

93.38 MINERAL LANDS

CHAPTER 93. MINERAL LANDS

RESERVATIONS, PERMITS, LEASES		SEVERED MINERAL INTERESTS	
Sec.		Sec.	
93.38	Expense paid by lessee.	93.52	Clarification of ownership of severed mineral interests; verified statement as to interests.
RECLAMATION OF LANDS			
93.46	Definitions.	93.53	Repealed.
93.47	Duties and authority of commissioner.	93.54	Repealed.
93.481	Permit to mine [New].	93.55	Failure to file or re-file.
93.49	Bond of operator.	93.56	Repealed.
93.51	Penalties for violation.	93.57	Repealed.
		93.58	Publication of act.

RESERVATIONS, PERMITS, LEASES

93.38 Expense paid by lessee

The lessee, assignee, or sub-lessee shall, at his sole cost and expense, install and maintain all necessary scales, tracks, buildings, records, and supplies necessary or expedient in conducting such weighing; and the scale so installed shall conform to the types approved by the department of public service through the division of weights and measures.

[1973 c 35 s 23]

RECLAMATION OF LANDS

93.46 Definitions

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. "Mine waste" means any material, including but not limited to surface overburden, rock, lean ore, or tailings which in the process of mining and beneficiation has been removed from the earth and stored elsewhere on the surface.

[1973 c 526 s 1]

Subd. 4. [Repealed, 1973, c 526 s 8]

[For text of subds. 5 to 8, see M.S.1971]

93.47 Duties and authority of commissioner

[For text of subd. 1, see M.S.1971]

Subd. 2. In determining the extent and type of regulation required, the commissioner shall give due consideration to the effects of mining upon the following: (a) environment; (b) the future utilization of the land upon completion of mining; and (c) the wise utilization and protection of the natural resources including but not limited to the control of erosion, the prevention of land or rock slides, and air and water pollution. The commissioner also shall give due consideration to (a) the future and economic effect of such regulations upon the mine operators and landowners, the surrounding communities, and the state of Minnesota; (b) the effect upon employment in the state; (c) the effect upon the future mining and development of metallic minerals owned by the state of Minnesota and others, and the revenues received therefrom; and (d) the practical problems of the mine operators and mineral owners including, but not limited to, slope gradients as achieved by good mining or soil stabilization practices.

[1973 c 526 s 2]

Subd. 3. Upon completion of his study and survey and consistent with the declared policy of sections 93.44 to 93.51, the commissioner, pursuant to chapter 15, may adopt rules and regulations pertaining to that portion of mining operations conducted subsequent to the effective date of such rules and regulations and subject to the provisions of any rights existing pursuant to any permit, license, lease or other valid existing authorization issued by the commissioner, the Pollution Control Agency or any other governmental entity, or their predecessors in office, and subject to any applicable mine

safety laws or regulations now existing or hereafter adopted, in regard to the following: (a) Mine waste disposal, (b) mining areas, including but not limited to plant facilities and equipment, and (c) permits to mine, as required by section 93.481. To the greatest extent possible, within the authority possessed by the commissioner, the rules so promulgated shall substantially comply with or exceed any minimum mineland reclamation requirements which may be established pursuant to a federal mineland reclamation act. The rules so promulgated also shall conform with any state and local land use planning program; provided further the commissioner shall develop procedures that will identify areas or types of areas which, if mined, cannot be reclaimed with existing techniques to satisfy the rules and regulations promulgated under this subdivision, and the commissioner will not issue permits to mine such areas until the commissioner determines technology is available to satisfy the rules and regulations so promulgated.

[1973 c 526 s 3]

[For text of subd. 4, see M.S.1971]

Subd. 5. For the purpose of information and to assist the commissioner in the proper enforcement of the rules and regulations promulgated under sections 93.44 to 93.51 each operator shall within 120 days of May 28, 1969, file with the commissioner a plan map in such form as shall be determined by the commissioner showing all existing mining areas or areas subjected to mining by said operator. Annually thereafter, on or before the 15th day of March, and until the operator's reclamation or restoration plan is approved pursuant to section 93.481, he shall file a plan map in similar form showing any changes made during the preceding calendar year and the mining area which he anticipates will be subjected to mining during the current calendar year. After approval of a permit to mine, the commissioner may periodically at such times as he deems necessary require additional reclamation or restoration information or plans from the operator.

