

Memo to: CLPOA Board  
From: Tom Rider  
Re: School Trust Lands  
December 28, 2022

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Last summer questions were raised about the school trust lands on the lake - how are they being managed, and most importantly understanding the risk of them being sold to private interests. I have reached out to the state and local DNR forestry staff, to the Director of the Minnesota Office of School Trust Lands, and to the Lands and Minerals Division of the DNR. Separately I have researched the legal and regulatory scheme, and the history of School Trust Lands in Minnesota. I have summarized my findings below, and below that, presented in Q and A format a more detailed discussion of my research.

### [Summary of Findings](#)

There are two parcels of school trust land on Caribou Lake: one smaller parcel at the beginning of Peninsula Point Trail. This parcel has a small amount of lakeshore. The second parcel consists of the entirety of section 36 (one square mile) in the northeast corner of the lake. It includes 2.2 miles of shoreline on Caribou Lake, 1 mile of shoreline on Bigsby Lake, and is 640 acres in size.

School trust lands are held by the state in a trust fund to provide revenue for the school districts in Minnesota. The trust fund contains not just land, but also an endowment composed of stocks and bonds. The governor, as the trustee, is legally responsible for maximizing the income of the trust fund for the benefit of the school districts. The applicable statutes also provide that this is to be done "while maintaining sound natural resource conservation and management principles."

The larger parcel on Caribou has significant ecological value, containing wetlands, old growth cedar, and a lot of shoreline habitat. It is these factors that will likely keep this land from being sold by the state, rather than its revenue production which will be quite minimal. The forestry staff at DNR have classified the parcel as having a low timber value.

There are multiple state government agencies and officers involved in state trust land. I spoke with many of them, and none indicated that there were any current discussions about selling school trust lands on Caribou Lake. If a sale were proposed, it would first have to gain support from multiple state agencies, then there would be public outreach for input including written notices to all adjoining property owners. School Trust Lands are rarely sold. When there is a sale it's either because the parcel has no access or is otherwise isolated from other public land, or in order to remedy some legal problem such as a trespass. There is a very high threshold to reach in order for all of these agencies to recommend the sale of school trust lands. And the director of the Minnesota Office of School Trust Lands told me that he would never recommend a sale unless it met natural resource conservation goals.

The Minnesota Office of School Trust Lands is currently developing an asset management plan for all school trust lands. When the plan is done, which will take up to five years, there will be a specific management plan for all categories of school trust land. The Caribou parcels will likely be put into a “forestry management” category. At that time we will have more information about how these parcels will be managed going forward. I will continue tracking this and report back when the plan is done.

The asset management plan will also catalog all of the legal constraints on the uses of these parcels. One such constraint is the Little Shipstead-Newton-Nolan Act which proscribes logging within 400’ of any waterway. So while these parcels may be logged in the future, any such activities would by law have to be at least 400’ from the shoreline.

### [Detailed Discussion of Findings. In Q & A Format](#)

#### [What are State Trust Lands?](#)

State trust lands (“STL”) are real property owned by the state of Minnesota and held in trust to provide income for the public school districts in the state. They are held and managed separately from other public lands owned by the state. Minnesota statutes create a framework for the management and purposes of school trust lands.

#### [Are there School Trust Lands located on Caribou Lake?](#)

Yes, there are two parcels that include riparian lands. Maps of both are attached. The smaller of the two is the southwest corner of Section 2, located near the intersection of Peninsula Point Trail and the Caribou Trail. This parcel is about 200 acres, and only includes a small amount of shoreline. It is located between Tom and Karen Flink’s house (28 PPT) and Anne and Greg Drager’s house (78 PPT).

A second, much larger parcel, consists of all of section 36. A full section is one square mile or 640 acres. Section 36 is located in the northeast corner of the lake, and includes about 2.2 miles of shoreline on Caribou, and about one mile of shoreline on Bigsby Lake. You can see from the map that while most of the land is in the bay that connects with Bigsby Lake, it also includes the very end of Peninsula Point Trail on the other side of the lake, north of Marge and Mike Ryan’s house (308 PPT).

#### [What is the history of STL in Minnesota? When and why were they created?](#)

Interestingly the history of STL goes back to 15th century England, and later to the American founding fathers. STL were first established in the 15th century in Kibworth, England, where five acres of farmland was transferred in trust to fund a salary for a local school teacher. This concept was repeated in other towns in England, and was later carried across the ocean to the New World.

