

# MINNESOTA STATUTES 1953 ANNOTATIONS

201

MINERAL LANDS 93.08

taxes the amounts paid by the holder of the certificate for interest and principal being at the rate of 12 percent per annum. OAG May 14, 1947 (421-A-9).

92.58 Repealed, 1943 c 321 s 2.

92.60, 92.61 Repealed, 1943 c 321 s 2.

92.62 **EXPENSES; HOW PAID**

HISTORY. 1862 c 62 s 27.

## CHAPTER 93

### MINERAL LANDS

93.01 **MINERALS, WATER POWERS; RESERVATION**

HISTORY. 1866 c 36 s 1-4; 1867 c 24 s 1-13; 1889 c 22 s 1-9; 1901 c 104 s 1, 2; 1909 c 109 s 1.

93.04 **DISPOSITION OF MINERALS RESERVED**

Where a tract of land in a conservation area, established under sections 84A.20 to 84A.30, is sold to a private individual under the provisions of sections 282.14 to 282.22, subject to a reservation of minerals, sand and gravel are not included in the reservation. OAG Aug. 13, 1946 (311-J).

Marl is a mineral within the meaning of constitutional and statutory provisions creating mineral reserves in favor of the state. OAG Feb. 28, 1951.

93.05 **HOLDER OF PERMIT OR LEASE**

HISTORY. 1907 c 411 s 1, 2; 1949 c 593 s 1.

93.055 **ACTION TO QUIET TITLE TO LANDS COVERED BY MINERAL PERMIT OR LEASE**

HISTORY. 1949 c 594 s 1.

93.06 **RESERVATION OF MINERALS UNDER NAVIGABLE LAKES**

Ownership of beds of navigable waters and power to convey mineral rights when the state has title. 32 MLR 484, 534.

Reservation of minerals under navigable lakes. 33 MLR 48.

The state cannot sell or lease beds of lakes except upon express authority given by the legislature. OAG Jan. 3, 1947 (311-D-5).

93.08 **PROSPECTING FOR MINERALS UNDER WATERS OF MEANDERED LAKES AND STREAMS**

HISTORY. Ex1936 c 42 s 1-4; 1947 c 473 s 1, 2; 1953 c 537 s 1.

A permit for the construction of dykes in conjunction with mining ore to prevent seepage of lake water into the mining pit cannot be granted except under direct legislative authority. OAG Jan. 3, 1947 (311-D-5).

**93.13 DRAINING OF LAKES AND LEASING OF ORE LANDS IN BEDS THEREOF**

A permit for the construction of dykes in conjunction with mining ore to prevent seepage of lake water into the mining pit cannot be granted except under direct legislative authority. OAG Jan. 3, 1947 (311-D-5).

Laws 1947, Chapter 409, does not supersede Laws 1937, Chapter 118. Both are in full force and effect. OAG Nov. 20, 1952 (311-D-4).

Laws 1937, Chapter 468, is continued in force by Laws 1947, Chapter 142. OAG Nov. 20, 1952 (311-D-4).

**93.15 MINING UNITS; DESIGNATION; AREA**

HISTORY. 1921 c 412 s 2; 1925 c 395 s 1; 1927 c 389 s 1; 1941 c 546 s 1; 1943 c 233 s 1; 1951 c 547 s 1; 1953 c 558 s 1.

Laws 1943, Chapter 233, clarifies the distinction between taconite and non-taconite land. 31 MLR 43.

**93.16 PERMITS; SALE, NOTICE**

HISTORY. 1921 c 412 s 3; 1925 c 395 s 1; 1927 c 389 s 1; Ex1933 c 14 s 1; 1941 c 546 s 2; 1951 c 547 s 2.

**93.17 APPLICATION FOR PERMITS; BIDS; AWARDS**

HISTORY. 1889 c 22 s 2; GS 1894 s 4077; 1895 c 105 s 2; 1897 c 312; 1903 c 225; 1921 c 412 s 4; 1925 c 395; 1927 c 389 s 1; 1941 c 546 s 3; 1949 c 434 s 1; 1951 c 547 s 3.