[1973 c 526 s 4]

93.481 Permit to mine

Subdivision 1. Prohibition against mining without a permit; application for a permit. Except as provided in this subdivision, after June 30, 1975, no person shall engage in or carry out a mining operation for metallic minerals within the state unless the person has first obtained a permit to mine from the commissioner. Any person engaging in or carrying out a mining operation as of the effective date of the rules promulgated under section 93.47 shall apply for a permit to mine within 180 days after the effective date of such rules. Any such existing mining operation may continue during the pendency of the application for the permit to mine. The person applying for a permit shall apply on forms prescribed by the commissioner and shall submit such information as the commissioner may require, including but not limited to the following:

(a) A proposed plan for the reclamation or restoration, or both, of any mining area affected by mining operations to be conducted on and after the date on which permits are required for mining under this section;

(b) A certificate issued by an insurance company authorized to do business in the United States that the applicant has a public liability insurance policy in force for the mining operation for which the permit is sought, or evidence that the applicant has satisfied other state or federal self-insurance requirements, to provide personal injury and property damage protection in an amount adequate to compensate any persons who might be damaged as a result of the mining operation or any reclamation or restoration operations connected with the mining operation;

(c) A bond which may be required pursuant to section 93.49; and

(d) A copy of the applicant's advertisement of the ownership, location, and boundaries of the proposed mining area and reclamation or restoration op-

93.481 MINERAL LANDS

erations, which advertisement shall be published in a legal newspaper in the locality of the proposed site at least once a week for four successive weeks before the application is filed.

Subd. 2. Commissioner's review; hearing; burden of proof. Within 120 days after receiving the application, or after receiving additional information requested, or after holding a hearing as provided in this section, the commissioner shall grant the permit applied for, with or without modifications or conditions, or deny the application. If written objections to the proposed application are filed with the commissioner within 30 days after the last publication required pursuant to this section, by any person owning property which will be affected by the proposed operation or by any federal, state, or local governmental agency having responsibilities affected by the proposed operations, a public hearing shall be held by the commissioner in the locality of the proposed operations within 30 days of receipt of such written objections and after appropriate notice and publication of the date, time, and location of the hearing. The commissioner shall determine that the reclamation or restoration planned for the operation complies with lawful requirements and can be accomplished under available technology and that a proposed reclamation or restoration technique is practical and workable under available technology.

Subd. 3. Term of permit; amendment. A permit issued by the commissioner pursuant to this section shall be granted for the term determined necessary by the commissioner for the completion of the proposed mining operation, including reclamation or restoration. A permit may be amended upon written application to the commissioner. If the commissioner determines that the proposed amendment constitutes a substantial change to the permit, the person applying for the amendment shall publish notice in the same manner as for a new permit, and a hearing shall be held if written objections are received in the same manner as for a new permit. An amendment may be granted by the commissioner if he determines that lawful requirements have been met.

Subd. 4. Revocation, modification, suspension. A permit is irrevocable during its term except as follows:

(a) The permittee has not commenced substantial construction of plant facilities or actual mining and reclamation or restoration operations covered by the permit within three years of issuance of the permit;

(b) A permit may be cancelled at the request or with the consent of the permittee upon such conditions as the commissioner determines necessary for the protection of the public interests;

(c) Subject to the rights of the permittee to contest the commissioner's action under section 15.0418 and related sections, a permit may be modified or revoked by the commissioner in case of any breach of the terms or conditions thereof or in case of violation of law pertaining thereto by the permittee, his agents, or servants, or in case the commissioner finds such modification or cancellation necessary to protect the public health or safety, or to protect the public interests in lands or waters against injury resulting in any manner or to any extent not expressly authorized by the permit, or to prevent injury to persons or property resulting in any manner or to any extent not so authorized, upon at least 30 days' written notice to the permittee, stating the grounds of the proposed modification or revocation or providing a reasonable time of not less than 15 days in which to take corrective action and giving the permittee an opportunity to be heard thereon;

(d) By written order to the permittee the commissioner may forthwith suspend operations under a permit if he finds it necessary in an emergency to protect the public health or safety or to protect public interests in lands or waters against imminent danger of substantial injury in any manner or to any extent not expressly authorized by the permit, or to protect persons or property against such danger, and may require the permittee to take any measures necessary to prevent or remedy such injury. No suspension order

under this clause shall be in effect more than 30 days from the date thereof without giving the permittee at least ten days' written notice of the order and an opportunity to be heard thereon.

