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- Leasing state-owned mineral rights



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Leasing State-Owned Mineral Rights for Selected Industrial Minerals in Minnesota



explore the possibilities

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Minnesota Department of Natural Resources
Division of Minerals
Mineral Leasing and Mineral Rights Management Section

May 1997

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INTRODUCTION

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The State of Minnesota has a new program of leasing state-owned lands for industrial mineral exploration. Effective June 26, 1995 are rules governing leases of state lands for selected industrial minerals. The industrial minerals covered by the rules are apatite, diamonds, dimension stone, feldspar, gemstones, graphite, kaolin, marl, quartz, silica sand, and other similar minerals of a non-metalliferous nature. Minnesota has a mineral rights ownership base of over 12 million acres with excellent potential for minerals of a non-metalliferous nature.

The new program establishes a system for leasing state lands and mineral rights for industrial minerals primarily through negotiation; however, the new rules also provide that the lands and minerals may be offered through public sale. Public sales for industrial mineral leases will be advertised through local newspapers, the *State Register* and the *EQB Monitor*. Notice may additionally be published in trade magazines.

The state-owned mineral rights are managed for the benefit of the schools, the university, local units of government and the public. This responsibility is part of the Department of Natural Resources' philosophy of ecosystem-based management and the Department's vision statement, which is as follows:

We will work with people to manage the state's diverse natural resources for a sustainable quality of life.

Minnesota's mineral policy is found in the Minnesota Constitution and the laws of the state. This body of law has evolved over a century of mineral exploration and development. In summary, the mineral policy of the state encourages environmentally sound development of mineral exploration and mining in this state. The state's environmental statutes are fair but tough.

We encourage you to come and explore the possibilities for industrial minerals in Minnesota.



William C. Brice, Director
Division of Minerals
Department of Natural Resources



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LEASING STATE-OWNED LANDS FOR INDUSTRIAL MINERALS

Generally

Leases for selected industrial minerals from state-owned or state-managed lands are issued under Minnesota Rules, parts 6125.8000-8700. The state industrial minerals leases are issued primarily through negotiation; however, the rules also provide for public sale of industrial minerals leases.

The rules pertaining to the leasing procedures and containing the lease form are numbered Minnesota Rules, parts 6125.8000 to 6125.8700, and are reproduced in the appendix. The rules authorize the Commissioner of Natural Resources to issue leases for the purpose of exploring for, mining and removal of selected industrial minerals.

The selected industrial minerals covered by the rules are: *apatite, diamonds, dimension stone, feldspar, gemstones, graphite, kaolin, marl, quartz, silica sand, and other similar minerals of a non-metalliferous nature.*

Iron ore, taconite, metallic minerals, coal, oil, gas and related hydrocarbons, peat, construction sand and gravel are not covered under the industrial mineral leasing rules.

For a negotiated lease, the first qualified applicant to a property will receive 180 days in which to negotiate a lease with the state.

Public lease sales will be advertised through publication of a notice of sale in the *State Register*, *EQB Monitor*, and a newspaper for each county in which lands for the lease sale will be offered. The notice will be published at least 30 days before the sale and will identify the specific industrial mineral offered for lease. The list of lands offered and the lease form that will be used for the lease sale will also be available for purchase or review at least 30 days before the sale.

The model lease form can be found at Minnesota Rules, part 6125.8700, reproduced in the appendix. The model form may be modified as necessary to accommodate the industrial mineral being leased.

How to Obtain More Information

More information on the state's mineral leasing procedures is available from the St. Paul office of the Division of Minerals. Please contact:

Kathy A. Lewis, Mineral Leasing Manager
Minnesota Department of Natural Resources
Division of Minerals
500 Lafayette Road
St. Paul, Minnesota 55155-4045
Telephone (612) 296-4807

The Division of Minerals' office in Hibbing has maps and reports on Minnesota's mineral resources, including drill core and exploration data from terminated state and private leases. This data is available for public inspection, with a period of confidentiality under state law covering a written report or other documentation of the private analysis of state-owned or controlled drill core.

To arrange a time for a visit to the Hibbing office or for more information, please contact:
Richard Ruhanen, Minerals Potential Geologist
Minnesota Department of Natural Resources
Division of Minerals
1525 3rd Ave. E.
Hibbing, Minnesota 55746
Telephone (218) 262-6767

For general information from the Minnesota Department of Natural Resources, contact the DNR Information Center:

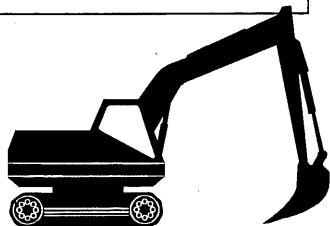
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INDUSTRIAL MINERALS IN MINNESOTA: OPPORTUNITIES FOR NEW DEVELOPMENTS

The mining industry is a small, but significant part of the state's economy. Mining has been taking place for more than a century in Minnesota for many commodities, including dimensional granite, dimensional limestone, agricultural limestone, clay, and quartzite. Mining is especially important to the rural segment of the state's economy. Although scant data are available, the mining sector of the industrial minerals industry statewide appears to be stable. Moreover, there appears to be increasing production of at least two commodities, aggregate and peat.

Mining has been taking place for more than a century in Minnesota for many commodities, including dimensional granite, dimensional limestone, agricultural limestone, clay, and quartzite.



Large and growing markets for industrial mineral commodities are present in the Minneapolis-St. Paul metropolitan area, which has a population of more than 2.5 million. Within the larger Great Lakes Region other larger markets such as Chicago, Detroit, and Cleveland, are accessible by bulk carrier via our ports, rail, or interstate highways. There are numerous industries within this larger market that utilize industrial minerals, including construction, papermaking, iron mining, steel making, various fabrications, automotive, agriculture, chemicals, petroleum, glass, and ceramics. Mineral lands are still generally available for exploration and development in Minnesota. Bulk transportation routes within Minnesota include commercial Great Lakes ports that link to the St. Lawrence Seaway, Mississippi River barges that link to the Gulf of Mexico, transcontinental railroads and highways, and local railroads. Generally, the key elements are present for private investment and development in the industrial mineral sector in this state. For example, a recent Division of Minerals program to search for dimensional granite prospects was successful in identifying a number of solid prospects. Three such prospects were subsequently leased by a stone company, and two are now being quarried. Other granite dimension stone prospects on state lands will soon be available to lease for the first time. This example demonstrates that some industrial mineral resource lands are still available in Minnesota and recent development has occurred.

An overview of the speculative or undeveloped industrial mineral resources in Minnesota, from known prospects to speculative, undiscovered commodities, applicable to this type of lease will be presented here. The bedrock geology of the state is presented and briefly cited to provide general geographic and geologic perspectives (See Fig. 1 and Fig. 2).

Commodities Currently Being Mined

To get a good perspective of the undeveloped industrial minerals, it is useful to look at the existing industrial minerals industry. The industrial mineral and construction materials mining industry in Minnesota is composed of production of seven general commodities: aggregate, granite, limestone, quartzite, industrial silica sand, clays, and peat. Figure 3 identifies the active mines and quarries for all mineral commodities except sand and gravel. Five of these commodities are pertinent to the state industrial minerals lease, specifically dimensional granite, dimensional limestone, quartzite, silica sand, and kaolin clay. There are no comprehensive statistics available on production, employment or value.

Aggregate production in Minnesota is composed of three general categories: sand and gravel mined from glacial deposits or alluvial deposits, crushed limestone mined from bedrock in southeastern Minnesota, and crushed rock mined from granite, quartzite, or trap rock. The materials are used for many construction purposes, including concrete, blacktop, railroad ballast, riprap, ornamental stone, road base or other fill material. Furthermore, some of the same quarries that produce crushed limestone also produce granular limestone. The granular limestone is used for agricultural application or for cement. Virtually every county in the state has mining of one of these three categories, with the majority of production coming from sand and gravel of glacial deposits.

