

Acquisition and Administration of
State-Owned Mineral Rights

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March 1987

Introduction

Inquiries are often made concerning the extent of the state's ownership of mineral rights. While the federal, state and local governments own or control some surface and mineral rights in Minnesota, the vast amount of both interests remain privately held.

Nevertheless, the State of Minnesota is the largest single owner of mineral rights in the state, owning approximately 24% of such mineral rights. This handout will explain how the state acquired mineral rights and the duties and responsibilities the state has in administering those mineral rights.

I. Acquisition of Lands and Mineral Rights by the State

When the territory of Minnesota was established in 1849, all the lands in the state were owned by the federal government, subject to the Indian right of occupancy. Thus, all land and mineral rights ownership in Minnesota must start with a conveyance from the federal government, and this includes the lands and mineral rights owned by the State of Minnesota.

A. Trust Fund Lands

The first lands owned by the state are commonly known as "trust fund lands" and were deeded to the state directly from the federal government. These conveyances included the mineral rights in the land. The trust fund lands include school lands, swamp lands, internal improvement lands and university lands.

In 1857 the territory was authorized to form a constitution and was also granted sections 16 and 36 in every township for the purposes of schools. Minnesota was the first state to receive a double allowance of lands for schools as opposed to only section 16 being conveyed. The territory was also authorized to select alternative school lands where designated school sections had already been settled, cultivated or occupied as town sites. The total conveyance of school lands to Minnesota was about 2,956,000 acres.

In 1860 the U.S. Congress granted the state all the swamp and overflowed lands with its borders that had not been previously reserved or conveyed. The swamp lands were identified by the plats and field notes of the government survey. The identification process eventually resulted in the conveyance of 4,461,000 acres of swamp lands to the state.

Another group of trust fund lands include the internal improvement lands. Five hundred thousand acres were granted to the state in 1866 through recognition of the applicability of a 1841 federal law that granted a half million acres of land for purposes of internal improvements to new states upon admittance to the union.

In 1857 the federal government granted the state seventy-two sections of land for a university. The university lands were selected by the governor.

The state also received, at the time it was admitted to the union, the ownership of the beds of navigable waters.

B. Acquired Lands

The State of Minnesota has also acquired lands through purchase, gift and forfeiture. In most instances, these lands have been first held in private ownership prior to ownership by the state.

Large acreages of lands have been acquired by the state through forfeiture for non-payment of general real estate taxes. The state receives title to tax forfeited lands and holds them in trust for local taxing districts. The acreage of tax forfeited lands in which the state owns the surface interests fluctuates due to new tax forfeitures, land sales and land transfers. There are currently about 2,800,000 acres of tax forfeited lands in which the state owns the surface interests in trust for the taxing districts.

Another type of land acquired through tax forfeiture is known as consolidated conservation area land. By a series of legislative acts enacted in 1929, 1931 and 1933, the state assumed payment of drainage ditch bonds that had been

issued by seven northern counties. The bonds were facing default and this would have resulted in tremendous economic hardship to the counties. In return for the assumption of the bonds, the state received title to tax forfeited lands in areas defined by the laws.

In 1908 the U.S. Congress authorized establishment of liens on unpatented federal lands for drainage ditches. A portion of these lands were purchased by the state from the federal government and are known as Volstead Lands.

The federal government deeded certain lands to the state in 1954 that are known as Land Utilization Project Lands. These lands that are located in the counties of Beltrami, Carlton, Koochiching, and Lake of the Woods, had been purchased from individuals by the federal government as authorized under the National Industrial Recovery Act of 1933.

The Minnesota Bureau of Rural Credit was established in 1923 to issue mortgage loans to farmers in an effort to bolster the troubled farm economy. Due to widespread agricultural depression, the Bureau acquired thousands of acres of land from foreclosures. Mineral rights were reserved to the state with subsequent sales of the land.