Where the permittee did not comply with the terms of a prospecting permit or secure a lease during the term of the permit, he is not eligible to secure a permit on the same lands the next following year except in case an intervening permit were granted on the land to some other applicant. OAG Jan. 16, 1948 (311-G).

**93.18 PERMIT HOLDERS; RIGHTS, DUTIES**

HISTORY. 1889 c 22 s 2; 1895 c 105 s 2; 1897 c 312; 1903 c 225; 1921 c 412 s 5; 1925 c 395; 1927 c 389 s 1; 1951 c 546 s 1.

The legislature intended that where an iron ore prospecting permit had been issued to an applicant for a period of one year and the permittee did not during the year, secure a lease, he would not be eligible to secure a permit on the same land the next following year unless intervening permit had expired or cancelled. OAG Jan. 16, 1948 (311-G).

**93.19 PERMIT HOLDERS; LEASES, ROYALTIES**

HISTORY. 1889 c 22 s 3; GS 1894 s 4078; 1895 c 105 s 3; 1903 c 317; 1921 c 412 s 6; 1925 c 389 s 1; 1941 c 546 s 4; 1943 c 233 s 2; 1951 c 546 s 2.

**93.191 IRON ORE MINING LEASE, MODIFICATION**

HISTORY. 1947 c 111 s 1, 2; 1951 c 546 s 3.

Where a tract of land in a conservation area, established under sections 84A.20 to 84A.30, is sold to a private individual under the provisions of sections 282.14 to 282.22, subject to a reservation of minerals, sand and gravel are not included in the reservation. OAG Aug. 13, 1946 (311-J).

Where an application is made by a licensee to convert a mining lease to a taconite iron ore mining lease which change is permitted, the effective date of the conversion is the date upon which the commissioner's determination is approved by the executive council. OAG Sept. 12, 1953 (311-D-4).

**93.192 STATE LEASE TO ADJACENT PERMITTEE**

When iron mining leases are extended by the state for an additional term the extended lease may be amended pursuant to section 93.13 to include ore underneath the bed of a lake, but such ore cannot be removed without first obtaining a permit as provided by law. OAG Nov. 20, 1952 (331-B-4).

The discretionary authority conferred upon the commissioner of conservation extends only to the duty of determining whether the permit-holder has complied with the conditions of the permit and of the applicable law, and whether the land covered by the permit is principally valuable for taconite, and of no substantial value because of merchantable deposits of iron ore, as described in section 93.20, found therein. The executive council's discretionary authority extends only to an approval of the determination of the commission. OAG Sept. 23, 1953 (311-D-4).

**93.20 RENTALS, ROYALTIES, FORM OF LEASE**

**HISTORY.** 1889 c 22 s 4; 1895 c 105 s 4; 1921 c 412 s 7; 1925 c 395; 1927 c 389 s 1; 1941 c 546 s 5; 1951 c 616 s 1-3; 1953 c 421 s 1; 1953 c 552 s 1-3.

Where a tract of land in a conservation area, established under sections 84A.20 to 84A.30, is sold to a private individual under the provisions of sections 282.14 to 282.22, subject to a reservation of minerals, sand and gravel are not included in the reservation. OAG Aug. 13, 1946 (311-J).

If sulphides or other sulphur ores are believed to exist in lands, the commissioner of conservation and the lessee of the property together with the commissioner of iron range resources and rehabilitation may enter into a contract for development and the commissioner of iron range resources and rehabilitation, with the consent and under the direction of the iron range resources and rehabilitation commission, may use \$25,000 of the commission's funds for drilling on the leased land in question. The drilling is not for the benefit of the lessee but is only incidental for the purpose of relief provided for by section 298.22 and the purpose of the use of the fund allocated is a question of fact to be determined by the state officers authorized by section 298.22 to make expenditures. OAG Dec. 14, 1948 (416-B).