Dimension stone production in Minnesota includes three general commodities: granite, limestone, and quartzite. Two granite producers operate nine quarries within the state. The quarries are located in the vicinity of St. Cloud, Ortonville, Morton, Bellingham, Isle, and Babbitt. Dimension stone end products generally fall into two categories, building stone and memorials. The building stone products include interior and exterior facing, paving and curbing, tile, counter tops and furniture. The memorial stone products include monuments, markers, mausoleums and crypt fronts. Three limestone producers operate eight quarries within the state. The quarries are located in the vicinity of Mankato and Winona. The limestone is used more commonly for building stone products. Quartzite is quarried near Jasper in southwestern Minnesota and is used for abrasive products and dimensional products. The abrasive products include grinding media cubes and pebbles. The dimensional products include mill and chute liners, acid-resistant blocks, building stones, and memorials.

Silica sand, from sandstone bedrock formations east of the Twin Cities and north of Mankato, is used in the petroleum industry, in the construction industry, in foundries, in glass making, and for sand blasting.

Clay production is derived from five mines, for two general purposes. Kaolin is mined for use in Portland cement production, and also for making bricks and tiles. Common clay and shale are also mined for bricks and tiles.

Dimension stone end products generally fall into two categories, building stone and memorials. The building stone products include interior and exterior facing, paving and curbing, tile, counter tops and furniture. The memorial stone products include monuments, markers, mausoleums and crypt fronts.

Speculative Industrial Mineral Resources

It is very likely that production will continue for the commodities currently being produced. It is possible that future production may occur for the following commodities that are currently undeveloped: new dimension stone quarries in very different rock types from past production, high-grade kaolin for use in papermaking, dolomite, feldspars, olivine, phosphorus from apatite or phosphorite, manganese, barite, fluorite, mica, graphite, garnet, staurolite, kyanite, andalusite, high-purity silica, talc, asbestos, vermiculite, wollastonite, rare-earth elements, or diamonds. This speculation is not an attempt to predict fluctuating market demands, economics, or product specifications. Rather, the predictive approach used here takes the simplistic, but long-term view that production will most likely happen where the geology is favorable to discovery of new deposits, where known mineral resource occurrences are available for economic evaluation, and where lands are available for exploration. Therefore, a general guide to what and where additional speculative mineral resources might be starts with geologic information. Furthermore, current economics for most of these commodities require that they occur near the surface and be mineable by open-pit methods. Two applicable maps for this purpose are the state bedrock geology map (See Fig. 1) and the bedrock outcrop map (See Fig. 2). Most outcrops occur in the eastern part of the state and also along the Minnesota River Valley. There are abundant exposures of sandstone, shale, limestone, and dolomite in the southeast, in contrast to the wide variety of rock types in central and northeastern Minnesota.

A brief statement for each speculative commodity shall describe an example occurrence, the general distribution of occurrences, or the prospective geologic terrane. The emphasis will be upon those areas of the state where outcrops are most common.

Historically there have been 14 districts in the state with dimension stone production. There are currently seven producing districts. There is potential future production from some of the past producing districts and from entirely new districts in northeastern Minnesota in the Late Archean granites or the Duluth Complex igneous rocks.

In recent years exploration has sought higher quality kaolin suitable for use in the region's papermaking market.

Kaolin deposits near the Minnesota River Valley are currently being mined for bricks and cement. In recent years exploration has sought higher quality kaolin suitable for use in the region's papermaking market. The ongoing search has led to evaluation of buried deposits of kaolin in the Minnesota River Valley region.

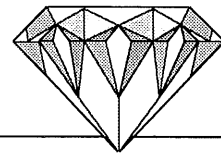
Carbonaceous deposits occur widely scattered within the Late Archean and the Early Proterozoic metamorphosed sedimentary rocks. According to work by the Minnesota Geological Survey, the carbonaceous deposits have carbon contents up to 44 wt. % and variable levels, from site to site, of crystallinity for the graphite. The carbon has been proposed as a lubricant, a pigment, a metallurgical reductant within taconite pellets, as a combined source of energy and substitute for shale in such industrial processes as cement-making or concrete block production, or for traditional uses within the refractory, foundry, and steel industries.

There are widely scattered occurrences of the following commodities, but there has been no significant production. Feldspar, olivine, and apatite occur in a number of magmatic deposits within the Duluth Complex. Small occurrences of andalusite, wollastonite, talc, and asbestos exist in this terrane, or in nearby older terranes. Garnet occurs in higher grade metamorphic zones mapped in Late Archean and Early Proterozoic terranes in northeastern and east central Minnesota. Phosphorite and barite occur in this Early Proterozoic terrane, and the terrane is highly prospective since manganese occurs so widespread in the former Cuyuna mining district. Staurolite occurs in schists near the Mississippi River Valley in central Minnesota. Kyanite, fluorite, and mica occur, separately, in Late Archean terrane in northern Minnesota. High-purity silica sand could be found in different types of deposits from every geologic terrane in the state.

There has been and continues to be exploration for diamonds across Minnesota, despite the fact that no diamond occurrences have been confirmed from Minnesota. And exploration has taken place at sites where the deposits would be deeply buried. This case exemplifies the above predictive guidelines for commodities that offer high profits. That is, future exploration and development may occur for commodities whose value is so high that the market drives exploration in areas where occurrences of the host rocks are currently unknown, but where land is available and the geology is prospective.

There are other commodities, besides diamonds, that are very likely to exist within the geologic terranes of Minnesota, but which are undiscovered at this time. These would include asbestos and talc in ultramafic intrusions, or fluorite associated with felsic intrusive rocks, or carbonatite deposits. Carbonatite deposits may contain such commodities as rare earth elements, niobium, phosphates, fluorite, vermiculite, or zirconium.

In summary, there is a large land area in Minnesota underlain by bedrock of the types that have yielded significant wealth from industrial mineral deposits in other parts of the world. Both a large market and a great transportation infrastructure are available. The State of Minnesota offers for lease the industrial mineral rights from some of the most prospective areas. In view of the fact that comparatively little modern exploration has occurred in the state, a good opportunity remains for successful discovery of an economically viable industrial mineral deposit in Minnesota.



There has been and continues to be exploration for industrial diamonds across Minnesota, despite the fact that no diamond occurrences have been confirmed from Minnesota. And exploration has taken place at sites where the deposits would be deeply buried.



STATE OWNERSHIP OF MINERAL RIGHTS

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. The following is a brief summary of how the state acquired mineral rights.

Trust Fund Lands

Trust fund lands were deeded to the state directly from the federal government. 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 granted sections 16 and 36 in every township for the purpose of schools. 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 within its borders that had not been previously reserved or conveyed. The total conveyance of swamp lands to the state was about 4,461,000 acres.

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

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 almost three million acres of tax forfeited lands in which the state owns the surface interests in trust for the taxing districts.

Sizable acreages of mineral rights have been acquired by the state through forfeiture for non-payment of severed mineral interest taxes. The state receives title to forfeited severed mineral interests and holds them in trust for the local taxing districts.



Large acreages of lands have been acquired by the state through forfeiture for non-payment of general real estate taxes.

Another type of land acquired through tax forfeiture is known as consolidated conservation area land. By a series of legislative acts in 1929, 1931 and 1933, the state assumed payment of drainage ditch bonds that had been issued by seven northern counties (Aitkin, Beltrami, Koochiching, Lake of the Woods, Mahnomen, Marshall and Roseau). In return for the assumption of the bonds, which were facing default, the state received title to tax forfeited lands in areas defined by the laws.

The state has purchased certain lands from the federal government. These lands include Volstead lands and Land Utilization Project Lands.

The Minnesota Bureau of Rural Credit was established in 1924 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 lands for parks, forest purposes, fish and wildlife management, public accesses and other public purposes.

Reservation of Mineral Rights

The state has followed a policy 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. 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 the sale of 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.

Severed Mineral Interests

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 interest. Once severed, mineral rights become a type of real property that may be sold or inherited, in the same manner as other real estate, independently of the ownership of the surface of the land.

Over the years the ownership of severed minerals had quite often become very obscure and fractionalized. Some interests remaining in families for generations had been divided among so many descendants of the original party to the severance that their fractional interests had become extremely small. It had also been quite common for the conveyance of severed mineral interests to go unrecorded, causing the obscure ownership to require expensive title searches.

The Minnesota Supreme Court and other courts in the country recognize that mineral rights may be owned separately from the surface interest.

The prohibitive expense of title searches necessary to determine ownership of these fractional interests made taxation difficult. Taxing authorities were also frustrated in their attempts to tax severed mineral interests because of the difficulty of assigning taxable value to those interests. As a result, severed mineral interests became a class of real property that, for practical purposes, were not taxed even though the value of the minerals sometimes exceeded the surface value of the land.

