

**Environment and Natural Resources Trust Fund
2012-2013 Request for Proposals (RFP)**

Project Title:

ENRTF ID: 081-D

Acquisition of School Trust Lands through Eminent Domain

Topic Area: D. Land Acquisition & Restoration

Total Project Budget: \$ 5,000,000

Proposed Project Time Period for the Funding Requested: 2 yrs, July 2013 - June 2015

Other Non-State Funds: \$ 0

Summary:

Utilizing eminent domain powers to acquire school trust lands within the statutorily created Peatland Scientific and Natural Areas to secure an economic return on non-revenue generating lands managed by DNR.

Name: Aaron Vande Linde

Sponsoring Organization: MN DNR

Address: 500 Lafayette Rd, Box 45
St. Paul MN 55155

Telephone Number: (651) 259-5955

Email aaron.vande-linde@state.mn.us

Web Address www.dnr.state.mn.us

Location

Region: NE

County Name: Koochiching

City / Township: Myrtle Lake

<input type="checkbox"/> Funding Priorities	<input type="checkbox"/> Multiple Benefits	<input type="checkbox"/> Outcomes	<input type="checkbox"/> Knowledge Base
<input type="checkbox"/> Extent of Impact	<input type="checkbox"/> Innovation	<input type="checkbox"/> Scientific/Tech Basis	<input type="checkbox"/> Urgency
<input type="checkbox"/> Capacity Readiness	<input type="checkbox"/> Leverage	<input type="checkbox"/> Employment	<input type="checkbox"/> TOTAL <input type="checkbox"/> %



Environment and Natural Resources Trust Fund (ENRTF)

2012-2013 Main Proposal

PROJECT TITLE: ACQUISITION OF SCHOOL TRUST LANDS THROUGH EMINENT DOMAIN

I. PROJECT STATEMENT

There exists in Minnesota law a fundamental conflict of interest in the State’s conservation of Peatland Scientific and Natural Areas on lands designated as school trust fund land. The statutorily created Peatland Scientific and Natural Areas (Minnesota Statutes, sections 84.035-.036) preclude the Department of Natural Resources’ ability to perform its fiduciary responsibility to generate an economic return through peat mining, mineral extraction, timber harvesting and installation of drainage ditches. Yet, Article XI, section 8 of the Minnesota Constitution created a system to provide a long-term funding source for public schools. Furthermore, Minnesota Statutes, section 84.027 subd. 18 and section 127A.31 codify the intent for the Department of Natural Resources to manage school trust lands to secure the maximum long-term economic return for the permanent school trust fund.

The goal of this project is to acquire approximately a substantial portion of school trust lands managed by the DNR within the statutorily created Myrtle Lake Peatland Scientific and Natural Area. DNR estimates that it can acquire approximately 7,500 to 10,000 acres of the 20,000 acres school trust lands within Myrtle Lake Peatland SNA. In order to preserve the public use and provide income to the permanent school trust fund, the State must exercise its eminent domain powers to acquire the school trust lands as the Constitution mandates that school trust lands be sold only at public auction. The eminent domain action will perfect the established public use as a Peatland Scientific and Natural Area. The project, therefore, will conserve the Myrtle Lake Peatland Scientific and Natural Area as a unique natural resource in Minnesota while fulfilling the fiduciary responsibility to generate revenue from school trust lands.

II. DESCRIPTION OF PROJECT ACTIVITIES

Activity 1: Identification of school trust lands within Peatland SNA’s. Budget: \$15,000

DNR has identified approximately 50,000 acres of school trust lands within the statutorily created Peatland SNA boundaries. DNR staff will utilize existing land record databases and GIS to identify, map, and categorize and prioritize all school trust lands within Peatland SNA boundaries.

Outcome	Completion Date
1. Complete mapping of school trust lands within Peatland SNA boundaries	08/31/2013
2. Complete categorization and prioritization of school trust lands	09/30/2013
3. Develop legal descriptions of school trust lands for litigation	10/31/2013

Activity 2: Commencement of Eminent Domain Budget: \$15,000

DNR will engage the Attorney General’s office for the initiation of the eminent domain litigation.

Outcome	Completion Date
1. Prepare litigation documents and initiate eminent domain action	01/31/2014

Activity 3: Determination of Value for Public Use Budget: \$45,000

The State must determine the market value of the school trust lands within the Peatland SNA boundaries in order to compensate the Permanent School Trust Fund. An independent third party appraiser and appraisal reviewer will be hired to determine market value. Attorney General’s office will present valuations to appointed Court Commissioners for determination of fair compensation.

Outcome	Completion Date
1. Complete appraisal and appraisal review of school trust lands	04/30/2014
2. Finalize agreement of compensation to Permanent School Trust fund for specific acreage	05/31/2014
3. Submit report and recommendation to District Court.	06/30/2014

Activity 4: Establishment of Public Use

Budget: \$4,925,000

Compensation to Permanent School Trust Fund

Upon finalization of compensation due to the permanent school trust fund for the public use, Attorney General's office will prepare the final judgment and decree, obtain approval from the appointed district court judge, and arrange for the payment of compensation and delivery of conveyance document.