Subd. 5. Assignment. A permit may not be assigned or otherwise transferred without the written approval of the commissioner.

[1973 c 526 s 5]

93.49 Bond of operator

The commissioner shall require a bond or other security or assurance satisfactory to the commissioner from an operator who (a) fails to take reclamation measures set forth in the permit or any amendment thereto, (b) fails to comply with rules and regulations promulgated by the commissioner pursuant to section 93.47, or (c) fails to perform research which may be agreed upon by the permittee and the commissioner or required by Minnesota Statutes 1971, Sections 93.44 to 93.51, and acts amendatory thereof in regard to reclamation of mining areas under the control of the operator. The commissioner also may require a bond, security, or other assurance from an operator if the commissioner has reasonable doubts as to the operator's financial ability to comply with the rules and regulations relative to actions required to be taken after the completion of such mining operations or any phase thereof. The commissioner shall review annually the need for and extent of each operator's bond under this section.

[1973 c 526 s 6]

93.51 Penalties for violation

Subdivision 1. If any person fails to comply with any provision of sections 93.44 to 93.51, or any rules or regulations promulgated pursuant to these sections, or any permit condition required by these sections or the rules or regulations, for a period of 15 days after notice of such failure, or the expiration of time for corrective action as provided for in section 93.481, subdivision 4, such person shall be liable for a civil penalty of not more than \$1,000 for each and every day of the continuance of such failure. The commissioner may assess and collect any such penalty.

Subd. 2. Any person who knowingly and willfully violates or refuses to comply with any regulation, decision, order or ruling of the commissioner shall upon conviction be guilty of a gross misdemeanor. At the request of the commissioner, the attorney general may institute a civil action in a district court of the state for a restraining order or injunction or other appropriate remedy to prevent or preclude a violation of the terms and conditions of any rules or regulations promulgated hereunder. The district court of the state of Minnesota in which district the mining operation affected is conducted shall have jurisdiction to issue such order or injunction or to provide other appropriate remedies.

[1973 c 526 s 7]

SEVERED MINERAL INTERESTS

93.52. Clarification of ownership of severed mineral interests; verified statement as to interests

[For text of subd. 1, see M.S.1971]

Subd. 2. Except as provided in subdivision 3, from and after January 1, 1970, every owner of a fee simple interest in minerals, hereafter referred to as a mineral interest, in lands in this state, which interest is owned separately from the fee title to the surface of the property upon or beneath which the mineral interest exists, shall file for record in the register of deeds office or, if registered properly, in the registrar of titles office in the county where the mineral interest is located a verified statement citing sections 93.52 to 93.58 and setting forth his address, his interest in the minerals, and both (1) the legal description of the property upon or beneath which the interest exists, and

93.52 MINERAL LANDS

(2) the book and page number or the document number, in the records of the register of deeds or registrar of titles, of the instrument by which the mineral interest is created or acquired. No statement may be filed for record which contains mineral interests from more than one government section unless the instrument by which the mineral interest is created or acquired includes mineral interests from more than one government section. The register of deeds and registrar of titles shall file with the county auditor a copy of each document so recorded within 60 days after recording in the office of register of deeds or registrar of titles.

[1973 c 650 Art. XX s 5]

[For text of subd. 3, see M.S.1971]

93.53 [Repealed, 1973 c 650 Art. XX s 9]

93.54 [Repealed, 1973 c 650 Art XX s 9]