The Minnesota Legislature addressed these issues through the Severed Mineral Interests Law.¹ This law requires owners of severed mineral interests to register their interests with the office of the county recorder or, if registered property, in the registrar of titles' office of the county in which the interests are located. Such severed mineral interest statements were to have been made either by January 1, 1975, for interests owned on or before December 31, 1973, or within one year of acquisition as to interests acquired thereafter.

For severed mineral interest taxes payable in 1995, the severed mineral interests are taxed at the annual rate of § .40 per acre, with a minimum of §3.20 for any tract.² If the severed mineral interests tax is not paid, the severed mineral interest will forfeit to the state in trust for the local taxing districts. The appropriate county auditor completes the forfeiture actions for non-payment of severed mineral interests taxes.

If the mineral interest owner does not file the severed statement within the time deadline provided by law, the mineral interest will forfeit to the state after notice and opportunity for hearing.³ The Commissioner of Natural Resources notifies the last owner of record on file in the county recorder's or registrar of titles' office of a hearing in which the court will be requested to enter an order adjudging absolute forfeiture of the mineral interest to the state.

¹This law was originally enacted in 1969 and was amended in 1973, 1979 and 1988. The severed mineral interests registration provisions are presently coded in Minn. Stat. Secs. 93.52-58. The taxing provisions are presently coded in Minn. Stat. Secs. 273.165, 272.039 and 272.04, subd.1.

²This tax was ruled constitutional by the Minnesota Supreme Court in its decision in the case of *Contos, U.S. Steel Corp., et al v. Herbst, et al*, 278 N.W.2d 732 (MN 1979); rehearing denied March 13, 1979; appeal dismissed Oct. 30, 1979, 100 U.S. Sup. Ct. 24.

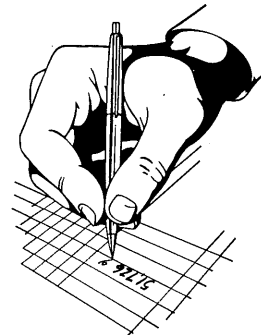
³The Minnesota Supreme court, in *Contos v. Herbst* cited in footnote 2, also upheld the forfeiture penalty for failure to timely file a statement of severed mineral ownership, but held that the procedures attending the forfeiture provisions for failure to timely register severed mineral interests violated constitutional requirements of due process because the notice provisions were inadequate and the mineral owner was denied the opportunity for a hearing prior to forfeiture. The severed mineral interests law was amended in 1979 to comply with the Minnesota Supreme Court's decision.

The owner, to avoid forfeiture, must prove to the court that the severed mineral interests taxes were timely paid and that the county records specified the true ownership, or, in the alternative, that procedures affecting the title of the interest had been timely initiated and pursued by the true owner during the time when the interest should have been registered. Severed mineral taxes are not collected if the mineral interests are taxed under another law which taxes mineral interests, such as unmined taconite or iron ore. However, to avoid forfeiture under the severed minerals interest law, the severed interest must be registered in compliance with the severed minerals interest law.

In 1988, the Minnesota State Legislature adopted a law which amended the severed mineral interests law to allow the Department of Natural Resources to lease severed mineral interests that were not registered or were not timely registered.⁴ The state lessees of non-registered severed minerals are allowed to conduct exploration activities under the lease, but the leased property cannot be mined until the severed mineral interest forfeiture proceedings are completed. The result of this law is that more lands are open for exploration, while retaining the court hearing on forfeiture for failure to register a severed mineral interest statement as required under the law.

The severed mineral interests 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.

To avoid forfeiture under the severed minerals interest law, the severed interest must be registered in compliance with the severed minerals interest law.



⁴This law is at Minn. Stat. Sec. 93.55, subs.1, 1a and 3.



INDUSTRIAL MINERALS LEASE RULES

Minnesota Rules, Parts 6125.8000-.8700

Negotiated Leases

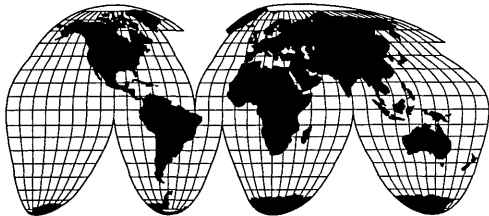
Leases issued for industrial minerals are issued primarily through negotiation. The first qualified applicant to a property will receive an exclusive 180 days in which to negotiate a lease with the state.

Application procedures

Application forms for industrial minerals leases are available from the Department of Natural Resources, Division of Minerals at Box 45, 500 Lafayette Road, Minnesota 55155-4045. The application will require:

- identification of the applicant;
- a legal description of the lands requested for leasing *Note: Leases are limited to a contiguous tract of 640 acres, except an area not exceeding 800 acres consisting of one government section according to the government survey;*
- identification of the industrial mineral sought for leasing.

The application may be submitted by mail or in person to the Division of Minerals, Department of Natural Resources, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045. Applications will be accepted between the hours of 8:30 a.m. and 4:00 p.m. on regularly scheduled business days. Applications received at other times will be formally accepted on the next regularly scheduled business day. Applications will not be accepted by facsimile transmittal.



Foreign corporations need to provide a Certificate of Authority to Transact Business in Minnesota from the Secretary of State's office.

Evidence that the applicant is qualified to hold a lease must also be submitted with the application. To be qualified, the applicant must demonstrate that it is qualified to do business in Minnesota. The proof of qualification will differ depending on what type of entity the applicant is. Minnesota corporations need to provide a Certificate of Incorporation from the Minnesota Secretary of State's office and foreign corporations need to provide a Certificate of Authority to Transact Business in Minnesota from the Secretary of State's office. Limited partnerships need to provide a Certificate of Limited Partnership from the Minnesota Secretary of State. Individuals applying for a lease need to demonstrate United States citizenship and proof of legal age. Other general partnerships or business entities need to demonstrate that the controlling partners have met the requirements listed above.

The applicant also needs to demonstrate that they have complied with Minnesota Statutes, section 103I.601, if applicable to the industrial mineral applied for. Minnesota Statutes, section 103I.601, requires that persons engaged in exploratory borings register with the Department of Natural Resources. Inquiries concerning registration as an exploratory borer should be addressed to the Department of Natural Resources, Division of Minerals, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045.

The applicant may also be required by the commissioner to provide evidence of the applicant's technical and financial capability to perform under the lease. This may require submission of corporate and/or annual reports and financial statements. Proof that the applicant has the capability to comply with environmental laws and permits may also be required.

A non-refundable application fee must also be included with the application. The fee is \$100.00 and must be in the form of a certified check, cashier's check or bank money order made payable to the Department of Natural Resources.

Within 10 days after receipt of an application, the commissioner will review the application and will send written acknowledgment that the application was received. The application will also be reviewed to verify that the application was signed, the application fee was submitted and the evidence of qualification to hold a state industrial minerals lease was submitted. The applicant will also be notified if additional information will be required concerning the applicant's qualifications to hold a state lease. The additional information must be submitted within 45 days of the request or the application will be rejected.

Within 45 days of receipt of the application, the applicant will be notified if any of the following information will be required:

- evidence that the applicant holds a controlling majority of the remaining interests if the state's interests requested for lease are less than fifty percent, *i.e.: if the state's ownership of the mineral interest sought for lease is an undivided $\frac{1}{3}$ interest, the applicant would need to demonstrate that the applicant held a majority interest in the remaining $\frac{2}{3}$ undivided interest;*
- title evidence of the state's ownership if the state's ownership does not appear in state records.

Rejection of applications

Although the right is reserved to the commissioner to reject any or all applications for negotiated leases, the rules identify certain circumstances when an application will be rejected. Applications will be rejected for the following reasons:

- the application was not completed or signed;
- the application fee was not submitted;
- the applicant failed to submit evidence of qualification to hold a state lease or the applicant failed to submit additional evidence, within 45 days of receipt of the request, as to the applicant's qualifications to hold a state lease as specified in part 6125.8300;
- the applicant did not submit within 45 days of the request the additional information as to the applicant's holding a majority of the ownership interests where the state's interests are less than 50%;
- the applicant did not submit within 45 days of the request the title information evidencing state title;

The applicant may also be required by the commissioner to provide evidence of the applicant's technical and financial capability to perform under the lease. This may require submission of corporate and/or annual reports and financial statements. Proof that the applicant has the capability to comply with environmental laws and permits may also be required.

