

Sale & Exchange of Property & BWCAW Subcommittee

Thursday, January 21, 2010

9:00 a.m., 112 State Capitol

Minutes

Present: Ron Nargang - Chair, Representative Denise Dittrich, Senator Tom Saxhaug, John Herman, Superintendent Patty Phillips, Bob Krepps, Grace Kelliher

Absent: Senator Satveer S. Chaudhary, Mark Johnson, Superintendent Patty Phillips

Ron Nargang called the meeting to order at 9:15 a.m.

Sale and/or Exchange of School Trust Lands within the BWCAW

Jim Sanders (Supervisor, Superior National Forest) presented information regarding the Superior National Forest's review of the sale/exchange. Mr. Sanders noted that some parcels of federal land have been removed from the proposed exchange area. Mr. Sanders also noted that of the approximately 28,000 acres proposed for exchange that approximately 8000-9000 acres may not be suitable for timber production. Mr. Sanders roughly estimated that an exchange could account for approximately 30% of the school trust lands within the BWCAW.

Marty Vadis (Director, Lands and Minerals Division, MNDNR) presented on the DNR progress regarding a review of the federal lands proposed for exchange. Mr. Vadis explained that the DNR as a whole was looking at the exchange, but that the review process had not been completed. He agreed to have the results of the review shared with the Subcommittee upon completion.

Dave Schuller (Division of Forestry, MNDNR) discussed briefly some of the issue that forestry was encountering in the review of the federal lands proposed for exchange.

The subcommittee discussed the following:

- 1.) Whether this exchange would preclude future exchanges between the state and Superior National Forest. It was agreed that this exchange would use up a good portion of federal lands for exchange, but that exchanges would still be possible for consolidation purposes in the future.
- 2.) The need to consider rejoining of mineral estates and surface estates as part of this exchange.
- 3.) The fact that a full sale of the school trust lands within the BWCAW was still a possibility. And that a full sale may be most economical for the school trust fund, but that a hybrid sale/exchange may be most accepted by all stakeholders.

- 4.) The Subcommittee discussed whether federal and state legislation would be required and the details of a condemnation of the school trust lands to effectuate the sale.
- 5.) The Subcommittee discussed the possibility of meeting with Kevin Carter (Director, Utah State Institutional Trust Lands Administration) regarding Utah's recent exchange with the federal government.
- 6.) The Subcommittee unanimously agreed on recommendations regarding the BWCAW and other topics that they have discussed. These recommendations were included in the Subcommittee's annual report to the Permanent School Fund Advisory Committee. (See Report Attached.)

Discussion of Future Meeting Topics

The Subcommittee decided the following topics would be addressed at the next meeting:

- 1.) BWCAW Sale or Exchange.
- 2.) Discussion of state programs that charge fees for the use of state lands. DNR will provide a handout to facilitate discussion.
- 3.) A report from the DNR regarding per acre values and expenses on school trust lands.

Next Meeting

No time was discussed for the Subcommittee's next meeting

The meeting was adjourned at 10:45 a.m.

Ron Nargang, Chair

**Sale & Exchange of Property and BWCAW Subcommittee Report to the Permanent School Fund
Advisory Committee
January 27, 2010**

Introduction

The Sale & Exchange of Property and BWCAW Subcommittee ("Subcommittee") has met seven times during the period from May 5, 2009 to the present. Those meetings focused on three general issues:

- Use of the BWCAW School Trust Lands;
- Opportunities for sale or exchange of the BWCAW School Trust Lands; and
- Fee and revenue opportunity with School Trust Lands generally.

This report summarizes the information collected and issues discussed by the Subcommittee, and the action recommendations of the Subcommittee to the Permanent School Fund Advisory Committee ("PSFAC").

Goal Statement

The Subcommittee in its initial deliberations developed a goal statement. The goal statement was designed to spell out the goal and purpose of the Subcommittee.

