 9,709 acres<br>214 lots |
| TOTAL | $3,769,764 | $2,586,665 | $1,928,999 | $8,285,428 | 20,117 acres<br>1,320 lots | 327 acres | 1,022 acres | 21,467 acres<br>1,320 lots |

Sources: DNR--Trust Fund Land Sale Records, Consolidated Conservation Land Sale Records.
MnDOT--LEAP 16 Reports.
Other Agencies--Department of Administration Biennial Status Reports on Surplus State Lands.

[1]Does not include sales of tax-forfeited land managed by counties, but does include Consolidated Conservation land sales.

[2]Dollar figures represent receipts deposited to the Trunk Highway Fund and do not include federal reimbursements.

## FIGURE 4.1
## COMPARISON OF ACREAGE ACQUIRED AND DISPOSED, F.Y. 1977–1982




Source: Land Acquisition and Disposal Files for DNR, MnDOT, DOA.

NOTE: Does not include tax–forfeited land managed by counties. MnDOT acquisitions are by calendar year.

(1) an agency decides that a parcel is no longer needed for agency purposes,

(2) a member of the public approaches the state with a request to buy a specific parcel, or

(3) the Legislature directs and authorizes an agency to convey land to a specific party for a stipulated consideration.

Sometimes two or more of these circumstances may exist. Below, we discuss how state agencies identify and decide what lands to sell.

## 1. THE DEPARTMENT OF ADMINISTRATION (DOA)

The effort made to identify the surplus land offered and sold by the Department of Administration is for the most part performed by other agencies. Each year all state agencies are required to notify the department if they have surplus lands under their supervision. DOA compiles a list of these lands and circulates it among all state agencies to determine if they are needed or desired by any other agency. If so, they may be transferred to that agency. Otherwise, DOA recommends to the Executive Council that the lands be offered for sale at a public auction. For the most part, the initiative to identify surplus lands and the authority to decide to dispose of such lands rests with the state agencies managing the lands. The Department of Administration has no independent decision-making authority to identify and sell surplus lands.

## 2. THE DEPARTMENT OF TRANSPORTATION (MnDOT)

The procedure for identifying surplus land at the Department of Transportation is usually initiated by staff at the district level because they are most familiar with changes in right of way plans or conditions affecting highway operations. Land which MnDOT determines is no longer needed for highway purposes is most often trunk highway right-of-way. However, land not needed may also include rest areas, maintenance sites, and depleted gravel pits.

After a district recommendation, the proposed disposal is reviewed and approved by the Federal Highway Administration and by engineers in MnDOT's Office of Right of Way. If approved, MnDOT prepares to convey the land to the previous owner or successors in interest as required by statute, or to the general public in an auction.

## 3. THE DEPARTMENT OF NATURAL RESOURCES (DNR)

The procedure for identifying surplus land at DNR has been primarily a reactive one, operating for the most part only when a private citizen expresses a desire to buy DNR land. DNR's Land Bureau refers these requests to DNR's district managers and the appropriate program division. When approved, the Land Bureau coordinates the procedure for putting the parcels out for public bids.

This procedure has been followed by DNR for at least the last decade. Apart from this, however, DNR has expended considerable effort to independently identify surplus land, with the ultimate goal of selling the surplus parcels and better managing the remaining lands. In the late 1960s DNR initiated a Land Classification Program which was designed in part to accomplish this. A subsequent Land Suitability Project is currently underway. Since these two efforts constitute an important part of the mechanism to identify surplus DNR lands, they are briefly evaluated below.

a. The Land Classification Program

For the first time in the fall of 1982, DNR offered land for sale that it had determined was surplus to its needs. DNR has in fact identified 28,000 acres of state land which it has determined should be sold. These lands were identified in the early 1970s as part of the Land Classification Program. During this study, all DNR managed land, county land, and tax-forfeited lands were examined by DNR forestry staff and county land agents. Each 40 acre parcel or government lot was assigned a code which classified the land as county or state managed and owned, indicated the highest and best use for the land (i.e., forestry, wildlife, agriculture, recreation, etc.), and recommended whether the parcel should be retained by the state or disposed by sale or exchange. Finally, classification designations were reviewed and approved by county boards and the DNR Commissioner.

Between 1969 and 1972 classification was completed and approved in almost all the northeastern counties of the state. But where lands were adjacent to private lands, near roads, and/or intermingled with farms, agricultural and wildlife groups disagreed over the "highest and best use" of many parcels. In 1972, conflicts between agricultural and wildlife interests in Marshall and Roseau counties became so intense that DNR imposed a freeze on land transactions in those counties until solutions were reached. Though never resolved, land sales and exchanges did occur for a few scattered parcels on which a consensus had been reached. But the politicization of the classification process and the inability of the DNR Commissioner to enforce classification decisions in those two counties led other counties to withdraw their support for classification results.

While the Land Classification Program was useful in some areas to select unneeded lands, it was ignored in other areas. An analysis of the program in five northern counties indicates that nearly one-half of the parcels sold over the last five years were classified for retention (see Table 4.2). Ambitiously conceived, this program ultimately foundered because of the failure to identify a method of making land use and retention decisions which was considered legitimate by all participants. The process soon became a political contest between the state and counties, among various interest groups, and among the different operating divisions of DNR itself. For this reason, the effort was abandoned and few parcels identified for disposal were actually sold.

TABLE 4.2

COMPARISON OF DNR DISPOSAL CLASSIFICATIONS ON TRUST FUND PARCELS OFFERED IN FIVE COUNTIES* CALENDAR YEARS 1977-82

| Disposition Classification: | Of 67 Parcels Offered | Of 33 Sold Parcels | Of 34 Unsold Parcels |
|---|---|---|---|
| Retain for Conservation | 15% | 21% | 9% |
| Retain Pending Further Information | 16 | 27 | 6 |
| Dispose by Sale | 58 | 40 | 76 |
| Dispose by Exchange | 9 | 9 | 9 |
| Not Classified | 2 | 3 | 0 |
| | 100% | 100% | 100% |

Source: DNR Land Classification Record, December 4, 1981, and Trust Fund Land Sale Records.

*The counties are: Aitkin, Beltrami, Itasca, Koochiching, and St. Louis.

b. The Land Suitability Project

In 1981, the Legislature appropriated to DNR $576,000 over the biennium "to initiate a program to assess the relative suitability of each parcel of state owned land for each use which could occur and adjust ownership accordingly through sale, land exchange or acquisition."[1] Referred to as the Land Suitability Project, its primary objective is to determine potential future uses and management policies for state owned lands. In many respects, this project is the successor to earlier attempts to classify land and determine state needs for specific lands.

The objective of this project is to classify and rate all DNR lands according to their capability and suitability for use in each of the following areas: timber production, mineral potential, agricultural crop production, outdoor recreation, fishery habitat, wildlife habitat, urban development, energy development, and other special uses. Unlike the Land Classification Study, non-DNR lands and tax-forfeited lands are not included in the present effort.

DNR hopes to develop a process to incorporate the new capability and suitability ratings into the ongoing land record system in DNR, and to develop a process for periodically updating the ratings as new data become available or as conditions change. Several proposals to use suitability data are being considered: to examine the realignment of State Forest boundaries; to allocate lands now

[1] Laws of Minn. (1981), Ch. 356, §31.

outside of management units to various administrative authorities within the DNR along with recommendations to create some form of new management units for dispersed lands; and to make acquisition and disposal decisions.

This project differs from the Land Classification Program in several important respects. Data collection and storage are far more sophisticated and will permit a detailed technical description and analysis of each DNR land parcel. In addition, the project is designed at this point to involve only DNR managed lands, thus minimizing the chance for a repeat of the state-local conflict which crippled the Land Classification Program.

But our review of DNR's current programs and future plans leads us to conclude that:

- DNR's Land Suitability Project does not yet constitute an effective, on-going mechanism to make land retention and land disposal decisions.

While the study will provide the information needed to make such decisions, DNR has not shown that it can evolve into a valid decision-making mechanism. In fact, current planning for the last few phases during which DNR anticipates applying the information gathered in the study is rudimentary. The process for resolving conflicts among DNR program divisions about land use and land disposal still needs clarifiction.

So far, DNR has not developed criteria to use in deciding whether to keep a given parcel, sell it, or exchange it for other lands. During the Land Classification Study, the lack of such well developed criteria may have exacerbated inter-divisional rivalries within DNR. When the decision-making phase of the suitability study is reached, DNR needs to have an explicit procedure--accessible to public review--for resolving land retention and disposal issues.

## 4. CONCLUSIONS

Agencies such as DNR or MnDOT with direct program responsibilities are well-suited to make determinations about the suitability of state land for program purposes. Natural resource or highway expertise is essential to determine accurately what lands are needed. Since an assessment of land suitability is a prerequisite to deciding whether to retain certain lands, we think that program agencies must be centrally involved in any mechanism designed to make land retention and disposal decisions for the state. Therefore, we do not recommend that an outside agency--such as the Department of Administration or a new state agency--should be empowered to make land disposal decisions for MnDOT or DNR. Such an arrangement could present opportunities for unwarranted and ill-informed intrusion into the management of an agency's programs.

However, there is a need to modify the incentives motivating land retention--and land acquisition--decisions. Agencies which manage state land operate under a system of practical incentives as

well as legislative mandates. For example, DNR has an incentive to protect and manage lands under its jurisdiction to meet its natural resource goals. DNR's success is measured by its ability to meet those goals. But DNR lacks powerful incentives to dispose of lands which are of marginal resource value. Land disposal, per se, is not a natural resource goal and DNR's performance is seldom judged based on its success in deciding what lands to keep. In fact, the disposal of any DNR land is perceived by some as inconsistent with natural resource goals, particularly with regard to lands where mineral potential is unknown, or where land is held for future development whenever funds become available.

DNR therefore needs a system which provides management units with incentives to look critically at the lands under their jurisdictions and to evaluate them in view of their primary missions. If disposing of land could help DNR to reach its primary goals, the tendency to keep land or to delay implementing a rigorous review of genuine lands needs would be counterbalanced.

At present, receipts from land sales benefit several different state and local entities, including the School Trust Fund, the counties, and the state General Fund. But few land sale receipts are available to manage current DNR lands and virtually none are made directly available for land acquisition. This contrasts with MnDOT where all land sale revenues are paid into the Trunk Highway Fund and may be expended for general highway and transportation purposes.

- The Legislature should establish a "State Land Acquisition Revolving Fund" to give the state greater flexibility in managing its assets and in meeting its natural resource goals. The fund would consist of all receipts from DNR land sales, including those derived from the liquidation of gifts, that would otherwise be deposited in the state General Fund. The fund would be dedicated for acquisition of fee title, easements, or other interests in land as determined by DNR and the Legislature.

Initially, the fund would be small since such a small proportion of land sale receipts now go into the General Fund. Over the past six years, as we have seen, only about $59,000 has been earned for the General Fund from DNR land sales. Accordingly, we do not anticipate that such a revolving fund would replace existing sources of funding for land acquisition and it would not divert significant amounts of money from the General Fund.

However, the existence of such a fund could have a beneficial effect on the manner and seriousness with which land disposal decisions are made within DNR. The principal advantage of a state land revolving fund would be the introduction of a meaningful incentive for DNR to examine critically the lands under its jurisdiction, weighing the need to retain them against the desirability of lands it wants to acquire.

A revolving fund would give DNR the flexibility to manage the state's natural resource assets in the way that private companies manage their fixed assets, liquidating surplus assets when greater needs for capital exist elsewhere.

A revolving fund would, in effect, give DNR the authority and incentive to "trade in" existing state land for critical private lands which DNR adjudges more desirable. In 1979 the Legislature authorized the purchase of lands for Tettegouche State Park, providing that DNR sold state lands of equal value elsewhere in the county.[2] A revolving fund would encourage DNR to conduct similar "land trades" on an ongoing basis. The result might be a higher rate of disposal activity than experienced in the past. The overall outcome for the state might be a more rational and efficient means for making land acquisition and disposal decisions.

In addition, a Land Acquisition Fund so constituted would encourage DNR to adjust the terms of land sale contracts so that money would flow into the fund rapidly. In practical terms, this might involve raising the required down payment and/or shortening the time allowed for paying the balance.

A revolving fund would not allay all concern about the lack of an overall state policy on how much land should be owned by the state, but it would create an automatic mechanism to ensure that the state's land managers will consider land disposal issues as seriously as acquisition issues.

## C. STATE LAND SALES, 1977 - 1982

### 1. LAND SALE PROCEDURES

State land sale procedures are not centralized or cooordinated; each agency selling state land operates under its own set of rules. Although this presents few administrative problems, it leads to some inconsistencies in the way the state sells land.

The following is a summary of state land sale procedures:

(1) Before being offered for public sale, most surplus land is first offered to other state agencies, and then to local units of government.

(2) State owned lands are usually appraised before being sold, and most lands are sold for no less than the appraised market value. However, the Legislature sometimes mandates conveyances at less than market value. MnDOT is not required to sell land at its appraised value and often conveys land for less when it does not sell at the appraised price.

---

[2]Laws of Minn. (1979), Ch. 301, §10.

(3) Most state lands are sold in an auction. However, most legislative conveyances are not. And most MnDOT parcels must be offered first to previous owners in private negotiations. Easements can be offered only to owners of the underlying fee; if refused, MnDOT must retain the easement.

(4) By comparison with DNR and DOA, MnDOT has considerable flexibility in its sale procedures. This is required because right-of-way parcels are often small and in poor locations and often the only interested buyer is the previous owner, or an adjoining landowner.

(5) The terms of payment for state land varies with each agency. MnDOT land is sold for cash only. School Trust land is sold by DNR on a 20-year contract with 15 percent down plus the value of all timber. Other state land, including acquired natural resource land, is sold on a 5-year contract with a 10 percent down payment (parcels less than $5,000 must be paid in full within 90 days).

While there is no compelling reason why these procedures should be made uniform across state agencies, improvements could be made:

- The Department of Administration might be given authority to negotiate, when appropriate, the sale price of state land it offers after receiving a bid that is within 90 percent of the appraised value. The similar flexibility afforded MnDOT has worked well to move surplus lands into private lands although receipts may not have been maximized.

- At MnDOT, a procedure should be devised for handling parcels after an offer by the state to convey the land has been refused or not responded to. Lengthy delays could be eliminated by referring problem parcels to management staff in the Right of Way Division who have the authority to negotiate with private parties.

- Agencies need the flexibility to set land sale payment terms that are rationally related to current market conditions and the value of the sale parcel. The Legislature should consider allowing MnDOT and DOA to offer more liberal payment terms. DNR already has this flexibility but it needs to use discretion in extending liberal payment terms for low priced parcels. The Legislature should also consider mandating all state agencies to require payment within 90 days for land parcels sold for less than $5,000.

## 2. DNR LAND SALES

At least in recent years, DNR has had difficulty finding buyers for some of the parcels it has offered for sale. From July 1977 to December 1982, DNR offered 223 parcels of land but sold only

73 percent (see Table 4.3). School Trust parcels have been particularly hard to sell: only 51 percent of those offered have been sold.

TABLE 4.3

DNR LAND SALES
F.Y. 1977 - 82[a]

| F.Y. | Parcels Offered | Parcels Sold | Appraised Value | Sale Amount | Ratio of Appraised Value/Sale Price |
|---|---|---|---|---|---|
| 1977 | 0 | 0 | -- | -- | -- |
| 1978 | 3 | 3 | $ 24,900 | $ 24,000 | 100% |
| 1979 | 17 | 11 | 40,739 | 57,299 | 139 |
| 1980[b] | 99 | 93 | 615,625 | 873,216 | 142 |
| 1981 | 18 | 17 | 184,770 | 203,180 | 110 |
| 1982 | 30 | 24 | 270,500 | 283,900 | 105 |
| 1983[c] | 56 | 16 | 115,609 | 135,060 | 117 |
| TOTAL | 223 | 164 | $1,252,143 | $1,576,585 | 126% |

Source: DNR Trust Land Sale Records.

[a]Excluding Consolidated Conservation and other tax-forfeited land sales approved by DNR.