- there were simultaneous filings of applications for negotiated leases on the same lands or portions of land and more than one applicant meets the qualifications to hold a lease;
- an application for a negotiated lease was filed on a prior day for the same lands or portion thereof covering the same industrial minerals and the prior applicant has met the qualification requirements to hold a lease and has not been rejected;
- a state mineral lease covering the same industrial minerals is currently in effect for the lands requested;
- state laws or rules prohibit the state from leasing the lands requested, for example, the lands are located within the Boundary Waters Canoe Area Wilderness;
- leasing the lands would conflict with identified environmental or land use concerns, such as the lands are located within an active airport;
- mining of the industrial minerals requested would unreasonably interfere with the mining activities authorized under an existing state mineral lease covering other minerals, or negotiations or a public lease sale offering have been previously commenced for a state mineral lease covering other minerals and mining of the industrial minerals requested would unreasonably interfere with mining activities authorized under the other state mineral lease;
- the requested lands had been previously offered at a public lease sale within two years of the application being filed, the applicant was the high bidder at that sale for the requested lands, and the applicant had withdrawn its bid prior to the awarding of a lease;
- information submitted in response to the public notice determines that any of the above circumstances exist.



If the applicant and the state have successfully reached an agreement as to the terms of the lease within 180 days of the commissioner's acknowledgment of receipt of the application, the state will proceed to issue a state industrial minerals lease to the applicant.

Before filing an application for a negotiated lease, a party interested in leasing lands may contact the commissioner for information as to whether or not any of the circumstances identified above exist as to the lands that the party is interested in leasing. A party may also contact the commissioner before filing an application for a negotiated lease concerning that party's qualifications to hold a lease.

Negotiation and issuance of lease

If the application is not rejected, the applicant and the state will proceed with negotiations. The negotiation process will involve meetings between the applicant and department representatives and the exchange of information necessary to negotiate the terms of the lease that is being negotiated based on the industrial mineral sought for lease. If the applicant and the state have successfully reached an agreement as to the terms of the lease within 180 days of the commissioner's acknowledgment of receipt of the application, the state will proceed to issue a state industrial minerals lease to the applicant. Approval of the lease by the State Executive Council (the state's six constitutional officers) will be required if the lease is 160 acres or greater in size.

Notice of plans to issue a negotiated lease will be published in the *State Register*, the *EQB Monitor* and a qualified newspaper that has its known office of issue in the county seat where the lands lie. The notice is to be published at least once, and no later than 30 days before issuance of the lease and no earlier than 180 days before issuance of the lease. If there is no qualified newspaper, the department will publish in the newspaper that publishes the official proceedings of the county board of that county. The person applying for the negotiated lease is responsible for the publication costs.

Public Lease Sales

Public notice of sales

Notice of the department's plans to hold a public lease sale will be given in the *State Register*, the *EQB Monitor* and a qualified newspaper that has its known office of issue in the county seat where the lands lie. If there is no qualified newspaper, the department will publish in the newspaper that publishes the official proceedings of the county board of that county. The notice may also be published in relevant trade magazines. The notice will be published at least once no later than 30 days before the sale, and no earlier than 60 days before the sale. The notice will contain the following information:

- the industrial mineral offered for lease
- the time and place of the sale
- how to purchase or inspect the list of lands to be offered for leasing and a copy of the lease form, and how to obtain bid forms
- the base royalty rate for the bids

The notice will also specify the costs for obtaining the information, which will be based on copying and mailing costs.

The lease form used for the sale will also be available for purchase or inspection at least 30 days before the date of the sale. The lease form will be based on the model form found at part 6125.8700 of the industrial minerals leasing rules, with changes and additions as necessary for the industrial mineral offered at the lease sale.

Notice of plans to issue a negotiated lease will be published in the State Register, the EQB Monitor and a qualified newspaper.

Submission and review of bids

All bids for the industrial minerals lease sale must be submitted on a bid form obtained from the commissioner. The bid royalty rate will be an additional percentage of the gross market value above the base royalty rate. Each bid must be accompanied by an application fee of \$100 and rental for one full calendar year. To calculate the rental, the gross acreage is multiplied by \$1.50, which is the per acre rental for the first year. The remaining rentals will be due upon the effective date of the lease. The application fee and rental payment must be made by a certified check, bank money order, or cashier's check made payable to the Department of Natural Resources.

Each bid, along with the payment must be submitted in a sealed envelope marked:



Each bid, along with the payment must be submitted in a sealed envelope marked "CONFIDENTIAL—BIDS FOR STATE MINERAL LEASES" and delivered in person or by mail to the commissioner at the Department of Natural Resources, Division of Minerals, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045. Bids will be accepted up to 4:30 p.m., St. Paul, Minnesota time, on the last business day before the day specified for the bid opening. All bids will be endorsed upon receipt and remain unopened until the time specified for the bid opening. At the time of the bid opening, each bid will be publicly opened and the amount of each bid will be announced.

Each high bidder will be asked to provide evidence that the bidder is qualified to do business in Minnesota as set forth in Minnesota Rules, part 6125.8300. This information must be provided within 45 days of the request or the bids from that high bidder will be rejected. Leases will be awarded by the commissioner to the high bidder provided that the bidder has shown evidence that the bidder is qualified under part 6125.8300. Tie bids will be resolved by the commissioner by the random drawing of the name of one tied bidder from a pool comprised of the names of all the tied bidders.

All bids not accepted will become void and the application and rental fees submitted with rejected bids will be returned. If a high bidder withdraws the bid before the lease is issued, the application fee and rental payment will not be returned.



LEASE TERMS

Generally

All industrial mineral leases that cover 160 or more acres of land must be approved by the state executive council. The state executive council members are the following constitutional officers: governor, lieutenant governor, state auditor, state treasurer and secretary of state.

The property covered by the lease is limited to a contiguous tract not exceeding 640 acres, with exceptions for up to 800 acres consisting of one government section.

Due to the variable nature of mining, selling and processing different industrial minerals, several of the lease terms will be negotiated on a case-by-case basis. For leases issued pursuant to an industrial mineral lease sale, the model lease form provided for in the rules will be modified to accommodate the industrial minerals offered at the sale.

Requirements for extension of term

The rules establish a primary term of 10 years with subsequent 10-year extensions to a total term of 50 years, provided that the lessee has met certain requirements of the lease. Extension of the lease for an additional 10 years beyond the primary term will be granted if the lessee has met the following requirements:

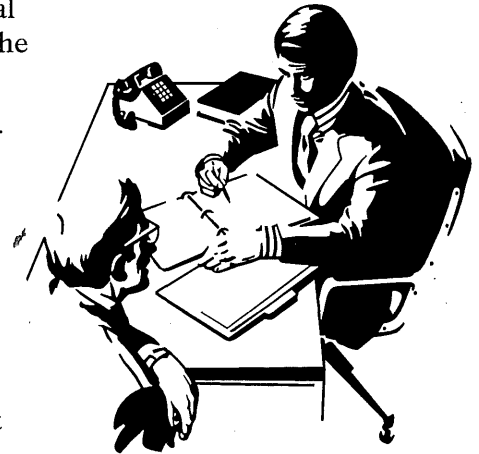
a specified number of acres (determined at the time of lease negotiations, or a predetermined number in the event of a lease sale) have been prepared for mining operations and commercial production of leased minerals has taken place on a specified number of contiguous acres covered by the lease during the primary term of the lease; or, the lessee has in good faith applied for all permits necessary to conduct mining operations prior to the end of the primary term.

The lease may be extended for additional 10-year terms beyond the first extension provided that there is commercial production from the leased premises within any of the last three years of the current 10-year term, except the last term cannot extend the total lease term beyond 50 years.

For purposes of this lease, commercial production means that the royalties due for the leased minerals exceed the minimum rentals paid for that year and that the minerals are being mined, removed, and shipped from the leased premises and sold by the lessee on a reasonably regular basis.

At any time during the lease, the lessee may request a determination as to whether the state will grant an extension for an additional 10-year period.