The state also acquires certain lands to fulfill legislative directives. The Department of Transportation acquires lands for highway purposes. The Department of Natural Resources acquires lands for parks, forest purposes, fish and wildlife management, public accesses and other public purposes. These lands are acquired through purchase, condemnation and gift.

A summary of the classifications of state-owned lands and the means by which they were acquired is included on pages 1-3 of the appendix.

II. Reservation of Mineral Rights

The Minnesota Supreme Court and other courts in the country recognize that mineral rights may be owned separately from the surface interest. It is therefore possible to sell land and reserve minerals, or sell minerals and

reserve the surface interests. Once severed, these ownerships may be separately conveyed.

The state has followed a practice of reserving mineral rights when it sells land. This policy first arose in 1889 after the state auditor refused to sell lands in the Iron Range areas without first reserving mineral rights. He believed that valuable deposits of iron ore might be found on those lands. The legislature, in 1889, made it discretionary as to reserving mineral rights upon the sale of state trust fund lands in the counties of Cook, Lake and St. Louis. This reservation became mandatory in 1901 for state trust fund lands in all counties.

The policy of reserving mineral rights was subsequently extended to other lands owned by the state. It is required that mineral rights also be reserved whenever the state sells tax forfeited lands, consolidated conservation area lands, state surplus lands, and other state lands.

While the state deeds now reserve mineral rights when selling or exchanging land, it is not always known if the state actually has any mineral rights to reserve. This is due to the fact that mineral rights may have been severed from the surface interest prior to the acquisition of the lands by the state.

For trust fund lands acquired directly from the federal government, the mineral rights were conveyed to the state with the surface interest. Therefore, the state owns the mineral rights for these lands, unless the lands were sold prior to the enactment of laws requiring reservation of mineral rights. However, once lands have been privately-owned, the state is no longer certain as to ownership of the mineral rights without performing title work.

Research by the Department's staff is starting to clarify whether mineral rights are owned by the state in lands that forfeited at one time for non-payment of general real estate taxes. The initial results have shown that

the practice of severing interests vary by area, with higher amounts of severance in areas with higher interest in mineral potential at the time of severance.

The summary of the classifications of state-owned lands that is included in the appendix identifies the lands for which the state warrants title when leasing for mineral exploration. The state only warrants title when it is certain that the state owns the mineral rights being leased.

III. Severed Mineral Interests

Over the years the ownership of severed minerals had quite often become very obscure and fractionalized. Some interests remaining in families for several generations had been divided among so many descendants of the original party to the severance that their fractional interests had become extremely small. It was also quite common that the conveyance of severed mineral interests was not recorded, so that obscure ownership was requiring expensive title searches.

The Minnesota Legislature addressed this issue and the issue of taxation of these interests through a law enacted in 1969 and amended in 1973 and 1979. This law requires current mineral owners to be identifiable in the county records by the filing of a statement in the county recorder's office and the paying an annual tax to the county auditor's office. Failure to file a statement or failure to pay the annual tax will result in forfeiture to the state.

This law has aided mineral exploration by the identification of mineral rights owners. It has also resulted in owners of mineral interests being required to pay a minimal tax on such interests rather than avoiding taxation. Numerous mineral rights owners have decided to forego payment of the 25¢ per acre tax, and this has resulted in the forfeiture of over 400,000 acres of severed mineral interest to the state in trust for the local taxing districts.

IV. State's Administration of Mineral Rights

The Department of Natural Resources manages 94% of the state-owned lands and the Department of Transportation manages an additional 4%. The remainder of the state lands are managed by the University of Minnesota, military affairs and other state agencies.

The exact amount of the mineral rights owned and managed by the state is not known due to the title questions on mineral rights ownership. The land records, maintained by the DNR, indicate the state may own approximately 10 million acres of mineral rights. The DNR's records did not list sold tax forfeited lands until the 1960's, and thus the records do not reflect the large amount of tax forfeited lands that were sold in the 1940's and 1950's. The state's land records also do not reflect the recent forfeitures of severed mineral interests for nonpayment of taxes, although this information is now being added to a computer data base. A revised estimate of the state's ownership of mineral rights is 12 million acres.

