

Legislative Purpose Unfulfilled

Minnesota Scientific and Natural Area Commissioner's Orders

January 1, 2011 – May 18, 2022

Revised – May 18, 2022

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Executive Summary

1. Minnesota's 168 Scientific and Natural Areas (SNAs) are the "crown jewels" of Minnesota's state land base, "... exceptional places where native plants and animals flourish and rare species are protected ..."

Yet, SNAs suffer from **incompatible uses**, inconsistent with the legislative purpose of SNAs: "... to protect and perpetuate in an undisturbed natural state ..."

Furthermore, the incompatible uses do not comply with the Minnesota Environmental Policy Act because the DNR has failed to examine "feasible and prudent alternatives" to the proposed uses.

These incompatible uses are caused, in part, by the Minnesota DNR's **lack of transparency** in the SNA decision-making processes. Without transparency, the public is: (1) unable comment prior to the DNR's decision; and, therefore, (2) less likely to support the DNR's decision.

2. **During the Dayton/Landwehr administration** (January 3, 2011 through January 6, 2019), **84%** of the DNR Commissioner's Orders (41 out of 49), **contain one or more incompatible uses** (highlighted in **red font text**) on the SNAs, **contrary to Minnesota law**.

3. **During the Walz/Strommen administration** (January 7, 2019 to May 18, 2022), **no new SNAs** have been established - and only one small parcel was added to **any** existing SNA: 6 acres were added to St. Croix Savanna SNA in January, 2020.

4. There is **no transparency** in the DNR process to acquire a SNA; **no transparency** in the process to determine what uses should be allowed on proposed SNAs; and **no transparency** in the process to determine whether any pre-existing structures or uses should be allowed on proposed SNAs.

There is **inadequate transparency** when the DNR proposes to change the uses in an existing SNA.

Government Data Practices Act requests for more information on SNA acquisitions and DNR policies are being thwarted.

5. In the meantime, SNAs are being deluged with **lead ammunition and lead fishing tackle**.

Introduction

Friends of Minnesota Scientific and Natural Areas (FMSNA) is a Minnesota non-profit tax-exempt ["501(c)(3)"] corporation, established to advocate and support the establishment, management, perpetuation of Minnesota's Scientific and Natural Areas (SNAs), statewide, in an undisturbed natural state.

Minnesota's Scientific and Natural Areas (SNAs) "... are exceptional places where native plants and animals flourish; where rare species are protected; and where we can know, and study, Minnesota's fascinating natural features." Presently, there are 168 SNAs, totaling over 190,000 acres. [Minnesota Department of Natural Resources (DNR) website: <https://www.dnr.state.mn.us/snap/snap50.html> - last visited 10/17/19.]

The DNR website, cited above, states: "A lot has changed over these 50 years but the **vision** for Scientific and Natural Areas **remains as true today as it was then**: 'A state scientific and natural area shall be established to **protect and perpetuate in an undisturbed natural state** those natural features which possess exceptional scientific or educational value.'" (Emphasis added.)

The "vision" may not have changed; but the reality is much different.

This paper is a synopsis of what happened to Minnesota's Scientific and Natural Areas Program from 2011 through March 31, 2022, based on a review of DNR "Commissioner's Orders", legal documents governing the activities allowed within a particular SNA.

The activities stated in the **red font text** portion of the Commissioner's Orders are **incompatible uses** that **do not comply with the legal purpose for which the scientific and natural program was established** – i.e., "... to protect and perpetuate in an undisturbed natural state those natural features which possess exceptional scientific or educational value." (Minnesota Statute 86A.05, Subd. 5 and quoted by the DNR above.)

The incompatible uses also fail to comply with the requirements of the Minnesota Environmental Policy Act.

Scientific and Natural Areas

Legislative Purpose; Minnesota Environmental Policy Act

Minnesota Statute 86A.05, Subdivision 5 states:

“State scientific and natural areas; purpose; resource and site qualifications; administration; designation. (a) A state scientific and natural area shall be established to **protect and perpetuate in an undisturbed natural state** those natural features which possess exceptional scientific or educational value. [Emphasis added.] ...

“(c) State scientific and natural areas **shall be administered** by the commissioner of natural resources, in consultation with qualified persons, in a manner which is **consistent with the purposes of this subdivision to preserve, perpetuate and protect from unnatural influences** the scientific and educational resources within them. Interpretive studies may be provided for the general public. Physical development shall be limited to the facilities absolutely necessary for protection, research, and educational projects, and, where appropriate, for interpretive services.” [Emphasis added.]

