

THE MINERAL POLICY OF MINNESOTA
AS REFLECTED BY ITS LAWS

Minnesota Department of Natural Resources
Division of Minerals
February 1982

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THE MINERAL POLICY OF MINNESOTA AS REFLECTED BY ITS LAWS

INTRODUCTION

Minnesota's mineral policy is found in the Minnesota Constitution and the laws of the state. Simply stated, the mineral policy of the state encourages the development of mining, with due concern and consideration about the effects of mining on the environment.

A policy is defined as a plan or course of action guiding decisions, actions and other matters. In recent years, new laws have often included a policy section which explicitly states the intent and purpose of the laws being enacted. In the 1800's and the first part of the 1900's, the purpose and intent of the laws were considered and debated when the proposed laws were drafted and enacted, but the laws did not usually include a policy section. The Minnesota Legislature believed in those instances that the actual laws themselves implicitly reflected their purpose and intent and the policy they were adopting.

Therefore, to determine the mineral policy of the state, it is necessary to review the laws regarding minerals and the development of mineral resources. Since the state began addressing this subject soon after its admission to the Union, a substantive body of law is in existence today. Most of these laws have established precedents and many have been challenged in court and upheld.

The technological advances of the iron ore industry, the discovery of new resources and concerns for the environment have led to the enactment or amendment of laws and a Minnesota Constitutional amendment. Similar or other matters of concern will lead to new laws in the future. The mineral policy of the state is continually evolving.

In recognition of the state's policy, Governor Albert H. Quie, by Executive Order No. 82-1^{*}, directed the state departments and agencies to recognize the importance of mining in Minnesota, the tremendous potential for future mineral development in the state, and the impact of their programs on mining. These departments and agencies are furthermore directed to encourage the development of mining in this state, with due concern for the effects of mining on the environment.

* A copy of Executive Order No. 82-1 may be found in the Appendix.

Some key points of policy found in Minnesota's laws are as follows:

- Discovery and mining of minerals is a matter of public interest.
- Production of iron ore is essential to the economic security of the country in time of peace and its defense in time of war.
- Business of mining, producing or beneficiating copper-nickel is in the public interest and necessary to the public welfare.
- Use of property for mining, producing or beneficiating copper-nickel is a public use and purpose.
- Policy of state to provide for reclamation of certain lands subjected to mining of metallic minerals.
- Planning of future land utilization while at the same time promoting the orderly development of mining is encouraged.
- In determining the extent and type of regulation required for mineland reclamation, the commissioner shall consider the future and economic effect of such regulations; the effect upon employment in the state; the effect upon future mining and development of metallic minerals owned by the state and others, and the revenues received therefrom; and the practical problems of the mine operators and mineral owners.
- Public interest and purpose served by identifying and clarifying ownership of severed mineral interests so that development of mineral interests is not impaired.
- Mining companies allowed credits against occupation taxes for utilization of low grade, underground and high labor cost ores; for conducting research to aid in discovery, development or beneficiation of Minnesota iron ores or other Minnesota ores; and for the installation of equipment which abates or controls pollution.
- Exploratory borings drillers are required to register and be licensed in order to protect the health and general welfare of the public and to provide for development and protection of underground water.

A more detailed summary of Minnesota's mineral laws and the policies reflected therein follows.

I. POLICIES ON STATE-OWNED OR ADMINISTERED LAND

A. Reservation of Mineral Rights Upon Sale of Land

POLICY
LANGUAGE

The state reserves for its own use all the iron, coal, copper, gold and other valuable minerals in or upon all lands which now or hereafter may belong to it by virtue of any act of the U. S. Congress.

Minn. Stat. 93.01 (discretionary for counties of St. Louis, Cook and Lake from 1889; mandatory for all counties from 1901)

The state reserves all iron ores and other minerals on, in or under lands within this state which lie beneath the waters of navigable lakes and rivers.

Minn. Stat. 93.06 (enacted in 1909)

Any sale of tax-forfeited lands shall be subject to exceptions and reservations in this state of all minerals and mineral rights.

Minn. Stat. 282.12 (enacted in 1935)

Minn. Stat. 282.20 (enacted in 1939)

Minn. Stat. 282.225 (Red Lake Game Preserve)

If the state exchanges any public lands for lands of the United States or privately held lands, the state shall reserve all minerals and water power rights.

Minn. Const. Art. XI, Sec. 10

Minn. Stat. 94.343, subd. 4

Minn. Stat. 94.344, subd. 4

Where the state executes any patent or conveyance of lands under any land grants made to any railroad company to aid in the construction of any railroad, there shall be expressly reserved to and retained in the state all the iron, coal, copper, gold and other valuable minerals in or upon all such lands.

Minn. Stat. 93.03 (enacted in 1913)

The state reserves for its own use all the iron, coal, copper and other valuable minerals in or upon all lands which may be sold as surplus state owned land; and any contract for deed or quitclaim deed shall contain a clause reserving all such minerals for the use of the state.

Minn. Stat. 94.14 (enacted in 1909)

All lands now or hereafter owned by the state which are chiefly valuable by reason of deposits of peat in commercial quantities are withdrawn from sale.

Minn. Stat. 92.461

Counties may sell, lease, or convey any property owned by the county, but shall not dispose of any lands without reserving to the county any and all iron ore and other valuable minerals in and upon the lands, with the right to explore for, mine, and remove the minerals.

Minn. Stat. 373.01

POLICY
APPLICATION,
EXPLANATION

These laws indicate the recognition by state officials that minerals are a valuable property interest. The reservations affords the state policy control over significant portions of the mineral resources located in the state, since lands reserved are extensive and often located in prime areas of mineralization.

B. Promotion of Mining Operations

1. Enabling provisions

POLICY
LANGUAGE

The commissioner of natural resources may execute permits to prospect for and leases to mine and remove iron ore and other ores upon lands belonging to the state or in which the state has an interest and leases for the mining of such ores. Except as otherwise expressly provided by law, prospecting permits shall only be issued by public sale.

Minn. Stat. 93.14, 93.16, 93.19, 93.192, 93.335

The commissioner of natural resources, with the approval of the state executive council, may issue permits to prospect for and leases to mine and remove gold, silver, copper, cobalt, graphite, coal, and petroleum and other minerals than iron ore upon any lands owned by the state and the beds of any waters belonging to the state adjacent to such lands.

Minn. Stat. 93.25

The department of natural resources, with the approval of the state executive council, shall adopt rules and regulations for the issuance of permits to prospect for and leases to mine and remove gold, silver, copper, cobalt, coal, graphite, petroleum, sand, gravel, stone, natural gas, and all minerals, excepting iron ore, under the waters of any public lake or stream in the state.

Minn. Stat. 93.08

Except as otherwise expressly provided by law, leases to prospect for, mine and remove copper, nickel and associated minerals owned by the state shall be issued only upon public sale.

NR 94* (e)

The commissioner of natural resources may issue permits to prospect for and leases to mine and remove iron ore situated in the bed of any public lake or river within the state.