In the original 13 states, each state had full sovereignty over all of the land within its borders, and thus had taxing authority over those lands. For the territories that later became states, the federal government retained large tracts of land which was not subject to taxation by the states. In order to put these new states on a similar footing to the original 13 states, in the legislation creating each state, Congress designated specific sections within each township to be held in trust for the benefit of the state public schools. When Minnesota became a state in 1858, Congress designated sections 16 and 36 in each township as school trust land.

In the 19th century, farmers in southern Minnesota did not like that school trust land broke up farms, and prevented large tracts of land from being connected. Those farmers were successful in convincing the state to sell most of those lands. By the early 20th century, the state changed its priorities to conserving and protecting STL, and thereafter sales of STL were rare. As a result of the sales in the south, 92% of STL are located in the ten northern counties of the state. Today the state holds 2.5 million acres of STL, in addition to one million acres of severed mineral interests.

### [Which state agencies are involved in managing STL and what are their responsibilities?](#)

There are several state government agencies that are involved, each described below.

The Governor of the State of Minnesota. He is the trustee of the STL, subject to all of the fiduciary duties to the beneficiaries (the school districts in the state) provided under state law.

Minnesota Office of State Trust Lands “MOSTL”. The director of the MOSTL is appointed by the governor, and is responsible for advising all of the other persons and agencies listed in this paragraph that are involved in STL. He is also responsible for developing a 10-year strategic plan, and a 25-year framework for managing STL. He will make recommendations on any proposed sale, lease, exchange or other disposition of STL. The director of the MOSTL is responsible for advising the governor, the Legislative Permanent School Fund Commission, the Executive Council, and the commissioner of the DNR on STL matters.

Permanent School Trust Fund (“PSTF”) The PSTF is the legal entity that holds the assets of the school trust fund, which consists of land and investment assets. The investment assets total about \$1.7 billion, and are invested half in stocks and half in bonds. The income from these investments, and the income from the real estate, are distributed to the school districts annually. Last year the amount distributed was about \$39 million. By law the principal of the trust may not be spent or distributed; only the earnings of the trust may be distributed.

State Board of Investment “SBI”. The SBI is a department within the Minnesota Management and Budget office (“MMB”). SBI is responsible for managing and investing the stocks, bonds, and cash held by the PSTF.

Legislative Permanent School Fund Commission (the “LPSF Commission”). The LPSF Commission was established in 2012 by statute. It consists of twelve members, six from the state senate, and six from the state house of representatives. The commission is responsible for advising the legislature on the management of STL, including with respect to any changes in law that are needed. They also make recommendations about how the STL and/or the permanent school trust fund should be managed.

The Executive Council (“EC”). The EC members are the five constitutional officers of the state of Minnesota, namely the governor, the lieutenant governor, the attorney general, the state auditor, and the secretary of state. The EC coordinates with all of the agencies in this paragraph to meet the goals of the PSTF, including coordinating and facilitating proposed legislation. The EC is also responsible for making sure that the governor’s fiduciary duties are being met to manage the assets of the PSTF with the best interests of the beneficiaries in mind.

The Land Exchange Board (“LEB”). The LEB consists of the governor, the state auditor, and the state attorney general. All exchanges of state land (not just STL) must be reviewed and approved by the LEB.

Department of Natural Resources (“DNR”). The DNR is responsible for managing all real estate held by the PSTF. The Division of Land and Minerals (“L&M”) deals with all transactional matters including but not limited to sales, leases, survey, title research, easements, acquisitions, exchanges. They also manage all lands that contain mineral assets. The Division of Forestry (“DOF”) manages the lands that contain timber assets. They assess the timber on each parcel, determine the market value of that timber, and conduct timber sales as needed to maximize the timber revenue from each parcel.

Minnesota Department of Education (“DOE”). The DOE works with the MMB in calculating and distributing the appropriate amounts of cash each year to school districts across the state.

### [What are the principles that guide the management of STL?](#)

STL is held by the state to “maximize the long-term economic return for the permanent school trust fund while maintaining sound natural resource conservation and management principles ...” Minnesota Statutes section 127A.30, subdivision (2), subsection (4).