The Scientific and Natural Areas program must also be administered under the requirements of the Minnesota Environmental Policy Act (Minn. Stat. 116D.04, Subd. 6):

“**No state action significantly affecting the quality of the environment shall be allowed**, nor shall any permit for natural resource management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state, **so long as there is a feasible and prudent alternative** consistent with the reasonable requirements of the public health, safety and welfare and the state’s **paramount concern** for the **protection** of air, water, land, and other **natural resources** from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.” [Emphasis added.]

Background

May 16, 1969: Minnesota Legislature enacted a law to allow the DNR to acquire, establish, and maintain SNAs. (Chapter 470, 1969 Session Laws.)

August 8, 1974: Rush Lake Island, a 21-acre island in Rush Lake, Chisago County, is established as Minnesota’s **first SNA**. [It was acquired in 1971 and continues to be a heron rookery.]

January 3, 2011: Mark Dayton takes office as Minnesota’s Governor.

January 6, 2011: Tom Landwehr is appointed by Governor Dayton as Commissioner of the Minnesota Department of Natural Resources (DNR).

2011 - Commissioner's Orders

[In particular, please note the **incompatible** uses - quoted in **red font** text - in all Commissioner's Orders below.]

June 27, 2011:

Commissioner's Order #213: establishing **Clinton Falls Dwarf Trout Lily SNA**, in Steel County:

"... Clinton Falls Dwarf Trout Lily Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities. **IT IS FURTHER ORDERED** that the provisions of *Minnesota Rules* 6136.0100 through 6136.0600 shall apply to the above designated area, except **access by watercraft** is allowed with such limitations as the Commissioner determines are necessary for the protection of the values for which the site was designated."

Commissioner's Order #214, adding land to **Myhr Creek Ridge SNA** in Cook County:

"... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: picnicking, **dogs, picking edible berries for non-commercial purposes, and hunting in seasons for protected game species.**"

[Note: the original Commissioner's Order #182, dated May 21, 2004, stated "... the area is designated as a Public Use unit, open for nature observation and general education and research activities."]

Commissioner's Order #215, adding land to **Mound Prairie SNA** in Houston County:

"... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **dogs**, and on **Parcel 1 hunting during the legal open season.**"

Commissioner's Order #216, establishing **LaSalle Lake SNA** in Hubbard County:

"... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **hunting, fishing, trapping, access by watercraft, non-commercial berry-picking, dogs under control for hunting purposes during regular season, and dogs on leashes.**"

Commissioner's Order #217, adding land to **Savage Fen SNA** in Dakota County:

"... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **fishing, hunting by archery and other special hunts**, and the construction by the City of Savage (or its designee) of a **non-motorized trail for use by bicycles and pedestrians on a specified alignment, and dogs on**

leashes and picnicking within the trail corridor in conjunction with use of a constructed trail.”

Commissioner's Order #218, establishing **Morton Outcrops SNA** in Redwood County:
“... except that the following uses are allowed with such limitations as necessary to ensure protection of the resources for which the Scientific and Natural Area is designated: an existing pedestrian and bicycle trail within an access easement retained by the Minnesota Valley History; and a Minnesota Valley History Learning Center and SNA cultural-ecological rustic interpretive trail and associated facilities for pedestrian use only including interpretive and direction signage along a specified alignment.”

Commissioner's Designation Order #219, adding land to **Two Rivers Aspen Parkland SNA** in Roseau County:
“... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **dogs and public hunting** during the open season subject to all applicable laws and regulations, and an **existing snowmobile trail** on a specified alignment.”

Commissioner's Order #220, adding land to **Blanket Flower Prairie SNA** in Clay County:
“... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated.”

Commissioner's Order #221, adding land to **Hastings Sand Coulee SNA** in Dakota County:
“... except an **existing snowmobile trail** is allowed to run along a specified alignment within Hastings Sand Coulee Scientific and Natural Area with such limitations as necessary to ensure protection of the resources for which the Scientific and Natural Area is designated; and except the City of Hastings is allowed to retain and manage their stormwater management pond and accessway within the perpetual drainage, utility, and access easement granted to the City.”

Commissioner's Order #222 established **Blaine Preserve SNA** in Anoka County:
[No mention of public hunting.]

November 21, 2011: Commissioner's Order 223, **de-designating Black Dog Preserve SNA.**

2012- Commissioner's Orders

August 20, 2012:

Commissioner's Designation Order #224, establishing **Twin Lakes SNA** in Isanti County:

Legislative Purpose Unfulfilled
SNA Commissioner's Orders: 2011-2022
Revised – May 18, 2022

“... except that **hunting will be allowed only by special permit as needed to control wildlife populations** to prevent damage to the native or restored plant community and **fishing** will be allowed within the Scientific and Natural Area with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated.”

