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**Sent:** Saturday, January 16, 2021 12:07 PM  
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**Subject:** HF133 testimony for Tuesday's Environment and Natural Resources and Policy Committee Meeting Agenda Item

Stephanie Chappell

January 16, 2021

RE: House File 133

Dear Members,

HF133 needs to strike new language to protect Minnesota under federal law. The words “AND TRIBAL” need to be stricken from HF133 and all future bills related to State lands under sale or conveyance. The addition of a repeal is also requested to keep Minnesota and United States language appropriate under U.S. Supreme Court ruling. Presently, HF133 reads

1.1 A bill for an act  
1.2 relating to state lands; modifying provisions for conveying state land interests;  
1.3 adding to and deleting from state parks and recreation areas; authorizing sales of  
1.4 certain state lands; amending Minnesota Statutes 2020, sections 84.63; 92.502.  
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2020, section 84.63, is amended to read:  
1.7 **84.63 CONVEYANCE OF INTERESTS IN LANDS TO STATE ~~AND~~, FEDERAL,**  
1.8 **AND TRIBAL GOVERNMENTS.**  
1.9 (a) Notwithstanding any existing law to the contrary, the commissioner of natural  
1.10 resources is hereby authorized on behalf of the state to convey to the United States, to a  
1.11 federally recognized Indian tribe, or to the state of Minnesota or any of its subdivisions,  
1.12 upon state-owned lands under the administration of the commissioner of natural resources,  
1.13 permanent or temporary easements for specified periods or otherwise for trails, highways,  
1.14 roads including limitation of right of access from the lands to adjacent highways and roads,  
1.15 flowage for development of fish and game resources, stream protection, flood control, and  
1.16 necessary appurtenances thereto, such conveyances to be made upon such terms and  
1.17 conditions including provision for reversion in the event of non-user as the commissioner  
1.18 of natural resources may determine.

HF133 replicates several bills from the 2019-2020 regular and special sessions. The portion represented by the 2021-22 session contains identical word additions that set in motion an end to State legal recourse. Per Supreme Court rulings of 1831 and 1832 States have no authority to interact with dependent domestic nations; federally recognized Indian tribes.

Minnesota as a State cannot interact with a domestic dependent nation. The definition of tribes as dependent on the United States (not individual states) was established in The Marshall Trilogy, a set of three U.S. Supreme Court decisions.

Namely, Cherokee Nation V. Georgia (1831) ruled an Indian nation was dependent on the United States. The ruling changed the outcome of the Supreme Court's ability to even consider the case because the Court had no jurisdiction over a State and its agreements with a dependent nation. If Minnesota allowed the DNR or any State office to make act on behalf of the State, the State would be unable to challenge its agreement. The 1831 ruling stands today.

A second case in the Trilogy, 1832's Worcester V. Georgia, the U.S. Supreme Court determined only the United States had authority to interact with Indian nations. The Trilogy also further framed Indian nations' ability to rule their people as a sovereign nation guiding their domestic dependent nation under their own laws affecting their tribal members. Within Minnesota's borders, federally recognized tribes conduct tribal courts under sovereignty.

Should Minnesota convey land or otherwise make agreements with federally recognized tribes, the State has no recourse under federal or state law per the 1831 decision. 1832's decision further signifies the State's obligation to not acknowledge tribal governments as those are set by federal guidelines and not by state guidelines.

Minnesota needs to abide by Supreme Court decisions of 1831 and 1832 until those decisions change by federal law or trial. The term "tribal governments" needs to be stricken from HF133 and any additional bills serving the purpose of giving any agency power to represent Minnesota with federally recognized Indian tribes.

Please amend HF133 to keep federal jurisdiction an option for the State of Minnesota. This would also include adding language to retract a section from a 2017 bill conveying Redwood County land to the Lower Sioux Indian Community, a federally recognized Indian tribe for the purpose of Indian Trust. In 2019 and 2020, DNR was secured to conduct title and land research by the Historical Society for the sole purpose of transferring land on the National Register of Historic Places for Indian Trust, making the land part of the Lower Sioux Indian Community's reservation and no longer eligible for State protective action in the event the land or historic sites, including buildings and burials, were disturbed. The reason given for conveyance was Indian trust per documents provided under a public comment period offered by DNR policy.

