

Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40__



November 8, 2012

Matthew Tyler
6722 Park Hill Road
Finland, MN 55603-4036

RE: Citizen Petition for EAW Pertaining to Mineral Leases

Mr. Tyler:

Please find the attached Record of Decision in response to the citizen petition for an Environmental Assessment Worksheet (EAW) to be prepared for the 33rd Sale of State Metallic Leases. The Minnesota Department of Natural Resources (MDNR) will not be preparing an EAW for the Metallic Mineral Lease Sale because the sale of leases does not constitute a project under Minnesota Rules Chapter 4410. The details of this decision are contained in the Record of Decision. However, because the MDNR is unable to act on the petition at this time the petition will remain in effect for one year from when it was received by the Environmental Quality Board (EQB) on September 26, 2012. If any exploration plans are submitted to MDNR on any of the parcels identified in the petition within this time period, the MDNR will evaluate the need for an EAW at that time. You may contact me at (651) 259-5156 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randall Doneen", with a long horizontal flourish extending to the right.

Randall Doneen
Environmental Review Planning Director

C: Environmental Quality Board

Attachment – Record of Decision for the Petition for an EAW for the 33rd Sale of State Metallic Leases

**STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES**

RECORD OF DECISION

In the Matter of the Petition for an
Environmental Assessment Worksheet
for the 33rd Sale Of State Metallic Leases
in Aitkin, Lake, and Saint Louis Counties,
Minnesota

**FINDINGS OF FACT,
CONCLUSIONS, AND
ORDER**

FINDINGS OF FACT

1. On July 16, 2012 the Minnesota Department of Natural Resources (MDNR) issued a Notice of Intent to hold the State's 33rd Metallic Minerals Lease Sale. Areas under consideration for the lease sale cover portions of Aitkin, Lake, and Saint Louis Counties. As required under Minnesota Rules Part 6125.0500, the Notice of Intent was published in the July 23, 2012 Environmental Quality Board (EQB) Monitor.
2. On September 7, 2012 the MDNR issued the Notice of Sale of State Metallic Mineral Lease located in portions of Aitkin, Lake and Saint Louis Counties. As required under Minnesota Rules Part 6125.0500 the Notice of Sale was published in the September 17, 2012 EQB Monitor.
3. Minnesota Rules Part 4410.1100 allow any person to request the preparation of an EAW on a project by filing a petition meeting a number of requirements relating to project location, potential impacts, and submission of material evidence indicating that, because of the nature and location of the project, there may be potential for significant environmental effects.
4. On September 25, 2012 a petition for preparation of an Environmental Assessment Worksheet (EAW) for the State's 33rd Metallic Minerals Lease Sale was submitted to the EQB pursuant to Minnesota Rules Part 4410.1100.
5. Minnesota Rules Part 4410.1100, subpart 5 requires the EQB's chair or designee (EQB staff) to determine if petitions comply with signature and content requirements contained in Minnesota Rules Part 4410.1100, subparts 1 and 2. If the petition complies with the requirements EQB staff designate a Responsible Governmental Unit (RGU) and forward the petition to the RGU within five days.
6. The EQB staff designated MDNR as the RGU to determine the need for preparation of an EAW.
7. The MDNR received the petition from EQB staff on September 26, 2012

8. Minnesota Rules Part 4410.1100, subpart 7 allows the RGU fifteen working days from the date of receipt of the petition to decide on the need for an EAW. The fifteen-day period may be extended by EQB's chair by not more than fifteen days upon request of the RGU.
9. MDNR requested and was granted a fifteen day extension to decide on the need for an EAW.
10. Minnesota Rules Part 4410.1100, subpart 9 requires that a petition remain in effect for one year from the date it was received by the EQB if the RGU is unable to act on the petition because no permit application has been filed, the application has been withdrawn, or the application has been denied. While the petition remains in effect, Minnesota Rules Part 4410.3100, subparts 1 and 2 (Prohibition on Final Governmental Decisions), applies to any proposed project for which the nature and location is substantially similar to the project identified in the petition.
11. Minnesota Rules Part 4410.0200, subpart 65 defines a project as, "...a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project."
12. The petition asserts the MDNR should prepare an EAW prior to auctioning the mineral leases included in the State's 33rd Metallic Minerals Lease Sale. The petition provides the following points:
 - a. Specific resources within or near several of the proposed lease locations including trails, trout streams, wetlands, private land parcels, homes, wellhead management zones, drinking water wells, rivers/streams, sites of high biological diversity, a municipal area, a national wildlife refuge, and Federal Land within the Superior National Forest.
 - b. Mineral leases last for 50 years and include the rights to prospect for minerals that may result in the following environmental effects:
 - i. Contamination of drinking water wells
 - ii. Contamination of wetlands, rivers, streams, trout streams, and riparian areas from sulfates and toxic metals
 - iii. Loss of access to trout streams, snowmobile trails, and hunting areas
 - iv. Degradation of wetlands and sensitive ecological land types from drilling and road construction
 - v. Loss of property rights and property value due to threat of eminent domain for private lands overlying mineral leases.
 - c. The sale of state mineral leases and development of a sulfide-mining district may result in contamination of water, destruction of aquatic species, loss of wetlands, contamination of groundwater, degradation of areas of high biological diversity, and impairment of habitat for rare species.