Commissioner's Designation Order #225, adding land to **Mound Spring Prairie SNA** in Yellow Medicine County:

“... except that the following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **hunting, trapping, and dogs under control for hunting purposes during the regular season.**”

[Note: The former Commissioner's Order #172, dated October 4, 2001, did **not** include incompatible uses.]

Commissioner's Designation Order #226, adding land to **LaSalle Lake SNA**, in Hubbard County:

“... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **hunting, fishing, trapping, access by watercraft, non-commercial berry-picking, dogs under control for hunting purposes during regular season, dogs on leashes**, and a non-motorized, unpaved, minimum-width rustic interpretive trail to the confluence of the Mississippi River and LaSalle Creek, a trailhead for this trail, and a minimally developed overlook at the confluence.”

October 8, 2012:

Commissioner's Designation Order #227, superseding Commissioner's SNA Order #180, regarding **Pine Bend Bluffs SNA** in Dakota County:

“... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: the construction and management by Dakota County (or its designee) of a **nonmotorized trail** for use by bicycles, pedestrians, and authorized mobility disability devices on a specified alignment; the construction and management by Dakota County (or its designee) of a trail head facility including picnicking, picnic shelter and picnic tables, refuse containers, historical marker, restroom facilities, and other facilities approved by the Department within the area specified for the trail head; up to two overlook areas with interpretive features and sitting wall; and **dogs on leashes** within the trail corridor or at the trail head facility.”

Commissioner's Designation Order #228, establishing **Mille Lacs Moraine SNA** in Crow Wing County:

Legislative Purpose Unfulfilled
SNA Commissioner's Orders: 2011-2022
Revised – May 18, 2022

“... except that shall be open to **hunting (including with dogs), fishing, and dogs under control**, with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”

December 10, 2012:

Commissioner's Designation Order #229, establishing **Potato Lake SNA** in Itasca County:

“... except that continued use of **a timber haul trail** located in the SE of NW of SW, S7, shall be permitted by persons issued a Road Access Permit, and the Forest Roads known as Horseshoe Forest Trail and minimum maintenance road # 133 will remain open to motorized use, **boats may be transported by non-motorized means from the parking area to a designated place on the lake shore**, and the area shall be open to **hunting (including with dogs), shore fishing and dogs under control**, with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”

Commissioner's Designation Order #230, establishing **Little Two Much Lake SNA** in Itasca County:

“... except that **boats may land** at a specified place on the lake shore and the area shall be **open to hunting (including with dogs) and dogs under control**, with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.

2013 – Commissioner's Orders

January 4, 2013:

Commissioner's Order #231, superseding Commissioner's Order 230 regarding **Little Two Much Lake SNA** in Itasca County:

“... except that boats may land at a specified place on the lake shore and the area shall be open **to fishing, hunting (including with dogs) and dogs under control**, with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”

[Note: The DNR **added fishing** in this Order. The SNA acreage did not change.]

April 1, 2013:

Commissioner's Designation Order #232, establishing **Cedar Rock SNA** in Redwood County:

“... except that **hunting, trapping, and dogs** under control are allowed (with the condition that dogs are only allowed on leash from April 16 through July 14) with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”

Legislative Purpose Unfulfilled
SNA Commissioner's Orders: 2011-2022
Revised – May 18, 2022

June 24, 2013:

Commissioner's Designation Order #233, changing the uses allowed **Yellow Bank Hills SNA** in Lac Qui Parle County:

[Note: The parcel size remained the same as the previous SNA Order #41, dated March 19, 1987. (78 acres, more or less.) The newly allowed uses are "... **hunting, trapping, and dogs under control for hunting purposes ...**"]

Commissioner's Designation Order #234, adding to **Prairie Coteau SNA** in Pipestone County:

[Note: the allowed uses also include: **hunting, trapping, and dogs under control for hunting purposes**. The former Commissioner's Order #127, dated August 19, 1996, did **not** include the above incompatible uses.]

August 26, 2013:

Commissioner's Designation order #235, adding land to **Savage Fen** in Scott County:

"... except that the following uses will be permitted with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **fishing, hunting by archery and other special hunts**, and the construction by the City of Savage (or its designee) of a non-motorized trail for use by bicycles and pedestrians on a specified alignment, **and dogs on leashes and picnicking within the trail corridor** in conjunction with use of a **constructed trail**."