[b]Excluding 7 lots sold for approximately $90,000.

[c]First 6 months.

Responding to calls for more state land sales, DNR offered a large number of School Trust parcels for sale in the fall of 1982. This offering represented a break with DNR's traditional policy of selling land only on request from a private buyer. The sale was notably less successful than those held in the past. Only 29 percent of the offered parcels sold.

Despite the mixed results of past sales, the average sale amount has generally been greater than the appraised value of the land. Overall since 1977, DNR land has yielded receipts 30 percent higher than appraised values. Undoubtedly, poor market conditions influence both the number of successful sales and the average return from those sales. As the economy has declined over the past three years, so has the proportion of successful sales and the appraised value/sale price ratio.

To identify additional factors which may influence and explain why some parcels do not sell, we selected five northern counties which together contained a majority of the School Trust parcels offered for sale between 1977 and 1982, and examined all of the parcels within them that had been offered for sale during that time. We then compared the physical characteristics of the sold and unsold parcels. Table 4.4 presents these data.

TABLE 4.4

RELATIONSHIP OF STATE LAND CHARACTERISTICS AND MARKETABILITY IN FIVE COUNTIES[a] CALENDAR YEARS 1977-82

| | Percent Sold | Percent Unsold | N |
|---|---|---|---|
| Parcels with favorable characteristics: Access, utilities, more than 50 percent upland, dry acres | 72.7% | 27.3% | 11 |
| Parcels with mixed characteristics | 53.8 | 46.2 | 39 |
| Parcels with unfavorable characteristics: No access, no utilities, 50 percent or more acres of wet, lowland | 23.5 | 76.5 | 17 |
| TOTAL | | | 67 |

Source: DNR Land Classification Record, December 4, 1981.

[a]The counties are: Aitkin, Beltrami, Itasca, Koochiching, and St. Louis. Together these counties contained over 55 percent of the Trust Fund parcels offered for sale by DNR between 1977 and 1982.

A parcel's characteristics are a strong factor in determining whether it sells. For example, nearly 73 percent of the parcels with the most desirable physical characteristics sold. In contrast, just 23 percent of the parcels with unfavorable characteristics sold. However, the data show that some quality parcels have gone unsold along with poorer ones, suggesting that market conditions are also a factor in land sales.

### 3. DOA LAND SALES

The success rate for DOA land sales is somewhat higher than for DNR sales. Between fiscal years 1977 and 1982, DOA disposed of a total of 35 parcels (including 21 legislative conveyances) out of 38 parcels offered, for a success rate of 92 percent. During

the first half of fiscal year 1983, however, DOA offered six parcels--none of which received a single bid. Again, this result may well have occurred due to poor market conditions and the high value of the properties.

Surplus land sales from 1977 to 1982 brought $1.4 million for 174 acres. It took DOA an average of more than 18 months to process these sales (see Table 4.5).

Legislative conveyances during this period yielded just $481,000 for 849 acres. Most legislative conveyances have a lower monetary yield but accomplish a public purpose. The consideration received by the state is in the form of a benefit performed by a political subdivision. For example, a municipality might assume management responsibility for maintaining a parcel of land for recreational purposes. Because the recipient of the land is often determined in advance, the average time required to complete these transactions has been a relatively short 10 months.

## 4. MnDOT LAND SALES

Like DNR, the Department of Transportation has had some difficulty in selling its surplus land. In addition, many parcels have been sold at less than their estimated value.

MnDOT sells most of its land to previous owners or adjacent landowners through a negotiated "reconveyance" process. Other lands it sells through an auction process.

In order to evaluate negotiated reconveyances, we examined all 158 parcels which MnDOT had determined were surplus to highway transportation purposes and which were offered for reconveyance in fiscal years 1980 and 1981. This included 65 parcels owned in fee, 66 easements, 24 excess parcels, and three depeleted gravel pits.

MnDOT was successful in selling about 77 percent of the parcels offered in 1980 and 1981 (see Table 4.6). Easements proved somewhat easier to convey than fee parcels, perhaps because the owners of underlying fee were eager to restore full rights of ownership on their properties. All sales required an average of six months to process.

MnDOT's flexibility to negotiate a selling price has resulted in many sales of land below their estimated value. During 1980 and 1981, MnDOT's conveyances yielded a total of $510,000, just 80 percent of estimated value. In addition, a recent Supreme Court decision now requires MnDOT to reconvey surplus lands to the original owners for no more than the price originally paid plus interest.

We examined the 35 unsold parcels from 1980 and 1981 to determine their status and why they remained in state ownership. We found that:

- MnDOT often neglects to follow up on many parcels that are initially unsold. Many months often pass before further efforts to sell are made.

TABLE 4.5

DEPARTMENT OF ADMINISTRATION LAND SALES AND LEGISLATIVE CONVEYANCES
F.Y. 1977 - 82

| Fiscal Year | Surplus Land | | | | Legislative Conveyances | | | |
|---|---|---|---|---|---|---|---|---|
| | Parcels Sold | Acres Sold | Estimated Value | Sale Amount | Parcels Conveyed | Acres Conveyed | Estimated Value | Amount Received |
| 1977 | 1 | .07 | $ 40,000 | $ 40,000 | 3 | 201.00 | $ 3 | $ 3 |
| 1978 | 4 | 40.23 | 786,800 | 804,650 | 4 | 306.33 | 140,350 | 140,350 |
| 1979 | 1 | 9.45 | 14,650 | 14,700 | 0 | -- | -- | -- |
| 1980 | 4 | 79.48 | 245,974 | 239,237 | 5[a] | 203.92 | 65,915 | 92,200 |
| 1981 | 1 | 1.01 | 110,000 | 117,127 | 8 | 137.44 | 248,800 | 248,801 |
| 1982 | 3 | 43.38 | 231,750 | 231,930 | 1 | [b] | 1 | 1 |
| TOTAL | 14 | 173.62 | $1,429,174 | $1,447,644 | 21 | 848.69 | $455,069 | $481,355 |

Source: Department of Administration Biennial Status Report on Surplus Lands.

[a]Under Minn. Stat. §85.021 (1980), one parcel was sold for less than its estimated value.

[b]An easement was conveyed.

TABLE 4.6

MnDOT RECONVEYANCES: LAND OFFERED IN F.Y. 1980 AND 1981

| Fiscal Year | Parcels Offered | Parcels Sold | Acres Sold | Estimated Value of Sold Parcels | Sale Amount | Estimate/ Sale Ratio |
|---|---|---|---|---|---|---|
| 1980 | 44 | 39 | 24.26 | $136,363 | $105,500 | 77% |
| 1981 | 114 | 83 | 58.09 | 498,106 | 404,783 | 81 |
| TOTAL | 158 | 122 | 82.35 | $634,469 | $510,283 | 80% |

Source: MnDOT Reconveyance Report, Office of Right Of Way.



TABLE 4.7

MnDOT AUCTIONS F.Y. 1980 AND 1981

| Fiscal Year | Parcels Offered | Parcels Sold | Acres Sold | Estimated Value of Sold Parcels | Sale Amount | Estimate/ Sale Ratio |
|---|---|---|---|---|---|---|
| 1980 | 6 | 5 | 5.34 | $ 29,000 | $ 30,012 | 103% |
| 1981 | 17 | 14 | 13.85 | 154,553 | 159,982 | 104 |
| TOTAL | 23 | 19 | 19.19 | $183,553 | $189,994 | 104% |

Source: MnDOT Land Sale Record, Office of Right Of Way.

- Three parcels did not sell because the former or adjacent owner refused to pay MnDOT's asking price. For the rest, MnDOT received no response at all.

- MnDOT followed up on 16 of the 32 parcels it offered but on which it received no responses. Five of the 16 were advertised for bids but did not sell. The remaining eleven parcels and one parcel offered but rejected were offered to former and adjacent landowners a second time, but no responses were received. MnDOT has not offered these for public sale.

- MnDOT has taken no further action on the remaining 16 parcels for an average of over 14 months.

We noted that many of these parcels were "problem" parcels which required extra effort to reconvey. These parcels tend to be ignored in favor of expending effort on parcels on which the potential buyer at least responds to the MnDOT offer to reconvey. Also, the number of parcels being processed for disposal at MnDOT during the period we examined far exceeds the number handled in any two year period by DOA or DNR. Many of the delays cited above may occur because of the volume of other reconveyances which MnDOT staff are actively pursuing; these are at different stages of progress, and are more likely to result in disposal.

There have been fewer MnDOT public sales than negotiated reconveyances. In 1980 and 1981, only 23 parcels totalling 19.19 acres were offered by MnDOT. Approximately 83 percent of these offerings were sold (see Table 4.7). On the average, these parcels were sold for more than their estimated value.

## 5. ALTERNATIVE SALE METHODS

The inability of the state to sell all land offered in public auctions suggests that other methods might be necessary to successfully dispose of surplus state land. The public auction is theoretically accessible to all citizens and the process is designed to maximize competition among prospective buyers.

We do not recommend changes in auction procedures now used by MnDOT, DNR, or DOA. However, when parcels are not sold after being offered in a public auction, we think that further steps should be taken to dispose of the parcels. The identification and preparation of parcels for sale entails administrative expenses which are wasted if parcels go unsold. In many instances, even reoffering parcels at subsequent auctions results in no sale.

- The Legislature should consider providing for the sale of state land by means other than public auction. State agencies should be permitted, at their discretion, to submit land parcels offered and not sold at a public land auction to a private land broker for sale by a negotiated process.

In order to protect the state's interest, no land should be submitted to a private broker without first having been offered for sale at a public auction as now provided in law. In addition, no land should be sold at less than 90 percent of its appraised value, and a maximum brokerage fee should be established.

The principal advantage of such a provision would be the increased chance that surplus lands would be successfully sold. An auction, even when well publicized, is still only a "one-shot" sale effort. Land sold through the private brokerage system could be left on the market for months. In addition, the state could take advantage of the extensive private brokerage network to publicize available lands and locate potential buyers.

Alternatively, the Legislature could simply permit unsold parcels to remain available for sale at the appraised price. The state of Michigan has such a provision to handle lands not sold in public auctions. In this way the auction might be supplemented and more lands successfully sold.

## D. STATE LAND SALE POTENTIAL

What state lands could be sold? When is the best time to sell state land? In this section we address these questions and outline disposal problems associated with tax-forfeited, School Trust, and other state lands.

Since DNR manages approximately 94 percent of state land, most of the potential for significant land disposal exists with natural resource land. While many classifications of land cannot currently be sold without legislative or federal agency approval, other lands may be sold by DNR under existing laws. Two major categories of such lands include those already identified by DNR as surplus and those outside of designated management units.

### 1. DNR LAND CLASSIFIED FOR DISPOSAL

As noted earlier, over 28,000 acres of land were recommended by DNR for disposal by sale in the early 1970s. An additional 149,000 acres were classified for disposal by land exchange, indicating that the specific parcels in question were no longer needed. The total number of acres identified for disposal by DNR was, therefore, 157,000.

However, after nearly 10 years, DNR may reconsider whether lands earlier classified for disposal should now be sold. At the same time, other lands earlier classified for retention may be surplus today. Accordingly, we think that:

- DNR should expedite its Land Suitability Project, develop criteria to classify lands for disposal or retention, and proceed with disposal plans based on those criteria.

Because the Land Classification study is now more than 10 years old and because DNR is in the process of developing a reasonable system to update earlier classifications, we do not recommend a major effort to sell DNR's surplus lands at this time.

## 2. LAND LOCATED OUTSIDE OF DNR MANAGEMENT UNITS

DNR land located outside of the boundaries of designated management units, such as parks and forests, is sometimes considered surplus and thus available for sale. DNR land ownership records indicate that 1.5 million acres are located outside state natural resource management units. Approximately 600,000 acres are Consolidated Conservation, or tax-forfeited lands, discussed below. Of the remainder, 98 percent are School Trust lands, 1.5 percent are Volstead lands, and .5 percent were acquired by DNR for specific purposes. These lands are being evaluated by DNR in its Land Suitability study, the completion of which will enable the department to determine if they should be retained or sold.

School Trust lands, of course, have always been available for sale and some are sold virtually every year by DNR. But School Trust land sales must be weighed against the future needs of the Permanent School Trust Fund. Selling Trust land yields short-term gains; retaining Trust land permits DNR to earn revenues from timber sales or mineral leases in perpetuity. These considerations must be carefully weighed.

School Trust Lands <u>within</u> the statutory boundaries of natural resource management units--except for state forests--do not generally earn revenues for the Permanent School Trust Fund. Nearly 80,000 acres of trust lands, primarily in wildlife management areas and state parks, are incorporated in units whose purpose is something other than revenue generation. The state constitution prohibits exchanges of Trust lands for any other state lands. But DNR has begun to compensate the trust fund by initiating formal condemnation proceedings on more than 49,000 acres of trust lands, primarily in wildlife areas.

- DNR should continue its program of compensating the Permanent School Trust Fund for trust lands within the boundaries of units that do not permit the generation of revenue.

## 3. DISPOSAL OF TAX-FORFEITED LAND

There are over 4.7 million acres of tax-forfeited land in Minnesota, primarily located in the northern and eastern counties of the state. The fee interest of tax-forfeited land is held by the state in trust for county taxing districts. Administration and management of tax-forfeited land is the responsibility of the counties, except where management has been transferred to the state by county board resolution and Commissioner of Natural Resources approval.

Table 4.8 shows that nearly 60 percent of all tax-forfeited land is managed by the counties, over 30 percent is Consolidated Conservation lands managed by the state, and less than 10 percent is administered by DNR management units.

TABLE 4.8

MANAGEMENT OF TAX-FORFEITED LAND
F.Y. 1981

| | Acres | Percent of Subtotals | Percent of Total |
|---|---|---|---|
| County Managed Tax-Forfeited Land: | | | |
| Forest | 1,382,832.59 | 49 | |
| Parks | 18,705.80 | 1 | |
| Not Dedicated | 1,393,200.46 | 50 | |
| Subtotal | 2,794,738.85 | 100 | 59 |
| State Managed Tax-Forfeited Land: | | | |
| Forestry (inside state forest) | 302,647.69 | 76 | |
| Forestry (outside state forest) | 110.00 | -- | |
| Wildlife | 55,700.37 | 14 | |
| Fisheries | 18,489.32 | 5 | |
| Parks & Recreation | 23,546.17 | 6 | |
| Law Enforcement | 151.23 | -- | |
| Subtotal | 400,644.78 | 100 | 8 |
| State Consolidated Conservation Tax-Forfeited Land: | | | |
| Forestry (inside state forest) | 900,100.55 | 58 | |
| Forestry (outside state forest) | 590,500.80 | 38 | |
| Wildlife | 53,127.74 | 3 | |
| Parks & Recreation | 13,809.27 | 1 | |
| Law Enforcement | 2.00 | -- | |
| Subtotal | 1,557,540.36 | 100 | 33 |
| TOTALS | 4,752,923.99 | | 100 |

Source: DNR Land Ownership/Classification Records, December 4, 1981.

The Legislature has stated that it is the general policy of the state to promote the best use of tax-forfeited land. Statutes require that any land becoming the absolute property of the state as a result of forfeiture for nonpayment of taxes be classified by counties as conservation or non-conservation. In addition, counties must obtain the approval of the Commissioner of Natural Resources before they can sell any tax-forfeited parcel.

All tax-forfeited land, including Consolidated Conservation land managed by the state, is sold by the counties. Though the Department of Natural Resources reviews and approves proposed county sales of tax-forfeited land, it does not record the results of such sales. Sales are conducted by county auditors, and the parcels are sold to the highest bidder for not less than their appraised value plus the appraised value of any timber. Proceeds from sales of county-managed tax-forfeited lands are apportioned to political subdivisions and school districts after payment of any indebtedness. Under current law, none of these proceeds accrues to the state.

Proceeds from sales of Consolidated Conservation land are divided between the state and the county in which the lands are located. Fifty percent is paid to the county and the rest is credited to the General Fund and appropriated automatically to ongoing conservation projects within designated conservation areas. Tax-forfeited parcels managed by the state are nearly all in designated management units and therefore unavailable for disposal.