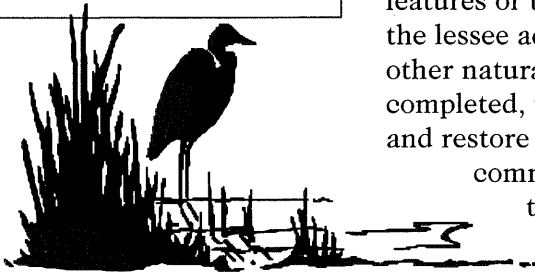
Due to the variable nature of mining, selling and processing different industrial minerals, several of the lease terms will be negotiated on a case-by-case basis. For leases issued pursuant to an industrial mineral lease sale, the model lease form provided for in the rules will be modified to accommodate the industrial minerals offered at the sale.



Minimum rentals and royalties

- The rental rates may not be less than \$1.50 per acre per year for the unexpired portion of the calendar year in which the lease is issued and the next two succeeding calendar years; \$5.00 per acre per year for the next three years; and \$25.00 per acre per year thereafter.
- The royalty rates may not be less than 3% of the gross market value for dimension stone and 1½% of the gross market value for any stone produced from waste stone and sold as a by-product; 5% of the gross market value for kaolin, silica sand, and diamonds and other gemstones; and 3% of the gross market value for all other industrial mineral commodities.

The commissioner may require that the lessee adjust exploration plans due to special features or uses or due to other natural resource management concerns, such as wildlife management areas.



Other terms

The lease also requires that the lessee give written notification to the commissioner of any exploration activities at least 20 days in advance of the activity. Exploration activity means the examination of an area to determine the quality and quantity of minerals. The lessee must advise of the location of any activity, the activity that will be performed, the type and size of equipment to be used, the approximate start and end dates of the activity, access routes to the site and the location of any new roads or trails to be built in conjunction with the activity and any plans for site closure and stabilization. In addition, the commissioner will identify any special features or uses⁵ on the leasing unit. The commissioner may require that the lessee adjust exploration plans due to special features or uses or due to other natural resource management concerns. When the exploration is completed, the lessee must promptly remove all equipment and supplies and restore the premises and roads to a condition satisfactory to the commissioner. The lessee will be relieved of obligations for closure of the site only when the lessee has given written notice to the commissioner that site closure and stabilization have been completed and the commissioner has granted a release.

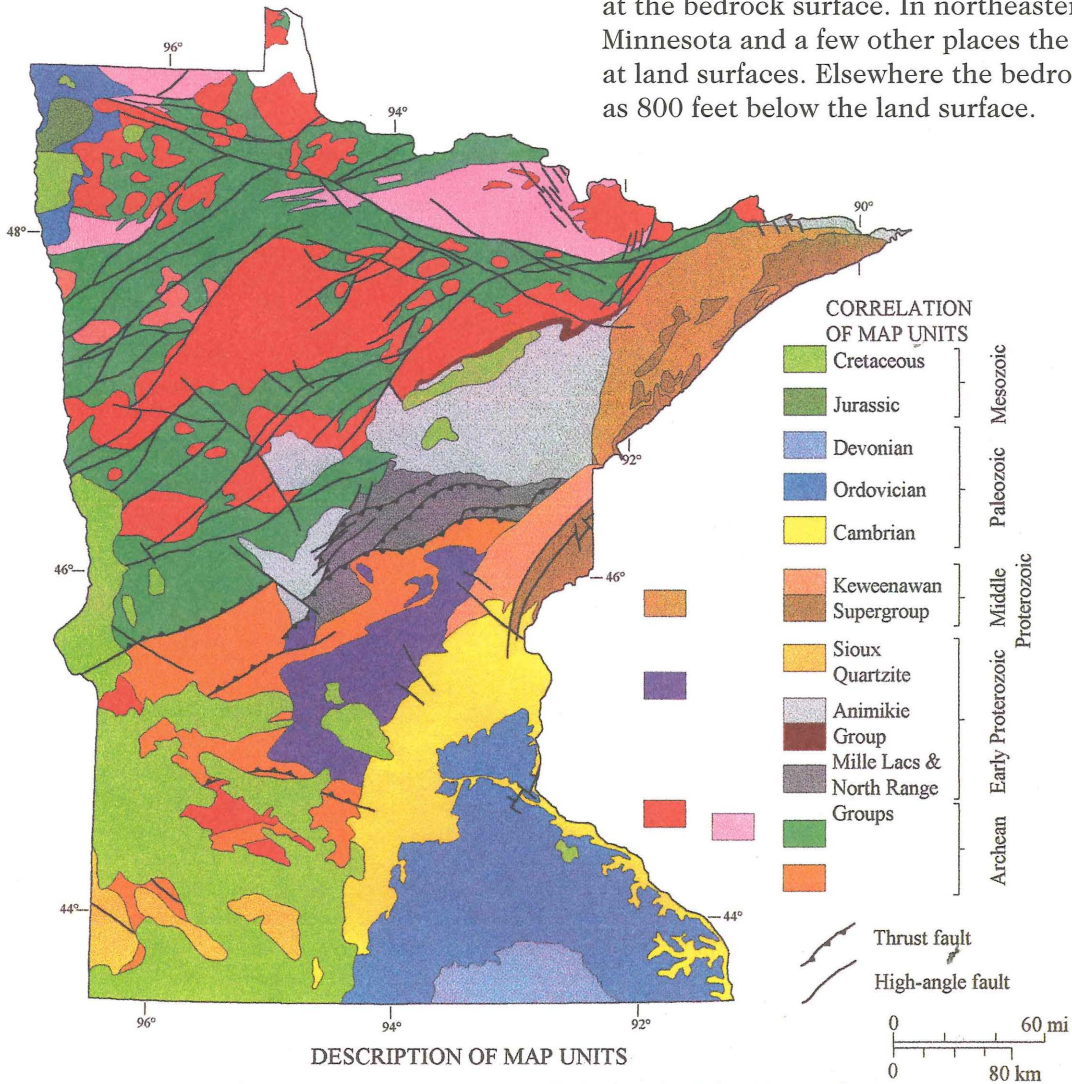
The model lease form contains clauses on such items as weighing, sampling, reporting, termination, compliance with other laws, notice to surface estate owner, review of exploration plans and exploration site closure plans, and payment of taxes and damages. If the surface is not included in the state lease, the lessee is also required to contact the surface owner or administrator in writing at least 20 days in advance of the activities that require use of the surface estate. The notice must sufficiently describe the activities to allow the surface owner or administrator to evaluate the extent of the use of the surface estate.

⁵Examples of special features or uses are wildlife management areas and sites; peatland watershed areas of the peatland scientific and natural areas; the Black Bay Management Area; natural heritage sites and features; designated trout streams; state canoe and boating routes; state trails; historic and archaeological sites; rights-of-way; fire towers; campgrounds; public access sites; state highway rest areas; and other existing easements, sites, conditions, and encumbrances.

Figure 1

BEDROCK GEOLOGIC MAP OF MINNESOTA

This map portrays the inferred distribution of rock types at the bedrock surface. In northeastern and southeastern Minnesota and a few other places the bedrock is exposed at land surfaces. Elsewhere the bedrock may be as much as 800 feet below the land surface.



DESCRIPTION OF MAP UNITS

- | | |
|---|---|
| Mudstone, siltstone, lesser sandstone. | Intrusive rocks of dominantly granitic composition. |
| Red shale. | Graywacke, siltstone, shale. |
| Limestone and dolostone. | Iron-formation with a basal quartz arenite. |
| Limestone, dolostone, lesser sandstone and shale. | Quartz arenite, siltstone intercalated with mafic volcanic rocks, carbonaceous shale, and iron-formation. |
| Sandstone, shale, lesser carbonate. | Intrusive rocks of dominantly tonalitic to quartz monzonitic composition. |
| Shale and arkosic sandstone overlain by quartz arenite. | Schist- and granite-rich migmatite. |
| Extrusive rocks of dominantly mafic composition. | Extrusive rocks of mafic to felsic composition, associated volcanogenic rocks and derivative graywacke. |
| Intrusive rocks of dominantly mafic composition. | Quartzofeldspathic gneiss, amphibolite and other high-grade metamorphic rocks. |
| Quartz arenite. | |