BWCAW Lands, Background and Information

Approximately 86,000 acres of school trust land is within the borders of the BWCAW. This land is unable to generate revenue for the school trust because of the restrictions placed on the land by the wilderness designation. Attempts to remove the school trust lands have been made, most recently in 1997. In 1997 a plan to pursue a sale of the lands within the BWCAW to the federal government was proposed by the Minnesota Congressional delegation, but was ultimately not implemented. At the time, local legislative delegation members expressed support for a land exchange alternative. Since that time, no further initiative in regard to the BWCAW school trust lands has moved forward.

The discussion of the school trust lands within the BWCAW began with several presentations by the DNR regarding the history of the BWCAW and past efforts to remove school trust lands from the BWCAW. The DNR later presented the Subcommittee with a variety of options for removing the school trust lands from the BWCAW. The DNR indicated that over a number of years the DNR, local governmental units, timber land owners and the US Forest Service have analyzed exchange options. In response to this information, the Subcommittee invited the participation of the US Forest Service in the deliberations. Over three meetings, Jim Sanders, Supervisor – Superior National Forest, presented information initially on historical analysis of exchange opportunities and then, in response to the Subcommittee's request, on an updated analysis of exchange possibilities from the federal side. The DNR generally concurred in the federal analysis of available exchange opportunities. Large scale exchange generally will require both federal and state legislation to facilitate the scale of exchange that could be a meaningful part of an overall solution to school trust lands within the BWCAW. The Subcommittee believes that exchanges can be a material part of the BWCAW solution.

As a result the Subcommittee decided that it would be best to focus on a mixed, sale and exchange option to remove the lands from the BWCAW. In the three meetings with Mr. Sanders, the possibility of a sale and exchange was discussed. Mr. Sanders assured the Subcommittee that the federal

government would be interested in purchasing or exchanging the school trust lands to remove the school trust lands in the BWCAW, or a combination sale and exchange.

In the discussions with Mr. Sanders the Subcommittee discussed the effects that an exchange or sale would have on PILT, Secure Rural School (25%), and Thye-Blatnick payments to the state from the federal government. Also, discussed were the cost to complete a sale and exchange, which would include administrative, appraisal, environmental review, and other costs.

Throughout this process the Subcommittee has thought it important to keep other stakeholders in mind. Particularly the Subcommittee has been indirectly working with the Iron Range Delegation to keep them informed and ask them for their position on this issue. The Subcommittee expects to meet with members of the Iron Range Delegation in the coming months.

At the Subcommittee's December 2, 2009 meeting the Subcommittee discussed the estimated value of the school trust lands within the BWCAW. At this meeting the Subcommittee also compared the revenue that would flow to the school trust fund if the school trust lands were sold versus if they were exchanged. Also, at this meeting the U.S. Forest Service presented a map showing their internal analysis from 2005 of the extent of federal lands that could possibly be logically exchanged for school trust lands. Based on that work, the Subcommittee asked the US Forest Service and the DNR to take a closer look at the federal lands identified in 2005 for exchange by the federal government and state and report back to the Subcommittee.

At the January 21, 2010 meeting, the USFS and DNR updated the Subcommittee on the updated analysis of exchange opportunities after taking a closer look at the federal lands proposed for exchange. Both the DNR and USFS agreed that some parcels may be more appropriate for exchange than others and that this is a not a final determination, but is intended to arrive at a scale of exchanges that would be feasible. Also the needs for outside BWCAW exchanges was noted, and that private, county and outside state land must be considered in arriving at the availability for overall BWCAW exchange levels desirable. Review of the parcels will continue by the agencies. The Subcommittee, based on this work, believes that the likely maximum acreage for exchange could not be over one-third of the total acres of school trust in the BWCAW, and that with consideration of the desirable exchanges with counties and outside BWCAW state land, the amount could be less. However, the Subcommittee unanimously recommends that the sale/exchange hybrid is the only reasonable approach to build a consensus for prompt action to resolve this matter. The following recommendations were agreed upon at this meeting.

Recommendations:

- 1.) The Subcommittee recommends that the PSFAC adopt the Subcommittee recommendation of a hybrid solution of sale and exchange to resolve the issue of the school trust lands within the BWCAW.
- 2.) The Subcommittee recommends a hybrid solution with approximately 1/3 of the lands being exchanged and 2/3 being sold to the federal government. This will allow a reasonable consolidation of acreages, and also a material cash payment to the School Trust.
- 3.) The Subcommittee recognizes that the details of the exchange will require continued detailed analysis amongst the DNR, USFS, and other stakeholders, with oversight from the

PSFAC, and that a sale and exchange hybrid will require legislative action by the Legislature and Congress.