Thus, by legislative design, revenues generated from sales of tax-forfeited land are not currently available to the state to support non-natural resource related projects or activities.

## 4. LEGAL OBSTACLES TO STATE LAND SALES

Several laws prohibit the sale of certain types of state land. For instance, any lands located within the established boundaries of a state park may not be sold. Shore land adjacent to public waters and lands chiefly valuable because they contain commercial quantities of peat may not be sold. Agricultural land in the Memorial Hardwood Forest must be sold when included in acquisitions of timbered property, but land classified as non-agricultural may not be sold for agricultural purposes.

The constitution reserves to the state all mineral and water power rights in lands transferred.

Several laws dictate the procedures to be followed by the agencies responsible for disposing of land. Trust fund lands, lands held for trunk highway purposes, tax-forfeited land, and all state surplus real property can be disposed of only in accordance with statutory guidelines. And any state lands acquired with funds from federal programs or which are improved with federal dollars are, if sold, required to be replaced with land of like value.

Many statutes dictate how revenues from land sales are to be apportioned: Trust Fund land revenues go to the Permanent School Trust fund; revenues from sales of highway land go to the Trunk Highway Fund; revenues from surplus land sales go to the General Fund; and receipts from sales of tax-forfeited land are for the most part distributed among political subdivisions.

Most state land is part of one or more management units expressly created or authorized by the Legislature. In most instances, these lands cannot be sold without legislative action. In other instances, revenues generated by land disposal are automatically appropriated to specific funds or are required to be used to replace sold land with land of equal value.

A list of legal provisions regarding land sales is provided in Appendix M.

## 5. LAND SALE TIMING

In general, land sales should be conducted in a way that yields the greatest benefits to the state. A major consideration is in deciding when to sell state land. The policy of state agencies has been to sell state land without regard to external factors, such as market conditions. However, market conditions in a given year may determine land sale success--not only the amount that a buyer is willing to pay, but also whether a parcel sells at all. As we have seen, land sales for all state agencies have been less successful when economic conditions are poor.

After a period of constant increases, according to statistics compiled by the Minnesota College of Agriculture, land prices dropped in Minnesota during 1981-82. From an all time high of $1,310 per acre, Minnesota farmland fell to $1,179 (see Figure 4.2).

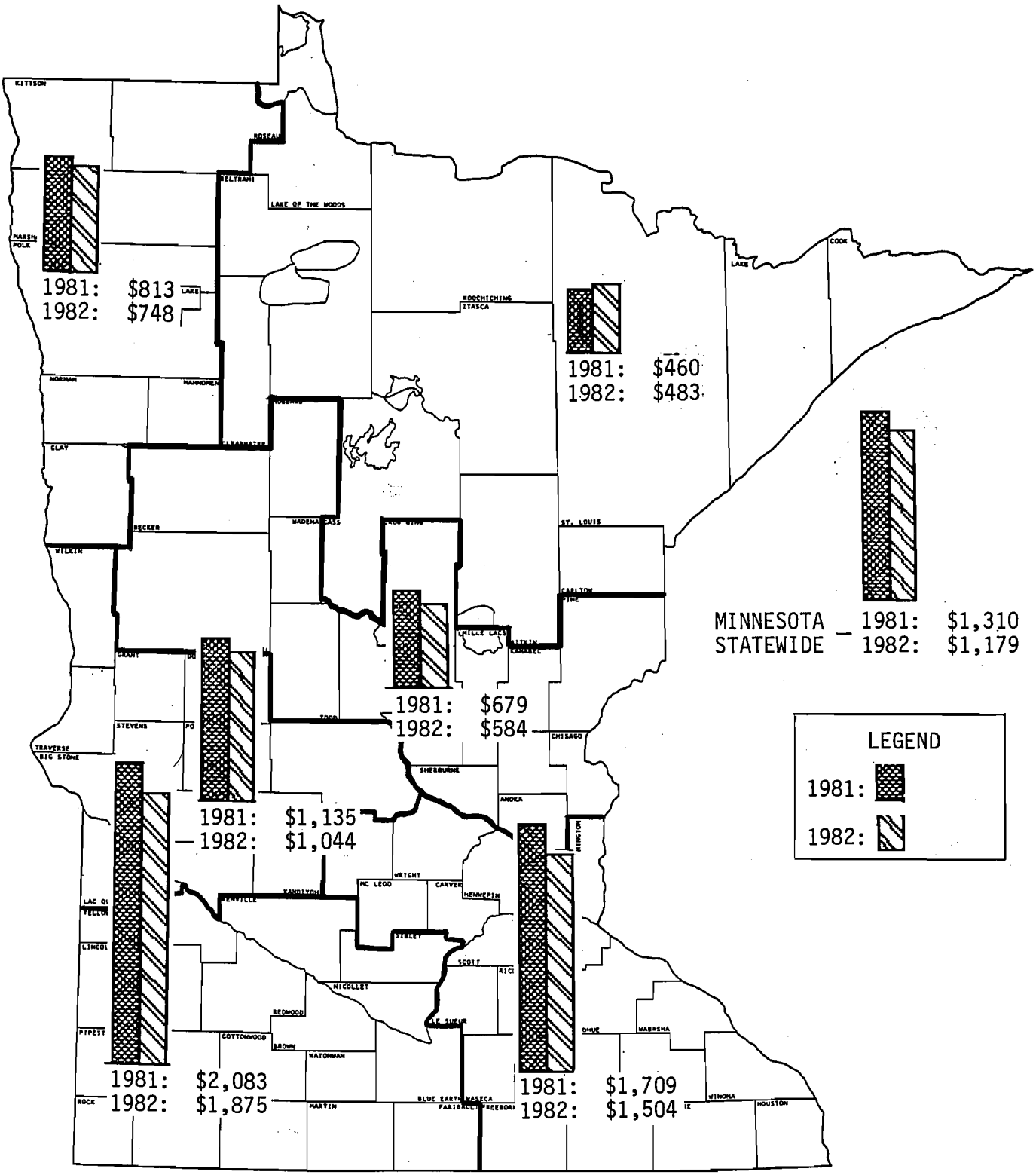
Other evidence suggests that the present recession is not the best time to sell land and receive an optimum consideration. In 1981 the number of voluntary land sale transactions for farmland was at a 15 year low. This relative inactivity in the rural real estate market may be the result of low demand, inadequate financing, or other economic factors.

With these considerations in mind,

- We do not recommend stepped up state land sale activity at a time when market conditions are likely to yield a low dollar return for state lands.

FIGURE 4.2

ESTIMATED LAND VALUES PER ACRE
(Excluding Hennepin and Ramsey Counties)*




Source: Smith, Matthew G. and Philip M. Raup, "Minnesota Rural Real Estate Market in 1982", Minnesota Agricultural Economist, January 1983.

*Based on reported estimates of average value per acre of farmland for the first six months of 1982.

# APPENDICES

APPENDIX A

SUMMARY OF FEDERAL LAND GRANTS AND OTHER MAJOR ACQUISITIONS

| Year | Purpose | Acres Granted | Acres Retained |
|---|---|---|---|
| 1784 | All land in Minnesota became part of the public domain as a result of an agreement between the U.S. Government, the State of Virginia, and the Government of France. Article IV §3 of the Federal Constitution provided for the disposition of these lands. ("Congress shall have the power to dispose of [lands] . . . respecting the Territory or other property belonging to the United States.") | | |
| 1849 | Organic Act: Established the territorial Government of Minnesota. | | |
| | Sections 16 and 36 of each township were reserved for schools within the territory. Actual title was not granted until 1857. | | |
| 1851 | Act of February 1851: Reserved 72 sections for the establishment of a University. University lands are currently managed by DNR. Revenues generated are transferred to the University Fund to be managed and invested by the Board of Regents. Minn. Stat §92.02 and §132.022 (1981). | 92,160 | 18,432 |
| 1857 | Enabling Act: Authorized the territory of Minnesota to form a Constitution. | | |
| | The state was granted title to sections 16 and 36 in each township for a state school system. If sections 16 and/or 36 had been previously disposed of alternative sections could be selected. The balance of these lands are currently managed by DNR and revenues acquired are dedicated to the School Trust Fund. | 2,888,608 | 953,171 |

| | | | |
|---|---|---|---|
| | The state was granted an additional 72 sections, to support the creation of a state University. 165,888 acres of University lands have been sold to date. | 92,160 | --[a] |
| | The state was granted 10 sections (in St. Peter) for the building of a State Capitol. All lands were sold in 1901 to finance completion of the State Capitol in St. Paul. | 6,397 | -- |
| | The state was granted 12 salt springs with six adjoining acres. 7,643 acres were granted to Belle Plaine Salt Co. The remaining acreage was granted to the University in 1873 to develop a Geographical and National Survey. The balance of lands retained are managed by the DNR. Revenues are invested in the University Fund. | 46,080 | 5,751 |
| 1860 | Swampland Grant: Congress conveyed all "swamplands unfit for cultivation" to the states west of the Mississippi. Proceeds from the sale of swamplands were to be used for the construction of drainage systems. In 1881 the Minnesota Constitution was amended dedicating the use of all swamplands to the School Trust Fund. Swamplands are currently managed by DNR. | 4,706,503 | 1,559,914 |
| 1862 | Morill Act: Granted each state in the Union 30,000 acres for each congressional delegate. Lands were to be selected by the state at $1.25 per acre. Lands selected of greater value would reduce the total grant. All agricultural lands were sold by 1912. Returns were used to support an agricultural college at the University. | 120,000 | -- |
| 1866 | Internal Improvement: Under a federal statute enacted in 1841 each state entering the Union received land for internal improvements. Minnesota received title to this land in 1866. The bulk of internal improvement lands were sold to pay the state's railroad bonding debts. The remaining lands are currently managed by DNR with proceeds allocated to the School Trust Fund. | 500,000 | 5,000 |

[a]See entry for 1851.

| | | | |
|---|---|---|---|
| 1865 | Railroad Grants: Granted the state odd numbered sections on each side of all railroad rights of way in a 10 mile width. The state was to receive title as each ten miles of track was laid. All railroad lands were assigned to the four railroad companies by the state. | 8,047,469 | -- |
| 1891 | Itasca State Park: Congress granted federal lands to fill out the boundaries of the park. These lands are currently managed by DNR. | 7,000 | 7,000 |
| 1904-05 | Park and Forest Reserves: Lands granted for recreation and experimental purposes. Currently retained and managed by DNR. | 20,000 | 20,000 |
| 1940 | Pine Island Development Project: Lands were originally leased to the state for conservation and recreation management. Title was conveyed to the state in 1954. | 1,313 | 1,313 |
| 1943 | St. Crois Recreational Development Project: Lands conveyed to the state for park and recreational use. | 30,000 | 30,000 |
| | Total Land Grants | 16,557,690 | 2,600,581 |

OTHER ACQUISITIONS

| | | | |
|---|---|---|---|
| 1929-33 | Consolidated Conservation Areas: Acquired when the state assumed the drainage debts of seven northern counties in exchange for clear title to the debted land. Lands are currently managed by DNR. 50 percent of the revenues are returned to the counties and the remainder is credited to the state. | | 1,557,540 |
| 1963 | Volstead Lands: The Volstead Act of 1908 authorized the establishment of liens against federal lands to meet the federal cost of the state's drainage program. In 1958 a second act was passed establishing provisions for the sale of debted land to the state. The lands were purchased by Minnesota in 1963. | | 32,786 |

| | |
|---|---|
| Total Other Acquisitions: | 1,074,779 |
| | 2,665,105 |
| Total Land Grants Retained | 2,600,581 |
| GRAND TOTAL | 5,265,686 |

## APPENDIX B

### DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82): TOTALS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 14,167.360 | $ 3,176,116.28 | 155.78 | $ 23,190.00 | 14,323.140 | $ 3,199,306.28 |
| 1975 | 10,375.959 | 1,311,501.91 | 1,476.74 | 11,972.00 | 11,852.699 | 1,323,473.91 |
| 1976 | 18,342.240 | 2,926,625.78 | 774.20 | 7,510.00 | 19,116.450 | 2,934,135.78 |
| 1977 | 19,314.990 | 4,985,608.11 | 1,786.35 | 118,867.00 | 21,101.340 | 5,104,475.11 |
| 1978 | 12,967.350 | 4,643,367.33 | 3,449.79 | 282,924.82 | 16,417.140 | 4,926,292.15 |
| 1979 | 16,694.170 | 8,216,504.08 | 2,076.59 | 778,984.00 | 18,770.760 | 8,995,488.08 |
| 1980 | 23,100.400 | 11,119,521.17 | 5,052.44 | 1,110,312.00 | 28,152.840 | 12,229,833.17 |
| 1981 | 10,429.150 | 5,410,614.04 | 1,937.85 | 1,031,694.12 | 12,367.00 | 6,442,308.16 |
| 1982 | 8,543.630 | 4,618,031.40 | 2,217.26 | 643,303.30 | 10,751.89 | 5,261,334.70 |
| Sub-Total | 133,935.249 | $46,407,889.10 | 18,927.01 | $4,008,757.24 | 152,853.259 | $50,416,647.34 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.2

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
STATE PARKS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 7,316.820 | $ 2,321,137.38 | 9.00 | $ 800.00 | 7,325.820 | $ 2,321,937.38 |
| 1975 | 7,173.919 | 821,999.00 | 1,393.73 | 3,000.00 | 8,531.649 | 824,999.00 |
| 1976 | 2,249.130 | 1,144,420.00 | 3.50 | 3,825.00 | 2,252,630 | 1,148,245.00 |
| 1977 | 6,209.680 | 2,257,900.22 | -0- | -0- | 6,209.680 | 2,257,900.22 |
| 1978 | 4,615.230 | 1,667,746.50 | 357.21 | 1,314.82 | 4,972.440 | 1,669,061.32 |
| 1979 | 4,195.070 | 2,547,806.75 | .64 | -0- | 4,195.710 | 2,547,806.75 |
| 1980 | 4,964.250 | 3,002,652.17 | 6.00 | 530.00 | 4,970.250 | 3,003,182.17 |
| 1981 | 5,091.670 | 1,917,521.70 | -0- | 300.00 | 5,091.670 | 1,917,821.70 |
| 1982 | 1,008.310 | 1,386,433.00 | -0- | -0- | 1,008.31 | 1,386,433.00 |
| Sub-Total | 42,824.079 | $17,067,616.72 | 1,770.08 | $9,769.82 | 44,558.159 | $17,077,386.54 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.3

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
STATE FORESTS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 3,243.60 | $ 430,640.00 | -0- | -0- | 3,243.60 | $ 430,640.00 |
| 1975 | 720.86 | 41,765.00 | -0- | -0- | 720.86 | 41,765.00 |
| 1976 | 1,645.68 | 579,565.00 | 2.00 | $10.00 | 1,647.68 | 579,575.00 |
| 1977 | 3,686.08 | 910,803.34 | 3.19 | -0- | 3,689.27 | 910,803.34 |
| 1978 | 511.49 | 301,338.33 | -0- | -0- | 511.49 | 301,338.33 |
| 1979 | 5,054.60 | 1,840,640.33 | -0- | -0- | 5,054.60 | 1,840,640.33 |
| 1980 | 3,358.78 | 1,608,192.00 | -0- | -0- | 3,358.78 | 1,608,192.00 |
| 1981 | 2,723.82 | 1,137,823.90 | -0- | -0- | 1,723.82 | 1,137,812.90 |
| 1982 | 465.45 | 205,258.20 | -0- | -0- | 465.45 | 205,258.20 |
| Sub-Total | 20,410.36 | $7,056,026.10 | 5.19 | $10.00 | 20,415.55 | $7,056,036.10 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.4