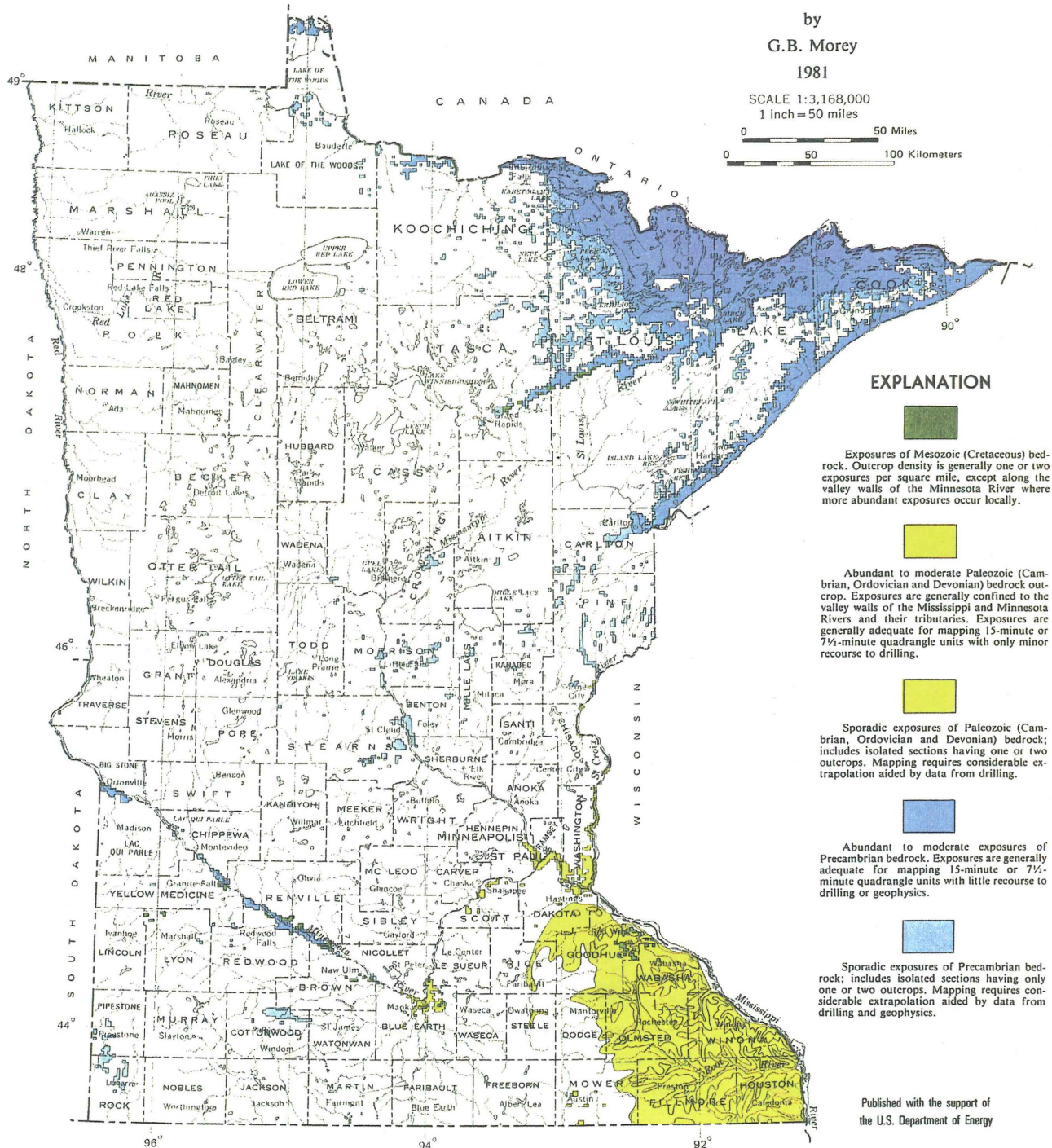
Figure 2

GEOLOGIC MAP OF MINNESOTA

BEDROCK OUTCROPS

by
G.B. Morey
1981

SCALE 1:3,168,000
1 inch = 50 miles



EXPLANATION

Exposures of Mesozoic (Cretaceous) bedrock. Outcrop density is generally one or two exposures per square mile, except along the valley walls of the Minnesota River where more abundant exposures occur locally.

Abundant to moderate Paleozoic (Cambrian, Ordovician and Devonian) bedrock outcrop. Exposures are generally confined to the valley walls of the Mississippi and Minnesota Rivers and their tributaries. Exposures are generally adequate for mapping 15-minute or 7½-minute quadrangle units with only minor recourse to drilling.

Sporadic exposures of Paleozoic (Cambrian, Ordovician and Devonian) bedrock; includes isolated sections having one or two outcrops. Mapping requires considerable extrapolation aided by data from drilling.

Abundant to moderate exposures of Precambrian bedrock. Exposures are generally adequate for mapping 15-minute or 7½-minute quadrangle units with little recourse to drilling or geophysics.

Sporadic exposures of Precambrian bedrock; includes isolated sections having only one or two outcrops. Mapping requires considerable extrapolation aided by data from drilling and geophysics.

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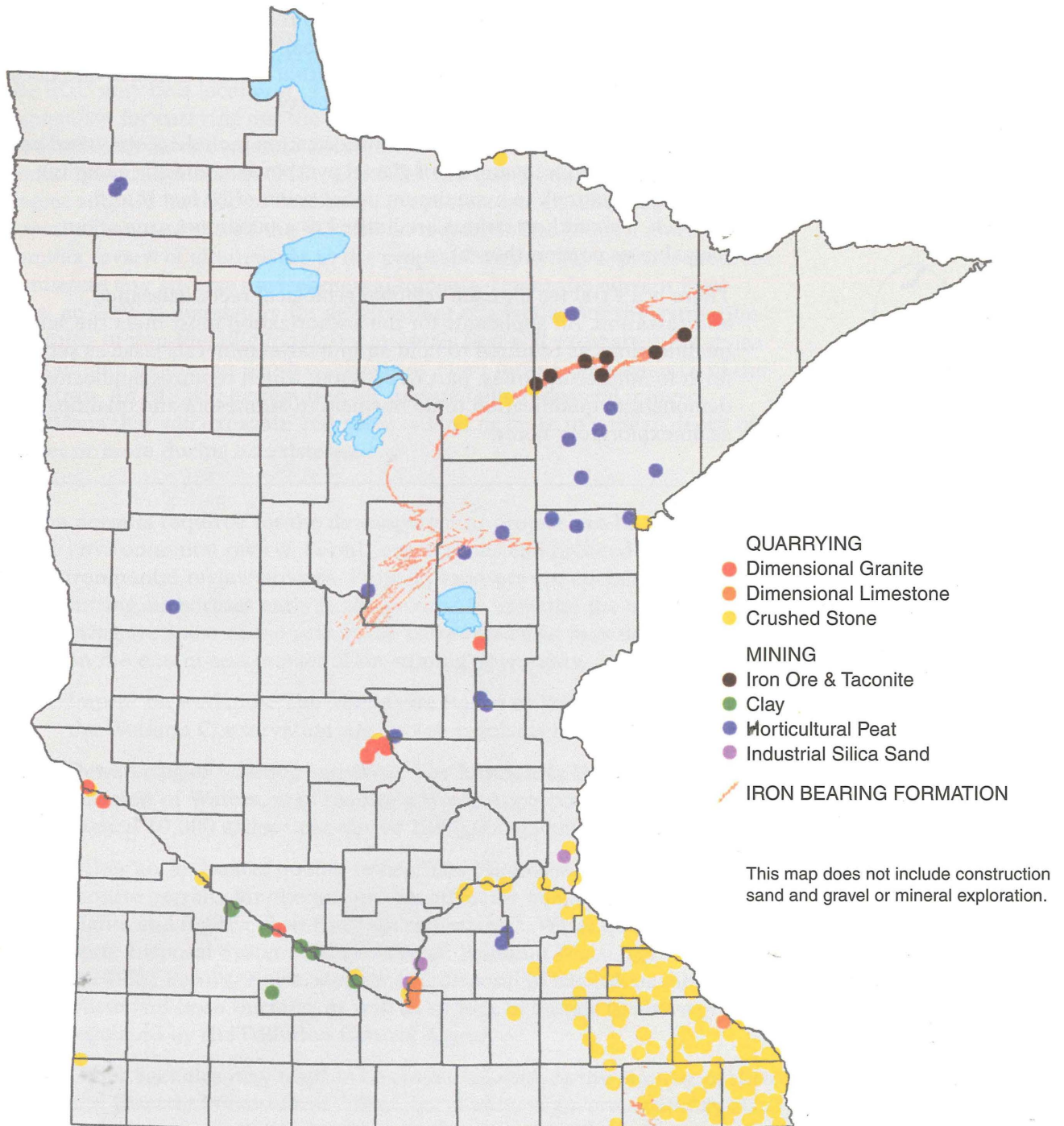
This map shows every square-mile section (2.59 km²) for which there is record of a natural outcrop or man-made exposure of bedrock in the geologic literature or the archives of the Minnesota Geological Survey. Sources of data include published and open-file literature, field notebooks, manuscripts, aerial photographs and miscellaneous records of the Minnesota Geological Survey dating from 1852 to 1981.