[Note: the former Commissioner's Order #132, dated August 19, 1996, did **not** contain the above incompatible uses.]

September 16, 2013:

Commissioner's Designation Order #236, adding land to **Burntside Islands SNA** in St. Louis County:

"... except that **access by watercraft** is allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated."

[Note: the former Commissioner's Order #84, dated May 15, 1991, did **not** contain the above incompatible use.]

December 16, 2013:

Commissioner's Designation Order #237, adding land to **Hovland Woods SNA** in Cook County:

"... except that the following uses are allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated:

- “1. **Public hunting** during legal open seasons,
- “2. **Dogs,**
- “3. **Picking edible berries** for non-commercial purposes,
- “4. **Picnicking,**
- “5. Use by bicycles, snowmobiles, and off-highway vehicles registered under *Minnesota Statutes*, sections 84.788, 84.82, and 84.922 (off-highway motorcycles, snowmobiles, and class 1 and class 2 all-terrain vehicles) is authorized on the Boyd Road ATV Road and the Stevens Lake Access Route, and
- “6. Use bicycles, snowmobiles, and motor vehicles registered under *Minnesota Statutes*, chapter 168 and sections 84.788, 84.798, 84.82, and 84.922 (highway-licensed vehicles, off-highway motorcycles, off-road vehicles, snowmobiles, and class 1 and class 2 all-terrain vehicles) is authorized on the Tom Lake/Tower Road.”

Commissioner's Designation Order #238, adding land to **Pembina Trail SNA** in Polk County:

“... the Pembina Trail Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities.”

2014 – Commissioner's Orders

2014:

The Minnesota DNR approves the “SNA Strategic Land Protection Plan.” Page 27 states: “By the end of the 21st century (2099), the state aims to protect, approximately 300 SNAs statewide comprising about 325,000 acres (about 0.6 % of the state). This means designating **136,000 more acres of SNA over the next 85 years**, or an average (mean) of **1,600 additional acres of SNA per year**. This is based on establishing SNAs on about **10% of the high priority conservation areas** across the state. This also assumes that the additional SNAs include lands already in state ownership.” [Emphasis added.]

November 3, 2014:

Commissioner's Designation Order #239, establishing **Badoura Jack Pine Woodland SNA** in Hubbard County:

“... except that the area will be open to **hunting, trapping, and berry-picking** with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated.”

Commissioner's Designation Order #240, adding land to **St. Wendel Tamarack Bog SNA** in Stearns County:

“... except that the area will be open to **hunting** with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated.”

2015 – Commissioner's Orders

February 9, 2015:

Commissioner's Designation Order #241, pertaining to **Lake Alexander Woods SNA**.

“... except that (1) Tracts 1, 5, 9, and 10 will be **open to all deer hunting** seasons, (2) Tracts 4, 11, and parcels in Tracts 6 and 7 lying east of Lawrence Drive or adjacent to Tract 4 will be open to **deer hunting by archery only** (see attached Exhibit A), (3) unprotected species may not be taken at any time, and (4) other limitations may be invoked as the Commissioner determines necessary for protection of the values for which the site was designated.”

[This Commissioner's Designation Order **did NOT add any acreage**. This Order merely modified the use described in the former Designation Order #204 (August 19, 2010), which states “... the area will be open to hunting with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”]

Commissioner's Designation Order #242, pertaining to **Minnesota Pine Point SNA** in St. Louis County:

“... the area will be **open to dogs on leash and with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated.**” [39 State Register 1177; February 9, 2015.]

[This Order added **no acreage added**, just amending the original Commissioner's Designation Order (#174) to add language in **red font.**]

Commissioner's Designation Order #243, adding land to **Blanket Flower Prairie SNA** in Clay County:

The order supersedes SNA Order #220 and designates “... the area will be open to the public for nature observation and general educational and research activities.”

Commissioner's Designation Order #244, pertaining to **Hastings SNA** in Dakota County:

This order supersedes SNA Order #3 and designates “... the area will be open to the public for nature observation and general educational and research activities ... except that use of watercraft and **fishing are allowed** with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated”

[This Order doesn't appear to add any acreage. It revises the legal description – and slightly modifies the uses. However, the DNR does not prohibit non-toxic tackle.]

June 29, 2015:

Commissioner's Order #245, establishing **Antelope Valley SNA** in Yellow Medicine County:

“... the following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **hunting, trapping, and dogs** under control for hunting purposes during the regular season.”