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82): TRAILS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1975 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1976 | 38.70 | $ 145,850.00 | -0- | -0- | 38.70 | $ 145.850.00 |
| 1977 | 100.81 | 41,480.00 | 3.03 | $ 700.00 | 103.84 | 42,180.00 |
| 1978 | 81.53 | 100,125.00 | 29.14 | 2,051.00 | 110.67 | 102,176.00 |
| 1979 | 340.90 | 315,500.00 | 54.87 | 26,295.00 | 395.77 | 341,795.00 |
| 1980 | 1,228.91 | 86$,219.00 | 8.05 | 2,225.00 | 1,236.96 | 866,444.00 |
| 1981 | 513.89 | 594,894.00 | 377.77 | 33,033.27 | 891.66 | 627,927.27 |
| 1982 | 139.27 | 41,500.00 | 50.28 | 57,322.36 | 189.55 | 98,822.36 |
| Sub-Total | 2,444.01 | $2,103,568.00 | 523.14 | $121,626.63 | 2,967.15 | $2,225,194.63 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.5

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
MINNESOTA VALLEY TRAIL

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1975 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1976 | 160.70 | $ 106,733.20 | -0- | -0- | 160.70 | $ 106,733.20 |
| 1977 | 210.10 | 142,070.00 | -0- | -0- | 210.10 | 142,070.00 |
| 1978 | 302.93 | 160,621.50 | 28.50 | $3,375.00 | 331.43 | 163,996.50 |
| 1979 | 279.01 | 304,051.00 | 14.00 | 1,530.00 | 293.01 | 305,581.00 |
| 1980 | 532.70 | 463,361.00 | -0- | 1,200.00 | 532.70 | 464,561.00 |
| 1981 | 45.78 | 48,000.00 | -0- | 1,200.00 | 45.78 | 49,200.00 |
| 1982 | -0- | -0- | -0- | -0- | -0- | -0- |
| Sub-Total | 1,531.22 | $1,224,836.70 | 42.50 | $7,305.00 | 1,573.72 | $1,232,141.70 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.6

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
WILDLIFE MANAGEMENT AREAS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 3,446.60 | $ 338,654.90 | 27.50 | $ 195.00 | 3,474.10 | $ 338,849.90 |
| 1975 | 2,390.85 | 353,290.91 | - 1.64 | - 199.00 | 2,389.21 | 353,091.91 |
| 1976 | 14,061.60 | 870,122.58 | 20.44 | 100.00 | 14,082.04 | 870,222.58 |
| 1977 | 8,801.59 | 1,472,403.05 | 1,530.07 | -0- | 10,331.66 | 1,472,403.05 |
| 1978 | 6,648.03 | 2,152,462.00 | 2,329.98 | -0- | 8,978.01 | 2,152,462.00 |
| 1979 | 5,937.79 | 2,438,750.00 | 640.00 | 250.00 | 6,577.79 | 2,439,000.00 |
| 1980 | 9,980.78 | 3,960,822.50 | 267.51 | 25,300.00 | 10,248.29 | 3,986,122.50 |
| 1981 | 2,725.98 | 947,905.84 | 132.85 | 1,407.00 | 2,858.83 | 949,312.84 |
| 1982 | 6,321.79 | 1,741,350.20 | 457.40 | 7,196.00 | 6,779.19 | 1,748,546.20 |
| Sub-Total | 60,315.01 | $14,275,761.98 | 5,404.11 | $34,249.00 | 65,719.12 | $14,310,010.98 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.7

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
WILD AND SCENIC RIVERS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1975 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1976 | -0- | -0- | 37.00 | -0- | 37.00 | -0- |
| 1977 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1978 | 505.39 | $116,580.00 | 407.87 | $ 84,360.00 | 913.26 | $ 200,940.00 |
| 1979 | 337.27 | 265,150.00 | 1,009.77 | 405,324.00 | 1,347.04 | 640,474.00 |
| 1980 | 218.00 | 229,900.00 | 753.90 | 431,293.00 | 971.90 | 661,193.00 |
| 1981 | 211.00 | 17,750.00 | 548.80 | 555,162.10 | 559.80 | 572,912.10 |
| 1982 | 41.60 | 30.670.00 | 334.70 | 224,383.20 | 376.30 | 255,053.20 |
| Sub-Total | 1,113.26 | $660,050.00 | 3,092.04 | $1,700,522.30 | 4,205.30 | $2,360,572.30 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.8

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
CANOE AND BOATING ROUTES

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1975 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1976 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1977 | 18.25 | $ 4,562.50 | 2.20 | -0- | 20.45 | $ 4,562.50 |
| 1978 | 34.20 | 20,100.00 | 7.00 | $ 10.00 | 41.20 | 20,110.00 |
| 1979 | 26.50 | 13,750.00 | 27.53 | 16,000.00 | 54.03 | 29,750.00 |
| 1980 | 41.00 | 57,275.00 | 8.60 | 13.00 | 49.60 | 57,288.00 |
| 1981 | 53.50 | 61,640.00 | -0- | -0- | 53.50 | 61,640.00 |
| 1982 | 15.85 | 20,254.00 | -0- | -0- | 15.85 | 20,254.00 |
| Sub-Total | 189.30 | $177,581.50 | 45.33 | $16,023.00 | 234.63 | $139,604.50 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.9

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
WATER ACCESS SITES

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 21.47 | $ 14,395.00 | 19.35 | -0- | 40.82 | $ 14,395.00 |
| 1975 | 39.23 | 83,497.00 | -- | $- 50.00 | 39.23 | 83,447.00 |
| 1976 | 17.97 | 32,864.00 | 1.80 | -0- | 19.77 | 32,864.00 |
| 1977 | 33.96 | 62,466.00 | 3.00 | -0- | 36.96 | 62,466.00 |
| 1978 | 12.65 | 76,694.00 | -0- | -0- | 12.65 | 76,694.00 |
| 1979 | 22.87 | 107,316.00 | -0- | -0- | 22.87 | 107,316.00 |
| 1980 | 43.71 | 376,048.00 | -0- | -0- | 43.71 | 376,048.00 |
| 1981 | 22.96 | 354,500.00 | -0- | -0- | 22.96 | 354,500.00 |
| 1982 | 47.18 | 843,831.00 | -0- | -0- | 47.18 | 843,831.00 |
| Sub-Total | 262.00 | $1,951,611.00 | 24.15 | $- 50.00 | 286.15 | $1,951,561.00 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.10

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
SCIENTIFIC AND NATURAL AREAS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | -0- | -0- | -0- | -0- | -0- | -0- |
| 19-75 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1976 | 80.00 | -0- | 697.50 | -0- | 777.50 | -0- |
| 1977 | 80.00 | -0- | -0- | -0- | 80.00 | -0- |
| 1978 | 237.00 | $ 15,000.00 | 105.00 | -0- | 342.00 | $ 15,000.00 |
| 1979 | 293.80 | 148,100.00 | -0- | -0- | 293.80 | 148.100.00 |
| 1980 | 2,584.03 | 403,761.50 | 3,366.41 | -0- | 5,950.44 | 403,761.50 |
| 1981 | 163.60 | 143,344.50 | 320.00 | -0- | 483.60 | 143,344.50 |
| 1982 | 262.00 | 128,000.00 | 387.00 | -0- | 649.00 | 128,000.00 |
| Sub-Total | 3,700.43 | $838,206.00 | 4,875.91 | -0- | 8,576.34 | $838,206.00 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.11

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
FISH MANAGEMENT AREAS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 138.87 | $ 71,289.00 | 99.93 | $ 22,195.00 | 238.80 | $ 93,484.00 |
| 1975 | 51.10 | 10,950.00 | 84.65 | 9,221.00 | 135.74 | 20,171.00 |
| 1976 | 88.46 | 47,071.00 | 11.97 | 3,575.00 | 100.43 | 50,646.00 |
| 1977 | 174.52 | 93,923.00 | 244.86 | 118,167.00 | 419.38 | 212,090.00 |
| 1978 | 18.90 | 32,700.00 | 185.09 | 191,814.00 | 203.99 | 224,514.00 |
| 1979 | 206.36 | 235,440.00 | 329.78 | 329,585.00 | 536.14 | 565,025.00 |
| 1980 | 148.24 | 153,290.00 | 641.97 | 649,751.00 | 790.21 | 803,041.00 |
| 1981 | 54.69 | 128,561.10 | 400.23 | 428,515.50 | 454.92 | 557,076.60 |
| 1982 | 14.45 | 26,400.00 | 223.73 | 257,375.50 | 238.18 | 283,775.50 |
| Sub-Total | 895.59 | $799,624.10 | 2,222.21 | $2,010,199.00 | 3,117.80 | $2,809,823.10 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

APPENDIX B.12

DEPARTMENT OF NATURAL RESOURCES LAND ACQUISITION (F.Y. 1974-82):
WATER BANKS

| Fiscal Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1975 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1976 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1977 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1978 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1979 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1980 | -0- | -0- | -0- | -0- | -0- | -0- |
| 1981 | 22.6 | $ 58,673.00 | 158.20 | $ 12,076.25 | 180.46 | $ 70,749.25 |
| 1982 | 218.73 | 194,335.00 | 764.15 | 97,026.24 | 982.88 | 291,361.24 |
| Sub-Total | 241.33 | $253,008.00 | 922.35 | $104,102.49 | 1,163.34 | $362,110.49 |

Source: DNR Land Bureau, Annual Acquisition Reports, F.Y. 1974-82.

## APPENDIX C

### DEPARTMENT OF TRANSPORTATION LAND ACQUISITION (1974-82[a]): HIGHWAY RIGHT-OF-WAY

| Calendar Year | Fee | | Other Interests | | Total | |
|---|---|---|---|---|---|---|
| | Acres | Cost | Acres | Cost | Acres | Cost |
| 1974 | 3,128 | $ 14,537,744 | 163 | $ 376,702 | 3,291 | $ 14,914,446 |
| 1975 | 4,095 | 15,444,969 | 278 | 120,446 | 4,373 | 15,565,415 |
| 1976 | 2,422 | 8,112,730 | 53 | 42,963 | 2,475 | 8,155,693 |
| 1977 | 2,622 | 8,919,936 | 51 | 115,541 | 2,673 | 9,035,477 |
| 1978 | 1,410 | 11,898,035 | 79 | 149,996 | 1,489 | 12,048,031 |
| 1979 | 1,433 | 17,406,883 | 34 | 190,567 | 1,467 | 17,597,450 |
| 1980 | 1,779 | 14,495,046 | 6 | 82,086 | 1,785 | 14,577,132 |
| 1981 | 803 | 19,471,808 | 52 | 599,988 | 855 | 20,071,796 |
| 1982 | 1,270 | 21,023,446 | 28 | 108,804 | 1,298 | 21,132,250 |
| Total | 18,962 | $131,310,597 | 744 | $1,787,093 | 19,706 | $133,097,690 |

Source: Minnesota Department of Transportation, Division of Right of Way, Annual Land Cost Reports, 1974-1982

[a]Excluding administrative and relocation costs.

# APPENDIX D

## LAND ACQUISITION IN THE RICHARD J. DORER STATE FOREST

The Minnesota Memorial Hardwood State Forest, subsequently renamed the Richard J. Dorer Memorial Hardwood State Forest, was established by Laws of Minn., (1961) Ch. 521, §1, Subd. 1. School trust fund lands were the core of the state forest but these were soon augmented by purchases financed with public donations and allotments from the Legislative Advisory Committee Contingent Fund. The first appropriation for land acquisition in the state forest was in 1963. The Commissioner of Natural Resources has the authority to purchase land in the state forests as created by law and to acquire administrative sites or rights-of-way by eminent domain. Tax-forfeited land can be included as state forest land only if the county transfers the lands to the state to manage. Most state-owned acreage in the state forest has been purchased (Table D.1).

TABLE D.1

METHOD OF LAND ACQUISITION FOR THE RICHARD J. DORER FOREST

| | Acres |
|---|---|
| Purchase | 39,158 |
| Transfer of County Tax-forfeited Land | 1,669 |
| School Trust Fund | 982 |
| Land Exchange | 356 |
| Gift | 117 |
| Total Owned by State | 42,282 |

Source: Department of Natural Resources, Land Bureau, 1982.

The state owns approximately two percent of the 1.97 million acres in the state forest boundary. When the forest was established, the acquisition goal was to purchase 200,000 acres over a 50-year period, but there was no initial plan to direct land acquisition. Two acquisition plans have been developed, the first in 1966, and the second in 1979, to establish priority acquisition areas and to project acquisitions for the next 10 years. All acquisition activity has been restricted to the priority acquisition areas, also termed "purchase compartments." These areas have a large amount of contiguous forest lands and have the best potential for timber management, recreational development, wildlife management, and watershed

protection. Since a large number of areas have been identified, they have been divided into first and second priorities. The Southeastern Minnesota Natural Resources Advisory Committee, created to assist in the review of the 1979 acquisition plan, recommended that further limitations be made in the number of areas in which acquisitions were made. Recent acquisitions have been limited to these areas.

As of 1982, the extent of land acquisition has been less than projected in both acquisition plans. The 1966 plan recommended acquisition of an additional 70,000 acres over 10 years, but only 23,600 acres had been acquired by August 1978. The 10-year purchase goal of the 1979 plan was 47,530 acres, but acquisitions to September 1982 have totaled just 7,664 acres (Table D.2). The state's optimistic acquisition goals may have generated opposition sufficient to delay or curtail certain acquisitions. More moderate goals might have generated less opposition and ironically might have resulted in virtually the same overall acquisition record. Figure D.1 shows the acres acquired and costs entailed from fiscal years 1974 to 1982.

The acquisition process itself has created few problems in the Dorer State Forest. Although the process has been overly extended in some cases, most sellers have not generally had to plan to relocate since they have sold just the forested portion of their land. The Forestry Division has not found it necessary to develop a continuing resident contact program to promote selling land. Rather, private owners, particularly farmers, are often anxious to sell forested land. The list of willing sellers for 1982 within the purchase compartments totaled 120 and included 11,000 acres. Some concern has been expressed that the state pays more than actual land value and has accelereated land prices in the area.

DNR and the Legislature have been responsive to complaints involving state land acquisition. The four major issues connected with the Richard J. Dorer State Forest were the following: (1) loss of tax revenue, (2) fencing of state land, (3) state ownership of agricultural land, and (4) management of state land. The counties within the state forest had expressed concern for the effect of state purchases on their county tax incomes, but tax legislation was passed in 1979 that requires the state to pay $3 per acre for all acquired DNR land. This in-lieu-of-tax payment has eliminated much of the local opposition toward state land acquisition.

Some private landowners--mostly those raising livestock--have been concerned about the fencing of state land. In general, existing fencing laws, which regulate where fencing is required and who pays for it, apply to private landowners but not the state. However, a fencing law for the Dorer State Forest was passed in 1965. This law requires the state to pay one-half of the cost of establishing or maintaining a line fence if the owner of adjoining land requests it. From July 1979 to September 1982 fencing costs in the forest have totaled $29,000, all of which has been paid from forestry acquisition funds. Better publicity of this state program might allay some of the expressed concern about state fencing policy in the forest.