Where a lessee of iron mining sends a written notice of intention to terminate the lease to the commissioner of conservation, such notice fixes the rights of the parties and 60 days thereafter the lease terminates. There is no statute authorizing the lessee to withdraw his notice of termination and the commissioner has no power to continue the lease after notice has been given of intention to terminate. OAG March 2, 1949 (311-L-2).

**93.201 ROYALTIES FOR TACONITE CONCENTRATES**

**HISTORY.** 1943 c 233 s 3; 1949 c 616 s 1, 2.

Laws 1943, Chapter 233, Section 3, coded as section 93.201, is intended to replace the third paragraph of the schedule found in section 93.20. 31 MLR 44.

**93.22 DISPOSAL OF MONEYS RECEIVED**

**HISTORY.** 1889 c 22 s 5; 1895 c 105 s 5; 1921 c 412 s 9; 1925 c 395 s 1; 1927 c 389 s 1.

**93.24 MINING OF OTHER THAN IRON ORES**

**HISTORY.** 1889 c 22 s 7; 1895 c 105 s 7; 1921 c 412 s 11; 1925 c 395; 1927 c 389 s 1; 1941 c 329; 1947 c 96 s 1; 1951 c 546 s 4.

**93.25 ORES OTHER THAN IRON; PROSPECTING PERMITS, LEASES**

**HISTORY.** 1921 c 412 s 12; 1925 c 395 s 1; 1927 c 389 s 1; 1949 c 565 s 1; 1953 c 538 s 1.

The director of the division of public institutions may execute an oil and gas lease on state property of which he is trustee ex officio. Section 93.25 is not applicable. OAG Jan. 4, 1952 (89-B).

**93.251** Obsolete.

**93.252-93.257** Repealed, 1953 c 540 s 1.

**93.283 IRON ORE; PROSPECTING; ENCOURAGEMENT**

**HISTORY.** 1943 c 277; 1951 c 171 s 1-4; 1953 c 551 s 1, 2.

Notwithstanding the provisions of section 282.241 as amended by Laws 1947, Chapter 490, the commissioner of conservation is authorized to issue to applicants, permits to prospect for iron ore on tax-forfeited lands even though the right of repurchase exists in the former owner. OAG Jan. 14, 1948 (311-S).

If sulphides or other sulphur ores are believed to exist in lands, the commissioner of conservation and the lessee of the property together with the commissioner of iron range resources and rehabilitation may enter into a contract for development and the commissioner of iron range resources and rehabilitation, with the consent and under the direction of the iron range resources and rehabilitation commission, may use \$25,000 of the commission's funds for drilling on the leased land in question. The drilling is not for the benefit of the lessee but is only incidental for the purpose of relief provided for by section 298.22 and the purpose of the use of the fund allocated is a question of fact to be determined by the state officers authorized by section 298.22 to make expenditures. OAG Dec. 14, 1948 (416-B).

The commissioner of conservation may, with the approval of the executive council, classify lands that are subject to iron ore prospecting permits. There is no authority to receive applications for such permits until the land is classified. OAG April 12, 1950 (311-G).

Where a prospecting permit was issued from December 30, 1949; under this section the lease should have been issued in accordance with the provisions of sections 93.20 and 93.283 as they existed at the time of the issuance of the permit. Issuance of the lease containing the amended provisions of Laws 1951, Chapters 171 and 616 would impair the obligation of the contract. OAG Oct. 30, 1951 (331-D).

**93.285 STOCKPILED IRON ORE**

**HISTORY.** 1945 c 342 s 1; 1951 c 520 s 1.

**93.335 STATE LANDS, MINERALS, MINERAL RIGHTS ACQUIRED UNDER TAX LAWS**

**HISTORY.** 1943 c 287 s 1; 1949 c 587 s 1; 1951 c 451 s 1.

**93.34 UNLAWFUL TO MINE UNDER PUBLIC WATERS**

Ownership of beds under navigable waters; mines and minerals; power to convey when the state has title. 32 MLR 484, 534.