2016 – Commissioner's Orders

February 8, 2016:

Commissioner's Designation Order #246, establishing **Brownsville Bluff SNA** in Houston County:

“... the following uses will be allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated: **outside of the sanctuary deer hunting** is permitted during the regular season and the **existing snowmobile trail** may be used by snowmobiles under snow-cover conditions.”

Commissioner's SNA Order #247, establishing **Crystal Spring SNA** in Washington County:

“... that the Commissioner may decide to allow hunting if and when **documented ecological needs arise** that can best be resolved by **hunting** with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”

August 22, 2016:

Commissioner's SNA Order #248, establishing **River Warren Outcrops SNA** in Renville County:

“... **horse trail following a specified alignment under easement and consistent with the horse trail management plan, fishing, hunting, trapping, and dogs under control for hunting purposes during the regular season ...**”

[Friends of MN Scientific and Natural Areas opposed this 89-acre acquisition – as an SNA – via a letter to the DNR dated March 11, 2016.]

2017 – Commissioner's Orders (1 pending)

January 17, 2017:

Commissioner's SNA Order #249, adding land to **Iron Springs Bog SNA** in Clearwater County:

“... except that the following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values

Legislative Purpose Unfulfilled
SNA Commissioner's Orders: 2011-2022
Revised – May 18, 2022

for which the site was designated: **deer hunting and trout fishing** during the regular season.”

June 12, 2017:

Commissioner's SNA Order #250, adding approximately 11 acres to **Blanket Flower Prairie SNA** in Clay County:

“... open to the public for nature observation and general educational and research activities.”

Commissioner's SNA Order #251, establishing **Lawrence Creek SNA** in Chisago County:

“... the following uses will be allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated: **fishing without live bait and outside of the sanctuary**, archery hunting is permitted during the regular season.”

Commissioner's SNA Order #252 – adding land to **Cannon River Turtle SNA** in Goodhue County:

“... the following uses will be allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated: **dogs and hunting during the regular season except that hunting is prohibited on the sandbars posted as closed from May 1 to October 1 to protect breeding and nest sites of turtles.**”

Commissioner's SNA Order #253, establishing **Harry W. Cater Homestead SNA** in Sherburne County:

“... open to the public for nature observation and general educational and research activities.”

Commissioner's SNA Order #254, establishing **River Terrace Prairie SNA** in Goodhue County:

“... open to the public for nature observation and general educational and research activities.”

Commissioner's SNA Order #255, adding land to **Big Island SNA** in St. Louis County:

“... the following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **public waterfowl hunting (using dogs) and shore fishing during the regular season.**”

[Note: This order roughly doubled (i.e., added 110 acres) the existing SNA to a total 226 acres.]

June 14, 2017:

Public hearing on proposal that a “... **parcel of land be removed from Mississippi River Islands SNA** due to historical use of this parcel as a campsite and the inconsistency of his use with activities allowed in SNAs.” This constitutes a portion of Dimmick Island. As of September 15, 2021, the DNR purports to have approved the campsite from the SNA but no Commissioner’s Order has been published. The Friends of MN Scientific and Natural Areas and the Minnesota Native Plant Society have advocated that the campsite be removed, thereby helping to restore the ecological integrity of Dimmick Islands.

At the same public hearing, the DNR proposed to continue allowing horses and snowmobiles within Uncas Dunes SNA. This was opposed by Friends of MN Scientific and Natural Areas and the Minnesota Native Plant Society. (See February 5, 2018 for Commissioner’s SNA Order #259.)

September 18, 2017:

Commissioner’s SNA Order #256, establishing **Watrous Island SNA** in Koochiching County:

“... the following uses will be allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated: **fishing, hunting, trapping, dogs under control or on leash, swimming, and access by watercraft.**”

Commissioner’s SNA Order #257, adding land to **Lake Bronson SNA**, in Kittson County:

“... open to the public for nature observation and general educational and research activities.”

Commissioner’s SNA Order #258, adding land to **Burntside Islands SNA** in St. Louis County:

“... **access by watercraft** is allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated.”

December 29, 2017:

The DNR Commissioner’s Advisory Committee on Natural Heritage (CAC) sent a letter to Commissioner Landwehr, recommending that the DNR establish “... an objective, science-based system to assess impacts resulting from all allowable/permitted uses at SNAs ...”