TABLE D.2

ACQUISITION GOALS IN THE RICHARD J. DORER FOREST COUNTIES

(In Acres)

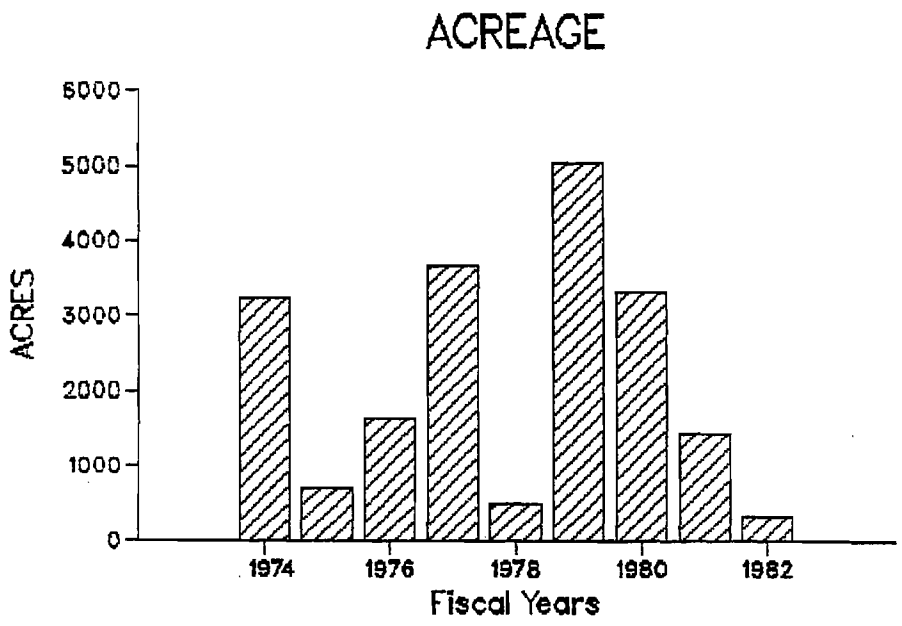
| County | Total County Area | Area In State Forest Boundaries | State Forest Land (Aug.1978) | 10-Year Purchase Goal (Est. Aug.1978) | Land Acquired Sept. 1978 - Sept. 1982 |
|---|---|---|---|---|---|
| Houston | 368,280 | 360,523 | 9,945 | 14,000 | 2,064 |
| Fillmore | 552,960 | 391,917 | 5,206 | 12,630 | 2,691 |
| Winona | 417,520 | 392,319 | 6,447 | 8,400 | 1,356 |
| Wabasha | 356,280 | 341,286 | 9,229[a] | 5,400 | 244 |
| Goodhue | 502,920 | 204,090 | 4,450 | 5,000 | 1,097 |
| Olmsted | 422,400 | 172,597 | 281 | 1,800 | 212 |
| Dakota | 380,200 | 61,200 | 56 | 300 | -- |
| Dodge | 280,320 | 46,000 | -- | -- | -- |
| Total | | 1,969,932 | 35,614 | 47,530 | 7,664 |

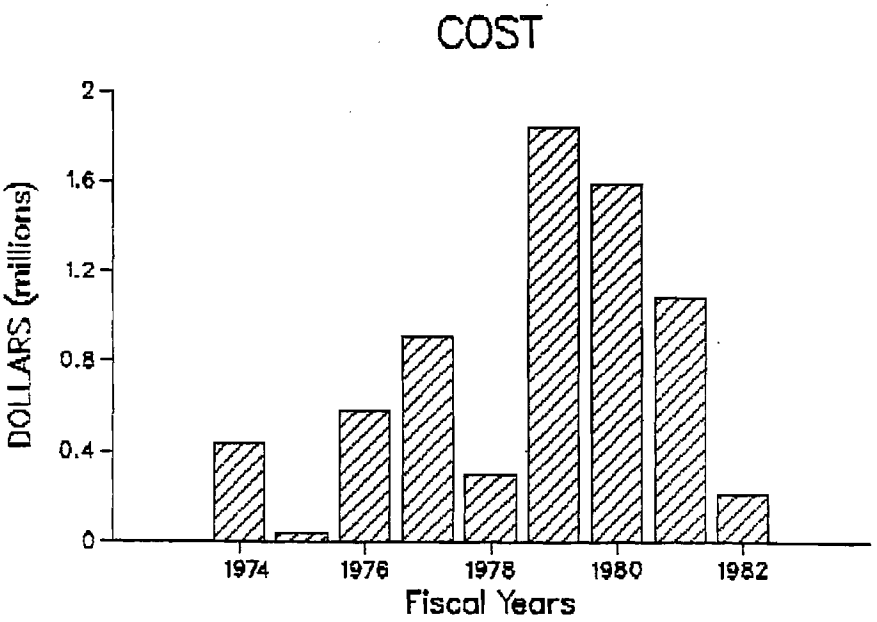
Sources: Department of Natural Resources, A Plan for Land Acquisition: Richard J. Dorer Memorial Forest, October, 1979.

Department of Natural Resources, Bureau of Lands, Land Acquisition Status Reports.

[a]The report, A Plan for Land Acquisition, includes a 2,370 acre parcel in this figure although it was purchased after August 1978.

# FIGURE D.1
# LAND ACQUISITION IN RICHARD J. DORER STATE FOREST, F.Y. 1974–82




Source: DNR, Land Bureau, Acquisition Files, F.Y. 1974–82.

State ownership of agricultural land in the state forest occurs when the state must purchase an entire parcel to obtain the desired forest area. Residents have felt that the state should return these agricultural lands to private ownership, although DNR has often leased these lands to nearby farmers. Legislation was passed in 1979 that requires DNR to exchange or declare surplus any parcel acquired in the state forest after July 1, 1977 that "contains more than 10 contiguous acres of tillable land adjacent to other tillable land or to a maintained public road or a farm homestead consisting of a residence and farm buildings abutting a maintained public road." 1979 Minn. Laws, Ch. 248, §1, Subd. 1.

Between July 1977 and September 1982, over 400 acres were classified as "required to be sold or exchanged." DNR has been successful in completing land exchanges or in applying for land exchanges for 423 acres (Table D.3). The cost and length of time to complete exchanges can be extreme. Topography and the necessity of subdividing tracts make surveying expensive. In addition, the administrative process to complete an exchange can take four years.

No tillable acreage has been sold outright. DNR has little incentive to sell the land because the proceeds from the sale are put into the general revenue fund. Although the length of time to complete an exchange is sometimes excessive, the department feels it is preferable to a sale because an exchange permits the state to make progress on its acquisition priorities. A land sale yields revenues which, for all practical purposes, are lost to DNR.

DNR has attempted to limit the purchase of tillable acreages required for sale/exchange. When budget constraints slow acquisition, few tillable acres are acquired. Nevertheless, the current legislation which permits the acquisition of the tillable parcels but then forces their disposal, could be altered to permit flexibility in their disposition. If exchange of the land is costly, DNR might retain the land, provided that it attempts to lease the tillable portion.

A final concern has been the effectiveness of DNR management of state-owned forest land. While the department has been viewed as being successful in accomplishing objectives relating to erosion control, recreation, and habitat preservation, there are some criticisms of its forest management techniques. The major complaints are that DNR is not obtaining the optimal timber growth from its land and that DNR management is not serving as a good model for private forest management.

The number of personnel may be insufficient to effectively manage the state forest for optimal timber production. Scattered parcels and poor access may limit the productivity of state foresters. In addition, state foresters devote considerable effort in assisting private landowners in managing their timber. In Goodhue, Wabasha, Winona, Fillmore, and Houston counties between October 1980 and September 1981, the forestry staff spent 34 percent of their time providing technical assistance on private land. Assistance requests surpass the capabilities of the local forestry staff and private consultants have provided another form of assistance. Monitoring the actual implementation of management plans has seldom been done on a concerted basis.

TABLE D.3

REQUIRED EXCHANGES OF TILLABLE LAND IN THE RICHARD J. DORER STATE FOREST

| Ex. No. | Acreage State | Acreage Private | Appraisal of State Land | Application Date | Status | Survey Cost | Annual Lease Revenue Prior to Exchange |
|---|---|---|---|---|---|---|---|
| 372 | 37.0 | 70.0 | $17,225 | 1/77 | Completed 12/80 | $ -0- | $ -0- |
| 435 | 10.0 | 20.0 | 16,000 | 6/79 | Completed 5/82 | -0- | 343 (7 acres) |
| 421 | 38.6 | 60.0 | 35,400 | 3/79 | Needs modification of legal description | 16,500[b] | -0- |
| 422 | 37.8 | 80.0 | 35,900 | 3/79 | Awaits public hearing | 16,500[b] | -0- |
| 423 | 114.7 | 190.9 | 99,915 | 3/79 | Awaits public hearing | 16,500[b] | -0- |
| 425 | 21.0 | 36.0 | 19,160 | 3/79 | Awaits public hearing | 16,500[b] | -0- |
| 469 | 36.0 | 60.0 | -- | 8/80 | Awaits Land Exchange Board approval | 22,500 | 824 (18.3 acres) |
| 472 | 22.4 | 59.4 | 24,160 | 10/80 | Awaits public hearing | 20,000 | 840 (21 acres) |
| 506 | 37.0 | 87.0 | -- | 1/82 | Awaits survey | -- | 1,724 (38.3 acres) |
| 511 | 28.0 | 56.0 | -- | 2/82 | Awaits survey | -- | 1,372 (28 acres) |
| 520 | 11.8 | 28.0 | -- | 8/82 | Awaits survey | -- | 513 (13 acres) |
| 526 | 28.7 | 84.7 | -- | 8/82 | Awaits survey | -- | -0- |

Sources: Department of Natural Resources, Bureau of Land, Exchange and lease records through December 1982.

Department of Natural Resources, Bureau of Engineering, Survey Unit timesheet and travel data through December 17, 1982.

[a]Survey cost includes office and field personnel salaries, and living and travel costs.

[b]Surveys for land exchanges 421,422,423, 425 were conducted simultaneously so costs were not separated for each exchange. The survey cost for the four exchanges was $66,000 which was subdivided for each exchange.

Unlike northeastern Minnesota, timber production has not been a major economic activity in the southeast. Higher private forest productivity will require an education and demonstration program, monetary assistance programs, and local timber processing facilities. Were the state to successfully develop and expand these programs, the need for state ownership to meet forest management objectives could be reduced. While the Forestry Division has focused its Private Forest Management activities in this area, obstacles remain before forest management is widespread on private lands. The long-term commitment required for maximum timber production dissuades individuals from undertaking a management program. Also, special harvest equipment and additional access roads are necessary to manage forested slopes. Although federal cost-share money is available through the Agricultural Conservation Program and the Forestry Incentives Program, the amount of acreages affected remains low. A tax credit program, similar to the programs in Wisconsin or Michigan, might accelerate forest management. Tax credit programs lower the assessment for forest land provided the landowner retains, manages, or improves the timber stand and prohibits livestock from the forest land. Counties are reluctant to reduce tax revenues unless the state reimburses the loss. Ensuring private landowner compliance with a tax-credit program could be also difficult without additional staff.

Other mechanisms to facilitate implementation of forestry management without the state purchasing land include forest land leases and the creation of "forest improvement districts." DNR could obtain leases for private land and coordinate management with state-owned land. The lease would specify the costs and revenues to be shared and the management obligations of each party. Although a lease program would have to demonstrate its popularity among private land-owners, leases could provide a short-term solution to the problem of trying to manage only the state-owned part of a watershed or natural forest area.

A "forest improvement district" is a landowner organization that has powers to operate timber processing plants, establish forest practice regulations, and market members' timber. A district might need initial financial assistance from the state to be successful. In 1979 Michigan passed legislation, the Forest Improvement Act, which provides for the creation of such districts (Michigan House Bill 4706, 1979).

DNR has almost exclusively used fee purchase to control land management in the Richard J. Dorer State Forest. The only easements in the forest today are for access rights-of-way. Easements might be expensive and impractical for land used solely for long-term forestry management. But where recreational trails, habitat protection, or runoff control measures are needed, easements may well be practical. In general, easements could allow a measure of state control on private land for purposes not incompatible with the desires of the private landowner.

# APPENDIX E

## LAND ACQUISITION IN STATE PARKS: SIBLEY, AFTON, AND MILLE LACS KATHIO STATE PARKS

### A. GENERAL ACQUISITION ISSUES

State law authorizes a variety of methods to acquire land for state parks. Prior to 1959, each parcel had to be approved specifically in legislation. In 1959, the Commissioner of Administration, acting for the Commissioner of Conservation, could acquire land through gift, purchase, or eminent domain. Tax-forfeited land within the boundaries of the park was also transferred from the custodial control of the county board to the Commissioner of Conservation. In 1965, restrictions on acquiring land through eminent domain were legislated. Land could no longer be obtained through condemnation unless "expressly provided for by law." In 1971, the language was altered further to exclude eminent domain as an acquisition method. Nevertheless, land has been obtained through eminent domain when specifically approved in legislation.

Acquisition of land for state parks is restricted to the area within the statutory boundary. The statutory boundary is delineated in a process that considers the natural environmental features, the development needs for park facilities, the existing physical boundaries such as highways and water bodies, and the land tract ownership pattern. Local input from the county board and the park advisory committee, when it exists, is considered also before the Department of Natural Resources seeks legislative approval for a park boundary. Boundaries can be--and have been--altered when park management needs change or if prohibitive costs or unwilling sellers make it difficult to acquire parcels along the border.

In most parks, facilities are situated to provide as much of a wilderness experience as possible and to avoid intruding on the activities of the surrounding landowners. Campgrounds and picnic areas are situated in the interior of the park. Hiking, equestrian, skiing, and snowmobile trails seldom reach the perimeter of the park. This development pattern helps to maintain a buffer zone between private landowners and park activities. Management of ecological resources is generally the primary objective in these buffer areas. Outside the state park, low density residential or agricultural development is preferred to protect the park resources. Residential development can help control access to state park lands.

A major acquisition concern in DNR's Parks Division is the loss of a parcel to a developer who has plans for subdivision. Because county boards have not in most cases developed zoning codes to regulate the type of development permitted in and around state parks,

the state must often compete with developers who may want to subdivide parcels. Desirous of maintaining the local tax base and sensitive to the development rights of landowners, counties have seldom initiated zoning plans. Some counties do attempt to help state acquisition by requiring a specified waiting time before a parcel inside a state park can be sold to another private party. This often gives the state time needed to negotiate a satisfactory deal with the in-holder.

Far-reaching legislation, introduced in 1977, would have authorized the Commissioner of Natural Resources to acquire lands within state parks by eminent domain (House File No. 84, 1977). A weaker substitute bill would have provided the Commissioner with authority to enforce compatible use standards, thus effectively regulating land use in state parks (House File No. 1253, 1977). These bills, which generated intense opposition and created strained relationships between landowners and state park representatives, were not passed. Backlash from this proposal resulted in the passage of the "landowner's bill of rights" and in the removal of some disputed areas from the statutory boundaries of certain parks.

Our review of acquisition in several parks revealed that land acquisition does not follow a prescribed plan. The management plans for established state parks often do not include a listing of priority acquisition parcels, although the implementation of the management plan may depend upon acquiring certain key parcels. These key parcels may be targeted, however, by DNR in its biennial funding requests for acquisition. In addition, the park manager may have frequent contact with the landowner to determine his willingness to sell. Although the state has been successful in acquiring the key parcels needed to ultimately implement the management plans, perhaps greater emphasis should be placed on assessing acquisition problems before management plans are developed or on developing alternative management plans should parcels be difficult to obtain.

The acquisition process in state parks is generally initiated by the park manager. Park managers periodically contact in-holders to determine their willingness to sell, trace and contact absentee landowners, and serve as the liaison between landowner and appraisors and negotiators from DNR's Land Bureau. After the landowner indicates a willingness to sell, the park manager prepares a fact sheet on the property specifying its characteristics and why its acquisition is necessary. From this fact sheet DNR determines its need for the parcel, arranges for appraisals, and assigns a negotiator.

Difficulties and additional expenses arise when the seller feels that the certified appraisal is too low and rejects it. Under state law, the negotiator, with the concurrence of the park division head, can offer up to 10 percent over the certified appraisal. If this is also refused, the sale is postponed. After six months a new appraisal may be done which, if it is acceptable to the landowner, may serve to reactivate the process.

When the state has trouble acquiring a parcel, either because of the length of the process or because of a shortage of acquisition funds, some private groups have purchased the land and retained it for the state. These groups include the Nature Conservancy, Minnesota Parks Foundation, and local state park associations.

Diminishing funds for land acquisition can pose a problem when key parcels come on the market but are lost to private bidders. If these parcels are subsequently subdivided and residences constructed, future acquisition costs may be prohibitive. As long as the acquisition of land in state parks is through the willing seller process, it is imperative that the state purchase or tie up the key priority parcels before incompatible land uses emerge.

Other types of land acquisition or land use controls have been seldom applied within state parks. Land use and scenic easements are often difficult to obtain from a landowner and can create additional management and enforcement problems. Easement costs could exceed the purchase price of a parcel over an extended time period. Between 1974 and 1982, only 1,770 acres of less-than-fee interest land was bought and added to the state park system. During this period 42,824 acres of fee lands were purchased. Less-than-fee lands cost the state an average of $5.52 per acre; fee purchases cost approximately $398 per acre.