The total land area in the state is 51,205,760 acres. This means that the state owns about 24% of the mineral rights in the state. The federal government owns about 7% of the mineral rights in the state. The remainder of the mineral interests are privately-owned.

The state's policy of reserving mineral rights upon the sale of lands also includes the policy to never sell state-owned mineral rights. State mineral rights believed to have mineral potential may be leased in accordance with legislative directives and constraints. In some areas, such as the B.W.C.A.W., the state is prohibited from leasing minerals, and in some areas, such as scientific and natural areas, the state does not offer lands for leasing due to the use of the surface of the lands.

The Department of Natural Resources manages the mineral rights in trust fund lands, the beds of navigable waters, tax forfeited lands, consolidated

conservation area lands, other acquired lands, and tax forfeited severed mineral interests. The Department also manages the surface of these lands except for tax forfeited lands. The county administers the surface of tax forfeited lands, subject to certain approvals by the department and subject to certain constraints once the land is offered for mineral leasing.

The revenue derived from the mineral leases is distributed to various funds for the appropriate land types. Revenue from the trust fund lands is credited to the permanent school fund or permanent university fund. The principals of these funds are inviolate, and net interests and dividends are distributed to the school districts and the university. Over 80% of the principal of the permanent school fund which is valued at over \$365 million in 1986, is from mining taxes and revenues from state mineral leases.

Eighty percent of the revenue from leasing of tax forfeited lands and tax forfeited severed mineral interests are returned to the counties in which the leased lands and mineral rights lie. This eighty percent is distributed $\frac{3}{9}$ to the county, $\frac{2}{9}$ to the town or city and $\frac{4}{9}$ to the school district. Revenue from consolidated conservation area lands is distributed 50% to the county and 50% to the consolidated conservation area fund, which is currently being used for forest management.

A summary of the distribution of rentals and royalties from state mineral leases is included on pages 4-7 of the appendix.

V. Conclusion

This handout has highlighted the type of lands that the State of Minnesota owns and its duties and responsibilities toward such lands. The mineral rights ownership reserved by the state has been an historic recognition of potential mineral value. While these mineral rights may be held for decades or longer before development, the future revenue will benefit the school districts, local taxing districts and all citizens of the state.

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Classifications of State-Owned and Administered Mineral Rights and Lands

<u>Land Classification</u>	<u>Means of Acquisition</u>	<u>Title to Minerals Warranted</u>
<u>I. Trust Fund Lands</u>		
A. Permanent School Fund Lands		
1. School Lands	Granted in 1857 by act of U.S. Congress that authorized Minnesota to form a constitution. State was granted sections 16 and 36 in each township that had been reserved by the Organic Act of 1849.	Yes (unless lands subsequently acquired by exchange)
2. Indemnity School Lands	Granted in 1857 by another act of U.S. Congress. Authorized state to select alternative school lands where designated school sections in a township had already been settled, cultivated or occupied as town sites.	Yes (unless lands subsequently acquired by exchange)
3. Swamp Lands	Granted in 1860 by U.S. Congress through extension of law granting swamp lands to states.	Yes (unless lands subsequently acquired by exchange)
4. Internal Improvement Lands	Granted 500,000 acres in 1866 through recognition of applicability of 1841 act of U.S. Congress.	Yes
B. Permanent University Lands	Granted in 1857 by act of U.S. Congress. Seventy-two sections of land, to be selected by governor, were granted to state.	Yes
<u>II. Navigable Waters</u>		
1. Beds of Navigable Waters	Granted in 1858 when Minnesota admitted to Union. Ownership by state has been affirmed by federal court cases. Test of navigability determined at date of state's admission to Union.	Yes