2018 – Commissioner’s Orders

February 5, 2018:

Commissioner’s SNA Order #259 – **Uncas Dunes SNA**. “... the following uses will be allowed with such limitations as the Commissioner determines are necessary for protection of the values for which the site was designated: **dogs are permitted, public hunting is permitted** during the open season subject to all applicable laws and regulations, and **snowmobile and horseback riding are permitted, but**

Legislative Purpose Unfulfilled
SNA Commissioner's Orders: 2011-2022
Revised – May 18, 2022

restricted to the single trail designated and posted for that purpose along the portion of Sherburne County snowmobile trail #209 which crosses the northern unit of Uncas Dunes SNA located in Sections 21 and 28, Township 34 North, Range 27 West, as shown on Exhibit A. In addition, **local residents are eligible to apply for a special use permit that will allow them to access the main horse trail system** via a posted, but unmaintained access trail that will run from 245th Avenue NW to the main trail system as shown in Exhibit A. Horseback riding on this access trail will be limited to permitted riders only. Special use permits will be limited to local residence who ride their horses from their residence to the access point off of 245th Avenue NW.”

July 30, 2018:

Commissioner's SNA Order #260, adding land to **Spring Beauty Northern Hardwoods SNA** in Cook County:

“... except that the following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **public hunting in seasons for protected game species, picnicking, picking edible berries for non-commercial purposes, and dogs.**”

Commissioner's SNA Order #261, establishing **Mississippi Oxbow SNA** in Itasca County:

“... following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **public hunting, trapping, fishing, dogs on a leash or under control, swimming, and watercraft access.**”

Commissioner's SNA Order #262, establishing **Dinner Creek SNA** in Becker County:

“... following uses will be allowed with such limitations as Commissioner determines are necessary for protection of the values for which the site was designated: **hunting, trapping, and dogs under control for hunting purposes during the regular season, and snowmobiles on the snowmobile trail** whose location is indicated on the attached map.”

October, 2018:

Prairie Smoke Dunes SNA in Norman County: The DNR proposed to **construct 1,000-foot access road and parking lot**. Friends of Minnesota Scientific and Natural Areas and the Minnesota Native Plant Society submitted comments opposing the proposal. [See December 13, 2019 Order below, where DNR stated the access road and parking lot are “not authorized.”]

2019 – Commissioner's Orders (none)

January 7, 2019:

Tim Walz assumes office as Minnesota's 41st Governor.

Legislative Purpose Unfulfilled
SNA Commissioner's Orders: 2011-2022
Revised – May 18, 2022

Sarah Strommen, appointed by Governor Walz, assumes position as Commissioner of the Department of Natural Resource. [Note: As of May 18, 2022, Commissioner Strommen's appointment by Governor Walz has not received the consent of the Minnesota Senate per Minnesota Statute 15.06.]

April, 2019:

The DNR announced a proposal to **sell** a portion of **Whitney Island SNA**. A **decision is pending**. Friends of MN Scientific and Natural Areas wrote a letter in opposition.

December 13, 2019:

The DNR issued an Order regarding **Prairie Smoke Dunes SNA** stating: "The Minnesota Department of Natural Resources determines that construction of a new parking area and travel corridor on the north side of Prairie Smoke Dunes Scientific and Natural Area in Norman County, Minnesota is not authorized."

No SNA acquisitions (neither new nor additions to existing parcels) were accomplished during the Governor Walz/Commissioner Strommen's first year of office.

2020 - Commissioner's Orders (1)

January 13, 2020:

Commissioner's SNA Order #264, adding a **6-acre parcel** was added to 148 acres of existing **St. Croix Savanna SNA**, in Washington County, to now total 154 acres. The allowed activities stayed the same as the two previous Commissioner's Orders for this SNA: "the St. Croix Savanna Scientific and Natural Area is designated as a Public Use unit, open to the public for nature observation and general educational and research activities."

Note: There is no SNA Order #263. On September 10, 2021, SNA Program Supervisor Molly Roske sent an e-mail stating: "SNA Order #263 is the number assigned to a Commissioner's Designation Order (CDO) update to **Agassiz Dunes SNA** owing to a new addition to the site. It has been on our General Counsel's 'desk' for review, comment, and signature since last December. General Counsel ("Legal's") approval is needed before it can be presented to the Commissioner for signature."

Note also: DNR staff have proposed the uses on the new addition to **Agassiz Dunes SNA** be the same as the two previous Commissioner's Orders – i.e., "... open to the public for nature observation and general educational and research activities."

March 11, 2020: World Health Organization (WHO) declared a Covid-19 pandemic.

2021 - Commissioner's Orders (none)

From January 1, 2021 through December 31, 2021, no new SNAs or additions to existing SNAs have been completed and published in the State Register as a Commissioner's Designation Order.