13. Minnesota Rules Part 4410.1100 requires petitions to include material evidence indicating that, because of the nature and location of the proposed project, there may be potential for significant environmental effects.
14. The petition for an EAW for the State's 33rd Metallic Mineral Lease Sale included maps identifying potential lease areas and other resource features, the executive summary from the United States Department of Agriculture (USDA) Forest Service Federal Hardrock Mineral Prospecting Permits Project Final Environmental Impact Statement (EIS) May 2012, MDNR Forest Inventory and Management wetland identification procedure, and legal descriptions of the mining units being offered for lease.
15. Minnesota Rules Parts 6125.0100 to 6125.0700 provides the regulations for metallic minerals leases on state-owned land, state-administered lands, and state mineral interests that have been severed from the land. A summary of the process of metallic mineral lease sales described in the rules includes:
 - a. Notice of intent to conduct a sale.
 - b. Notice of the sale that includes time and place of sale, mining units offered for sale, bid forms, and other information as determined by the MDNR commissioner.
 - c. Public opening of bids with the highest bidder requested to provide evidence that the bidder is qualified to hold a state metallic minerals lease.
 - d. Leases are awarded by the MDNR commissioner with approval of the State Executive Council.
16. Minnesota Rules Part 6125.0700, subpart 26 requires lessee to submit an exploration plan to the commissioner in writing twenty days in advance of any exploration on the leased premises. This exploration plan must include:
 - a. Location of proposed activities.
 - b. Type of exploration activities proposed including type of activity, sampling method, and types and sizes of vehicles and equipment to be used.
 - c. Approximate beginning and ending dates of proposed activities.
 - d. Methods of mitigation to minimize to the extent practicable adverse impacts on special features or uses.
 - e. Location and method of access including proposed construction of roads and trails.
 - f. Proposed plan for site closure and stabilization if needed.

The commissioner will identify any special features or uses on the premises and may adjust the plans for exploration or plans for access road and trails due to special features, uses, or other natural resource management concerns. Unless notified to the contrary by the commissioner within 20 days after receipt of the exploration plans by the commissioner, the lessee may proceed with exploration as described in the submitted exploration plans.

17. Minnesota Rules Part 6125.0700, subpart 23 identifies that provisions of metallic minerals leases are subject to all applicable state and federal statutes, orders, rules and regulations,

and all operations under leases shall be conducted in conformity with them, including the applicable mine land reclamation statutes and rules.

18. MDNR data on metallic minerals (non-ferrous) leasing from 1966 to 2012 include 3,379 leases of which 387 or 11% are still active. During this same time period a total of 120,659 parcels have been offered for lease, some of these parcels have been offered more than once. Within this 46 year period: an estimated 19% of forty acre leased parcels had at least one geochemical sample taken; An estimated 2.4% of forty acre leased parcels had at least one drill hole; A ratio of approximately 1 out of 200 forty acre parcels leased has had mineral deposit evaluation activity.
19. Minnesota Rules Part 4410.4600, subpart 8 exempts from environmental review general mine site evaluation activities that do not result in a permanent alteration of the environment, including mapping, aerial surveying, visual inspection, geologic field reconnaissance, geophysical studies, and surveying, but excluding exploratory borings.
20. Minnesota Rules Part 4410.4300, subpart 11A. requires EAW preparation for mineral deposit evaluation of metallic mineral deposits other than natural iron ore and taconite.
21. EQB's *May 2010 Guide to Minnesota Environmental Review Rules* provides clarification that mineral deposit evaluation is the examination of an area to determine the quantity and quality of minerals, excluding exploratory boring, but including bulk samples obtained by excavating; trenching; constructing shafts, tunnels or pits; producing refuse and other associated activities.
22. MDNR has not received any exploration plans for any of the mining units contained in the State's 33rd Metallic Minerals Lease Sale.

CONCLUSIONS

1. The sale of metallic mineral leases does not directly or indirectly result in physical manipulation of the environment. The sale of mineral leases may or may not result in mineral deposit evaluation. The State's 33rd Metallic Minerals Lease Sale is not a project as defined in Minnesota Rules Part 4410.0200, subpart 65.
2. Requiring adjustment of exploration plans or determining if explorations plans are acceptable is a governmental action under Minnesota Rules Part 4410.0200, subpart 33.
3. The MDNR cannot act on the petition because no exploration plan for mineral deposit evaluation has been submitted for review. The petition shall remain in effect until September 25, 2013 and shall apply to any proposed project for which an exploration plan has been submitted and in which the nature and location is substantially similar to the alleged project identified in the petition.

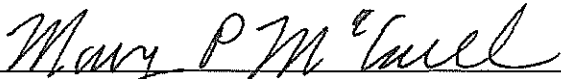
ORDER

Based on the above Findings of Fact and Conclusions:

The Department of Natural Resources determines that an Environmental Assessment Worksheet **will not** be prepared for the proposed State's 33rd Metallic Minerals Lease Sale in Aitkin, Lake and Saint Louis Counties, Minnesota, as requested by the petition submitted to the EQB. No projects substantially similar in nature and location to the alleged projects identified in the petition, and for which an exploration plan for mineral deposit evaluation has been received, shall be given final approval or implemented during the next year from the date the petition was filed with the EQB until a determination of the need for an EAW is determined pursuant to Minnesota Rules Part 4410.1100, subpart 6.

Dated this 8th day of November, 2012.

STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES



MARY McCONNELL
Assistant Commissioner