<u>Land Classification</u>	<u>Means of Acquisition</u>	<u>Title to Minerals Warranted</u>
III. <u>Acquired Lands</u>		
A. Consolidated Conservation Area Lands	By a series of legislative acts in 1929, 1931 and 1933, state assumed payment of drainage ditch bonds issued by counties in return for title to tax forfeited lands in areas defined by acts. Lands are only in counties of Aitkin, Beltrami, Koochiching, Lake of the Woods, Mahnomon, Marshall and Roseau. Lands forfeiting since May 3, 1984, in consolidated conservation areas do not become C.C.A. lands.	No
B. Volstead Lands	In 1908, U.S. Congress authorized establishment of liens on unpatented federal lands for drainage ditches. In 1961, the state purchased 33,220 acres of Volstead lands from federal government.	Yes
C. Forest-Land Utilization Project Lands	In 1933, the federal government purchased submarginal agricultural lands in the state. Many of these lands are under long-term lease to the state. In 1954, the state was granted title to certain LUP lands in Beltrami, Carlton, Koochiching and Lake of the Woods counties.	No
D. Rural Credit Lands	In 1923, the state established a Rural Credit Bureau to issue mortgage loans to farmers. Due to widespread agricultural depression, the majority of the mortgages were foreclosed. Mineral rights were reserved by the state with subsequent sales of the land.	No
E. Lands acquired by gift or purchase	Various laws authorize the state to acquire, by gift or purchase, lands for purposes such as forest management and development, game and fish management, wildlife habitats, parks and recreation areas and scientific and natural areas.	No

<u>Land Classification</u>	<u>Means of Acquisition</u>	<u>Title to Minerals Warranted</u>
IV. <u>Tax Forfeited Lands</u>		
A. Lands forfeited due to real property tax.	Lands forfeit for nonpayment of general real estate property taxes assessed by counties. Title to land is held by state in trust for the taxing districts.	No
B. Lands acquired free from trust in favor of taxing districts.	Since 1941, the county boards may resolve that tax forfeited lands in areas defined as conservation areas be offered to state for conservation management purposes. If commissioner accepts lands, they are held by state free from any trust in favor of the taxing districts.	No
V. <u>Severed Mineral Interests</u>		
A. Forfeiture for nonpayment of taxes.	Severed mineral interests forfeit for nonpayment of the severed minerals interest tax or nonpayment of tax based on known value.	No
B. Forfeiture for nonregistration	Severed mineral interests will forfeit to the state for failure to timely file a statement of severed minerals interest ownership in the appropriate county. A specific court case must be brought before absolute forfeiture.	No

DISTRIBUTION OF RENTALS AND ROYALTIES FROM STATE MINERAL LEASES

<u>Land Classification</u>	<u>Distribution of Rentals & Royalties</u>	<u>Legal Citation</u>
School Lands, Indemnity School Lands, Swamp Lands, Internal Improvement Lands and Beds of Navigable Waters	Revenue is deposited into Permanent School Fund. Principal of fund is perpetual and inviolate forever. The net interest and dividends from the fund are distributed to the different school districts in the state in proportion to the number of students in each district between the ages of 5 and 21 years.	Minn. Const. Art. XI, Sec. 8
University Lands	Revenue is deposited into Permanent University Fund. Principal may be loaned or invested in bonds of any county, school district, city or town in MN and in first mortgage loans secured upon improved and cultivated farm lands in MN. Income from the fund is appropriated annually to the board of regents for endowment of professional chairs in academic disciplines Any unused portion of annual appropriation is returned to principal of fund.	Minn. Const. Art. XI, Sec. 9; Minn. Stat. 1986, sec. 137.022
Consolidated Conservation Area Lands (These lands are only found in the counties of: Aitkin, Beltrami, Koochiching, Lake of the Woods, Mahnomen, Marshall and Roseau)	Revenue deposited into consolidated conservation areas fund. Within 30 days after end of each fiscal year, one-half of income received is distributed to counties wherein is located the land from which income is derived. Except for Koochiching County, the county distributes the revenue as follows: 30% to county development fund (to be used for rehabilitation and development of portion of county lying within conservation area), 40% to capital outlay fund of school district from which revenue is derived, 20% to county revenue fund, and	Minn. Stat. 1986, sec. 84A.51

Land
Classification

Distribution of Rentals & Royalties

Legal Citation

10% to township road and bridge fund of township from which revenue is derived. (If unorganized township with no levy for road or bridge purposes, this 10% is credited to county revenue fund.)