2022 (January 1 – May 18, 2022) Commissioner's Orders (none)

From January 1, 2022 through May 18, 2022, no new SNAs or additions to existing SNAs have been completed and published in the State Register as a Commissioner's Designation Order.

Other Statutes

Minnesota Statute 97A.093 states, "Except as otherwise provided by law, scientific and natural areas are closed to hunting, trapping, and fishing unless:

- "(1) the designating document allows hunting, trapping, or fishing; or
- "(2) the commissioner allows hunting, trapping, or fishing in accordance with the procedure in section 86A.05, subdivision 5, paragraph (d)."

This statute does not negate the requirement that the activity must comply with the statutory purposes as stated in Minnesota Statute 86A.05, Subd. 5, cited above. Reading the statutes together, Commissioner's Designation Orders should prohibit hunting, trapping, and fishing unless a documented ecological need arises and there is no feasible and prudent alternative consistent with purpose of the SNA program. (See Minnesota Environmental Policy Act, Minn. Stat. 116D.04, Subd. 6.)

Problem – Lack of Transparency **Government Data Practices Act Requests and Opportunities for Public Input**

I. Lack of Transparency - Process to acquire an SNA.

There is **no transparency** in the DNR process to acquire SNAs. The DNR is not legally required to publish notice of a proposed SNA acquisition. County boards of Commissioners have the legal authority to approve – or disapprove – a proposed SNA acquisition within their county, subject to rights of appeal. **County board agendas, for regularly scheduled meetings, are usually only published on their website. County boards are not legally required to publish a separate notice of a proposed SNA acquisition.**

Consequently, most Minnesotans have no opportunity to review and comment on the proposed acquisition prior to the county board's decision. SNA acquisitions may be denied by county boards, with little public knowledge. (Example: a proposed 62-acre addition to Wabu Woods SNA, was denied by the Itasca County Board in March, 2021.)

II. Lack of Transparency - Process to determine compatible uses.

There is **no transparency** in the DNR's process to determine the **uses** allowed on a proposed SNA acquisition. With little public knowledge, **incompatible uses were imposed on 84%** of the Commissioner's Orders) signed in the Dayton/Landwehr administration - or about **80% of the acquired SNA acreage**.

Incompatible uses – on new SNAs and additions to SNA - are at risk of continuing under the Walz/Strommen administration, if the public doesn't know about them until it's too late.

III. Lack of Transparency - Process to allow pre-existing uses or structures on proposed SNA acquisitions.

We note that some proposed SNA acquisitions have pre-existing uses, such as motorized roads, motorized and non-motorized trails, and stormwater utilities.

There is **no transparency in the DNR process to allow Minnesotans the opportunity to comment on** whether the DNR should accept pre-existing uses or structures in a proposed SNA. The analysis must determine whether or not:

- (a) the use or structure is compatible with the legal requirements of the SNA program; and
- (b) there are "feasible and prudent alternatives" are examined per the requirements compliance with the Minnesota Environmental Policy Act.

The Minnesota Environmental Policy Act (Minn. Stat. 116D.04, Subdivision 6) states:

"No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resource management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land, or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare and the state's **paramount concern for the **protection** of air, water, land, and other **natural resources** from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct."** [Emphasis added.]

With the **lack of transparency**, we don't know the details of whether or not the pre-existing uses or structures:

- (a) could be eliminated or re-directed off the SNA;
- (b) could be modified to reduce the impact;
- (c) could be, in some other way, made acceptable;
- (d) cannot be legally eliminated or altered;

- (e) are merely referenced in the SNA Commissioner's Designation Order, but not legally a part of the SNA; or
- (f) are a pre-existing use or structure that must be accepted as condition of a donation.

In other words, the DNR must examine “feasible and prudent alternatives” to the pre-existing uses, rather than blanket acceptance of the status quo. The public must have the opportunity to review and comment prior to the DNR's decision.

Transparency will aid public understanding and involvement in the process. The hopeful results are greater protection of our natural resources – and greater public acceptance of the outcome.

IV. Lack of Transparency - Process to amend uses on existing SNAs.

There is **very little transparency in the DNR process** to change or amend the uses allowed on an existing SNA. The DNR is required by statute (Minn. Stat. 86A.05, Subd. 5(d) hold a public hearing, after a notice “... published once in a legal newspaper in each county in which the lands are situated at least seven days in advance of the hearing.”