Glacial drift and other unconsolidated surficial deposits cover most of Minnesota. Exposures of bedrock are lacking or sporadic in large areas of the state. Many sections shown on this map contain only one or two isolated out-

crops. In other places there are numerous outcrops and large, more or less continuous areas of exposure. The size and frequency of bedrock outcrops determine the methods and level of detail with which the geology can be mapped. In northeastern and southeastern Minnesota, the areas shown in darker shades have bedrock exposures that are sufficiently abundant for geologic mapping by conventional field methods in standard 15-minute or 7½-minute quadrangle units (1:62,500 or 1:24,000 scale). Areas of less frequent exposure require supplemental subsurface data from drilling or geophysical surveys. The bedrock geology of large areas of the state cannot be mapped at all without subsurface data from drilling and geophysics.

Figure 3

MINE SITES OF MINNESOTA 1996





REGIONAL GEOLOGICAL RECONNAISSANCE AUTHORIZATION

As an alternative to applying for an industrial minerals lease, parties interested in conducting geological data gathering activities on state land can apply for a regional geological reconnaissance authorization. This authorizes geophysical and geological exploration activities. The regional geological reconnaissance authorization is non-exclusive and does not grant a right to a lease covering the property.

Exploration activities allowed by the authorization include geophysical and geochemical activities, sampling of glacial overburden, and the sampling and drilling of bedrock to a maximum penetration of 20 feet into the bedrock. The authorizations are limited to a maximum area of one township or portion thereof.

There is a \$100 fee for each regional geological reconnaissance authorization. All applicants for the authorization must meet the same qualifications as required to hold an industrial minerals lease as set forth in Minnesota Rules, part 6125.8300, which requires applicants to demonstrate qualification to do business in Minnesota and qualification as an exploratory borer.





ENVIRONMENTAL REVIEW AND PERMITTING OF INDUSTRIAL MINERALS OPERATIONS

Under the Minnesota Environmental Policy Act of 1973, a formal process for reviewing the environmental impact of major development projects was established. The rules adopted by the Environmental Quality Board (EQB) govern the process of environmental review. The rules will identify the Responsible Governmental Unit (RGU). The RGU may be a local unit of government or a state agency and will be responsible for carrying out the actual review. The review can be either in the form of an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS). The EAW is a questionnaire about the project and will be used to determine if a project has significant environmental effects and thus if the EIS will be required. The EIS is a more complex review of alternatives to the proposed action and explores methods to mitigate any adverse environmental impacts. Under the current EQB rules, an EAW is mandatory for development of a facility for the extraction or mining of non-metallic industrial minerals that will excavate 40 or more acres of land to a mean depth of 10 feet or more during the existence of the operation. An EIS will be required for non-metallic industrial mineral operations that will excavate 160 acres of land or more to a mean depth of 10 feet or more during its existence.

The permits required for the development or project can be issued after completion of the environmental review. Permit negotiations can proceed concurrently with the environmental review process. Project proposers are encouraged to contact the various permitting authorities early in the process to expedite the issuance of permits. The following are some of the permitting authorities that may need to be contacted depending on the extent and impact of the mining operations:

Impact on wetlands: The **Minnesota Board of Water and Soil Resources**, administers the Wetland Conservation Act, which regulates the draining and filling of wetlands.

Dewatering or washing activities: The **Minnesota Department of Natural Resources, Division of Waters**, may require a Water Appropriation Permit if appropriations will exceed 10,000 gallons per day or 1,000,000 gallons per year.

Other air and water quality issues: The **Minnesota Pollution Control Agency** may require permits for operations that affect air quality from discharge from processing plants and fugitive dust from operation areas. Water quality permits may include the State Disposal System (SDS)/National Pollutant Discharge Elimination System (NPDES) Permit. Noise, storage and disposal of hazardous materials and wastes, solid waste and open burning, as well as storage of liquids in above ground tanks are also regulated by the Pollution Control Agency.

Other agencies may need to be contacted such as the Minnesota Historical Society and Historic Preservation Office. Local units of government may also regulate certain activities that may involve mining operations of industrial minerals through land use or zoning laws.



LEASES OF STATE LANDS FOR SELECTED INDUSTRIAL MINERALS

6125.8000 PURPOSE

The purpose of parts 6125.8000 to 6125.8700 is to set forth procedures and standards to be followed by the commissioner of natural resources when leasing state-owned lands for the exploring for, mining, and removal of selected industrial minerals. Each lease issued under parts 6125.8000 to 6125.8700 will identify which of the industrial minerals are covered by that particular lease.

Due to the variable nature of mining, selling, and processing various industrial minerals, several of the provisions of each lease will need to be developed within the framework of the model lease form contained in part 6125.8700.

Parts 6125.8100 to 6125.8700 prescribe minimum standards as to the term of the lease, rental rates, and royalty rates.

6125.8100 DEFINITIONS

Subpart 1. **Scope.** For the purposes of parts 6125.8000 to 6125.8700, the following words have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of natural resources of Minnesota, or the commissioner's designated representative.

Subp. 3. **Industrial minerals.** "Industrial minerals," whether singular or plural, includes any of the following: apatite, diamonds, dimension stone, feldspar, gemstones, graphite, kaolin, marl, quartz, silica sand, and other similar minerals of a nonmetalliferous nature. The term industrial minerals does not include, and parts 6125.8000 to 6125.8700 do not cover, the following minerals:

- A. iron ores and taconite ores, which are leased under the provisions of Minnesota Statutes, chapter 93;
- B. metallic minerals, which are leased under the provisions of parts 6125.0100 to 6125.0700 and Minnesota Statutes, chapter 93;
- C. coal, oil, gas, and other liquid or gaseous hydrocarbon substances, which the state is authorized to lease under the provisions of Minnesota Statutes, chapter 93; and
- D. peat and construction sand and gravel, which are leased under the provisions of Minnesota Statutes, section 92.50.

Subp. 4. **Leased minerals.** "Leased minerals," whether singular or plural, are the selected industrial minerals that are defined in and covered by a lease issued under parts 6125.8000 to 6125.8700.

Subp. 5. **Metallic minerals.** "Metallic minerals," whether singular or plural, means any mineral substances of a metalliferous nature, except iron ores and taconite ores.

Subp. 6. **Ton.** "Ton" means 2,000 pounds avoirdupois after removal of all free moisture from the material weighed, by drying at 212 degrees Fahrenheit.

6125.8200 LANDS COVERED BY LEASES AND LEASE TERM

The commissioner may issue leases to explore for, mine, and remove industrial minerals on lands where an interest in the minerals is owned by the state, including trust fund lands, lands forfeited for non-payment of taxes and held in trust by the state, lands where severed mineral interests have forfeited under Minnesota Statutes, section 93.55, lands where severed mineral interests have been otherwise acquired, lands where severed mineral interests may be leased by the commissioner under Minnesota Statutes, section 93.55, subdivisions 1a and 3, the beds of public waters, and lands otherwise acquired. No lease may be issued for a term longer than 50 years.

6125.8300 QUALIFICATIONS TO HOLD LEASE

The right to apply for, acquire, and hold a lease to explore for, mine, and remove industrial minerals owned by the state, and the right to apply for and hold an authorization to conduct geological data gathering activities, are subject to the following:

- A. the applicant is qualified to do business in Minnesota as shown by:
 - (1) if a corporation organized under the laws of Minnesota, a Certificate of Incorporation from the Minnesota Secretary of State's office;
 - (2) if a corporation organized under the laws of any state other than Minnesota or another country, a Certificate of Authority to Transact Business in Minnesota from the Minnesota Secretary of State's office;
 - (3) if a limited partnership, a Certificate of Limited Partnership from the Minnesota Secretary of State's office;
 - (4) if an individual, proof of United States citizenship and of legal age; or
 - (5) if a general partnership or other business entity, evidence that the general partners or individuals controlling the business entity meet the requirements listed in subitems (1) to (4); and
- B. if applicable as to the industrial minerals the applicant wants to lease, the applicant is qualified to conduct exploratory borings in Minnesota by having fulfilled the requirements of Minnesota Statutes, section 103I.601, subdivision 3.