For Koochiching County, the county distributes the revenue as follows:

- 20% to county development fund (to be used for rehabilitation and development of portion of county lying within conservation area),
- 60% to capital outlay fund of school district from which revenue is derived, and
- 20% to county revenue fund.

Laws of MN 1961,
C. 612

Of the remaining revenue in the fund, the legislature has been appropriating \$500,000 per year (since fiscal year 1978) to the DNR for forest management.

Laws of MN 1985,
1st Spec. Sess.,
C. 13, Sec. 22,
Subd. 7; Laws of
MN 1983, C. 301,
Sec. 22; Laws of
MN 1981, C. 356,
Sec. 25; Laws of
MN 1979, C. 333,
Sec. 26; Laws of
MN 1977, C. 455,
Sec. 27

Volstead
Lands

Revenue deposited into state forest fund.

Annually on July 1, or as soon thereafter as practical, all revenue from these lands is distributed: 50% to the counties in which the land from which revenue is derived is located, and 50% to the general fund of the state.

Laws of MN 1963,
C. 390; Laws of
MN 1961, C. 472;
Minn. Stat.
1986, secs.
89.035 - 89.036

<u>Land Classification</u>	<u>Distribution of Rentals & Royalties</u>	<u>Legal Citation</u>
Lands acquired for state forest purposes, tax forfeited lands to which county relinquished its equity to state for state forest purposes and land utilization project Lands (Land utilization project Lands are only found in the counties of Beltrami, Carlton, Koochiching and Lake of the Woods)	Revenue deposited into state forest fund. Annually on July 1, or as soon thereafter as practical, 50% of gross receipts received that fiscal year is distributed to the counties in which the land from which the revenue is derived is located. Counties distribute this payment the same as tax payments on such lands would be distributed. The balance of the revenue in the fund each July 1 is credited to the forest management fund. The forest management fund is subject to appropriation by the legislature for expenditures by the DNR for: <ul style="list-style-type: none"> -reforestation consistent with state reforestation policy and forest resource management plan, -forest road improvements consistent with state forest road policy and forest resource management plan, -equipment and training needed for prevention and suppression of forest fires, and -forest pest prevention and treatment. 	Minn. Stat. 1986, secs. 89.035, 89.036 and 89.04
Rural Credit Lands	General fund of the state.	Minn. Stat. 1986, secs. 93.22 and 16A.72
Tax forfeited lands held in trust for taxing districts	Revenue distributed annually on Sept. 1st as follows: 20% to general fund of the state, and 80% to the respective counties in which the leased lands lie, to be apportioned among taxing districts interested therein as follows: county 3/9, town or city 2/9 and school district 4/9.	Minn. Stat. 1986, sec. 93.335, subd. 4
Tax forfeited lands held free from the trust in favor of taxing districts pursuant to resolution of county board.	General fund of the state	Minn. Stat. 1986, sec. 282.01, subd. 2

Land
Classification

Distribution of Rentals & Royalties

Legal Citation

Mineral rights
forfeited under
severed mineral
interests law

Revenue distributed annually on Sept. 1st
as follows: 20% to general fund of the
state, and 80% to the respective counties
in which the leased lands lie, to be ap-
portioned among taxing districts interested
therein as follows: county 3/9, town or
city 2/9 and school district 4/9.

Minn. Stat.
1986, secs.
93.55, subd. 3
and 93.335,
subd. 4

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