The state has successfully applied "purchase-leaseback" arrangements for agricultural land. Farmers are sometimes permitted to lease for a three-year period agricultural land recently sold to the state to facilitate its conversion to park land. In these instances, chemical use is prohibited and crop cultivation must follow a prescribed pattern. Since federal Land and Water Conservation (LAWCON) Funds have been used in most acquisitions, federal standards for acquisition and conversion to park land must be followed.

More details on the unique land acquisition problems and use of alternatives in Sibley, Afton, and Mille Lacs Kathio State Parks, which we visited in the course of this study, are included in the following case studies.

## B. CASE STUDIES

To investigate the acquisition process and problems in state parks, three parks--Sibley, Afton, and Mille Lacs Kathio--were studied. The following are the results of those investigations.

### Sibley State Park

Sibley State Park was established in Kandiyohi County in 1919. An initial purchase of 400 acres was augmented primarily through additional land purchases, although a small amount of land

has been obtained through gifts and tax forfeitures. In 1973, the Legislature added a large section to the park but prohibited the use of eminent domain to acquire land. Most recent acquisition activity has occurred in the new section of the park. Since 1971, 37 parcels of 929 acres have been acquired at a cost of $1,211,000. The state currently owns 74 percent (2,160 acres) of the 2,920 acres within the park's statutory boundaries.

Sibley State Park is designated as a recreational park but the patchwork pattern of state ownership in the new section has limited development. Recreational facilities remain concentrated in the old section of the park, although some facilities have been relocated and plans exist to add trails and canoe portages as parcels are acquired in the new section. A number of key parcels remain to be acquired in the park. One parcel, owned by a church, is located in the center of the park and occupies an area that DNR has proposed to develop trails and a canoe portage. Although the owner currently permits portaging across the land, the church has tentative plans to develop a retreat, which might disrupt the state's trail plans and increase park crowding. The state and the private owner have been in contact and a sale to the state is possible.

Other key parcels have large acreage and lake frontage. These attractive parcels could be subdivided, making eventual acquisition difficult. Subdivision has occurred on land that the state was unable to acquire. Kandiyohi County has allowed private acquisition and subdivision within the park, but has attempted to give the state an opportunity to acquire by requiring a six-month waiting period before any land sale transaction within the statutory boundaries can be consummated. Fortunately, the only land the state has failed to acquire has been near or on the periphery. In some cases, the state's bid, which is not sealed, has been minimally surpassed by a competitive private bidder. The attitude of the seller toward the state can sometimes determine the success of the state in acquiring a parcel.

The existence of many small and scattered tracts of private in-holdings will make future acquisition difficult and may lead to many non-contiguous sections. Because construction of residences is permitted on established tracts, there is a danger that the loss of some tracts will affect park management. Already the state has purchased some small isolated parcels within the park that are detached from state-owned land. Should the state be unsuccessful in acquiring the surrounding small parcels, particularly those along the periphery, it may be advisable to remove them from the statutory boundaries. Two high density residential areas have been previously excluded from the state park.

In Sibley State Park, some landowners became aware that the state could offer 10 percent above the certified appraisal and during negotiations would seek this amount. In some cases, this higher price was paid. For example, a 1.3 acre parcel located on the statutory boundary was acquired in 1980 for $43,780, 10 percent above the certified appraisal, and the $2,180 relocation costs paid. This parcel may not have been essential to the objectives of the park,

particularly since other small tracts exist along the boundary. Although acquisition is desired, the need for the parcel may not have warranted optimum payment.

The potential for easements across private lands for trails could be explored to accelerate the implementation of the management plan. Although some landowners may resist easements, the larger or absentee landowners may be more amenable to easements. No easements for park purposes have been established in Sibley State Park.

Afton State Park

The Minnesota Legislature established Afton as a state park in Washington County in 1969 and authorized the acquisition of land through purchase or gift. All land within the statutory boundary was privately owned. Land acquisition has proceeded at a rapid rate; 32 parcels totaling 1409 acres (87 percent of the state park) have been acquired at a cost of $3,208,000. The actual acquisition process, however, has not always been smooth. The Afton Land Company purchased a 310 acre parcel and the Minnesota Park Federation purchased two parcels totaling 85 acres to retain it for the state until funds were available. Another parcel of 57 acres that connected the two sections of the park went through eminent domain proceedings in 1979, as authorized by legislation, when the landowner refused the initial state offer of $233,000. It was eventually settled at $300,000. A priority parcel designated to be the site of two group camps has gone through numerous appraisals, but the landowner remains hesitant to sell. The acquisition problems have delayed the full implementation of the management plan.

Other private parcels are in areas that are not currently planned for intensive public use. A trail easement was obtained across one private parcel which was eventually acquired in fee. Although no current plans exist to develop these parcels for recreational use, the parcels are essential as ecological resources and as buffer zones between park users and private landowners.

The surrounding residential landowners have been cooperative and have helped in providing a buffer zone that controls access to the park. In-holdings can make control difficult because it opens additional access roads into the park.

Lease-back of agricultural land for three years is common in the park. The acquisition of a 66 acre parcel was facilitated by granting the aged resident a long-term lease on 5.7 acres. Long-term leases or life estates may have practical applications when the residents are old and prefer to remain in their home. They are often the park's best supporters and are anxious to see their land preserved.

Easements for park management are feasible but not generally recommended. Scenic easements obtained for the Lower St. Croix River Area by state and federal governments have proven nearly as expensive as fee acquisition, and park land is generally set aside for intensive public use or development and is therefore best owned in fee. Easements on private land in the park to provide a buffer or to enable trail development seem possible.

The right to purchase easements outside park boundaries, not now permitted in law, might be needed at some future date to control development at the park entrance. The attraction of the park and a major downhill ski facility adjacent to the park could spur undesirable development at the park boundaries which, lacking the cooperation of county zoning authorities, the state would be powerless to control. The right to buy development easements would allow the state to compete with private developers should that become necessary to protect the park's integrity. Although the cost of these easements could be substantial--particularly if the appraisals were based on subdivision of property--the state currently has no method of controlling such development.

Mille Lacs Kathio State Park

Mille Lacs Kathio State Park, a natural park in Mille Lacs County, was established in 1957. A large section of tax forfeited land provided the nucleus for the park. Since 1959, most additions to the state-owned land have been through fee purchase. The state currently owns 88 percent (9,250 acres) of the 10,550 acres in the statutory boundary. Private land remains around Shakopee Lake and along the boundary near Mille Lacs Lake.

The recreational facilities of the park are located near Ogechie Lake. Surrounding land is state-owned except for two parcels of Indian tribal lands which total 238 acres. No development has occurred on the tribal lands. The tribal lands are hunted from July 1 through January 31 and one parcel bisects the campground and picnic area, which causes some concern for the safety of park visitors. The state has attempted to acquire this parcel either through purchase or land exchange, but the tribal board has no current interest. Any construction on this land would affect the existing recreational facilities.

To provide an alternative location for the facilities, recent acquisition activity has focused on Shakopee Lake. The best site for the facilities is a privately-owned subdivision. Some parcels have been acquired, but not enough to relocate the state's facilities. Other acquisition problems occur along the statutory boundary near Mille Lacs Lake where pressure is intense for development. The county board has allowed subdivision of parcels and plans do exist for some tract development. The local park advisory committee has also supported in the past the deletion of land from the statutory boundary primarily in an effort to improve the local tax base. The state may have difficulty in obtaining these peripheral areas when acquisition funds are low and development demands are high. At least one county commissioner considers the state park to be too large and thinks that, while the state should continue to acquire interior parcels, the state should stop purchasing peripheral parcels.

Private landowners in the park have been cooperative in the use of their land for trails. A $1.00 trail easement for cross-country skiing has been made with one landowner, while other landowners have permitted snowmobile trails without any formal easement or state

payment. There was also an unsuccessful attempt to obtain a scenic easement to stop the construction of a silo outside the state park but within view of the campground and picnic area.

A primary objective in Mille Lacs Kathio should be the resolution of the tribal lands issue. If this key parcel can be acquired, the need for acquiring land along Shakopee Lake will decrease.

# APPENDIX F

## LAND ACQUISITION IN THE LAC QUI PARLE WILDLIFE MANAGEMENT AREA

The Lac Qui Parle Wildlife Management Area (WMA), located in the western end of the Minnesota River Valley, is one of nine large state wildlife preserves with resident managers. Added to the state wildlife system 25 years ago, its main clientele are Canada Geese. In 1957, the Minnesota Executive Council transferred 22,877 acres of the Lac Qui Parle flood control project, which was previously owned by the U.S. government, to the Commissioner of Conservation for a wildlife refuge and public hunting ground. The Commissioner retained the existing powers of acquisition designated in the 1953 Minnesota Statutes for the flood control project except for the right of eminent domain. The state has purchased 6,588 acres in the WMA (Table F.1).

TABLE F.1

METHOD OF ACQUISITION FOR THE LAC QUI PARLE WILDLIFE MANAGEMENT AREA

| | Acres |
|---|---|
| U.S. Government | 22,877 |
| Purchase | 6,588 |
| Land Exchange | 20 |
| Trust Fund | 4 |

Source: Department of Natural Resources, Fish and Wildlife Division, Land-Ownership Records for Lac Qui Parle Wildlife Management Area, December 1982.

Federal funds have financed much acquisition. The Pittman-Robertson Program (Federal Aid in Wildlife Restoration Act) derives revenue from excise tax on arms and ammunition and disperses funds to the state for wildlife activities. Federal monies are placed in the state game and fish fund and finance approximately 75 percent of wildlife activities and projects, including acquisition.

The Commissioner of Natural Resources can acquire wildlife lands by gift, lease, purchase, and transfer of state lands and tax-forfeited lands. According to state law, before the Commissioner can purchase or lease a tract, the board of county commissioners must

approve the acquisition. In the Lac Qui Parle WMA, Big Stone County has denied three parcel sales. The primary motivations for denial were apparently the conviction that the state or federal government already controlled a large percentage of land in the county and the fact that agricultural land was involved. Since the legislative enactment of the in-lieu-of-tax program, the number of county denials in the WMA has decreased.

The initial core of land for the Lac Qui Parle WMA had irregular boundaries. The U.S. government had obtained all the land below the 945-foot contour for the flood control project. Current acquisition has focused on parcels that would create a more manageable boundary rather than the erratic contour lines. In addition, existing quality habitat areas were integrated into the boundary and an area for a game refuge was designated.

The state owns 90 percent of the 32,500 acres within the official boundaries of the wildlife management area. The 1977 Lac Qui Parle WMA Master Plan for 1977-1986 identified acquisition priorities for the remaining land parcels. So far, DNR has had limited success in acquiring their most critical parcels, primarily because private landowners have been unwilling to sell. Of the 52 tracts targeted for acquisition in the report, only nine tracts have been purchased. Only three of these tracts were rated "critical" or "very critical" (Table F.2). Five other tracts--more than one-third of all tracts acquired in this period--were added to the WMA although they were not in the original plan at all. A recent re-evaluation of priority parcels has upgraded four tracts, which total 377 acres, to "very critical." The "very critical" tracts are in the game refuge and are essential for goose management.

TABLE F.2

COMPARISON OF ACQUISITION PRIORITIES AND ACTUAL ACQUISITIONS IN THE LAC QUI PARLE WILDLIFE MANAGEMENT AREA

| | Priority Ratings in 1977 Plan | | Acquisitions Between July 1977 - September 1982 | | |
|---|---|---|---|---|---|
| | Parcels | Acres | Parcels | Acres | Cost |
| "Very Critical" | 4 | 617 | 1 | 80 | $ 52,350 |
| "Critical" | 17 | 1,629 | 2 | 322 | 243,150 |
| "Desirable" | 31 | 2,061 | 6 | 1,067 | 551,325 |
| Not listed in plan | -- | -- | 5 | 400 | 89,740 |
| Total | 52 | 4,307 | 14 | 1,869 | $936,565 |

Sources: Department of Natural Resources, Lac Qui Parle Wildlife Management Area Master Plan, 1977-1986, August 1977; Department of Natural Resources, Bureau of Lands, Land Acquisition Status Reports.

The procedure for acquisition is similar to that for other management units. The area manager and regional supervisor are active in contacting residents and in acting as intermediaries between private landowners and the negotiator. We detected little unhappiness with the procedures among private sellers and no parcels have been lost to another competitive bidder. Only one private parcel appears to have the attributes that would make it attractive for residential subdivision.

The primary management objective of the WMA is to maintain and develop diverse habitat for wildlife. The Canada Goose is the single most important wildlife resource so management activities focus on its needs. Upon acquiring a parcel, the manager implements a land management plan developed with the help of the Soil Conservation Service. Plans include food plots, tree plantings, grass and cover restoration, and marsh construction.

To feed wildlife DNR can lease its land to farmers. Minn. Stat. §84.153 (1982). A lease or cooperative agreement specifies the type of crops to be grown and the proportion to be left for wildlife, in addition to any payments to the state. Supplemental food crops for resident and migratory wildlife are grown by private farmers under such cooperative agreements as well as by state personnel. If the parcel is under a cooperative farming agreement, its use is restricted because two-thirds of the land is in private crops. The private farmer harvests his share prior to the migratory season and the state's share remains for wildlife feed. There are currently 37 cooperative farming leases for 2,300 acres; the number of requests exceed the available land.

Cooperative farming agreements may be the cheapest method to raise crops for wildlife but they often present management difficulties. Farmers occasionally plant the wrong crop, intrude on other management sections, and use tillage techniques which are deleterious to the soil and wildlife. Consequently, DNR plans to gradually phase-out cooperative farming agreements in the Lac Qui Parle WMA and use state personnel for farming on state land. Equipment has been purchased for ridge tilling which will conserve soil and reduce land disturbance. This project will serve as a demonstration for ridge tilling and will be promoted by the local soil and water conservation representatives.

The termination of cooperative farming agreements may create hardships for some farmers now dependent on state-owned land, but DNR can manage the land for the intended use for which it was purchased. This will increase the amount of acreage within the refuge that is devoted to wildlife. Since a major complaint about state ownership concerns the state's alleged failure to manage land adequately, DNR believes a demonstration of improved management is desirable. Additional farming responsibilities, however, will increase personnel needs and state farmers may have to work long hours during planting season. Local farmers have expressed some skepticism over the plan.

A problem could exist if the state-owned food supply would not meet wildlife needs, forcing wildlife onto private croplands. Crop losses from wildlife regularly occur on private lands in and near the WMA. One farmer estimated a loss of 11 acres this year because of the late harvest and larger waterfowl population. Nevertheless, surrounding landowners have benefited from the refuge. Landowners rent blinds to hunters at approximately $5 per hunter per day, which is usually more than enough to offset their losses. On the other hand, landowners in the refuge cannot establish blinds and do not derive the economic advantages of the refuge. Some feel that this economic restriction is a form of condemnation.

Acquisition of private in-holdings will remove many management problems and perhaps allow the manager to create a buffer between state and private croplands. Since the amount of land in the WMA is sufficient to support the migratory waterfowl population, it is unnecessary to acquire or lease agricultural land outside the existing boundaries.

Alternatives to fee acquisition may exist in the Lac Qui Parle WMA. Private land in-holders, for example, could be encouraged to sell conservation easements to the state. Although there are few private in-holdings which are currently being used for purposes deleterious to the WMA, such uses could be controlled through easements. Particularly in those areas which are to be managed only for preservation--not for major state development or alteration in vegetation or cover--easements might offer attractive alternatives to fee acquisition.

The shortcomings of easements might be similar to the problems encountered with the current program of cooperative farming agreements. Enforcement of agreed upon provisions and keeping track of legal title arrangements are the classic problems associated with easements.

In addition, short-term agreements or leases for habitat management and protection are feasible. Water Bank agreements, which may be negotiated for 10 or 20 year periods, are feasible to preserve wetlands. And the Minnesota Wetlands Tax Credit program provides an incentive to private owners to preserve wetlands by offering an annual reduction in the tax liability. Although the tax credit program may lead to the spending of money to encourage preservation that many landowners would probably do anyway, the program provides short-term guarantees to the state and offers a method of controlling the use of land without the state having to acquire it.

