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Whether DOC May Sell Timber Harvested From DOC Properties Other than Forest Land

The Department may sell timber cut from parks, conservation areas and its other lands so long as the cutting is incidental to and consistent with primary purposes for which the Department manages the land and is justified by sound land management practices. When the cutting itself is therefore justified under the broad statutory authority of Chapter 127, Sec. 63a8 (which does not limit the DOC forestry management responsibility to any particular lands), and Chapter 105, Sec. 468, the disposal of the timber by sale or otherwise, is authorized by Chapter 127, Sec. 63a26 and 63a27:

63a26: Sale of Surplus Agricultural Products. To sell surplus agricultural products grown on land owned by the Department, when such products cannot be used by the Department.

63a27: Sale of Gravel, Sand or Other Materials. To sell gravel, sand, earth or other material from any State of Illinois owned lands or waters under the jurisdiction of the Department, at a fair market price. The proceeds from such sales shall be deposited in the Game and Fish Fund in the State Treasury.

I think forest products may be included in either of the above statutes. More important, the general powers of the Department set forth in Chapter 105, Sec. 468, include:

The Department of Conservation has the power (1) To make rules and regulations for the use, care, improvement, control and administration of State parks and nature preserves, and to enforce the same; . . . ; (3) To lay out, construct and maintain all needful roads, parking areas, paths or trails, bridges and docks, camp or lodge sites, picnic areas, beach houses, lodges and cabins and any other structures and improvements necessary and appropriate in any state park or easement thereto; and to provide water supplies, heat and light, and sanitary facilities for the public and living quarters for the custodians and keepers of state parks; (4) To replant any devastated native plant areas of

of any state park or increase or supplement the same which is necessary with plant material indigenous to such park; . . . ;
(6) To cooperate and contract with any agency, organization or individual in a manner consistent with the purposes of this Act and the powers granted the Department of Conservation herein.

Because these statutes confer broad authority to take necessary actions to discharge its responsibilities, e.g., construct facilities, make rules, enforce laws and contract with other persons, the Department can lawfully exercise discretion with respect to the disposition of timber. The central point is whether the cutting itself is lawful. If the cutting is unlawful, any disposition will be unlawful. If the cutting is justified because it improves visitor access, is incidental to construction of facilities, or is based on other bona fide land management objectives, the cutting and disposition, by sale or internal consumption, is lawful.

Chapter 57 $\frac{1}{2}$ regarding Forestry does not alter or contradict the above comments.

I suggest that an Administrative Order be prepared to cover this type of timber sale. The Order should cover the approval of the decision to cut, procedures for bid letting, if applicable, and other related rules.

cc: Dir. Kenney, Tamminga, Norbut, VanMeter, Wills, File

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