Repeal of Laws of Minnesota, 2017, Regular Session, Chapter 54, Section 23 Sec. 23

(description follows). CONVEYANCE OF LAND; REDWOOD COUNTY. (a) Notwithstanding Minnesota Statutes, sections 16A.695 and 16B.281 to 16B.298, or any other law to the contrary, the director of the Minnesota Historical Society may convey to the Lower Sioux Indian Community in the state of Minnesota for no consideration the surplus land that is described in paragraph (c). (b) The conveyance must be in a form approved by the attorney general. The attorney general may make changes to the land description to correct errors and ensure accuracy. (c) The land to be conveyed is located in Redwood County and is described as: (1) that part of the Northeast Quarter of the Northwest Quarter of Section 8, Township 112, Range 34, Redwood County, Minnesota, described as follows: beginning at the northeast corner of said Northeast Quarter of the Northwest Quarter; thence on an assumed bearing of South 00 degrees 20 minutes 07 seconds East along the east line of said Northeast Quarter of the Northwest Quarter, a distance of 569.40 feet; thence on a bearing of South 79 degrees 56 minutes 34 seconds West, 170.15 feet; thence on a bearing of South 26 degrees 08 minutes 59 seconds West, 640.67 feet to the centerline of County State-Aid Highway (C.S.A.H.) 2 as shown on Redwood County Right of Way Plat No. 3 C.S.A.H. Number 2 as of public record, Redwood County, Minnesota; thence on a bearing of North 13 degrees 35 minutes 11 seconds West, 618.69 feet; thence on a bearing of South 89 degrees 40 minutes 12 seconds West, 28.75 feet; thence on a bearing of South 00 degrees 19 minutes 48 seconds East, 28.75 feet; thence on a bearing of South 63 degrees 45 minutes 49 seconds West, 776.48 feet to a point on the centerline of said C.S.A.H. 2, said point also being on the west line of

said Northeast Quarter of the Northwest Quarter; thence on a bearing of North 00 degrees 10 minutes 02 seconds West along the west line of said Northeast Quarter of the Northwest Quarter, a distance of 941.91 feet to the northwest corner of said Northeast Quarter of the Northwest Quarter; thence on a bearing of North 89 degrees 51 minutes 56 seconds East along the north line of said Northeast Quarter of the Northwest Quarter, a distance of 1,319.72 feet to the point of beginning. Subject to easements of record; (2) that part of the Northwest Quarter of the Northwest Quarter of Section 8, Township 112, Range 34, Redwood County, Minnesota, lying South of the following described line: commencing at the northwest corner of said Section 8; thence on an assumed bearing of South 00 degrees 00 minutes 00 seconds East along the west line of said Section 8, a distance of 696.45 feet to the centerline of County State-Aid Highway (C.S.A.H.) 2 as shown on Redwood County Right of Way Plat No. 3 C.S.A.H. Number 2 as of public record, Redwood County, Minnesota, said point being the point of beginning of the following described line; thence on a bearing of South 62 degrees 28 minutes 55 seconds East along last said centerline, 25.95 feet; thence southeasterly 571.04 feet along last said centerline, along a tangent curve concave to the northeast, having a radius of 1,432.4 feet and a central angle of 22 degrees 50 minutes 30 seconds; thence on a bearing of South 00 degrees 00 minutes 00 seconds East, nontangent to last said curve, 123.98 feet; thence on a bearing of North 89 degrees 54 minutes 50 seconds East, 729.36 feet to the east line of said Northwest Quarter of the Northwest Quarter and said line there terminating. Subject to easements of record. Subject to the rights of the public in C.S.A.H. 2; and (3) Government Lots 5 and 6, Section 5, Township 112 North, Range 34 West. (d) The Minnesota Historical Society has determined that the state's land management interests and interpretive program interests would best be served if portions of the Lower Sioux Agency Historic Site were conveyed to the Lower Sioux Indian Community in the state of Minnesota to operate as a historic site open to the public.

I appreciate your time and work in amending HF133 to strike the words “AND TRIBAL” from the bill while adding a repeal of Redwood County land conveyance from the 2017 Omnibus Lands Act to keep Minnesota’s options open and integrity as a State within the United States.

Thank you,

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