

Minnesota landowners have raised questions about the mineral rights below their land and what actions the State and prospecting/mining companies may take regarding these rights. WaterLegacy¹ has compiled the following information to assist landowners.

MINERAL LEASING FACTS, LAWS AND QUESTIONS

Facts

- There are 12.4 million acres of state-owned mineral rights in the State of Minnesota. In addition to iron ore and taconite leases, Minnesota's Department of Natural Resources (DNR) administers metallic minerals, peat, and industrial mineral leases.²
- In April 2011, four mining companies bid on about 22,000 acres under which the state owns mineral rights, much of it in western Lake County. The DNR had offered 652 mining units across 226,000 acres in Lake, St. Louis and Koochiching counties in April, but many areas did not receive bids. About 20 percent of the units offered were below private land.³
- In June 2011, Minnesota's Executive Council, composed of the Governor, Lt. Governor, Attorney General, Secretary of State and Auditor, voted to postpone 77 mineral exploration leases saying that the DNR hadn't sufficiently notified landowners of possible mining under their land. This was the first time since 1982 that the Executive Committee hasn't approved a DNR lease package.⁴
- The meeting of the Executive Council scheduled for September 7, 2011 was also postponed, since the DNR had not notified all private landowners affected by leases in time for the meeting. A special meeting of the Executive Council on approval of the leases has been scheduled for October 5, 2011, 11:00 am at the State Capitol.⁵
- Companies prospecting for copper, nickel, titanium, platinum, gold and other metals across northern Minnesota from Aitkin County to Lake County include PolyMet, Franconia, Twin Metals, Cardero, Kennecott, Teck and Encampment Minerals.⁶

Laws

Minnesota statutes say the State "hereby reserves for its own use all the iron, coal, copper, gold, and other valuable minerals" in or upon all lands which now or hereafter belong to the state by virtue of any act of Congress other than federal or railroad lands. (Minn. Stat. 93.01).

Even if land has been transferred several times and the sale documents do not explicitly say that the sale did not include mineral rights, the State may retain mineral rights reserved for its own use. (Minn. Stat. 93.02). However, certain historic transactions may preclude reservation of mineral rights to the State. *Hughes v. Thornton*, 155 Minn. 432, 193 N.W. 723 (1923).

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² Office of Legislative Auditor, *School Trust Land*, <http://www.auditor.leg.state.mn.us/ped/1998/st198.htm>

³ *DNR Northland mining leases delayed again*, Duluth News Tribune Sept. 1, 2011, <http://www.duluthnewstribune.com/event/article/id/208232/group/homepage/>

⁴ *Minnesota officials send mining leases back to DNR*, Duluth News Tribune, June 9, 2011 https://secure.forumcomm.com/?publisher_ID=36&article_id=201621

⁵ *DNR Northland mining leases delayed again, supra*; 9-19-11 calls to MDNR, Executive Council on schedule.

⁶ *DNR Northland mining leases delayed again, supra*.

The State can sell, lease or contract for mineral rights on private property as if the lands were still owned by the State, and the holder of such a lease or contract “shall have the right to enter upon these lands and to prospect for, mine, and remove such minerals and, for this purpose, to construct all necessary roads, buildings, and improvements thereon, including machinery for mining or removing such minerals.” (Minn. Stat. 93.04).

However, before entering upon private lands, the holder of a mineral lease must pay or secure to the owner all damages which may arise to the landowner. The payment must be determined by mutual agreement. If the parties can’t agree, the holder of a mineral lease can request the Attorney General to condemn the private lands or any rights-of-way or easements needed for prospecting or mining. (Minn. Stat. 93.05, Subd 3, Subd. 4).

Minnesota law requires environmental review for government action, including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by units of government (Minn. Stat. 116D.04, Subd. 1a). Multiple projects and multiple stages of a project must be considered in determining the need for environmental review. Minn. R. 4410.1000.

Minnesota statutes authorize county boards to enact zoning ordinances establishing districts where land uses may be encouraged, regulated, or prohibited. (Minn. Stat. 394.25, Subd. 2) An application for a permit to mine requires submission of zoning ordinances and applicable land use plans. (Minn. R. 6132.1100, Subp. 5 (12))

Questions to ask State officials:

- A federal EIS is being prepared for prospecting in the Superior National Forest. Has the DNR conducted an environmental review of the potential social, land use, economic and natural resources impacts of proposed multiple leasing and prospecting activities?
- What analysis has been done of specific properties proposed to be leased to determine whether and how the State has a claim to reservation of mineral interests?
- Are landowners and prospecting/mining entities being informed that the holder of a mineral lease should not enter upon private lands until payment or security for potential damages to the landowner have been agreed upon or condemnation initiated?
- Do the contracts between the DNR and the prospecting/mining entities require that the entity demonstrate agreement with the landowner before entering upon private lands?
- Under what circumstances would the Attorney General condemn private lands or easements needed for prospecting or mining? Is there a limit to this potential authority?
- Has the State considered impacts local zoning and land use planning may have on the ability of a prospecting/mining entity to conduct prospecting or mining activities?

Notice

This fact sheet does not provide legal advice. Please consult a private attorney if you are concerned about potential leasing of mineral rights on your property.

Resources

- To join with landowners concerned about mineral rights on private lands, please contact Ron Brodigan at 218.365.2126 or courses@schooloflogbuilding.com
- For more information on mining in Minnesota, sign up at <http://waterlegacy.org/>