Minn. Stat. 93.192, 93.351, 93.354

The commissioner of natural resources may execute permits to prospect for and leases to mine and remove iron ore under lands belonging to the state or lands classified (in accordance with Minn. Stat. 92.283, subd. 2) as not known to contain merchantable deposits of iron ore, including lands in conservation areas, game refuges, forest areas, or state or national forests, but excluding lands within any state park.

Minn. Stat. 93.283

The commissioner of natural resources may issue permits to prospect for and leases to mine and remove stockpiled iron ore, which is an artificial pile or other accumulation of any type of iron-bearing material.

Minn. Stat. 93.285

A county may issue a mining lease covering iron ore and other valuable minerals owned by that county, with such mining lease to be in similar general form to the state iron ore mining lease.

Minn. Stat. 373.01

(See Minn. Stat. 93.335 for leasing of tax-forfeited minerals)

The commissioner may, at public or private vendue and at such prices and under such terms and conditions as he may prescribe, lease any state-owned lands under his jurisdiction and control for the purpose of taking and removing peat. Leases for the removal of peat shall be approved by the executive council.

Minn. Stat. 92.50

POLICY
APPLICATION,
EXPLANATION

These statutes are enabling provisions which authorize and encourage the issuance of prospecting permits and mining leases for iron ores and other valuable minerals on state-owned or

*NR 94 is the Department of Natural Resources' rules and regulations on permits to prospect for and leases to mine copper, nickel and associated minerals.

administered lands. The statutes specify the procedures for public sale of the permits, the limited circumstances under which negotiated leases are authorized, the fees for the permits and the rental and minimum royalty rates for the leases, and other mandatory conditions and requirements.

2. Rights and duties of permit holders.

POLICY
LANGUAGE

The holder of any permit to prospect for iron ore issued upon public sale shall have the right to prospect for such ore on the land described in the permit for one year, but no ore shall be removed until a lease has been issued. For iron ore permits covering lands not known to contain merchantable deposits, the term of the permit shall be two years. Permits covering gold, silver, copper, cobalt, graphite, coal, and petroleum and other minerals than iron ore shall not be issued for a term exceeding two years.

Minn. Stat. 93.18, 93.25, 93.283

The work of prospecting under a permit shall begin in a substantial manner: (1) within 90 days of issuance for an iron ore permit issued upon public sale, or (2) within 6 months from issuance for iron ore permits issued covering lands not known to contain merchantable deposits. Such prospecting shall continue until the permit expires or is surrendered or a lease is requested by the holder of the permit.

Minn. Stat. 93.18, 93.283

The permit holder shall submit written exploration reports and portion of all exploration samples.

Minn. Stat. 93.18, 93.283
NR 94 (g) (16)

If the permit holder complies with all the terms and conditions of the permit and applicable provisions of the law, the permit holder has the right to receive a mining lease.

Minn. Stat. 93.08, 93.19, 93.25, 93.354

POLICY
APPLICATION
EXPLANATION

These statutes limit the time in which a permit holder may prospect and requires active prospecting. This is a policy which promotes prospecting and discourages dilatory prospecting. Permit holders have a right to a mining lease on the lands covered by the permit if they have complied with all the terms and conditions of the permit.

3. Mining practices and conditions of state mining leases.

POLICY
LANGUAGE

In the state mining leases the state reserves the right to sell and dispose of all the timber upon the land leased, but such cutting and removal of the timber shall not unnecessarily or materially interfere with the mining operations.

Minn. Stat. 93.20, subd. 6
NR 94 (g)(5)

In the state mining leases the state reserves the right to grant leases, permits or licenses to any portion of the surface of the leased premises to any person or corporation, without let or hindrance of the mineral lessee, but such leases, permits or licenses shall not unnecessarily or materially interfere with the mining operations.

Minn. Stat. 93.20, subd. 6
NR 94 (g)(5)

The state reserves in the state copper-nickel lease the right to lease or grant to other persons or corporations the right to explore for, mine, remove and beneficiate iron ores, including taconite, that are a part of the Biwabik iron formation and located in said leased premises. Any state iron ore or taconite lease granted on land covered by a state copper-nickel lease will provide that the mining of iron or taconite ores will not cause any unnecessary or unreasonable injury or hindrance to the copper-nickel mining operations; and the copper-nickel mineral lessee agrees not to cause any unnecessary or unreasonable injury or hindrance to the iron ore or taconite mining operations.

NR 94 (g)(4)

All materials mined from state leased premises and not otherwise lawfully disposed of shall be deposited or disposed of in such a manner as will not hinder or embarrass subsequent operations or activities. Any material having present or potential value shall be deposited only on land covered by the state lease, or other land belonging to state, unless the commissioner shall approve in writing its disposal in some other manner.

Minn. Stat. 93.20, subd. 28(2)
NR 94 (g)(20)

Lessees of state mineral leases shall conduct their mining operations only as is usual and customary in skillful and proper mining operations and in accordance with the requirements, methods and practices of good mining engineering. The mining operations shall not cause any unnecessary loss of minerals or unusual or permanent injury to the leased lands. The surface use of the land shall be conducted in such manner as to prevent or reduce scarring and erosion of the land and pollution of air and water.

NR 94 (g)(24)
Minn. Stat. 93.20, subd. 28 (1)

POLICY
APPLICATION,
EXPLANATION

The policy of the state recognizes the value of timber located on mining lands and reserves the right to sell such timber. The right to allow parties other than the mining lessee to use the surface of the mining lands is also recognized as an important interest. Both timber sale and other surface use acknowledge the importance of mining operations by providing that timber sale and removal and surface leases will not unnecessarily or materially interfere with the mining operations.

The copper-nickel lease reserves to the state the right to lease any iron ores or taconite on the leased premises, but acknowledges the importance of both iron ore and copper-nickel mining by providing that mining of either mineral shall not cause any unnecessary or unreasonable injury or hindrance to the mining of the other mineral.

The restrictions on stockpiling of waste materials or ore materials with present or potential value provide that disposal of such materials should not cause damage or loss to subsequent mining operations and should not cover up deposits which will be mined in the future. Mining operations shall be conducted in a manner which minimizes permanent injury to the land and pollution.

4. Modifications and extensions of iron ore/taconite leases

POLICY
LANGUAGE

The holder of any iron ore mining lease from the state not containing a schedule of royalties covering taconite ore may apply to the commissioner of natural resources for a modification of the lease to include such a schedule.

Minn. Stat. 93.191

The holder of any iron ore mining lease may apply to the commissioner of natural resources to designate such lease as a taconite iron ore lease subject to annual rentals for such taconite leases.

Minn. Stat. 93.191

If the permit holder's application for a lease indicated that the lands covered by the permit were principally valuable for the taconite thereon or that he desired a taconite lease, and the commissioner issued a taconite iron ore mining lease, such act is construed as a determination that such lands were principally valuable for the taconite thereon.

Minn. Stat. 93.202

Holders of taconite iron ore mining leases in effect in 1957 could apply for 18 months for extension of those leases for an additional period of 25 years beyond their original term. The rentals and royalties to be paid during the extended period are negotiated between the commissioner and the applicant and approved by the state executive council.