The MOSTL is in the process of developing an asset management plan (“AMP”), which will be developed in several phases. They are nearly done with phase one, which will contain general principles only. Phase two will lay out all of the expenses and income associated with each piece of land. Phase three will divide all of the parcels into categories, and lay out the management principles applicable to each category. The director of MOSTL told me he expects it will take up to five years to complete all three phases. He noted that the Caribou land would be placed into in a category of lands held for forestry resources.

One element of the AMP will be a listing of all of the legal and regulatory constraints associated with STL. Examples of these are laws and regulations related to endangered and threatened species, the Shipstead-Newton-Nolan Act (“SNNA”), and the Little Shipstead-Newton-Nolan Act (“LSNNA”). The SNNA, passed by Congress and signed by President Hoover in 1930, was the first statute in which Congress expressly provided for the protection of wilderness. Three years later, Minnesota passed the LSNNA which applied the SNNA to state lands. Both statutes provide, among other things, that there can be no logging within 400’ of any shoreline. This provision would apply to the STL on Caribou Lake which is great: we should never see any logging within 400’ of the shoreline.

### What do we know about the forestry resources of the STL in section 36, on Caribou Lake?

The STL parcel in section 36 has two stands of northern hardwood which could have some commercial value. Aspen would be sold to the Louisiana Pacific oriented strand board plant in Two Harbors. Spruce and balsam would go to Hedstrom’s. Maple/birch would be used for firewood. With hardwoods they usually thin, and don’t clearcut. He would expect they would be allowed to take about 50%. The local DNR forester believes this section has been logged, maybe 20 years ago. Timber like this is low value, and sometimes timber sales like these go unsold if the market is weak for hardwood products. Overall he would classify this parcel of “low” value for timber. It does however have access - in 2021 there was a large clearcut to the north in section 25 which was a USFS timber sale that created good access. Parcels without access, and parcels that are isolated from other DNR parcels, can be candidates for sale.

Section 36 also has some old-growth cedar, which has no commercial value, but could be a reason to not sell the parcel because of its ecological value.

STL is held by the state in a fiduciary capacity, with a duty to maximize income for the public schools. As many STL’s, including the STL parcel on Caribou, generate very little income, what is the reason for retaining them?

In Minnesota statutes section 127A.31, the goals of the Permanent School Trust Fund are defined as follows:

“The legislature intends that it is the goal of the permanent school fund to secure the maximum long-term economic return from the school trust lands consistent with the fiduciary responsibilities imposed by the trust relationship established in the Minnesota Constitution, **with sound natural resource conservation and management principles**, and with other specific policy provided in state law.” (emphasis added)

The language in bold above is what keeps these parcels in the PSTF. The director of the MOSTF told me that he will never support a land sale that does not further “sound natural resource conservation and management principles”. He notes however that the process of evaluation “is a dance” involving competing concerns.

Another friction point for any sale is the culture of the DNR. The director of the MOSTF told me that the DNR forestry department is very reluctant to sell land under their management. They consider it part of their “fiefdom”. Budgets are made based on land holdings. The local DNR forester told me the same.

No one I spoke with in government is aware of any discussions or desires or intentions to sell STL land on Caribou Lake.

### What are the reasons why land is sold?

There are two broad categories for nearly all sales. The first is parcels that no longer fit within the programmatic rules of the DNR. This generally applies to land that is small, isolated from other public parcels, does not have access, or has no resources or ecological value.

The second category involves land with some kind of legal problem. The most common examples are situations where an adjacent landowner is mistaken about parcel boundaries and builds a structure on STL. The DNR will generally sell a portion of STL to eliminate the trespass.

### What is the process for selling STL?

The Land and Minerals Division (“LMD”) of the DNR leads this process. The DNR has an annual auction for the sale of all state lands, not just STL. Their process begins each spring. For STL, the LMD reaches out to the regional offices to see if they have any parcels that they would recommend for sale. If so, the regional office identifies the parcel and the rationale for selling it. The STL office then reviews any recommendations and provides their assessment. If the DNR and STL office are both recommending a sale, then they carry out an appraisal, survey the land, generate a title report, and publish a notice of sale. At that time all adjacent property owners would be given written notice and an opportunity to contest the sale. Citizens can also sign up on the DNR website to get notice of all land sales. Sales have been pulled right up to the day of the sale based on public input.