The permanency and enforcement of these alternatives are a concern, but there may be advantages over state ownership. Land owned by the state for wildlife protection must be serviced by the state. The costs for travel, weed control, and other management practices are difficult to calculate with accuracy, but must be added to the costs of initial acquisition. In addition, when the state purchases agricultural land, as it has in the Lac Qui Parle WMA, costs rise and negative local reaction can result.

APPENDIX G

# LAND ACQUISITION FOR STATE TRAILS

State trails provide a recreational travel route that connects units of the outdoor recreation system or national trail system and provides access to areas of natural, scientific, and cultural interest. The first state trail, Minnesota Valley Trail, was authorized by the Legislature in 1969. Thirteen state trails have been authorized, but one trail, Countryview Bicycle Trail, is developed primarily for the use of bicycles and involves no land acquisition. Land for the other trails may be acquired "by gift of purchase, in fee or easement, for the trail and facilities related to the trail."[1]

The DNR Division of Parks and Recreation was initially responsible for developing recreational trails but, after department reorganization in 1979, the Trails and Waterways Unit was created to plan and develop trails. State funds to purchase land for trails had been previously augmented by the Federal Land and Water Conservation Fund. Approximately 25 percent of the acquisition has been financed by the federal government and the use and disposition of these lands are federally restricted. Lease-back of agricultural land before trail development is limited to three years and land exchanges cannot be made without the approval of the Secretary of the Interior.

Seven state trails are based on abandoned rail lines purchased by the state. Parcels along the lines have been purchased by individuals and businesses so negotiations by the state focus on these severences. Other trails require more acquisition since the amount of public-owned land is less. Where federal land is sought for a trail, inter-governmental agreements are usually secured which specify use and maintenance. County tax-forfeited lands are acquired through easements.

Legislation creating each trail specify the conditions for acquisition, exchange, and conveyance of excess land. Eminent domain can be used to obtain a parcel, without that parcel being expressly listed in legislation, for the Heartland Trail, Taconite Trail, Northshore Trail, and Grand Marais Trail. The Governor, however, must approve of the acquisition and consult with the Legislative Advisory Commission. Legislation also expressly states that lands may be exchanged with landowners abutting the right-of-way of the Luce Line to eliminate diagonally-shaped separate fields.

Although acquisition procedures are similar to those for other management units, trails require the purchase of a different land type. Generally, DNR does not desire to purchase more than a narrow strip through an owner's property; surveys are necessary for

---

[1]Minn. Stat. §85.015, Subd. 1 (1982).

these transactions. Purchase of abandoned rail lines can be a particular problem because of difficulties connected with the title and appraisals. A title may not always be marketable and appraisers often assign different values to a strip of land. DNR has sometimes lost parcels to other bidders.

Along trails, State Wayside Areas are planned to provide picnic and rest facilities and for some trails, camping facilities. These areas, which are maintained by the Division of Parks, require larger land purchases for their implementation. Fee title acquisition is preferred for wayside areas because of the necessary development that accompanies their function.

DNR attempts to purchase fee title ownership of land for trails. It thinks that placing lands in public ownership precludes the conversion of land to other non-trail uses and assures trail permanency. However, the department has had minor problems with intrusion of adjacent owners onto the trail. Use easements have been sought only where an owner is hesitant to sell. A use easement will permit similar activities as state ownership but may also allow the owner additional rights. Easements have been purchased for 190 acres. A permanent easement seems a cost-effective method to obtain rights to land, particularly since easement enforcement could parallel current enforcement efforts on state land.

Trail development has been assisted by gifts and leases. In addition, the Nature Conservancy and Minnesota Park Foundation have helped purchase parcels when acquisition funds were not immediately available. Cities and counties have developed trail systems to connect with state trails and are encouraged to use their land for wayside areas adjacent to the trail. Trail assistance grants are awarded to local governments to develop trail sites that are managed and maintained by the local governments and local trail user organizations.

# APPENDIX H

## LAND ACQUISITION FOR FISH MANAGEMENT AREAS

Fish management areas are established to protect and propagate fish and to provide fishing along streams. To accomplish these objectives, DNR's, Fish and Wildlife Division must acquire rights to land. The Minnesota statutes permit DNR to purchase fee title or easement land for the purpose of fish management. Condemnation is permitted only when legislation specifically authorizes the condemnation of a property. No recent condemnation of land has been attempted.

Acquisition of fish management areas is financed in large part by the federal government. The Dingell-Johnson Program provides federal funds that finance approximately 75 percent of the costs of fishery programs, including acquisition. The Dingell-Johnson Program is supported by an excise tax on fishing tackle.

Easements are commonly used to secure rights to land for fish management areas. While other DNR divisions seldom obtain easements, approximately 90 percent of the dollars spent for fish management areas is for the purchase of easements. Easements are particularly practical where public access is necessary for streambank fishing because no land development is planned. Easements have also been purchased for fish spawning and rough fish control areas, but fee-title purchase is preferred when site development is necessary. DNR has purchased land where extensive development is planned while obtaining an easement on adjacent land. Easements are graded at 80, 60, or 40 percent of the land value depending upon the quality of the stream and projected stream traffic.

The willingness of a landowner to sell a perpetual easement and the development plans for the parcel determine whether DNR will purchase an easement or fee title. Some landowners are hesitant to sell an easement for a section of their land since it may create eventual problems when selling the entire parcel. DNR has had few problems in the administration of these easements.

Lands most often sought for fish management areas are corridors along trout streams and marsh sites that have fish spawning or rough fish control potential. Marsh sites that have seasonal high water that drains into a lake provide excellent spawning habitat especially after DNR constructs water level control structures. These spawning areas produce fish for the adjacent lake in addition to fish for stocking other lakes. Marsh sites can also be used for controlling rough fish in a lake by permitting their movement into the site but restricting their migration back into the lake.

Under the limited budget for acquisition, it is essential to establish priorities for fish management areas. DNR is focusing current acquisition efforts on those parcels that it has attempted to

acquire over a long period of time. While these may be high priority parcels, unless the attitude of the owner towards selling has changed any administrative costs for appraisals may be wasted. Re-appraisals have been made for some parcels that have not yet been acquired.

The procedure to acquire these parcels is similar to that for other DNR management units. Before negotiations begin, however, the Bureau of Engineering prepares a plan that details the construction of ditches, control structures, and channel modifications. This plan can modify acquisition needs. The negotiator can also offer 10 percent above the certified appraisal without the approval of the division head.

Apparently, few parcels have been lost to competitive bidders because of the length of time to complete a sales transaction. Nevertheless, some sellers have voiced complaints. Little competition exists for marsh areas and shoreland regulations often prohibit their development. Along trout streams, however, the demand for property is greater and the state has lost sales to competitive bidders. This becomes a problem when a landowner wishes to sell the land rather than an easement. No residences have been purchased to obtain land for fish management areas, a practice which keeps costs low.

DNR's Forestry and Fish and Wildlife Divisions have often cooperated in the purchase of land in the Richard J. Dorer Memorial Hardwood Forest. When forest land has frontage on a trout stream, the two divisions will contribute towards the purchase of the parcel. Fisheries has also cooperated with the U.S. Soil and Water Conservation Service in projects that improve fish habitat.

Since a large amount of land is controlled through easements, the DNR Land Bureau needs the computerized system to record easements that have been approved by LCMR. Although the state does not own the land, it does own specific rights to use the land and these should be maintained in an accessible file.

# APPENDIX I

## LAND ACQUISITION FOR WATER ACCESS SITES

Water access sites allow the public to fish and boat on lakes that otherwise might be restricted only to lakeshore property owners. Water access sites can be established only where "the body of water to which access is being provided and surrounding lands can withstand additional recreational use . . ." and where "public access to the body of water is either nonexistent or inadequate."[1]

The Trails and Waterways Unit of DNR is now responsible for the acquisition of access sites. The responsibility for the program has shifted through various divisions of DNR, partly because of the public controversy generated by the program. Current procedures require DNR to notify the public of its intentions to obtain an access on a lake or to modify any existing access site. The local units of government and residents are more involved in the acquisition of an access site than any other management unit in DNR.

The Trails and Waterways Unit has assigned priorities to those lakes that require access sites based on the size, type, and location of the lake and the existing public access to the lake. Many high priority lakes are in the Minneapolis-St. Paul metropolitan area. Before selecting a public access site on a priority lake, DNR contacts the local government unit involved. Most government units cooperate with DNR in selecting a site and arranging public meetings. DNR attempts to site the access on public land, if available, before pursuing a private site. Local government units sometimes assist the state in locating a parcel, supply city land for parking facilities, or improve roads to the access site.

Sometimes local governments may oppose a new public access site, thus delaying or curtailing acquisition. Major objections toward public access come from property owners near the proposed site and lakeshore owners. Their political strength within the local government unit may determine the outcome of the siting effort.

The acquisition procedure is similar to that for other management units. After DNR has selected potential parcels for access sites, an area representative contacts owners to determine their willingness to sell. Once a willing seller is identified, the engineering section assures that the necessary development on the land can be accomplished. If a parcel lacks certain features, further efforts to acquire the parcel cease. If a parcel is suitable for an access, negotiations commence. In the Minneapolis-St. Paul area, suitable access sites are limited, so marginal locations are sometimes selected. DNR has never purchased urban residential land for an access but it has purchased cabins and resort land. Negotiators can offer 10 percent above the certified appraisal at their discretion.

---

[1]Minn. Stat. §86A.05, Subd. 9 (1982).

Development of access sites involves constructing ramps for boat launching, roads with turn-arounds, and parking facilities. After development of the site, maintenance is provided by a variety of personnel. State forestry or fish personnel may maintain accesses near their management units; service contracts may be written with private individuals; or local government units may maintain accesses at a nominal cost.

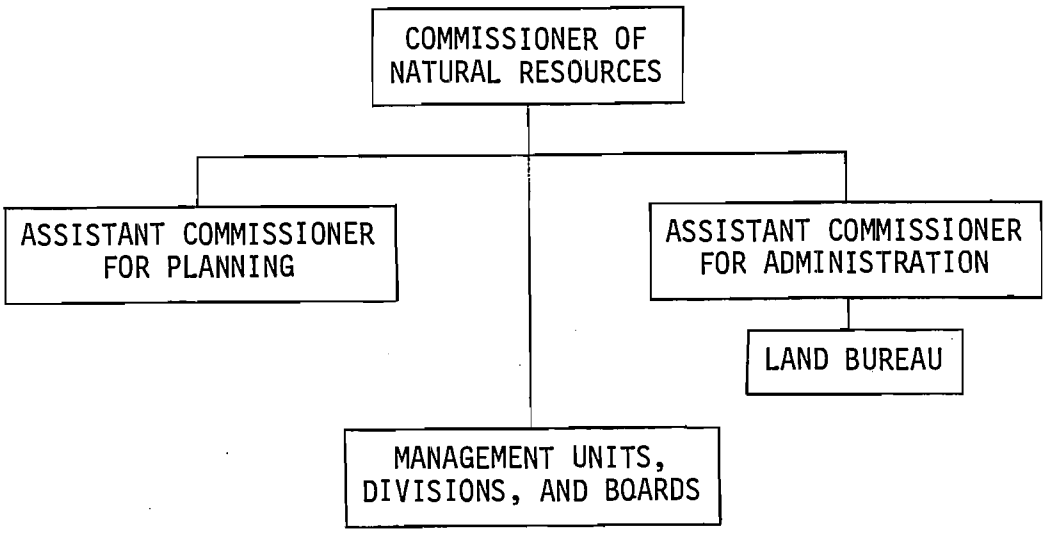
Cooperative arrangements with local government units are increasingly pursued to help initiate proposals and maintain sites, in addition to financing acquisition and development. The dollars available for acquisition have diminished recently but passage of the federal gas tax hike may provide additional funds for site acquisition. A small share of state tax revenues are designated for marine use which includes acquisition. Other funds are allocated through LCMR.

Few parcels have been lost because of the excessive time to purchase a parcel. The cost for lakeshore is much greater than for land in other management units, but fortunately, only a small amount of land is necessary to develop an access site. Under current statutes, parcels can not exceed seven acres. A typical access site averages two acres.

Since water access sites require substantial development that would limit any use by the private owner, fee title purchase is probably the most practical method of acquisition. No easements have ever been purchased for water access, but DNR has leased land for a nominal fee from private organizations and corporations. A number of gifts have also contributed to access site development.

APPENDIX J

DEPARTMENT OF NATURAL RESOURCES ORGANIZATIONAL CHART: LAND ACQUISITION AND DISPOSAL RESPONSIBILITY




ORGANIZATION, STAFFING AND BUDGET

At the Department of Natural Resources, responsibility for acquisition and disposal of land is delegated to the Bureau of Land. The Land Bureau is one of eight bureaus reporting to the Assistant Commissioner for Administrative Management Services. In addition to land acquisition and disposal, the Land Bureau also has responsibility for leases, land exchanges, and land ownership records.

The staff complement during fiscal year 1982 for disposal and acquisition activity was 21.5 positions, of which 19 were for acquisition activity and 2.5 for disposal.

The fiscal year 1983 budget allots almost $1.3 million for all Land Bureau activities. About 71 percent or $.9 million is alloted for acquisition and disposal related activities, and will be expended primarily for staff salaries and fringe benefits, with the remainder budgeted for legal, data processing and technical services, and in-state travel. The fiscal year 1983 budget total for acquisition and disposal activity compares with about $780,000 expended in fiscal year 1982, and an average of $626,000 in fiscal years 1980 and 1981. About 88 percent of the funds expended for acquisition and disposal activity in each fiscal year are solely for acquisition projects funded by Resource 2000.

DNR LAND ACQUISITION PROCESS

1. Units of the state's "Outdoor Recreation System" are established by the Legislature. The system consists of all natural state parks; recreational state parks; state trails; 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. Each family constitutes a "management unit." (See Minn. Stat. §86A.07 (1982)).

2. Management units are developed and supervised by program agencies in accordance with legislative directives established for the unit and management plans for the unit. All plans include property rights which must be acquired to complete the unit. (See Minn. Stat. §86A.07 (1982) and Minn. Stat. §84.03 (1982)).

   All management plans are to be reviewed by the state planning agency and are subject to public review.

3. An initial contact is made by program field staff with the land owner.

4. A fact sheet is prepared by the program agency and submitted to the Land Bureau to initiate acquisition. Fact Sheet indicates the appropriate management unit and type of land interest required.

5. The landowner is sent a copy of the Landowner's Bill of Rights by the Land Bureau. Landowner's rights include:

   - The right to be informed of the intended use of the property.
   - A fair price for the land including current market value and penalties incurred by owner for other financial obligations for which the property is security.
   - The right to payment in lump sum or four annual installments.
   - The right to a fair appraisal by the state.
   - The right to retain an independent appraiser and to be reimbursed for the appraisal up to $300.
   - The right to condemnation.
   - The right to receive or waive relocation expenses.
   - The right to continue occupancy until full payment is received or an alternative payment agreement is made.
   - The right to counsel.

   (See Minn. Stat. §84.0274, Subd. 5 (1982)).

6. The appraisal is assigned to either a DNR appraiser or an independent contractor. The appraiser is determined by assessing current staff capacity and the cost of conducting the appraisal internally.

   Contract appraisers are selected from a list of approved appraisers developed by a four member panel consisting of representatives from DNR, DOT, DOA, and a qualified private appraiser.

   DNR is not required to acquire bids before awarding the appraisal to an independent contractor. (See Minn. Stat. §84.0272 (1982) and Minn. Stat. §84.026 (1982)).

7. All appraisals are reviewed by a realty specialist at DNR. Questionable appraisals and all appraisals over $75,000 are subject to a second appraisal. If there is a discrepancy between the first and second appraisal, a third appraisal is conducted.

   All appraisals are conducted in accordance with the Bureau's Appraisal Manual.

8. If the appraised value exceeds the estimated value of the fact sheet the program agency is notified and is given ten days to stop the acquisition.