Minn. Stat. 93.193

Holders of iron ore mining leases in effect in 1959 could apply for 6 months for extension of those leases for an additional period of 25 years beyond their original term. The rentals, royalties and additional terms for the extended period are negotiated between the commissioner and the applicant and approved by the state executive council.

Minn. Stat. 93.42

POLICY
APPLICATION,
EXPLANATION

The statutes encourage the development of taconite by providing that taconite schedules can be added to iron ore leases which didn't contain a schedule for taconite, and that leases covering lands principally valuable for taconite could be designated as taconite mining leases (and thus result in lower annual rentals). The statutes authorizing extensions provided a limited time in which to apply, but didn't limit the time in which to negotiate the provisions of the extension agreements. Even if a leaseholder has not yet exercised its right to negotiate for an extension, it retains that right if an application was timely filed.

The policy of allowing extension of leases recognized that the development of the taconite processing technology had taken almost half of the lease term of most leases in effect. The extensions were also authorized in recognition of the importance of the development of a taconite industry and extensions of state leases encouraged companies to make long-range plans and large capital expenditures in order to establish the taconite industry in Minnesota.

5. Surface of land leased for mineral purposes.

POLICY
LANGUAGE

In all cases where the surface of state lands have been sold and a mining lease is issued covering the mineral rights, the holder of the mineral lease may enter upon the lands and

prospect thereon. Before entering on the lands, the mineral lease holder shall pay or secure to the surface owner of the lands all damages which may arise therefrom.

Minn. Stat. 93.05; 93.20, subd. 29
NR 94 (g) (25)

The commissioner of natural resources may lease any state-owned lands under his jurisdiction and control for the purpose of taking and removing sand, gravel, clay, rock, marl, peat, and black dirt, for storing ore, waste materials from mines, or rock and tailings from ore milling plants, for roads or railroads, or for any other uses not inconsistent with the interests of the state. All leases shall be made subject to sale and leasing of the land for mineral purposes under legal provisions and contain a provision for their cancellation at any time by the commissioner upon a specified period of written notice.

Minn. Stat. 92.50

POLICY
APPLICATION,
EXPLANATION

In instances where the state does not own the surface of the land being leased, the state leases require that the surface owner be compensated by the lease holder for any damages to the surface which may arise from mining activities. This policy recognizes the right of a mineral rights owner or lessee to enter upon the land to the extent necessary to explore for, mine and remove minerals, but also recognizes that the surface owner should be paid for any damage to the surface of the land.

The state policy recognizes the importance of mineral development by providing that surface leases shall be subject to leasing of the land for mineral purposes and contain a cancellation provision. This law recognizes the importance of using state land for mineral purposes and provides that mineral use can take precedence over non-mineral use.

6. Use of state land for auxiliary mining purposes.

POLICY
LANGUAGE

The commissioner may, at public or private vendue and at such prices and upon such terms and conditions as he may prescribe, lease the surface of any unsold state lands for the purpose of stockpiling, storing, handling or depositing thereon any ore, ore material, stripping, or waste taken from other state lands which may be under state mineral lease, and remove therefrom any such ore, ore material, stripping or waste taken from such other state land and stocked, stored, handled or deposited thereon.

Minn. Stat. 93.33

The commissioner is authorized to grant permits or licenses on and across lands owned by the state to any corporation or association engaged in the business of or preparing to engage in the business of mining, producing or beneficiating taconite, semi-taconite, copper, copper-nickel or nickel for pipe lines, pole lines, conduits, sluiceways, roads, railways, tramways or flowage, and to lease any lands owned by the state to any such corporation or association for the depositing of stripping, lean ores, tailings, or waste products of such business. The county auditor, with the approval of the county board, is authorized to grant permits, licenses or leases for all such purposes of or across tax-forfeited lands held by the state in trust for any and all taxing districts, upon such conditions and for such considerations and for such period of time as the county board may determine.

Minn. Stat. 93.43

Minn. Stat. 117.47, 117.471

If the commissioner of natural resources notifies the county auditor of any county that the minerals in any tax-forfeited land have been designated as a mining unit or that such minerals are subject to a mining permit or lease, the surface of such tax-forfeited land shall be subject to disposal and use for mining purposes and shall be withheld from sale or lease by the county; provided, that the surface of such tax-forfeited land may be leased by the county auditor as provided by law, with the written approval of the commissioner.

Minn. Stat. 282.01, subd. 8

The county auditor, with the approval of the county board, is authorized to grant permits, licenses and leases to tax-forfeited lands for the purpose of depositing of strip-ping, lean ores, tailings, or waste products from mines or ore milling plants, upon such conditions and for such consideration and for such period of time, not exceeding 15 years; said permits, licenses or leases to be subject to approval by the commissioner of natural resources.

Minn. Stat. 282.04, subd. 1

The commissioner of natural resources may, at public or private vendue and, at such prices and under such terms and conditions as he may prescribe, lease any state-owned lands under his jurisdiction and control for storing thereon ore, waste materials from mines, or rock and tailings from ore milling plants, for roads or railroads, or for any other uses not inconsistent with the interests of the state.

Minn. Stat. 92.50

When any road, including any street within a city, crosses mineral land and the road interferes with mining operations on the land, the owner or lessee of the land may request that the road be relocated. The road authority shall, in the manner provided by law, relocate the road so as not to interfere with the mining operations.

Minn. Stat. 160.10

POLICY
APPLICATION,
EXPLANATION

It is recognized that use of state lands for auxiliary mining purpose is in the public interest, necessary to the public welfare and serves a public purpose. The stockpiling and storage of materials away from the mines serves to facilitate mining operations. The policy of the state recognizes that roads should be relocated if they interfere with mining operations.

7. Use of state water for mining purposes.

POLICY
LANGUAGE

The commissioner of natural resources may grant permits for the drainage, diversion, control, or use of any waters under his jurisdiction when necessary for the mining of iron ore, taconite, copper, copper-nickel or nickel. The proposed action must be necessary to the mining of substantial deposits of ore; the action must not substantially impair the interests of the public in lands or waters or the substantial beneficial use thereof except as authorized in the permit; and the action

must be in the public interest, must not endanger public health or safety and the public benefits resulting therefrom must be sufficient to warrant the proposed action.

Minn. Stat. 105.64

The commissioner of natural resources is authorized to license the flooding of state lands in connection with any permit or authorization, issued by the legislature or by the commissioner pursuant to law, for the use of public waters for mining purposes.

Minn. Stat. 93.43

Minn. Stat. 117.47

It shall be unlawful for any individual, copartnership or corporation to drain any meandered public lake for the purpose of mining of minerals without first having received the consent of the executive council.

Minn. Stat. 93.13; 93.34, subd. 2

The commissioner may grant leases and licenses, for terms not exceeding 25 years, to deposit tailings of any iron ore beneficiation plant in any public lake not exceeding 160 acres. Prior to issuing any such lease or license, a public hearing shall be held and no lease or license shall be issued unless it is found that the use of such lake is necessary and in the best interest of the public and the proposed use will not result in pollution or sedimentation of any outlet stream.