- 4.) The Subcommittee is prepared to continue working closely with the USFS, DNR and other appropriate stakeholders in this effort.
- 5.) The Subcommittee recommends that the DNR and USFS continue to analyze the potential and pursue exchanges outside the BWCAW, to consolidate ownership and improve management efficiency, as part of the refinement of the package to be considered.
- 6.) The Subcommittee recommends that the PSFAC support and seek a Legislative Resolution in the 2010 Session, supporting the hybrid solution and directing the state to seek Congressional support for a prompt resolution of the BWCAW school trust land issues. The Subcommittee also recommends that the DNR give priority to advancement of the exchange analysis, to preparation of appropriate state and federal legislation for such a solution and for seeking federal Congressional support to proceed with an orderly sale/exchange process.

The Subcommittee believes that the timing is right for this transaction -- the USFS is clearly a willing partner, the reconnection of surface and mineral interest is particularly pertinent because of the current interest in non-ferrous mining, Minnesota has members in key positions in Congress that could help facilitate a resolution, a hybrid resolution will result in significant revenue to the school trust fund (\$60 - \$80 million), and a sale/exchange would achieve significant beneficial consolidation of state land ownership and could also include resolution of some county ownerships within the BWCAW.

Sales & Exchanges outside BWCAW

The DNR provided information on how land exchanges are conducted outside the BWCAW. These presentations included information regarding the laws and Constitutional provisions that affect sales and exchanges of school trust land. The DNR presented the Subcommittee with some current exchange and sales issues and requested the Subcommittee's advice on how to resolve these issues.

The DNR has completed the exchange of school trust lands from within state parks and should be commended for completing this task. The DNR is continuing this work on exchanging non-revenue generating school trust lands for revenue generating state lands beyond state parks, including unique old growth lands, water access sites, Wildlife Management Areas (WMA), and Scientific and Natural Areas (SNA) on school trust lands. In general all of these areas have uses that limit or preclude the school trust lands from being fully revenue generating. The DNR is currently in the process of exchanges of portions of the old growth lands and WMA's.

Recommendation:

The Subcommittee encourages completion of these exchanges and the Subcommittee will continue to monitor the progress of these exchanges; the DNR will give periodic updates on the status of the exchanges.

Alternative Revenue Sources

The DNR gave presentations about how other states charge fees for the use of school trust lands. The Subcommittee looked at a variety of states that charge fees for the use of water access sites and recreational use (including hunting and fishing) on school trust lands. The Subcommittee also discussed internal agreements that other states have where the DNR of that state compensates the state's school trust for the right to have school trust lands used as recreational lands. The Subcommittee looked at programs from the following states: Washington, Montana, Utah, New Mexico, Arizona, and Wyoming.

The Subcommittee believes implementing a fee program for the use of school trust lands would be controversial. The users of school trust lands would likely resist attempts to charge fees to use water access sites and recreational lands. Further, the Subcommittee does not see this fee option as generating a large amount of revenue for the school trust fund. The revenue generated by a fee program would be modest compared to potential mineral revenue and revenues that could be realized by removing the school trust lands from the BWCAW, and therefore implementing a fee program should not be a priority.

Recommendation:

The Subcommittee should continue work on this topic in the future.

Conclusion

The Subcommittee has looked at a variety of issues related to the sale and exchange of property and the BWCAW within the past year. This Subcommittee will plan to focus their efforts on the exchange and sale of school trust lands within the BWCAW. In pursuing the exchange and/or sale of school trust lands from the BWCAW, the Subcommittee will plan to look at other state's efforts that have succeeded in obtaining legislation to remove state lands from federal management areas.

Also, the Subcommittee will continue to look at different state programs that charge fees for the use of recreational lands and water access sites and continue to monitor the progress of DNR exchanges of non-revenue generating school trust lands.