Access to local county legal newspapers is not readily known – and not widely read. Seven days is not enough time to understand and prepare comments prior to the hearing

V. Lack of Transparency - Government Data Practices Act Requests for SNA Acquisition Information.

Unfortunately for the public – and the natural resource - the DNR has been uncooperative in its response to Friends of Minnesota Scientific and Natural Areas' (FMSNA) Government Data Practices Act requests regarding which parcels are scheduled for a county board hearing – and the stage of the parcel in the acquisition process. The result is that FMSNA and the public are deprived of the opportunity to provide meaningful comment on a proposed **acquisition – and compatible uses** – prior to the DNR's decision.

Fortunately, there is a recent ray of hope. On Wednesday, April 6, 2022, the DNR Commissioner's Natural Heritage Advisory Committee voted to approve the following motion:

“NHAC recommends that the DNR revise its Government Data Practices Act policy – **or develop another process** – such that **all** Minnesotans have the opportunity to receive notice of county board SNA acquisition hearings, in time to provide meaningful comment **before** the county board decision.”

VI. Lack of Transparency - Government Data Practices Act Requests for DNR Policy on Public Rights-of-Way Exemption for Endangered Plants.

Minnesota Statute 84.0895, Subd. 2, creates an exemption, from protection under the Minnesota endangered species law, for all state-listed “endangered” plants located within Minnesota’s 135,000+ miles of public rights-of-way. The DNR is in the process of establishing a policy to interpret the exemption.

Most SNAs are adjacent to public rights-of-way and are often in ecologically contiguous unit. Unfortunately, after protracted Government Data Practices Act attempts to obtain a copy of the draft policy, the DNR continues to thwart these efforts. Thus, the public is deprived of the opportunity to comment during the development of this important public policy.

Lead Ammunition and Lead Fishing Tackle in SNAs

On October 15, 2021, Friends of Minnesota Scientific and Natural Areas filed with the DNR a “Petition for Adoption of Rules Requiring Non-toxic Fishing Tackle and Non-toxic Ammunition in MN State Parks and SNAs.”

In response to the Petition, the DNR stated in a letter dated December 20, 2021:

“**The DNR** has carefully considered this Petition. The DNR has determined that, over the next year, it **will implement two changes to require the use of non-toxic ammunition at certain SNAs and State Parks** through orders or DNR procedures that do not require changes to Minnesota rules or statutes. Specifically, the DNR may allow hunting in SNAs in the Commissioner’s designation order for the SNA, and SNA designations are exempted from rulemaking in accordance with Minn. Stat. § 84.033 and § 86A.05, subd. 5. **The DNR will identify all SNAs that allow hunting and require the use of non-toxic bullets and non-toxic shot on those lands.** The DNR will also require **the use of non-toxic bullets and non-toxic shot at State Parks when it issues permits for special hunts**. The DNR may include requirements for non-toxic bullets and non-toxic shot in these permits in accordance with Minn. R. 6100.0550. At the present time, the DNR will not require the use of non-toxic bullets and non-toxic shot on Minnesota State Park lands that are designated in Minnesota Session Laws as open to hunting, but will continue to encourage their use.” [Emphasis added.]

There is no evidence that the DNR is moving forward on its commitment.

In the meantime, SNAs and state parks are suffering from the **continuing deluge of toxic lead ammunition and toxic lead fishing tackle**, where hunting and fishing are authorized. Non-toxic alternatives to lead ammunition and lead fishing tackle are available, consistent with the Minnesota Environmental Policy Act (Minn. Stat. 116B).

Summary

1. During the Dayton/Landwehr administration (January 3, 2011 through January 6, 2019), **84%** of the DNR Commissioner's Orders (41 out of 49), contain one or more **incompatible uses** (highlighted in red font text), contrary to Minnesota law.

2. During the Walz/Strommen administration (January 7, 2019 to May 18, 2022), **no new SNAs** have been established - and only one small parcel was added to **any** existing SNA: 6 acres were added to St. Croix Savanna SNA in January, 2020.

Furthermore, **two SNAs** are in the process of **being reduced in size**: Mississippi River Islands SNA (to allow camping) and Whitney Island SNA, although no Commissioner's Orders have been signed. Friends of Minnesota Scientific and Natural Areas is on record opposing these proposals, stating that the **proposals are contrary to Minnesota law and adversely affect the ecological integrity the SNA.**

3. Citizens and the DNR need to work together to resolve the **lack of government transparency**, including timely compliance with Government Data Practices Act requests and opportunities for public comment **prior to** SNA acquisitions, decisions on environmentally compatible uses within the SNA, de-designation of SNAs, and other important policy decisions.

This is the only way that the SNA Program will achieve its highest potential, consistent with the Minnesota Legislature's intent: "**to protect and perpetuate in an undisturbed natural state.**"

Thank you!