Minn. Stat. 92.50, subd. 2

Any company or association engaged in or about to engage in the mining, production and beneficiation or concentration of copper, copper-nickel or nickel ores is authorized to use water from Birch Lake (situated in St. Louis and Lake counties) and to use water from the South Kawishiwi river, a tributary of said lake, in connection with any such operations, and, so far as may be necessary, to flood or otherwise affect lands of the state adjacent to said lake and river. A permit or permits for the use of such waters shall first be obtained from the commissioner of natural resources. All water withdrawn, except that lost by evaporation or contained in the concentrates produced, shall be returned to the drainage basin in conformity with required water quality standards.

Laws of MN 1967, C. 556

POLICY
APPLICATION,
EXPLANATION

The policy of the state authorizes the drainage, diversion, control and use of public waters in order to facilitate mining operations. The law regarding waters from Birch Lake and the Kawishiwi River was enacted pursuant to Minn. Stat. 110.13 ("Little Shipstead-Nolan Act."). Minn. Stat 110.13 bars dam construction and alteration of natural water level or volume of flowage of any body of public water within or bordering state lands within the Superior National Forest, unless specific authority is first obtained from the legislature. The state recognizes the importance of copper-nickel mining and the existence of a copper-nickel resource in this area of the state, and provides a controlled exception to the Little Shipstead-Nolan Act.

II. ENVIRONMENTAL AND SAFETY POLICIES ON ALL EXPLORATION AND MINING ACTIVITIES

A. Regulation of Drillers of Exploratory Borings

POLICY
LANGUAGE

It is the legislative intent and purpose to reduce and minimize the waste of ground water resources within this state by reasonable legislation in licensing of drillers or makers of water wells and the regulation of exploratory borings in Minnesota and to protect the health and general welfare by providing a means for the development and protection of the natural resource of underground water in an orderly, sanitary and reasonable manner.

Minn. Stat. 156A.01 (enacted in 1980)

In furtherance of the intents and purposes of the legislature in enacting legislation on drillers of exploratory borings, and in recognition of the effects of exploration and mining of metallic minerals on ground water resources, the legislature finds that it is necessary to require submission of factual data generated by exploratory borings to the state, for the purpose of controlling possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.

Minn. Stat. 156A.01

An explorer engaged in exploratory boring shall obtain a license to do so from the commissioner of health and register with the commissioner of natural resources.

Minn. Stat. 156A.071, subs. 2 & 3

At least 10 days prior to commencement of any exploratory boring, the explorer shall submit a county road map indicating the location of each proposed exploratory boring. The commissioner of health, the commissioner of natural resources, the director of the pollution control agency, the county health officer, and their officers and employees shall have access to exploratory boring sites for the purpose of inspecting the drill holes, drilling, and abandonment, and for the purpose of sampling ambient air and drilling waters and measuring the radioactivity of the waste drill cuttings at the drilling site at the time of on-site observation.

Minn. Stat. 156A.071, subds. 4 & 5

The explorer shall promptly notify the commissioner of health, the commissioner of natural resources, the pollution control agency, and the county health officer of any occurrence during exploratory boring that has a potential for significant adverse health or environmental effects and shall take such action as may be reasonably possible to minimize such adverse effects.

Minn. Stat. 156A.071, subd. 6

Permanent and temporary abandonment of exploratory borings shall be accomplished in the manner prescribed by rules adopted by the commissioner of health. Within 30 days of permanent or temporary abandonment of an exploratory boring, the explorer shall submit a report, (containing specified information) to the commissioners of health and natural resources.

Minn. Stat. 156A.071, subds. 7 & 8

The exploratory borings law does not limit the lawful authority of local units of government to prohibit mineral exploration within their boundaries, require permits from explorers, or impose reasonable requirements and fees upon explorers, consistent with the state laws and rules promulgated thereunder.

Minn. Stat. 156A.075

POLICY
APPLICATION,
EXPLANATION

The exploratory borings law governs exploration activities on all lands in the state, not just state-owned or administered lands. The policy of the law is to protect the ground water of the state, control possible adverse environmental effects of mining, and encourage the planning of future land utilization, while at the same time promoting orderly development of mining, encouragement of good mining practices, and recognition and identification of the beneficial aspects of mining.

The law provides for identification of the parties drilling exploratory borings and where the drilling is occurring. State officials and employees have access to inspect the drill holes and take tests for possible pollution. If any drilling raises a potential for significant adverse health or environmental effects, the explorer is required to notify state officials and take action to minimize adverse effects. Procedures for abandonment are specified and reports on abandonment are required. Violation of the exploratory borings law is a misdemeanor.

The enactment of this law addressed and balanced a number of concerns, which, if not dealt with, could have eventually led to greater restrictions on exploration activities.

B. Mine Safety and Inspection

POLICY
LANGUAGE

The duties of the inspector of mines shall be to visit all the working mines of his county at least once every 90 days, and oftener if requested to do so, and closely inspect the mines so visited and condemn all such places where he shall find that the employees are in danger from any cause. If the mine inspector shall condemn a place because of its dangerousness, it shall be his duty immediately to order the men engaged in the work at that place to quit work; and to notify the superintendent, agent, or person in charge to secure the place from the existing danger, clearly define the limits of the dangerous place, and specify the work to be done to render the same secure, ordinary mine risks excepted.

Minn. Stat. 180.03, subd. 1

The inspector of mines shall order the persons or corporations operating any mine to furnish all shafts, open pits, caves and chutes of such mine where danger exists with some secure safeguard at the top of the shaft, open pit, cave, or chute to guard against accidents by persons falling therein or by material falling down the same.

Minn. Stat. 180.03, subd. 1

Every person, firm or corporation that is or has been engaged in the business of mining or removing iron ore, taconite, semi-taconite or other minerals except sand, crushed rock and gravel by the open pit method shall erect fencing (of a specified type and height) along the outside perimeter of the excavation, open pit or shaft of any mine in which mining operations have ceased for a period of six consecutive months or longer or when any mine is idle or abandoned.

Minn. Stat. 180.03, subs. 2 & 3

POLICY
APPLICATION
EXPLANATION

The policy of the state recognizes the need to have a government official inspect mining operations to determine the safety of the operations. The laws authorize the inspector to shut down and order repairs of mining conditions which cause danger to the workers of the mining operations. The state also seeks to protect against accidents of people or animals falling into shafts, caves or open pits by requiring fencing around idle or abandoned mines.

C. Reclamation Standards

POLICY
LANGUAGE

In recognition of the effects of mining upon the environment, it is hereby declared to be the policy of this state to provide for the reclamation of certain lands hereafter subjected to the mining of metallic minerals where such reclamation is necessary, both in the interest of the general welfare and as an exercise of the police power of the state, to control possible adverse environmental effects of mining, to preserve the natural resources, and to encourage the planning of future land utilization, while at the same time promoting the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining.

