

CONSOLIDATED-CONSERVATION

[CON-CON]

LANDS DISPOSITION

RECOMMENDATION

TO THE

**MINNESOTA SENATE AND HOUSE
ENVIRONMENT AND NATURAL RESOURCE
COMMITTEES**

**AS REQUIRED BY LAWS OF MINNESOTA 2000
CHAPTER 485, SECTION 25**

**BY THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES
JANUARY 15, 2001**

TABLE OF CONTENTS

History of Con-Con Lands.....	1
Con-Con lands today.....	1
Action in 1999.....	1
Public review-1999.....	2
Action in 2000.....	2
Public review-2000.....	3
Major areas of concern.....	3
ATV use.....	3
Forestry management.....	4
Wildlife Management Area management.....	4
PILT and other financial implications.....	5
The Commissioner’s recommendation.....	6
DNR Response to County Board Resolutions.....	6
Attachments.....	7

History of Consolidated Conservation lands

Minnesota's Consolidated Conservation (Con-Con) areas resulted from legislative action to prevent default on drainage bonds in seven counties in northern Minnesota. In the early part of the 20th century, Minnesota's drainage law allowed a small number of people to petition for construction of a drainage ditch, and to spread the cost over many landowners. By 1929, there were several million acres forfeitable for taxes because of unpaid ditch bonds. The state paid off the bonds in exchange for clear title, administration and management of the property.

There were three legislative acts that paid off the bonds and transferred clear title, administration and management to the state. The income from these lands was "consolidated" into one fund, hence the name Consolidated Conservation (Con-Con) land. A total of approximately 1.9 million acres in the seven counties of Aitkin, Beltrami, Koochiching, Lake of the Woods, Marshall, Mahnomen and Roseau were included. Approximately 400,000 acres were sold as private agricultural land. Some of these acres forfeited a second time and was sold again.

By the mid 1980s, about 36 percent (an estimated 75,179 acres) of the original Con-Con land was sold into private hands in Roseau County and about 53 percent (an estimated 78,438 acres) of the original acreage in Marshall County was sold. Smaller amounts were sold in the other counties.

About 1.5 million acres of Con-Con lands remain in state ownership. All Con-Con lands are under the management of the Commissioner of the Department of Natural Resources.

As of 1999, there were approximately 360,000 acres (about 19 percent of the original 1.9 million acres) which were not designated into specific management units. In the 2000 legislative session, about 260,000 acres were designated, leaving 102,315 acres undesignated. Recommendations for designation of those acres were developed after the 2000 session and are explained in this report. These are the final acres that remain to be designated.

Con-Con lands today

Action in 1999

Since the early '30s, most of the Con-Con lands have been placed in management units or sold. Con-Con lands not in management units were managed for multiple uses, including timber production, by the Division of Forestry. In early 1999, about 187,000 acres of Con-Con land in five northwestern counties were proposed for designation by the DNR. The 1999 Commissioner's order was suspended in order to allow for a public process to review this proposal and provide input into

management plans for this land. This review was expanded to include Con-Con lands in all the Con-Con counties which had been overlooked in previous orders and never designated. It was again expanded in August to include lands in the 1991 Commissioner's Order. In all, there were approximately 360,000 acres included in this review.

After a series of public meetings, and discussions with local officials, the DNR made recommendations on thousands of individual land parcels which would be designated into management units, mostly as state forests and wildlife management areas. The 2000 Legislature passed a comprehensive bill (Laws of Minnesota 2000, Chapter 485) approving designations of approximately 260,000 acres recommended through the 1999 review. Approximately 141,500 acres were designated as WMAs, and 118,500 acres were designated into State Forest management units.

Public review - 1999

A comprehensive public review process was carried out in during the spring and summer of 1999 for approximately 260,000 undesignated Con-Con acres. There were seven public open house meetings to discuss the disposition of the lands under review. Comments were taken in person and in writing during and after the meetings. These comments helped the Department in developing its plan for recommending the designation of these lands.

In August of 1999, the Attorney General's Office determined that two Commissioner's Orders issued in 1991 designating over 100,000 acres as Wildlife Management Areas were invalid. Since these lands had a history of being managed since 1991 as wildlife management areas (WMAs), the DNR recommended that the 2000 Legislature designate these acres as WMAs.