In the instant case the riparian owners holding title to land bordering on Syracuse Lake under patents from the United States did not, by virtue thereof, acquire any title to the bed of said lake below low-water mark; and the sudden and artificial drainage of the lake under authority of the state for a temporary period, during which a substitute channel is provided, for the purpose of removing ore beneath the lake bed, does not constitute a reliction so as to vest title to the lake bed thus uncovered in the riparian owner. State v Longyear, 224 M 451, 29 NW(2d) 657.

Navigable waters are waters which are used or useable as highways of commerce. States organized as was Minnesota, in public domain, became vested upon admission to the Union entitled to bodies of all waters then navigable. The fact that ponds were not meandered does not establish that the waterway was not in fact navigable at the time of the survey. A waterway which, when the state was admitted to the Union, had capacity for floating logs only at high water, impounded

from spring thaws and freshets, and then only with the aid of dams and sluiceways and then only with difficulty, for three days in a normal year, was not "navigable" when the state was admitted to the Union, and title to its bed did not vest in the state by virtue of its admission to the Union. *Bingenheimer v Diamond Iron Mining Co.*, 237 M 332, 54 NW(2d) 912.

**93.35** Repealed, 1943 c 208 s 8.

**93.351 IRON ORE, PROSPECTING FOR IN BED OF STATE WATERS**

The purpose of Laws 1943, Chapter 208, coded as sections 93.351 to 93.357, is to encourage the prospecting for and mining of low grade ore and manganese located under state waters. 31 MLR 42.

Ownership of beds of navigable waters and power to convey mineral rights when the state has title. 32 MLR 484, 534.

Under Laws 1889, Chapter 22; Laws 1901, Chapter 104; Laws 1909, Chapter 45; Laws 1911, Chapter 291, Section 1; Laws 1917, Chapter 110; Laws 1931, Chapter 286; and Laws 1943, Chapter 208; relating to navigable waters, the legislature manifested an intent of reserving in the state the title and beneficial ownership of navigable lake beds and the mineral deposits therein. *State v Longyear*, 224 M 451, 29 NW(2d) 657.

Under federal law, water navigable in fact is navigable in law, and a stream or lake is "navigable" in fact when used or susceptible of being used in its natural and ordinary condition as a highway of commerce over which trade and travel are or may be conducted in customary modes, irrespective of the particular mode in which such use is or may be had in spite of occasional difficulties. The test of navigability to fix ownership of lake beds must be determined as of the date of the state's admission to the Union and under federal decisions with reference thereto. *State v Longyear*, 224 M 451, 29 NW(2d) 657.

In the instant case the riparian owners holding title to land bordering on Syracuse Lake under patents from the United States did not, by virtue thereof, acquire any title to the bed of said lake below low-water mark; and the sudden and artificial drainage of the lake under authority of the state for a temporary period, during which a substitute channel is provided for the purpose of removing ore beneath the lake bed, does not constitute a reliction so as to vest title to the lake bed thus uncovered in the riparian owner. *State v Longyear*, 224 M 451, 29 NW(2d) 657.

Where on June 14, 1943, pursuant to Laws 1943, Chapter 208, the commissioner of conservation and the executive council held a sale of permits to prospect for iron ore in certain lake beds; and where on June 17, 1943, the executive council awarded prospecting permits to the highest bidder in certain meandering lake bed mining units and authorized the issuance of permits; and further action at that time was deferred so that the permits were not issued, delay being caused by pending litigation; and the exigency causing the delay having been disposed of, the commissioner of conservation may now issue said permits even after a lapse of more than one year from the award and authorization by the executive council, the delay being caused under circumstances beyond the control of the applicant and without prejudice to the rights of the state. OAG Sept. 13, 1948 (311-G).

**93.354 PERMIT HOLDERS MAY RECEIVE LEASES; ROYALTIES**

"Mean low water, elevation contour" is "low water mark" in determining the outline of a navigable lake bed area to be included in an iron ore lease. OAG Nov. 22, 1946 (311-D-5).

**93.36** Repealed, 1943 c 208 s 8.

**93.41 STATE OWNED IRON-BEARING MATERIALS**

**HISTORY.** 1951 c 452 s 1; 1953 c 550 s 1, 2.