Minn. Stat. 93.44 (enacted in 1969)

In determining the extent and type of mineland reclamation regulations that are 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 mine operators and mineral owners

including, but not limited to, slope gradients as achieved by good mining or soil stabilization practices.

Minn. Stat. 93.47, subd. 2

The commissioner shall develop procedures to identify areas or type of areas which, if mined, could not be reclaimed with existing techniques to satisfy the mineland reclamation rules promulgated pursuant to the mineland reclamation law, and the commissioner will not issue permits to mine such areas until the commissioner determines technology is available to satisfy the mineland reclamation rules so promulgated.

Minn. Stat. 93.47, subd. 3

The commissioner may, upon application by the landowner or mine operator, modify or permit variance from the established mineland reclamation rules if he shall determine that such modification or variance is consistent with the general welfare.

Minn. Stat. 93.48

6 MCAR ~~§§~~ 1.0404 and 1.0406 A

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 of natural resources. Any person engaging in or carrying out a mining operation as of the effective date of the mineland reclamation rules (August 25, 1980) may continue to operate during the pendency of the application for the permit to mine if they apply within 180 days after the effective date of the rules.

Minn. Stat. 93.481

The application for permit to mine shall include environmental setting maps, environmental setting analysis, mining and reclamation maps, and a mining and reclamation plan.

6 MCAR §1.0403 B

Minn. Stat. 93.481

By written order to the permittee, the commissioner may 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.

Minn. Stat. 93.48, subd. 4 (d)

POLICY
APPLICATION,
EXPLANATION

The legislature has declared that reclamation of lands subjected to metallic mining is a policy goal of the state. The statutes mandate that concerns for the environment and future land utilization are balanced against concerns for employment, future mine development, economic effects, and the practical problems of mine operators and mineral owners.

The commissioner of natural resources is authorized to adopt rules and regulations regarding mine waste disposal, mining areas and permits to mine. The laws authorize the commissioner to grant a variance from the reclamation rules if he determines that such a variance is consistent with the public's general welfare. The commissioner shall not issue permits to mine for areas, which could not be reclaimed with existing technology, until technology is available to satisfy the reclamation rules.

D. Environmental Review and Permits

POLICY
LANGUAGE

The legislature, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploration, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.

Minn. Stat. 116D.02, subd. 1

It is the continuing responsibility of the state government to use all practicable means, consistent with other essential conditions of state policy, to improve and coordinate state plans, functions, programs and resources to the end that the state may:

- (c) Discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;
- (1) Minimize wasteful and unnecessary depletion of non-renewable resources;
- (o) Provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection.

Minn. Stat. 116D.02, subd. 2

Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The EIS shall describe the proposed action in detail, analyze its significant environmental impacts, discuss appropriate alternatives to the proposed action and its impacts, and explore methods by which adverse environmental impacts of an action could be mitigated. The EIS shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented.

Minn. Stat. 116D.04, subd. 2a

An environmental assessment worksheet shall be prepared on the following (unless specifically exempted by other rules):

- ...
(j) Construction of a new mineral or fuel processing or refining facility, including, but not limited to, smelting and hydrometallurgical operations;
- ...
(n) Construction or opening of a new facility for mining metallic minerals;
- (o) Construction or opening of a facility for mining gravel, other non-metallic minerals and fuels involving more than 320 acres.

6 MCAR §3.024 B

POLICY
APPLICATION,
EXPLANATION

The policy of the state is that any development, including mining operations, should mitigate, to the extent possible, adverse environmental impacts. For certain types of proposed mining operations, an EAW is required. If a proposed mining operation has the potential for significant environmental effects, an EIS is required.

Along with the environmental review requirements, any mining operation is subject to the pollution control laws regulating all industry in the state. Some of the laws affecting mining operations include: air emission standards, water discharge permits, solid waste permits, hazardous waste permits, and noise level standards. These laws combine to minimize the impact of the mining industry on the state's environment, while at the same time recognizing the importance of the mining industry to the social and economic welfare of the citizens of the state.

E. Management of Minerals in the B.W.C.A.

POLICY
LANGUAGE

The legislature finds that a combination of state legislative and administrative actions and court decisions have established a public policy of primarily wilderness management for state lands

and waters within the boundary waters canoe area. This state policy, together with a similar federal policy and international actions consistent with these state and federal policies, has created an area of hundreds of thousands of acres of land and water containing myriad lakes and streams, wooded shores, virgin forests, and other natural attractions of surpassing scenic beauty and solitude, free from substantially all commercial activities and artificial development, such as hydroelectric dams and power lines, resorts, roads, sawmills, and timber harvesting in no-cut zones.

Minn. Stat. 84.523, subd. 2

Except with the prior approval of the legislature in those cases of national emergency which have been declared by the U. S. Congress and which direct the need for exploitation of peat deposits or exploration and mining of federal lands within the B.W.C.A. and the commissioner of natural resources investigates and determines that there are no reasonable alternative methods for providing the needed resources, no state-owned or administered land may be leased for the purpose of harvesting peat or for exploration or mining of minerals, and no state permits, licenses or leases shall be issued to use any other state natural resources for the purpose of harvesting peat or for any mineral exploration or mining operations in the B.W.C.A.

Minn. Stat. 84.523, subds. 3 & 4.

POLICY
APPLICATION,
EXPLANATION

The state legislature has recognized the B.W.C.A. as an unique area of surpassing scenic beauty and solitude. State lands and resources in the B.W.C.A. shall not be used for any commercial activities or artificial development. The only exception to this mandate is the use of state land for mining operations and purposes in the case of a national emergency where the U.S. Congress directs the need for mining on federal lands in the B.W.C.A., the commissioner of natural resources determines there are no reasonable alternatives to exploitation of natural resources in the area, and the state legislature gives its approval.

F. Moratoriums

POLICY
LANGUAGE

No state uranium lease shall be issued on state land for the purpose of uranium exploration or mining until the Minnesota environmental quality board completes its study reviewing the adequacy of the state's regulatory framework applicable to uranium exploration and mining, or until July 1, 1981, which ever is later.

Laws of MN 1980, C. 535, Sec. 11

In the counties of St. Louis, Aitkin, Kanabec and Crow Wing, there shall be a moratorium on uranium drilling until July 1, 1982 except with the permission of the surface property owner.

Laws of MN 1981, C. 278, Sec. 13

POLICY
APPLICATION,
EXPLANATION

These short-term moratoriums are representative of laws the state has enacted which indicate a concern for a particular type of development or operation. The laws are designed to give appropriate governmental agencies time to conduct studies or review laws before development and operations proceed.