Outcome	Completion Date
1. Preparation and submittal of judgment and decree establishing the public use of school trust lands as Peatland Scientific and Natural Areas	07/31/2014
2. Finalization of judgment and decree by District Court	08/31/2014
3. Compensation remitted to Permanent School Trust Fund	09/30/2014
4. Delivery of school trust land patent to State.	10/31/2014
5. Update DNR land records and GIS layers to remove school trust land status	12/31/2014
6. Preparation and submittal of final report.	06/30/2015

III. PROJECT STRATEGY

A. Project Team/Partners

Project staff in the Division of Lands & Minerals will be responsible for overall project coordination, and all of Activity 1 and a portion of Activity 3. The Attorney General's office will be responsible for Activity 2 and 4, and a portion of Activity 3.

B. Timeline Requirements

Funding for one and one-half years (July 1, 2013 through December 31, 2014) is requested to initiate and complete the eminent domain action. The basis stems from the intricacies to identify and recommend a prioritization of parcels for acquisition, and commencing and concluding an eminent domain action in Minnesota district court.

C. Long-Term Strategy and Future Funding Needs

DNR has identified approximately 50,000 acres of school trust lands managed within the Peatland SNA program. DNR's long-term strategy is to acquire all 50,000 acres identified over a five year period. DNR's initial conservative assessment is that the requested funding amount will permit the State to acquire 10,000 acres within the Myrtle Lake Peatland SNA. The DNR long-term strategy will be to acquire the remaining 40,000 acres over a period of five successive years at a cost of approximately \$20,000,000.

In addition to the statutorily created Peatland Scientific and Natural Areas, DNR administers school trust acreages within three other non-income generating management units. They are: old growth forest designations (approximately 20,000 acres); water access sites (119 sites); and wildlife management areas (approximately 2,400 acres). A conservative estimate to acquire these school trust lands through eminent domain is \$45,000,000. Assuming appropriations are allotted for these acquisitions, DNR envisions completing these over a five year period after completion of the SNA acquisitions.

2011-2012 Detailed Project Budget
Acquisition of School Trust Lands through Eminent Domain

IV. TOTAL TRUST FUND REQUEST BUDGET 3 years

BUDGET ITEM	AMOUNT	
Personnel:		
1. <u>Activity 1</u> : Research analyst (.2 FTE, 2 months, unclassified). 77% salary/23% fringe benefits	\$ 5,972	
2. <u>Activity 1</u> : Land surveyor (.2 FTE, 2 months, unclassified). 77% salary/23% fringe benefits	\$ 5,974	
Contracts:		
1. <u>Activities 2, 3 and 4</u> : <u>Attorney General's office contract</u> . Attorney General's office will represent both the State and Permanent School Trust throughout the eminent domain litigation.	\$ 25,000	
2. <u>Activity 3</u> : Market Valuation appraisal contract. (Professional/technical state bid). Contractors will determine market value, provide appraisal review of market determination, and recommend certification to DNR.	\$ 30,000	
Land Acquisition:		
1. <u>Activity 4</u> . DNR will concentrate its eminent domain action to the Myrtle Lake Peatland SNA in Koochiching County. There exists approximately 20,000 acres of school trust funds lands within the statutory boundaries Myrtle Lake Peatland SNA.	\$ 4,603,054	
Direct Support Services:		
DNR used a rate of 6.5% to calculate costs for direct support services, which are DNR's direct and necessary business services required to support this proposal		
	\$ 325,000	
Travel:		
<u>Activities 1, 2, 4</u> . In-state travel (non-fleet mileage, lodging and meals) essential to complete project activities. Calculations based on travel from St. Paul to International Falls.		
	\$ 5,000	
TOTAL ENVIRONMENT & NATURAL RESOURCES TRUST FUND \$ REQUEST	\$ 5,000,000	

V. OTHER FUNDS

SOURCE OF FUNDS	AMOUNT	Status
Other State \$ Being Applied to Project During Project Period:		
		N/A
		N/A
Funding History: N/A		N/A