Action in 2000

In the same Con-Con legislation referenced above, which designated over 260,000 acres to management units, the Legislature also allowed county commissioners of Beltrami, Marshall, and Roseau counties to request a DNR public review of the 1991 Commissioner's Order lands which include approximately 102,315 acres. All three counties passed timely resolutions to do the public review.

These lands (the so-called 1991 Order lands) were managed as WMAs from January 1991 through August 1999. WMAs are managed primarily for propagation of wildlife, native plant communities, public hunting and trapping and other uses. Habitat management, which often includes timber harvest, is a major activity on WMAs. Watershed protection and flood control are additional important benefits provided by WMAs.

The DNR received direction from the Legislature through the bill passed in the 2000 session to follow a similar public input process in recommending designations for the 102,315 acres in the 1991 Order lands. Four public open house meetings were held to collect comments and information related to how

these lands should be managed.

Public review - 2000

DNR leadership was clear at the outset of this public process that the original WMA designation was considered appropriate. The lands in question had been managed as WMA acres since 1991. During the public open house meetings and comment period, the public was encouraged to give compelling reasons why the WMA designation should be either changed or maintained.

The formal comment period was widely publicized via news releases, at the open house events, and on the DNR web site. It began August 1, and extended through Friday September 1, 2000. Comments were accepted orally at the open house events, and in writing at the open house events, through U.S. mail, and by e-mail, fax, and hand delivery.

Over 800 comments and petition signatures were received, and 54 oral comments were captured on audio tape at the four facilitated open house events (one in each county and one in St. Paul).

Major areas of concern

Through the public information process described above, the Department identified several major areas of concern. These included: all-terrain vehicle (ATV) usage on these lands; the type and quality of timber management on these lands, both past and future; and the level of income in terms of revenues and payment in lieu of taxes (PILT) which would be realized in light of the laws that were amended in the 2000 legislature.

All-terrain vehicle (ATV) use

Changes in the law enacted in 2000 provide ATV access on specific roads in the Red Lake Wildlife Management Area (WMA). It also allows for establishment of trails in “corridors of disturbance” that already exist in Con-Con WMAs (in lands designated after January 1, 1986) in order to connect forest roads, trails and public highways in the northern portion of the state. The legislation specifies that the Department consult with WMA users in designating these trails. The final report is due to the Legislature January 15, 2003.

The Department identified three interest groups among trail users. They are: The ATV clubs and their non-motorized counterparts who want a trail system in the Northwest area of the state accessible to hikers, bikers, and horseback riders as well as ATVs; the “utilitarian” riders who use ATVs for transportation; and interest groups concerned mainly with protecting unique habitats and in recreating in areas of solitude.

The Department started taking input on ATV use at meetings in August, 2000. In Grygla and in Roseau, on August 17, the Department heard a large number of comments having to do with ATV use. The Northwest Regional Development Commission (NWRDC) has developed some draft plans for an ATV trail system in northwestern Minnesota, and the Department has since begun to work with this organization to jointly plan a proposal for such a system. A meeting was also held for trail users on October 26, 2000 in Thief River Falls.

The Department is meeting with all of the groups and reviewing their proposals for trail corridors. From several such meetings, a plan will be drawn up based on user needs and DNR criteria (habitat and erosion concerns, safety, etc.).

Completion of the entire planned system may take several years. The Legislature has given the DNR until 2003 to complete the plan. As a starting point, the process will establish a common base map with the NWRDC and provide them with the Department's ATV trail proposals in the Beltrami Island State Forest. It will also review concepts for corridor trails suggested by participants from the Con-Con area who submitted comments at the October 26, 2000 meeting.

Forestry management

Designation of the 102,314 acres in the 1991 Commissioner's Order did not change the management of those lands after 1991 because the majority of those lands were under the administration of DNR Fish and Wildlife prior to 1991. One third of this area was considered to be productive forest land, and the rest is lowland brush or grassland (40.5 percent), wetlands or open water (18.1 percent), or other non-forested lands (4.9 percent). Aspen and balsam poplars dominate the forested areas on these lands, and harvesting since 1991 has concentrated on these two forest types. Timber harvesting will continue in forested areas within these proposed WMAs. The level of harvesting will be determined through Subsection Forest Resource Management Plans, updated on an ongoing basis. The public has access to these management plans through input and review.