III. TAX POLICIES AFFECTING ALL MINING OPERATIONS

A. Limitations on Taxation

POLICY
LANGUAGE

The combined occupation, royalty and excise taxes imposed upon or required to be paid with respect to the mining, production, or beneficiation of taconite or semi-taconite by any person or corporation engaged in such mining, production, or beneficiation, shall not be increased so as to exceed the greater of (a) the amount which would be payable if such taxes were computed under the laws in existence as of July 1, 1963, or (b) the amount which would be payable if such person or corporation were taxed with respect to such mining, production, or beneficiation under the income, franchise, and excise laws generally applicable to manufacturing corporations transacting business within the state, as such laws may be enacted or amended from time to time. (procedure for computation under (b) for certain items is specified)

Minn. Stat. 298.40 (Laws of MN 1963, C. 81)

Laws of Minnesota 1963, Chapter 81, relating to the taxation of taconite and semi-taconite, and facilities for the mining, production and beneficiation thereof shall not be repealed, modified or amended, nor shall any laws in conflict therewith be valid until November 4, 1989. Laws may be enacted fixing or limiting for a period not exceeding beyond the year 1990, the tax to be imposed on persons engaged in (1) the mining, production or beneficiation of copper, (2) the mining, production or beneficiation of copper-nickel, or (3) the mining, production or

beneficiation of nickel. Taxes imposed on the mining or quarrying of taconite or semi-taconite and on the production of iron ore concentrates therefrom, which are in lieu of a tax on real or personal property, shall not be considered to be occupation, royalty, or excise taxes within the meaning of this amendment.

MN Const., Art. X, Sec. 6 (adopted 1964)

During the period prescribed in Minnesota Constitution, Article 10, Section 6, the combined occupation, royalty, income and excise or franchise taxes imposed or required to be paid with respect to the mining, production or beneficiation of copper-nickel ore by any person or corporation engaged in such mining, production or beneficiation shall not be increased so as to exceed the combined amount of such taxes if such taxes were computed under the laws in existence as of May 23, 1967, unless income, excise and franchise taxes imposed on manufacturing corporations transacting business within this state as of May 23, 1967, are also increased and then only to the same extent and in the same proportion that income, excise and franchise taxes on such manufacturing corporations are increased, nor shall any other taxes be imposed upon the mining, production or beneficiation of copper-nickel ore or upon any person or corporation engaged in such mining, production or beneficiation unless such other taxes are also imposed with equal effect on such manufacturing corporations. Nothing contained herein shall restrict the power of the legislature to amend, repeal, modify, increase or decrease the production taxes imposed or required to be paid with respect to the mining, production or beneficiation of copper-nickel ore.

Minn. Stat. 298.66 (enacted in 1967)

POLICY
APPLICATION,
EXPLANATION

In order to encourage the development of the taconite industry in Minnesota, the state enacted a policy which limited the occupation, royalty and excise taxes imposed upon companies engaged in mining, producing or beneficiating taconite. The citizens of the state approved an amendment to the Minnesota Constitution (commonly called the "Taconite Amendment") to provide that this law limiting the taxes could not be repealed, modified or amended for 25 years. Thus, the taconite companies were assured that the combination of occupation, royalty and excise taxes would not exceed the amount payable under laws in existence in 1963 or the amount payable if they were taxed as a manufacturing corporation transacting business in the state, whichever is greater, for at least 25 years. The laws do not limit production taxes imposed on mining taconite.

The Constitutional Amendment also authorized the legislature to impose limitations, for a period not exceeding 25 years, with

respect to the taxes imposed upon or required to be paid with respect to the mining, production, or beneficiation of copper, copper-nickel and nickel. In 1967, the legislature enacted laws which imposed income, occupation, royalty and production taxes on the mining and beneficiation of copper-nickel ores. At that time the legislature adopted the policy that provided the occupation, royalty, income and excise or franchise taxes enacted that year would not be increased before 1990, unless the similar taxes imposed on manufacturing corporations transacting business within the state are increased. The law does not limit the production taxes imposed on mining copper-nickel.

B. Ad Valorem Taxes

POLICY
LANGUAGE

Iron ore, whether mined or unmined, is classified as class 1 type of property for purposes of taxation, and shall be valued and assessed at 50 percent of its value. If unmined, it shall be assessed with and as a part of the real estate in which it is located, but at the rate aforesaid.

Minn. Stat. 273.13, subd. 2

Low-grade iron-bearing formations shall be classified as class 1a type of property and shall be at the following percentages of their value: If the tonnage recovery is less than 50 percent and not less than 49 percent, the assessed value shall be 48½ percent of the value; and for each subsequent reduction of one percent in tonnage recovery, the percentage of assessed value to value shall be reduced an additional one and one-half percent of the value, but the assessed value shall never be less than 30 percent of the value. The land, exclusive of such formations, shall be assessed as otherwise provided by law.

Minn. Stat. 273.15; 273.14, subd. 4

The term value as applied to iron ore shall be deemed to be three times the present value of future income, notwithstanding other provisions that all property shall be valued at its market value.

Minn. Stat. 273.1104, subd. 1; 273.11

In any year in which at least 1,000 tons of iron ore concentrate is not produced from any 40 acre tract or governmental lot containing taconite or iron sulphides, a tax may be assessed upon the taconite or iron sulphides therein, but the tax shall not exceed \$10 per acre.

Minn. Stat. 298.26

POLICY
APPLICATION,
EXPLANATION

The state policy is to impose a higher ad valorem tax on iron ore than other types of property. In contrast with the 50% valuation rate, the rate on other types of property ranges from 43% on commercial and industrial properties to as low as 16% on farm properties. Also, whereas other property is taxed on its market value, iron ore is taxed on three times its present value of future income.

Any forty acre tract used for taconite production or for beneficiation facilities is exempt from ad valorem taxes. (Production taxes on taconite and semi-taconite have been imposed in lieu of the ad valorem taxes.) However, an ad valorem tax not exceeding \$10 per acre is authorized for lands from which little or no taconite is produced. Once again, taconite is given special treatment in order to encourage development of the resource.

C. Production Taxes

POLICY
LANGUAGE

There is hereby imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced, a tax of \$1.25 per gross ton of merchantable iron ore concentrate produced therefrom, (with such \$1.25 subject to a specified escalator provision).

Minn. Stat. 298.24

(See Minn. Stat. 298.35 for rate of production tax on semi-taconite)

The production taxes imposed upon taconite and iron sulphides shall be in addition to the occupation taxes imposed upon the business of mining and producing iron ore and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore. Except as otherwise herein provided, such taxes shall be in lieu of all other taxes upon such taconite or iron sulphides, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying, or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities.

Minn. Stat. 298.25

There is hereby imposed upon copper-nickel ore, and upon the mining and quarrying thereof, and upon the production of concentrates therefrom, and upon the concentrates so produced, a base tax of two and one-half cents per gross ton of copper-nickel ore transported to and entering the concentrating mill

plus ten percent of the base tax per ton for each one-tenth of one percent that the average copper-nickel content per gross ton of such ore during the period for which the tax is being computed, exceeds one percent, when dried at 212 degrees Fahrenheit (with such base tax rates subject to a specified escalator provision).

Minn. Stat. 298.61

The production tax imposed on copper-nickel shall be in addition to the occupation tax, the royalty tax imposed upon royalties received for permission to mine and produce copper-nickel ore, and the income tax. Except as otherwise herein provided, such tax shall be in lieu of all other taxes upon such copper-nickel ores, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrates therefrom, or upon the concentrates produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production, or upon lands occupied by, or used in connection with, such mining, quarrying or production facilities.