9. Appraisal are submitted to the Department of Administration, Real Estate Office for review (Review Analysis form). A parcel may not be acquired by DNR unless the Real Estate Management Office has approved the appraisal. (See Minn. Stat. §84.0272 (1982)).

10. A realty specialist is assigned to each parcel and contacts the land owner to present the appraisal as well as negotiate other costs which the DNR would be willing to cover.

    Relocation services are required when the seller is displaced from the purchased property. A displaced person is one who moves from real property as a result of the acquisition (i.e., the seller resides on the property). Costs of relocation will then be established. (See Minn. Stat. §117.50-52 (1982) and separate memo on relocation procedures required for all state agencies.)

11. An option is prepared by the state and submitted to the landowner. The option normally provides 2-9 months for a survey of the land and an abstract of the title.

    In the option the seller agrees to provide the state with an exclusive option to buy the property interest and marketable title. Although the state specifies the proposed purchase price at the time the option is issued the state is neither bound to buy the interest nor to pay the price specified.

    An option of forestry parcels may not be issued until the option has been approved by the LCMR.

12. Abstract of Title reviewed and verified against county grantor-grantee index to verify title. Attorney General's Office then issues a title opinion.

13. Concurrently, county boards are required to approve all wildlife parcels and LCMR must approve all forestry parcels.

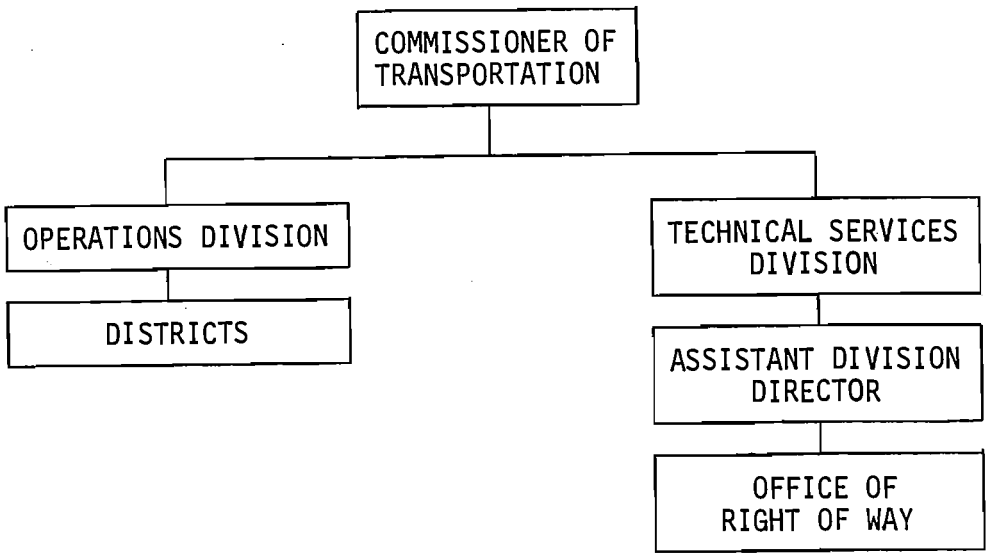
14. Notice of Election to Purchase is issued. The notice binds the state to purchase the property provided the seller has granted marketable title.

15. Deed is submitted to the state and recorded.

16. Payment is issued to the seller.

APPENDIX K

DEPARTMENT OF TRANSPORTATION ORGANIZATIONAL CHART: LAND ACQUISITION AND DISPOSAL RESPONSIBILITY




ORGANIZATION, STAFFING AND BUDGET

At the Department of Transportation, responsibility for acquisition and disposal of land is delegated to the Office of Right of Way in the Technical Services Division. Some acquisition and disposal activity occurs at the district level in the Operations Division, but only in connection with specific project parcels.

The staff complement for the Right of Way Office is 105. Currently, however, staffing is at 99 because most vacancies have not been filled as they occurred. Approximately 85 people perform some activities directly related to acquisition or disposal.

The annual budget for the Office of Right of Way was about $3.1 million in fiscal year 1981 and in fiscal year 1982, and is estimated at $3.5 million for fiscal year 1983. Office of Right of Way management estimates that as a general rule 90 percent, or $3.15 million in fiscal year 1983 of administrative costs is expended to accomplish acquisition and disposal of land. In fiscal year 1983, 95 percent or $3.3 million of the total budget will be spent on salaries, 2.6 percent or $91,000 for professional and technical services and 1.4 percent or $50,000 for in-state travel.

EMINENT DOMAIN PROCEEDINGS AT MnDOT

1. A petition describing the desired land, the purpose of the acquisition, and the parties involved is filed in the County District Court. Notice of the petition is to be given to the land owner twenty days prior to filing (see Minn. Stat. §117.005 (1982)).

2. The County District Court hears all evidence for or against the petition and determines whether the taking is necessary and authorized by law (Minn. Stat. §117.075 (1982)).

3. If the taking is deemed necessary, the court appoints three disinterested commissioners and two alternates to ascertain the damages sustained by the property owner in the taking (Minn. Stat. §117.075 (1982)).

4. The Commissioner, after a review of the premises and a hearing of witnesses, assess and award damages which result from the taking and in a report to the County District Court (Minn. Stat. §117.085 (1982)).

   The report must be filed by the commission within 90 days of the commission's creation (Minn. Stat. §117.105 (1982)).

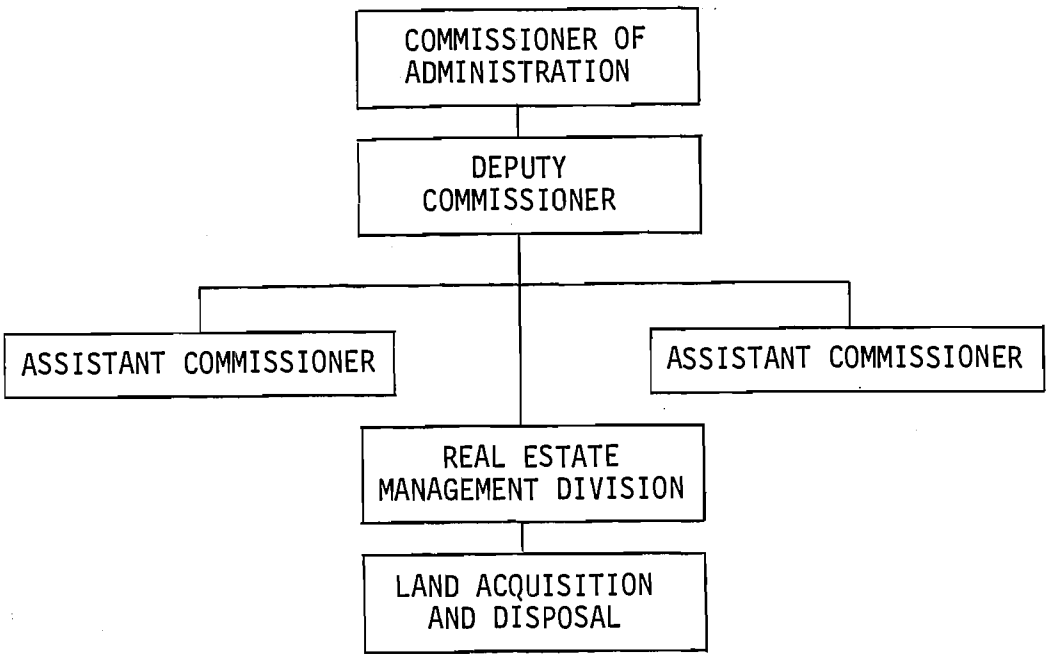
5. The District Court, within ten days after the report has been filed, determines any disputes concerning fees and their disbursement. The court also notifies all parties of the damage awards granted by the commission (Minn. Stat. §117.115 (1982)).

6. Payment of damages is to be made in a reasonable time after the filing of the commission's report (Minn. Stat. §117.155 (1982)).

7. Any of the parties of the proceeding may appeal within forty days after the filing of the commission's report (Minn. Stat. §117.145 (1982)). All appeals are to be arbitrated by jury trial (Minn. Stat. §117.165 (1982)).

APPENDIX L

DEPARTMENT OF ADMINISTRATION ORGANIZATIONAL CHART: LAND ACQUISITION AND DISPOSAL RESPONSIBILITY




ORGANIZATION, STAFFING AND BUDGET

At the Department of Administration, responsibility for acquisition and disposal of state land is delegated to the Real Estate Management Division. Within the division, the staff complement for performing activities related to acquisition and disposal is currently 2.6 positions. This is a reduction from 3.6 in fiscal year 1982 and 3.7 in fiscal year 1981.

The fiscal year 1983 budget for land acquisition and disposal activities allots $95,500. This compares with $93,200 in fiscal year 1982, and $103,200 in fiscal year 1981.

DOA ACQUISITION PROCEDURES

1. Program agencies and DOA Real Estate Office personnel prepare budget proposals for possible acquisitions.

2. Program agencies submit requests for acquisitions to the Legislature in the Capitol budget for approval. Actual appropriations for acquisitions will either be credited to the program agency's budget or submitted to DOA for specific program agency use.

3. The program agency submits a written request to the Real Estate Office, DOA, authorizing them to begin acquisition.

4. Property to be acquired is examined. All necessary land surveys are conducted. Title examined by an abstractor or a member of the Attorney General's Office.

5. The appraisal is assigned to either an internal appriser or an independent contractor. All parcels with a value of $50,000 or more are subject to a second appraisal.

   The second appraisal may be waived by the Director of the Real Estate Office.

6. Relocation study is conducted concurrently with the appraisal if the seller is living on the parcel (Minn. Stat. §117.52 (1982)).

7. The appraisal is reviewed by DOA Real Estate Office personnel to verify the appraisal's accuracy. The appraisal is then certified by the director.

8. A written offer is submitted to the property owner along with relocation offers.

9. When the offer is accepted, payment is authorized to be issued 120 days after the owner conveys the property to the state.[1]

10. The deed is secured and recorded.

11. Payment is issued.

---

[1]Where voluntary acquisition is not successful and eminent domain is authorized by the legislature, the process is initiated pursuant to Minn. Stat. §117.016 et. seq. (1982).

# APPENDIX M

## LEGAL RESTRICTIONS ON DISPOSAL OF STATE LAND

### 1. CONSTITUTIONAL RESTRICTIONS

- MINN. CONST. of 1974, art. 11, §10, reserves to the state all mineral and water power rights in the lands transferred by the state.

### 2. FEDERAL RESTRICTIONS

- 16 U.S.C. §§669-669i (1937). Pittman-Robinson Act; Federal Aid in Wildlife Restoration. Lands purchased in fee or easement with federal aid reimbursement money, if sold or exchanged, must be replaced with lands of equal biological and monetary value.

- I6 U.S.C. §§777-777k (1951). Dingell-Johnson Act; Federal Aid in Fisheries Restoration. Legal restrictions on sale are similar to those of Pittman-Robinson.

- Land and Water conservation Act of 1965, Pub. L. No. 88-578 §6f, 78 Stat. 1897. "Law-con" lands are conservation or recreation lands for which federal monies have been used for development within the unit's boundaries. The law prohibits any change in usage of the land without the approval of the Secretary of the Interior. Land acquired for conservation or recreation purposes with LAWCON funds which DNR sells must be replaced with lands of equal value.

### 3. MINNESOTA STATUTES

- Minn. Stat. §§85.011-85.012 (1982). Any lands located within the established boundaries of a state park may not be sold.

- Minn. Stat. §89.022 (1982). If any parcel acquired for the Memorial Hardwood Forest contains more than ten conti guous acres of tillable land, the commissioner of administration must offer the land for sale not less than six months after acquisition and once thereafter in each of the next two years.

- Minn. Stat. §92.01-92.321 (1982). These sections regulate the sale of Trust Fund Lands. Revenue from trust lands accrue to the permanent School Trust Fund.

- Minn. Stat. §92.36 (1982). Lands classified by the State Planning Agency as non-agricultural shall not be sold or leased by the state for agricultural purposes.

- Minn. Stat. §92.45 (1982). State land bordering or adjacent to meandered lakes and other public waters and watercourses may not be sold.

- Minn. Stat. §92.461 (1982). State lands which are chiefly valuable by reason of peat deposits in commercial quantities may not be sold.

- Minn. Stat. §§94.09-94.16 (1982). These sections regulate the sale of all state land except trust fund land and lands under the management and control of the University of Minnesota and the Department of Transportation.

- Minn. Stat. §161.23, subd. 2 (1982). When the Commissioner of Transportation acquires land in excess of what is needed for trunk highway right of way, the additional parts of tracts or parcels so acquired must be sold to the highest responsible bidder within one year after completion of highway work.

- Minn. Stat. §161.43 (1982). Surplus land held in easement by the Department of Transportation must first be offered to the fee owner, and if the fee owner refuses or cannot be located, the land may not be sold. Easements may be transferred to other agencies.

- Minn. Stat. §§161.44 (1982). Surplus land owned in fee and no longer needed for trunk highway purposes may be sold to the public after first being offered to the original owner, surviving spouse or adjacent owners. DOT must wait 60 days after notice to the original owner before offering it to anyone else.

- Minn. Stat. §§282 (1982). These sections regulate the classification and sale of all tax-forfeited land.

4. SUPREME COURT AND ATTORNEY GENERAL OPINIONS

- First American National Bank v. State, 322 N.W.2d 344 (Minn. 1982). Under Minn. Stat. §161.44 (1982) consideration to be paid by the former owner for reacquiring land sold to the state for highway purposes and no longer needed shall be the price paid by the state at the time of its acquisition plus compound interest at the statutory legal rate.

- Op. Atty. Gen., 525, 700d-13, March 31, 1982. Tax-forfeited land, chiefly valuable because of peat deposits in commercial quantities is not exchangeable under the provisions of Minn. Stat. §§94.341 to 94.347.

- Op. Atty. Gen., 700-D-13, Feb. 19, 1945. Trust lands may be disposed of only through public sale except as authorized by the state constitution, but there is no constitutional limitation on the powers of the legislature to provide for the selling of tax-forfeited lands or exchanging them for other than trust lands.

## STUDIES OF THE PROGRAM EVALUATION DIVISION

Final reports and staff papers from the following studies can be obtained from the Program Evaluation Division, 122 Veterans Service Building, Saint Paul, Minnesota 55155, 612/296-8315.

1977

1. Regulation and Control of Human Service Facilities
2. Minnesota Housing Finance Agency
3. Federal Aids Coordination

1978

4. Unemployment Compensation
5. State Board of Investment: Investment Performance
6. Department of Revenue: Assessment/Sales Ratio Studies
7. Department of Personnel

1979

8. State-sponsored Chemical Dependency Programs
9. Minnesota's Agricultural Commodities Promotion Councils
10. Liquor Control
11. Department of Public Service
12. Department of Economic Security, Preliminary Report
13. Nursing Home Rates
14. Department of Personnel, Follow-up Study

1980

15. Board of Electricity
16. Twin Cities Metropolitan Transit Commission
17. Information Services Bureau
18. Department of Economic Security
19. Statewide Bicycle Registration Program
20. State Arts Board: Individual Artists Grants Program

1981

21. Department of Human Rights
22. Hospital Regulation
23. Department of Public Welfare's Regulation of Residential Facilities for the Mentally Ill
24. State Designer Selection Board
25. Corporate Income Tax Processing
26. Computer Support for Tax Processing

27. State-sponsored Chemical Dependency Programs, Follow-up Study
28. Construction Cost Overrun at the Minnesota Correctional Facility - Oak Park Heights
29. Individual Income Tax Processing and Auditing
30. State Office Space Management and Leasing

1982

31. Procurement Set-Asides
32. State Timber Sales
33. Department of Education Information System
34. State Purchasing
35. Fire Safety in Residential Facilities for Disabled Persons
36. State Mineral Leasing

1983

37. Direct Property Tax Relief Programs
38. Post-Secondary Vocational Education at Minnesota's Area Vocational-Technical Institutes
39. Community Residential Programs for the Mentally Retarded
40. State Land Acquisition and Disposal