Timber revenues are tracked every year by sale type. See the chart "Timber Value Scaled from Consolidated Conservation Lands by Fiscal Year, County and Type of Sale," attached.

Wildlife Management Area (WMA) management

Wildlife management area planning for Con-Con lands involves effort in several areas. Planners strive to make the areas accessible to wildlife tourism, including hunting and other recreational pursuits; they also plan for timber management as well as habitat management activities. Flood control is also an important use of WMAs in the northwest region.

Wildlife management areas in the Con-Con area provide significant outdoor recreational opportunities for local residents as well as for people from outside the area. The tourism helps local economies.

Records from Thief Lake area, for example, show that more than 85 percent of hunters on the unit are from outside the immediate area. Although hunting will remain the major outdoor activity on the Con-Con WMAs, the impact to the local economy from recreational users will increase during the spring and summer as more people are expected to visit the area for bird watching, wildlife viewing and solitude.

PILT and other financial implications

Beginning in 2001, Con-Con lands that are within a designated Wildlife Management Area WMA, Scientific and Natural Area (SNA), or State Park will also be treated as “acquired” in determining the rate for payment in lieu of taxes (PILT). Acquired lands are lands that are purchased by or donated to the Department for natural resource purposes. This change in Con-Con land status was made by the Legislature during the 2000 session.

Because of other changes made by the 2000 Legislature, PILT rates for all other classes of state-owned, DNR-managed lands, which were established in 1979 and kept the same since then, will be increased starting in 2001 using an inflation factor (Minn.Stat. 477A.145). In 2001, the payment rates will increase on acquired lands by approximately 18 percent, as an attempt to recoup some loss due to inflation, from the existing \$3 per acre to approximately \$3.54 per acre.

The PILT payments for all Con-Con lands designated as WMA, SNA, and State Parks will increase from the existing \$0.375 per acre to about \$3.54 per acre. (Please see the attached chart for levels of payment before and after this legislation takes effect).

In addition, counties will continue to receive 50 percent of the Con-Con land revenues, 96 percent of which come from timber sales. After designation into WMAs, the same level of timber management and sales are expected to continue into the future.

After 2001, future PILT payments will be annually adjusted based on an index that accounts for inflationary changes. In the recent past, this index has increased at a rate of about 3 percent per year.

The new PILT rates and the classes of land for which they apply are as follows:

Tax Forfeited Land - (Rate will increase from \$0.75/acre to about \$0.885/acre)

Acquired Land - (Rate will increase from \$3.00 to about \$3.54 per acre) the county has the option of being paid at this rate or on the basis of 0.0075 times the value of the acquired land. Land values must be established to determine which option results in the highest revenue. Con-Con land within WMAs, SNAs and State Parks are included in this category.

Other DNR-managed land - (Rate will increase from \$0.375 to about \$0.442 per acre) These lands include Trust Fund lands, Con-Con lands not in designated WMA, SNA, or State Park status, Con-Con lands designated as State Forest, certain tax-forfeited lands that were turned over to DNR

for management, and some federal lands leased to the State of Minnesota.

The Commissioner's recommendation

On September 29, 2000, DNR Commissioner Allen Garber notified the board chairs of all the affected counties that the Department's recommendation to the Legislature is that all of the 102,315 acres of land under review be designated as wildlife management areas (see attached letter).

Since 1991, these lands have been managed as wildlife management areas. The areas in question are sparsely forested which is, in part, the reason they were designated as WMAs by then Commissioner Joe Alexander in 1991. Although the action taken by Commissioner Alexander in designating these areas was later found to be technically invalid, the Department contends that the Commissioner's 1991 decision to place the land in WMA status made sense, from a resource perspective, both then and now.

Applying criteria used by the DNR, both then and now, regarding cover type, proximity of these lands to other DNR units, the historical uses of the property, and occurrence of unique habitats, it is apparent to us that these lands are best managed for wildlife lands. Since the land under review is located in the prairie part of the state and they are generally wet, there is not enough merchantable timber on those lands to make it worthwhile to manage the land within the state forest system.

The DNR recommendation to designate these final 102,315 acres into WMAs was based upon thorough input from all affected Department divisions, as well as from a broad public comment process, as directed by the Legislature. We believe that designating these lands as WMAs is the most appropriate decision based on sound resource management principles.

DNR Response to the County Board Resolutions

Each of the three County Boards responded to the September 29, 2000 letter from the Commissioner with a formal County Board Resolution (see attached). The Department has some initial reactions to the resolutions discussed below.

Beltrami County

The Beltrami County Resolution raised a number of issues which they feel must be addressed under any legislative conclusion on the management fate of these final acres. A formal memorandum of agreement between the Beltrami County Board and the DNR addressing all of the following nine items is in the process of being developed.

1) Ditch assessments. The Department does not recommend that the issue of ditch assessments be directly linked to the final designation of these acres into wildlife management areas.

2) Forest harvest plans. Plans will be made available for public review and comment as they are available. As outlined earlier in this report, timber harvest is an important wildlife management

6

tool and the same level of timber management and sales that have historically occurred on these lands are expected into the future.

3) Trail development and usage. As outlined in this report, trail planning is underway with a broad array of stakeholders. As required in Section 16 of the new law, a comprehensive plan for OHV trail corridors in the area is being developed and a report will be provided to the Legislature by January 15, 2003.

4) Ongoing public input into Con-Con land management. DNR staff have a history of working with the local interests in the northwestern portion of the state to address issues and concerns unique to that region of the state, and we will continue to do so. For example, snowmobiles are allowed to travel unrestricted on all WMAs north of U.S. Highway 2, and DNR staff have worked with trail groups resulting in grant-in-aid snowmobile trails established through eight of the larger WMAs. In addition, ATVs are allowed for retrieving harvested deer two hours after legal shooting time on WMAs east of Dick's parkway and north of Highway #1. We plan to continue this cooperative working relationship related to WMA management.

5) Gravel leases. Gravel will continue to be made available on these lands on a case by case basis, at fair market value, with appropriate safe guards for plant and animal species found there.

6) and 7) "Multiple use" of these lands. As outlined in this report, it is the intention of the DNR to continue to manage these acres for the multiple use benefits of a broad range of stakeholders, including wildlife habitat development and enjoyment, timber harvest, and limited trails. To the extent that the county is using the term "multiple use" to mean potential expansion of ATV access to WMAs, the Department has not changed it's position stated last year. We will work through the corridor planning process that was established in the law, but we do not support unlimited ATV access to WMA lands.

8) Drainage system maintenance. This item is very closely related to item #1. The DNR will comply with the laws relative to both drainage and Con-Con land management.

9) Severing mineral rights. The proposal to sever mineral rights from existing Con-Con lands and sell those rights to "entities other than the state" is not legal and would have significant complications if the concept was legislatively pursued.

Marshall County and Roseau County

Both of these counties passed very similar resolutions. They reflect these counties' long-held views that they are the appropriate governing bodies to classify the appropriate management status of these lands. They also feel that some of these lands should more appropriately be sold or exchanged out of state ownership. The Legislature is clearly the entity with the final authority over how these lands are

designated. The Department strongly believes that all these lands should be retained in state ownership (with the exception of the isolated parcels identified for exchange or sale) and reiterates the recommendation that the Legislature designate the lands as WMA lands.

ATTACHMENTS:

Documents from the public input process-

- 1- Future Use of Con-Con Lands Subject to the 1991 Executive Order - Process and Participation Blueprint
- 2- Questions and Answers about Consolidated Conservation Lands Listed in the Commissioners Orders of 1991
- 3- Beltrami County Consolidated Conservation Acreage and DNR Management Units-Fact Sheet
- 4- Marshall County Consolidated Conservation Acreage and DNR Management Units-Fact Sheet
- 5- Roseau County Consolidated Conservation Acreage and DNR Management Units-Fact Sheet
- 6- Written comment form - Beltrami County
- 7- Written comment form - Marshall County
- 8- Written comment form - Roseau County
- 9- Timber Value Scaled from Consolidated Conservation Lands by Fiscal Year, County, and Type of Sale
- 10- Comparison of Annual State Payments-Beltrami County
- 11- Comparison of Annual State Payments-Marshall County
- 12- Comparison of Annual State Payments-Roseau County
- 13- DNR Commissioner's Letter to the three County Board Chairs dated September 29, 2000
- 14- County Board Resolutions from Beltrami, Marshall, and Roseau