Minn. Stat. 298.62

POLICY
APPLICATION,
EXPLANATION

The production tax on the mining of taconite, semi-taconite and copper-nickel is in lieu of ad valorem taxes on the ore reserves and any beneficiation facilities (except that a maximum annual tax of \$10 per acre may be assessed against 40 acre tracts containing taconite or iron sulphides which have not produced 1,000 tons of taconite concentrates in that year). Since the Minnesota Constitution does not prohibit changes in the production tax on the mining of taconite and semi-taconite, the tax rate has increased several times in the past 12 years. Natural iron ore is not subject to a production tax, but is subject to an ad valorem tax.

The state policy in regard to taconite, semi-taconite and copper-nickel is that a general property tax should not be imposed until there is actual production from the land. Thus, development of the industry is encouraged, and the company is not subject to taxation until it is receiving money for the ore produced.

This policy developed when taconite had little value since no method had been developed to profitably produce iron ore concentrates. As the taconite technology developed, the production tax rates increased and a small ad valorem tax imposed on minimal or non-producing lands. Copper-nickel ore is currently in a comparable phase to the early history of taconite; there has been no commercial production of copper-nickel ore nor the operation of any beneficiation facilities.

D. Occupation Taxes

1. Iron ore and taconite ores

POLICY
LANGUAGE

Every person engaged in the business of mining or producing iron ores or other ores in this state shall pay to the state an occupation tax on the valuation of all ores mined or produced, which tax shall be in addition to all other taxes provided by law.

MN Const. Art. X, Sec. 3

Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state of Minnesota an occupation tax equal to 15.5 percent of the valuation of all ores except taconite, semi-taconite and iron sulphides mined or produced; and an occupation tax equal to 15 percent of the valuation of all taconite, semi-taconite and iron sulphides mined or produced. Said taxes shall be in addition to all other taxes provided for by law.

Minn. Stat. 298.01

For the purpose of increasing employment and the utilization of low-grade, underground, and high labor cost ores, a credit is allowed against the occupation tax because of the mining or production of such ore from any mine; with such credit calculated as a percentage of labor costs. In lieu of this credit, the taxpayer may elect to take a credit based on the total production of iron ore from any mine which is converted into pig iron, sponge iron, or powdered iron, within the limits of the state.

Minn. Stat. 298.02

A credit is allowed against the occupation tax for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development, or beneficiation of Minnesota iron ore or other Minnesota ores.

Minn. Stat. 298.026

A credit is allowed against the occupation tax where the allowable costs for any mine (as specified by statute), except for taconite and semi-taconite, exceed the value of the ore at the place where the same is brought to the surface of the earth. The said allowable costs shall not include amounts attributable to or payable by reason of the termination of mining operations.

Minn. Stat. 298.027

A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules or standards to the extent the property is so used may be deducted from the occupation tax in the first year in which the equipment is installed. The credit allowed shall not exceed so much of the liability for tax for the taxable year as does not exceed \$75,000. The credit shall apply only if the equipment meets rules prescribed by the Minnesota pollution control agency and is installed or operated in accordance with a permit or order issued by the agency.

Minn. Stat. 298.028

POLICY
APPLICATION,
EXPLANATION

The iron ore and taconite occupation taxes are in lieu of income taxes. The tax is based upon the market value of the ore produced by each company, less non-statutory and statutory deductions. The deductions authorized include: loading costs, beneficiation costs, transportation and marketing costs, marine insurance, development costs, mine costs, supplies and labor, administrative expenses directly involved in the mining and beneficiation, depreciation on mine plant and equipment, royalty payments, ad valorem taxes for iron ore, production taxes for taconite and semi-taconite, and certain miscellaneous expenses.

The policy of the state is to allow credits against the occupation tax if low-grade, underground and high labor cost ores are mined; if research is conducted in Minnesota for the express purpose of furthering development of Minnesota ores; and if equipment to abate or control pollution is installed. These laws encourage the development of mining in the state and encourage actions to control pollution.

2. Copper-nickel ores

Every person engaged in the business of mining or producing copper-nickel ores in this state shall be exempt from the occupation taxes imposed under Minn. Stat. 298.01, but, in lieu of the taxes under said section, shall pay to the state of Minnesota an occupation tax equal to one percent of the valuation of all such ores mined or produced. Such tax shall be in addition to all other taxes provided for by law.

Minn. Stat. 298.51

There shall be allowed a credit against the occupation tax assessed against any mine of two-thirds of one percent of the amount of such tax for each one percent of the total production of copper-nickel ore from said mine which is converted into semi-refined or refined metal, blister copper, copper powder, nickel powder, ferro-nickel, nickel sinter, or other primary or intermediate forms of copper, nickel or copper-nickel metals within the limits of the state of Minnesota.

Minn. Stat. 298.54

A credit is allowed against the occupation tax for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development or beneficiation of Minnesota copper-nickel ores.

Minn. Stat. 298.55

POLICY
APPLICATION,
EXPLANATION

Unlike iron ore and taconite mining companies, the copper-nickel mining companies are subject to state income taxes. Thus, the occupation tax on copper-nickel mining is at a lower rate than that for iron ore and taconite mining.

The state policy authorizes allowances against the occupation tax for production costs. The state laws also authorize credits against the occupation tax for processing copper-nickel ore in the state and for research conducted in the state for the express purpose of furthering development of Minnesota copper-nickel ores.

E. Royalty Taxes

POLICY
LANGUAGE

There shall be levied and collected upon all royalty received during each calendar year for permission to explore, mine, take out and remove ore other than taconite, semi-taconite and iron sulphides from land in this state, a tax of 15.5 percent; and a tax of 15 percent upon all royalty received for permission to explore, mine, take out and remove taconite, semi-taconite and iron sulphides.

Minn. Stat. 299.01

For the purpose of increasing the utilization of low grade, underground, and high labor cost ores and taconites, a credit is allowed against the royalty tax because of the mining or production of such ore.

Minn. Stat. 299.012

Royalty received from and after May 23, 1967, for permission to explore, mine, take out and remove copper-nickel ore from land in this state shall be exempt from the royalty tax imposed by Minn. Stat. 299.01, and in lieu thereof, there shall be levied and collected upon all such royalty a tax of one percent plus an additional one percent of the amount of royalty paid on gold, silver, platinum and other precious metals.

Minn. Stat. 299.013

POLICY
APPLICATION,
EXPLANATION

The royalty payments made by a mining company to the landowner are a deduction in arriving at the valuation of ore subject to occupation taxes. Thus, the tax on royalties assures that

the mining company which owns its own mineral interest has its ore subject to the same tax burden as the company which leases a mineral interest and pays a royalty thereon.

The royalty rate is not in lieu of the personal income tax on royalties. Recipients of royalties are subject to a state income tax in the same manner as income from other business activities in the state is subject to income tax.

