

103G.650 RECOVERING SUNKEN LOGS ON INLAND WATERS.

Subdivision 1. **Definitions.** (a) Unless the language or context clearly indicates that a different meaning is indicated, the following terms, for the purposes of this section, shall have the meanings given to them.

(b) "District office" means the office of the area forest supervisor, unless otherwise stipulated in a lease issued under this section.

(c) "Inland waters" means navigable bodies of water within the boundaries of this state, excluding boundary lakes and boundary rivers.

(d) "Log" means a portion of the trunk of a felled tree that has not been further processed for any end use.

(e) "Officer" means a forest officer, conservation officer, or other peace officer.

(f) "Person" means a natural person, including a person acting in a representative capacity, or a corporation, firm, or association of whatever nature or kind.

(g) "Submerged lands" means beds of navigable waters below the low-water mark.

Subd. 2. **Title to sunken logs and historical artifacts.** Notwithstanding section 16B.25, title and ownership of a log or historical artifact that rests for more than one year on submerged land owned by the state in inland waters is considered abandoned property that has forfeited to the state.

Subd. 3. **Application to remove sunken logs.** A person who wishes to raise and remove logs that are resting on submerged lands owned by the state and that are located in inland waters shall make application to the commissioner for a lease. A person may not hold more than three leases at one time. Each lease must be for a specific lake or river. A resident applicant shall include with the application a fee of \$500. A nonresident applicant shall include a fee of \$2,500. The applicant shall:

- (1) identify the inland lake or river where the logs will be raised;
- (2) identify the submerged land area requested for the lease by providing the section, township, and range in which the inland water is located;
- (3) specify the methods to be used in raising the sunken logs, including any techniques with the potential to disturb lake bed material;
- (4) provide evidence of a general liability insurance policy that names the state as a coinsured party and that is in force for the lease with limits of at least \$300,000 per occurrence and \$1,000,000 in aggregate; and

(5) include any additional information required by the commissioner.

Subd. 4. **Review of applications.** The commissioner shall review and approve applications in order by time and date received to prevent two or more applications being approved for the same lease. The commissioner shall immediately notify the Minnesota Historical Society of each application received. The commissioner shall publish notice of each application in the State Register and allow 30 days for public comment. Within 60 days after the time date stamp of receipt, the commissioner shall either approve, modify and approve, or deny an application. In determining whether to approve an application, the commissioner shall consider:

- (1) whether the project requires a permit under section 103G.245;
- (2) whether the proposed project may affect public rights in navigable waters;
- (3) whether the proposed project is subject to any requirements arising under federal law; and
- (4) whether the project meets ecological criteria for protection of fish, wildlife, and native plants and their habitats.

Subd. 5. **Lease terms.** (a) The terms and conditions in this subdivision must be specified in leases issued under this section.

(b) A lease is effective for three years and is not transferable. A lease may be renewed within 90 days of expiration for a fee of \$50.

(c) Within one year after the effective date of the lease, the lessee shall commence operations to recover the logs covered by the lease or the lease must be canceled.

(d) The lease must specify the lake or river where the sunken logs may be raised. No lake or river may be covered by more than one lease under this section unless the water body is located in more than one county, in which case one lease may be issued in each county.

(e) The lessee shall comply with all conditions attached to the lease by the commissioner to protect the public rights in navigable water, ensure compliance with federal requirements, and protect aquatic habitats.

(f) The lessee shall only recover logs that are submerged at a water depth of 20 feet or more. The lessee is entitled to ownership of only the sunken logs recovered during the time covered by the lease from submerged lands described in the lease.

(g) The location where the recovered logs are deposited on shore is subject to approval by the commissioner but in no case may the operations interfere with the public's use of public accesses.

(h) The lessee shall plainly place the number of the lease on all logs recovered to adequately identify the logs from the time they are hauled onto shore until they are delivered to the manufacturing facility where they will be processed.

(i) The commissioner reserves the right to revoke the lease for failure to follow the terms and conditions of the lease.

(j) The only acceptable method of recovery is by winching so as to minimize disturbance of lake or riverbed material.

(k) The commissioner shall bill the lessee for the value of the recovered logs based on a rate of 25 percent of the weighted average selling price for all logs sold from state lands for the preceding 12 months.

(l) If the commissioner determines that use of the lease area will interfere with the present or future management objectives of the commissioner, a lease may be canceled upon 21 business days' written notice from the commissioner to the lessee.

(m) The lessee shall indemnify the commissioner against all claims, damages, costs, and expenses, including attorney fees, arising either from reclamation or from any negligence on the part of the lessee.

(n) All divers used in recovery must be certified by the National Association of Scuba Diving Schools or the Professional Association of Diving Instructors.

(o) A lessee must notify personnel at the appropriate department district office five working days before raising submerged logs.

(p) The commissioner and staff have access to leased premises, recovery vehicles, and land vehicles for inspection at any and all reasonable times. Failure to comply must result in immediate suspension of recovery and loss of the lease.

(q) It is the responsibility of the lessee to notify the Minnesota Historical Society before commencing log removal. Upon locating historic items, the lessee must notify the Minnesota Historical Society within one business day. The historical society shall then make a determination on the disposition of the items found. The staff of the historical society shall have access to leased premises, recovery vehicles, and land vehicles for inspection at any and all reasonable times. Failure to comply must result in immediate and permanent suspension of all leases held by the lessee.

(r) An officer shall enforce the terms and conditions of a lease issued under this section.

(s) If the lessee finds what the lessee reasonably believes to be a pollutant or contaminant, the lessee shall contact the Pollution Control Agency within 24 hours.

(t) If the lessee recovers a log with an American Indian tribal mark or brand, the lessee shall notify the nearest tribal government authority within five business days.

Subd. 6. **Disposition of revenue.** Money collected under this section must be deposited in the state treasury and credited as follows:

(1) application fees must be credited to the general fund;

(2) lease proceeds must be credited to the game and fish fund, unless the submerged lands are permanent school fund lands; and

(3) lease proceeds for leases of submerged lands that are permanent school fund lands must be credited to the permanent school fund.

Subd. 7. **Penalties.** (a) Recovery of sunken logs that are removed from submerged lands without a lease issued by the commissioner under this section is trespass as defined in section 90.301.

(b) After the first offense under this subdivision, a person may not apply for or work under a lease issued under this section to remove sunken logs for a period of one year.

(c) After the second offense under this subdivision, a person may not apply for or work under a lease issued under this section to remove sunken logs.

History: 2000 c 337 s 1