2012-2013 Proposed Acquisition List

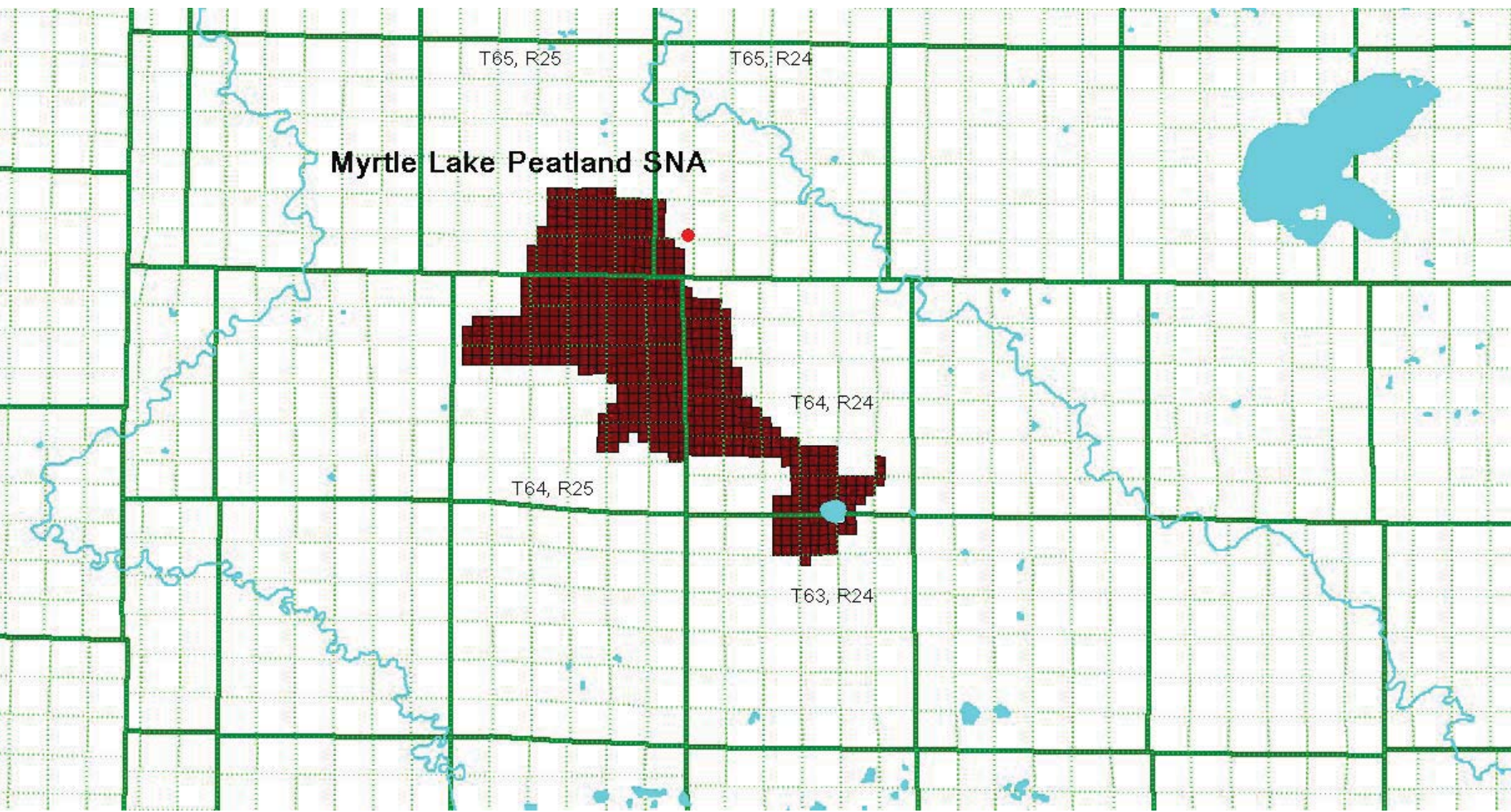
Project Title: Acquisition of School Trust Lands through Eminent Domain

Project Manager Name: Aaron M. Vande Linde

Environment and Natural Resources Trust Fund \$ Request: \$5,000,000.00

#	Parcel Name	Acquisition Type (Fee Title or Conservation Easement)	County	Ecological Significance	Proposed # of Acres	Proposed # of Shoreline Miles (if applicable)	Proposed Fee Title or Easement Holder (if applicable)
1	Myrtle Lake SNA	fee	Koochiching	peatland	10,000		State
2							
3							
4							
5							
6							
7							
8							
9							
10							

NOTES: Initial proposal to acquire by eminent domain only those school trust lands within Myrtle Lake Peatland SNA lying within Township 64, Range 25. Within this township there are approximately 10,000 acres of school trust fund lands. Myrtle Lake Peatland SNA, in its entirety, contains approximately 20,000 acres of school trust lands.



PROJECT TITLE: ACQUISITION OF SCHOOL TRUST LANDS THROUGH EMINENT DOMAIN

PROJECT MANAGER QUALIFICATIONS

Project Manager – Aaron Vande Linde, Transactions Manager, DNR – Division of Lands & Minerals

The proposed project combines two complex processes – eminent domain court action and acquisition of school trust lands. This project will require that the project manager comply with provisions of the Minnesota Constitution, Minnesota statutes and Minnesota Rules of Civil Procedure.

The project manager’s professional background consists of practicing real estate law in the State of Minnesota for seven years and leading the DNR’s acquisition unit over the last four years. The proposed project manager, thus, is well versed with the intricacies of both court proceedings and acquiring state land.

ORGANIZATION DESCRIPTION

The Minnesota Department of Natural Resources’ overall mission is to work with citizens to conserve and manage the state's natural resources, to provide outdoor recreation opportunities, and to provide for commercial uses of natural resources in a way that creates a sustainable quality of life.