IV. POLICIES ON SEVERED MINERAL INTEREST OWNERSHIP

POLICY
LANGUAGE

Because the ownership condition of many severed mineral interests is becoming obscure and further fractionalized with the passage of time, the development of mineral interests is often impaired. Therefore, it is in the public interest and serves a public purpose to identify and clarify these interests.

Minn. Stat. 93.52, subd. 1

A owner of a fee simple interest in minerals, 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 a statement of such ownership for record in the office of the county or, if registered property, in the registrar of titles' office of the county in which the mineral interest is located.

Minn. Stat. 93.52, subd. 2

If the owner fails to file the statement of ownership (within specified time limits), the mineral interest shall forfeit to the state after notice and opportunity for hearing. In a forfeiture proceeding, the owner, to avoid forfeiture, would have to prove that severed mineral interests taxes were timely paid and that the county records specified the true ownership or, in the alternative, that proceedings affecting the title of the interest had been timely initiated and diligently pursued by the true owner during the time when the interest should have been registered.

Minn. Stat. 93.55, subs. 1 & 2

Severed mineral interests are taxed at the annual rate of \$.25 per acre or portion of an acre, unless the mineral interests are valued and taxed under other laws or the mineral interests are exempt from taxation pursuant to constitutional or related statutory provisions.

Minn. Stat. 273.13, subd. 2a

POLICY
APPLICATION,
EXPLANATION

Over the years the ownership of severed minerals became obscure and fractionalized. The prohibitive expense of title searches necessary to determine ownership of fractional interests impaired mineral development and made taxation difficult. The legislature addressed these concerns by requiring registration of such ownership and payment of an annual tax. Failure to comply with the law results in forfeiture of those interests to the state.

V. POLICIES RECOGNIZING IMPORTANCE OF MINING

POLICY
LANGUAGE

In recognition of the unique combination of cultural, geological, industrial, historical, recreational, and scenic characteristics of Minnesota's iron ranges, an "Iron Range Trail" is hereby established on the Vermillion, Mesabi and Cuyuna iron ranges and at related points on Lake Superior.

Minn. Stat. 93.45, subd. 1

The owner or owners of an interest equal to one-half or greater in lands known to contain veins, lodes or deposits of iron, iron ores, minerals or mineral ores of any kind, stone, coal, clay, sand, gravel or peat, may bring action in the district court in the county where the lands are situated for permission to open, operate and develop those veins, lodes or deposits.

Minn. Stat. 560.01 (enacted in 1907)

POLICY
APPLICATION,
EXPLANATION

The legislature recognized the contributions of iron mining to the state by the establishment of an iron range trail. The laws also indicate the importance of mineral development by providing a procedure that allows a majority of landowners to open up a mine with provisions for protection of the interests of the minority owners not joining in the opening of such mining operations.

CONCLUSION

This review of Minnesota's laws shows that the state has a large and comprehensive body of laws on the development of minerals in the state. Through the decades, the legislature has enacted laws opening state-owned and administered land for exploration and mining, controlling the effects of mining on the environment and taxing the mineral industry.

Many of these laws have the invaluable characteristic of precedent; they have been interpreted and enforced for many years, and can be used as an example or authority for identical or similar issues which might arise in the future. The Attorney General's office has issued opinions on the interpretation of numerous mineral laws. Some of these laws have been challenged in court and, if necessary, modified to comply with the court's decision.

The mineral industry has been important to the social and economic welfare of Minnesota and has the potential to continue and expand that role in the future. As new concerns arise regarding mineral development, they will be addressed by the legislature and the governmental agencies. Minnesota's mineral policy has the valuable ability of being able to change enough to address new developments or concerns, while still retaining its basic goal of encouraging the development of Minnesota's mineral resources.

EXECUTIVE ORDERS

Executive Order No. 82-1

Directing State Departments and Agencies to Recognize Importance of Mining to Minnesota

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution of the State of Minnesota and applicable statutes, do hereby issue this Executive Order:

WHEREAS, Minnesota ranks first among all states in the value of iron ore produced and ranks in the top three states in total nonfuel mineral production; and

WHEREAS, the iron ore and taconite industry has been an important industry to Minnesota throughout this century; and

WHEREAS, there is tremendous potential for other mineral industries in Minnesota, especially base metal mining; and

WHEREAS, Minnesota has developed a large and comprehensive body of laws relating to the development of minerals in the state; and

WHEREAS, the laws of Minnesota encourage the development of mining, with due consideration and concern about the effects of mining on the environment; and

WHEREAS, the United States Congress has restated in similar terms in the National Materials and Minerals Policy, Research and Development Act of 1980, that the ongoing mineral policy of the United States is to "promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation and social needs"; and

WHEREAS, it is desirable at this point in Minnesota's history to reaffirm the importance of mining to the state and the significance of the body of law which authorizes and guides mineral development in the state;

NOW, THEREFORE, I ORDER:

The responsible departments and agencies of the State of Minnesota are directed to recognize the importance of mining to Minnesota, the tremendous potential for future mineral development, and the impact of their programs on mining; and further, these responsible Departments and agencies are directed to encourage the development of mining in this state, with due concern for the effects of mining on the environment.

Pursuant to Minnesota Statutes 1981, § 4.035, this order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minnesota Statutes 1981, Section 4.035.

IN TESTIMONY WHEREOF, I have hereunto set my hand this 26th day of January, 1982.





EXECUTIVE ORDER NO. 85-18

**DIRECTING STATE DEPARTMENTS AND AGENCIES
TO RECOGNIZE THE IMPORTANCE OF
MINERAL EXPLORATION AND MINING TO MINNESOTA**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

Whereas, Minnesota ranks first among all states in the value of iron ore produced and ranks in the top four states in total nonfuel mineral production; and

Whereas, the iron ore and taconite industry has been an important industry to Minnesota throughout this century; and

Whereas, there is tremendous potential for other mineral industries in Minnesota, especially base and precious metal and precious minerals mining; and

Whereas, Minnesota has developed a large and comprehensive body of laws relating to the development of minerals in the state; and

Whereas, the laws of Minnesota encourage the development of mining, with due consideration and concern about the effects of mining on the environment; and

Whereas, the United States Congress has restated in similar terms in the National Materials and Minerals Policy, Research and Development Act of 1980, that the ongoing mineral policy of the United States is to "promote an adequate and stable supply of materials necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation and social needs;" and

Whereas, it is desirable at this point in Minnesota's history to reaffirm the importance of past, present and future mining to the State and the significance of the body of law which authorizes and guides mineral development in the state;

NOW, THEREFORE, I hereby order that:

The responsible Departments and Agencies of the State of Minnesota are directed to recognize the importance of mining to Minnesota, the tremendous potential for future mineral development, and the impact of their programs on mineral exploration and mining; and further, these responsible Departments and Agencies are directed to encourage the development of mineral exploration and mining in this state, with due concern for the effects of mining on the environment.

Pursuant to Minnesota Statutes, Section 4.035, this Order shall be effective fifteen (15) days after publication in the State Register and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 16th day of
December, 1985.


RUBY PERPICH
Governor

Filed According to Law:


JOAN ANDERSON GROWE
Secretary of State