93.55 Failure to file or re-file

If the owner of a mineral interest fails to file the verified statement required by section 93.52, before January 1, 1975, as to any interests owned on or before December 31, 1973, or within one year after acquiring such interests as to interests acquired after December 31, 1973, and not previously filed under section 93.52, the mineral interest shall forfeit to the state. Thereafter the mineral interest may be leased in the same manner as provided in section 93.335, for the lease of minerals and mineral rights becoming the absolute property of the state under the tax laws, except that no permit or lease issued pursuant to this section shall afford the permittee or lessee any of the rights of condemnation provided in section 93.05, as to overlying surface interests. After the mineral interest has forfeited to the state pursuant to this section, a person claiming an ownership interest before the forfeiture may recover the fair market value of the interest, only in the following manner. An action must be commenced within six years after the forfeiture under this section to determine the ownership and the fair market value of the mineral interests in the property both at the time of forfeiture and at the time of bringing the action. The action shall be brought in the manner provided in chapter 559, for an action to determine adverse claims, to the extent applicable. The person bringing the action shall serve notice of the action on the commissioner of natural resources in the same manner as is provided for service of notice of the action on a defendant. The commissioner may appear and contest the allegations of ownership and value in the same manner as a defendant in such actions. Persons determined by the court to be owners of the interests at the time of forfeiture to the state under this section may present to the state auditor a verified claim for refund of the fair market value of the interest. A copy of the court's decree shall be attached to the claim. Thereupon the state auditor shall refund to the claimant the fair market value at the time of forfeiture or at the time of bringing the action, whichever is lesser, less any taxes, penalties, costs, and interest which could have been collected during the period following the forfeiture under this section, had the interest in minerals been valued and assessed for tax purposes at the time of forfeiture under this section. There is appropriated from the general fund to the persons entitled to a refund an amount sufficient to pay the refund. The forfeiture provisions of this section do not apply to mineral interests valued and taxed under other laws relating to the taxation of minerals, gas, coal, oil, or other similar interests, so long as a tax is imposed and no forfeiture under the tax laws is complete. However, if the mineral interest is valued under other tax laws, but no tax is imposed, the mineral interest forfeits under this section if not filed as required by this section.

[1973 c 650 Art. XX s 6]

93.56 [Repealed, 1973 c 650 Art. XX s 9]

93.57 [Repealed, 1973 c 650 Art. XX s 9]

93.58 Publication of act

Sections 93.52 to 93.58, as amended or repealed by Laws 1973, Chapter 650, Article 20, together with the other sections of Laws 1973, Chapter 650, Article 20, shall be published once during the first week of each month in a legal newspaper in each county in the months of October, November, and December of the year 1973 by the commissioner of natural resources at county expense. Sections 93.52 to 93.58 also shall be published by the commissioner of natural resources at least once in 1973 in two publications related to mining activities which have nationwide circulation. Failure to publish as herein provided shall not affect the validity of sections 93.52 to 93.58 or the other sections of Laws 1973, Chapter 650, Article 20.

[1973 c 650 Art. XX s 7]

GAME AND FISH**CHAPTER 97. GAME AND FISH**

Sec.		Sec.	
97.431	Indian reservations; special provisions relating to hunting, fishing, trapping and wild ricing rights of Indians [New].	97.486	Repealed.
97.45	Transportation restricted.	97.4861	Contracts for removal of rough fish [New].
97.48	Commissioner, general powers.	97.50	Police powers.
		97.83	Use of firearms in taking wild animals, when forbidden.

97.431 Indian reservations; special provisions relating to hunting, fishing, trapping and wild ricing rights of Indians

Subdivision 1. Purpose. The purpose of this section is to give recognition and effect to the rights of the Leech Lake Band of Chippewa Indians which are preserved by federal treaty and which relate to hunting, fishing, and trapping, and to the gathering of wild rice on the Leech Lake Indian reservation. These rights have been recognized and given effect by the decision of the United States District Court in the following entitled actions: Leech Lake Band of Chippewa Indians, et al. v. Robert L. Herbst, No. 3-69 Civ. 65; and United States of America v. State of Minnesota, No. 3-70 Civ. 228. The state of Minnesota desires to settle all outstanding issues and claims relating to the above rights.

Subd. 2. Definitions. For the purposes of this section the following terms have the meanings given them:

- (a) "Band" means the Leech Lake Band of Chippewa Indians;
- (b) "Committee" means the reservation business committee of the Leech Lake Band of Chippewa Indians;
- (c) "Reservation" means the Leech Lake Indian reservation as described in the settlement agreement;
- (d) "Settlement agreement" means the document entitled "Agreement and Settlement" on file and of record in the United States District Court for the District of Minnesota, Third Division, in the following entitled actions: Leech Lake Band of Chippewa Indians, et al. v. Robert L. Herbst, No. 3-69 Civ. 65; and United States of America v. State of Minnesota, No. 3-70 Civ. 228.

Subd. 3. Ratification of settlement agreement. Notwithstanding the provisions of any other law to the contrary, the state of Minnesota by this section ratifies and affirms the agreement set forth in the settlement agreement.

Subd. 4. Commissioner's powers and duties. Notwithstanding the provisions of any other law to the contrary, the commissioner of natural resources, on behalf of the state of Minnesota, shall take all actions, by order or otherwise, which are necessary to carry out the duties and obligations of the state of Minnesota arising from the agreement entered into by the parties to the settlement agreement. These actions include but are not limited to the following: