

## **Chronology of Historical Actions for Boundary Waters Canoe Area Wilderness within Minnesota's Superior National Forest**

Over the course of the state's history, the wilderness within the Boundary Waters Canoe Area (BWCA) has grown with increased protection through the enactment of laws and several court decisions. This has not happened without controversy and continued concern over what duly constitutes wilderness within the BWCA. The following summarizes the history of the major actions occurring in the protection of the BWCA. Relevant Minnesota Statutes are excerpted on pages 4 and 5.

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| 1857      | Enabling act of U.S. Congress grants land to support schools (Sections 16 and 36) and University of Minnesota  |
| 1858      | State of Minnesota admitted to the union; it receives ownership of the beds of navigable waters  |
| 1860-1870 | Congress grants the state additional swamp and other lands—about five million acres  |
| 1902      | U.S. Land Office withdraws 500,000 acres in future BWCA wilderness from settlement   |
| 1904      | At request of State Forestry Board, Congress grants 20,000 acres to the state for the Burntside Forest Reserve. "State Forest Reserves should be devoted not alone to the business of raising timber, but to the pleasure of all the people." (Minn. Forestry Commissioners Report, p. 48, 1905) |

- 1905-1908 General C. C. Andrews persuades the U.S. Land Office to withdraw 659,700 more acres in future BWCA wilderness from settlement
- 1909 Superior National Forest (SNF) created by President Theodore Roosevelt (Proclamation No. 848) from previously withdrawn public domain lands, including parts of the present BWCA wilderness
- 1909 Legislature creates a 1,200,000-acre statutory Superior Game Refuge, similar in area to SNF, including most of the present BWCA wilderness. The refuge was an attempt to protect and save the threatened moose and caribou population.
- 1922-1926 Development of roads in roadless SNF—Echo Trail, Fernberg Rd, Upper Gunflint Trail
- 1926 Roadless wilderness area (640,000 acres) in the SNF established by U.S. Agriculture Secretary W. M. Jardine in a policy to “retain as much as possible of the land which has recreational opportunities of this nature as a wilderness”
- 1930 Congress passes the Shipstead-Newton-Nolan Act to protect water levels and lakeshores by prohibiting dams and logging within 400 feet of recreational waterways in then existing SNF
- 1933 State passes “Little Shipstead-Newton-Nolan Act” for state lands similar to federal statute
- 1927-1936 Boundary changes and purchases increase federal ownership in SNF to over two million acres, which includes one million acres in the wilderness area
- 1938 U.S. Forest Service (USFS) establishes Superior Roadless Primitive Area with boundaries similar to BWCA wilderness
- 1941 USFS establishes no-cut zone of 362,000 acres along the international boundary
- 1948 Congress passes Thye-Blatnik Act to buy resorts and private lands in the wilderness. Also provides for in-lieu-of-tax payments to Cook, Lake, St. Louis counties for federal wilderness land
- 1948 Forest Service changes boundaries of roadless area and deletes much land near Lake Isabella (and Kawishiwi Lake) to accommodate logging needs and roads
- 1949 President Truman issues an executive order for an air-space reservation over the BWCA wilderness, which prohibits planes landing on lakes and flights below 4,000 feet over the wilderness
- 1949 State passes legislation that regulates aircraft and watercraft similar to USFS regulation
- 1958 USFS changes name of Superior Roadless Area to Boundary Waters Canoe Area
- 1962-1964 Controversy over logging, timber roads, motorboats, and snowmobiles in BWCA increases

- 1964 U.S. Agriculture Secretary Orville Freeman appoints Selke Committee to recommend changes in BWCA management
- 1964 Congress passes the Wilderness Act and the BWCA becomes part of the National Wilderness Preservation System with a clause that allows some logging and use of motors to continue
- 1965 Sec. Freeman issues management changes recommended by Selke Committee; increases the no-logging zone, provides for motorboat zoning and limits some snowmobiling (36 C.F.R. § 251.85)
- 1966 Travel permits for BWCA begun by USFS; controversy over proposed copper-nickel mining
- 1971 Minnesota passes regulations (NR 1000) establishing state's right to regulate use of motorcraft on state waters, similar to the federal rules, and authorizes joint cooperative agreements with USFS
- 1972 Lawsuit by Minnesota Public Interest Research Group to prohibit logging of virgin forest in the wilderness until an Environmental Impact Statement is done by the USFS
- 1973 Federal District Judge Phillip Neville rules to prohibit mining in the BWCA in a lawsuit brought by the Izaak Walton League; reversed on appeal to 8<sup>th</sup> District Court in 1974
- 1975 Federal District Judge Miles Lord bans logging of virgin forests; reversed on appeal in 1976
- 1975 Congressman James Oberstar introduces bill to "resolve" BWCA issues by creating a 600,000-acre wilderness (no logging or motors) and a 400,000-acre recreation area (allowing motors). Removal of established wilderness for a recreation area strongly opposed by environmental groups
- 1976 State passes legislation prohibiting mining and peat harvesting in the BWCA, unless national emergency declared and prior legislative approval
- 1978 Congress enacts BWCA Wilderness Act, eliminating logging and snowmobiling, restricting mining, and allowing motor boats on only a fourth of the water area. Boundary adjustments of 50,000 added to BWCA wilderness; total wilderness now 1,098,057 acres (formerly just over one million acres)
- 1979-1982 Challenge to the BWCA Wilderness Act (Public Law 95-495) by the State of Minnesota and others upheld by 8<sup>th</sup> District Court; U.S. Supreme Court refused to review this opinion in 1982
- 1980-1990 Congress appropriates \$84 million for state and federal implementation of BWCA Wilderness Act
- 1991-1993 Court decisions require motorized portages to be closed as stipulated by 1978 act

- 1992 State passes law governing maintenance of campsites on state land in the BWCA wilderness
- 1993 BWCA wilderness Management Plan approved by SNF; appealed and upheld by 8<sup>th</sup> District Court
- 1996-1997 Federal mediation process over motor portages as sought by Sen. Wellstone; no consensus
- 1998 Congress allows two motorized portages to continue through a rider on transportation bill
- 1998 Recreational Fee Demonstration Program (user fee) starts; fees applied to BWCA wilderness management
- 1999 BWCA wilderness reappraised under 1948 Thye-Blatnik Act; yearly payment to counties now \$2,115,000
- 1999 Huge blowdown of timber on July 4 affects 300,000 BWCA wilderness acres with 32 percent of area extensively damaged
- 2003 Legislature designates 18,000 acres within BWCA as “wilderness” within the statutory classification of the Minnesota Outdoor Recreation Area Act ([Laws 2003, 1st spec. sess., ch. 13, § 1](#))

Source: *Boundary Waters Wilderness Ecosystem*, by Myron Heinselman, 1996, University of Minnesota Press and information supplied by Janet Green, Duluth.

## Minnesota Statutes Related to the BWCA Wilderness

### 1933 – “*Little Shipstead-Newton-Nolan Act*” ([Minn. Stat. §§ 103G.545, 92.45, 282.018](#))

“Dams and water level control in Cook, Lake, and St. Louis counties” ([Minn. Stat. § 103G.545](#))

- “specific authority must be given by law ... to control structures or water levels with or bordering on the area of Cook, Lake, and St. Louis counties designated in the **Act of Congress of July 10, 1930**, United States Code, title 16, section 577” ([Minn. Stat. § 103G.545](#), subd. 2)

“State land on meandered lakes withdrawn from sale” ([Minn. Stat. § 92.45](#))

- “The commissioner must reserve the timber and impose other conditions the commissioner deems necessary to protect watersheds, wildlife habitat, shorelines, and scenic features. Within the area in Cook, Lake, and St. Louis counties described in the Act of Congress approved July 10, 1930... the timber on state lands is subject to restrictions like those now imposed by the act on federal lands.”

“Land by public waters, nonforested marginal land, wetlands” ([Minn. Stat. § 282.018](#))

- “All land which is the property of the state as a result of forfeiture to the state for nonpayment of taxes... within the area in Cook, Lake, and St. Louis counties described in the Act of Congress approved July 10, 1930 (46 Stat. 1020), the timber

on tax-forfeited lands shall be subject to like restrictions as are now imposed by that act on federal lands”

**1949 – Regulation of aircraft and motorboats in the “Wilderness area” (Minn. Stat. §§ 84.43 and 84.44)**

“Wilderness area” shall mean any of the following areas or parts thereof:

- (1) all those portions of the Superior National Forest described in section 2 of Public Law Number 733, 80<sup>th</sup> Congress, approved June 22, 1948, and all public waters included therein or bordering thereon except the following: *Crane Lake, Moose Lake, Snow Bank Lake, Sawbill Lake, Brule Lake, Big Lake Saganaga Lake, Seagull Lake, Clearwater Lake, East Bearskin Lake* [emphasis added]
- (2) such other areas as may be designated by the commissioner of natural resources... within the present boundaries of the Superior National Forest and the Kabetogama and Pigeon River purchase units”

“Declaration of policy” (Minn. Stat. § 84.44)

- “It is hereby declared that regulation and control of the operation of aircraft and watercraft upon or over any wilderness area and public waters therein is necessary for the protection and promotion of public health, safety and welfare and other interest of the public therein for the protection and conservation of natural wilderness conditions and other natural resources therein for the public benefit”

**1976 – Prohibition of mining and peat harvesting in the BWCA (Minn. Stat. § 84.523)**

“Definition”

- For the purposes of this section, the term “boundary waters canoe area” means that area of lands and waters included within the boundaries designated in federal regulations REG U-3, Code of Federal Regulations, title 36, section 293.16, as regulation provided on January 1, 1975.” (Subd. 1)

“Determination”

- In the event of a national emergency declared by Congress which requires, for the protection of national interests, exploitation of natural resources of the type found in the Boundary Waters Canoe Area, the commissioner of natural resources shall investigate and determine if there are reasonable alternative methods for providing the needed resources. If the investigation shows there are reasonable alternatives to exploitation of natural resources in the area, no permit for development shall be issued. If the commissioner of natural resources determines there is a need to provide resources from within the Boundary Waters Canoe Area, and that there is no reasonable alternative available to meet the need, a permit may be issued upon approval by the state legislature. (subd. 5)

*For more information about the state’s natural resources, visit the environment and natural resources area of our web site, [www.house.mn/hrd/issinfo/environ.htm](http://www.house.mn/hrd/issinfo/environ.htm).*