The commissioner may request additional evidence that the applicant is technically and financially capable of performing under the terms of a state industrial minerals lease or an authorization to conduct geological data gathering activities and that the applicant has shown the capability to comply with environmental laws and permits. Examples of evidence the commissioner may request are corporate reports, audited financial statements, and evidence of the applicant's compliance with environmental regulations of other jurisdictions. If such evidence is requested, the applicant must submit the evidence within 45 days of receipt of the request.

6125.8400 NEGOTIATED LEASES

Subpart 1. **Scope.** Leases to prospect for, mine, and remove industrial minerals will primarily be issued through negotiations. The commissioner reserves the right to reject any and all applications for negotiated leases. The commissioner may offer industrial minerals for leasing through public sale as provided in part 6125.8500.

Subp. 2. **Lease application.** Those parties interested in obtaining an industrial minerals lease through negotiation may submit an application to the commissioner. Application shall be submitted on a form available from the commissioner and shall require information as the commissioner may prescribe. The application must include the:

- A. identification of the applicant;
- B. legal description of the lands requested for leasing. The lands covered by an application are limited to a contiguous tract of 640 acres, except an area not exceeding 800 acres consisting of one government section according to the government survey thereof may be included in one lease; and
- C. identification of the industrial minerals the applicant wants to lease.

The applicant shall submit with the application evidence that it is qualified to hold a mineral lease as specified in part 6125.8300. Each application must be accompanied by a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the amount of \$100, which is the application fee. The application fee will not be refunded under any circumstances.

Applications may be submitted in person or by mail to the offices of the Division of Minerals, Department of Natural Resources, 500 Lafayette Road, St. Paul, Minnesota 55155-4045.

Applications will only be accepted during the hours of 8:30 a.m. through 4:00 p.m. on regularly scheduled business days. Applications received at any other time will not be officially accepted until the next regularly scheduled business day, and the commissioner assumes no responsibility for applications submitted in person at any time other than the time specified above. Applications will not be accepted by facsimile transmission.

Subp. 3. **Commissioner's review of application.**

- A. Within ten days after receipt of an application, the commissioner will send written acknowledgment that the application was received. The commissioner will review the application to determine if:
 - (1) the application was completed and signed;
 - (2) the application fee was submitted; and
 - (3) evidence of qualification to hold a state lease, as specified in part 6125.8300, was submitted.

The applicant will also be advised if additional evidence is required by the commissioner to determine if the applicant is qualified to hold a state lease as specified in part 6125.8300.

- B. Within 45 days after receipt of application, the commissioner will notify the applicant if the following information is required:
 - (1) if the state's mineral ownership interest in the lands requested is an undivided fractional interest totaling less than 50 percent, evidence that the applicant holds under control a majority of the remaining undivided fractional interest in the mineral ownership interest of the lands requested.
 - (2) if the commissioner's land records do not show state mineral ownership of the lands requested, a chain of title or other title search information showing state ownership.

Subp 4. Rejection of application.

- A. Applications for negotiated leases will be rejected by the commissioner under the following circumstances:
- (1) the application was not completed or signed;
 - (2) the application fee was not submitted;
 - (3) the applicant failed to submit evidence of qualification to hold a state lease as specified in part 6125.8300; or the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to qualification to hold a state lease as specified in part 6125.8300;
 - (4) when the state's mineral ownership interest in the lands requested is an undivided fractional interest less than 50 percent, the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to holding a majority of the remaining undivided fractional interest in the mineral ownership interest of the lands requested;
 - (5) when the commissioner's land records do not show state mineral ownership of the lands requested, the applicant failed to submit additional evidence, within 45 days of receipt of the commissioner's request, as to the chain of title or other title search information showing state ownership;
 - (6) there were simultaneous filings of applications for negotiated leases on the same lands or portion thereof and more than one of the applicants meets the requirements of part 6125.8300. For the purpose of this part, simultaneous filings are those that arrive in the mail or in person on the same day;
 - (7) an application for a negotiated lease was filed on a prior day for the same lands or portions thereof covering the same industrial minerals and the commissioner has determined that the prior applicant meets the requirements of part 6125.8300 and the prior application is not rejected pursuant to this part;
 - (8) a state mineral lease covering the same industrial minerals is currently in effect for the lands requested;
 - (9) state laws or rules prohibit the state from leasing the lands requested. For example, the lands are located within the Boundary Waters Canoe Area Wilderness;
 - (10) leasing the lands would conflict with identified environmental or land use concerns. For example, the lands are located within the Boundary Waters Canoe Area Wilderness Minerals Management Corridor or the lands are located within an active airport;
 - (11) mining of the industrial minerals requested would unreasonably interfere with the mining activities authorized under an existing state mineral lease covering other minerals; or negotiations or a public lease sale offering have been previously commenced for a state mineral lease covering other minerals and mining of the industrial minerals requested would unreasonably interfere with mining activities authorized under the other state mineral lease;
 - (12) the requested lands had been previously offered at a public lease sale within two years of the application being filed, the applicant was the high bidder at that sale for the requested lands, and the applicant had withdrawn its bid prior to the awarding of a lease; or;

-
- (13) information submitted in response to the public notice, as required under subpart 6, determines that any of the above circumstances exist.

Prior to filing an application for a negotiated lease, any party may contact the commissioner for information as to whether the circumstances described in this part exist as to the lands the party is interested in for a negotiated lease. Prior to filing an application for a negotiated lease, any party may contact the commissioner for a review of the party's qualification to hold a mineral lease as specified in part 6125.8300.

- B. The right is reserved to the state, through the commissioner of natural resources, to reject any or all applications for negotiated industrial minerals leases. However, if the commissioner rejects the application based on item A, subitem (6), then no negotiated lease may be issued for the property until after it has first been offered at public lease sale.

Subp. 5. Negotiations with applicant. If the application is not rejected pursuant to subpart 4, the applicant and the commissioner will enter into negotiations as to the terms of the lease. Due to the variable nature of mining, selling, and processing different industrial minerals, several of the lease terms will need to be negotiated on a case-by-case basis.

The model form for a negotiated lease for exploring for, mining, and removing industrial minerals belonging to the state is contained in part 6125.8700. The negotiated lease may contain insertions, changes, or additions as may be necessary to incorporate other particulars applicable to each industrial mineral, subject to the following:

- A. The primary term of the lease may not exceed ten years plus the unexpired portion of the calendar year in which the lease is issued.
- B. The rental rates may not be less than \$1.50 per acre per year for the unexpired portion of the calendar year in which the lease is issued and the next succeeding two calendar years; \$5 per acre per year for the next succeeding three years; and \$25 per acre per year thereafter during the term of the lease.
- C. The royalty rates for the following commodities may not be less than:
- (1) three percent of the gross market value for dimension stone and 1-½ percent of the gross market value for any stone produced from waste stone and sold as a by-product;
 - (2) five percent of the gross market value for kaolin clay, silica sand, and diamonds and other gemstones; and
 - (3) three percent of the gross market value for all other industrial mineral commodities.

If the applicant and the commissioner cannot reach agreement on the negotiated terms within 180 days, the commissioner has the right to reject the negotiated lease application. The 180 day period shall commence upon the commissioner sending written notification to the applicant that it has met the requirements of subpart 3 and the request is not rejected pursuant to subpart 4.

Subp. 6. Public notice of plans to issue negotiated lease. The commissioner shall give public notice of plans to issue a negotiated lease by publication in the *State Register*, the *EQB Monitor*, and a qualified newspaper that has its known office of issue in the county seat in which the proposed lands to be leased are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board

of that county. The party applying for the negotiated lease shall reimburse the commissioner for the costs of publication of these notices.

The notice shall be published at least once in the above publications. The publication shall be at least 30 days before the issuance of the lease and no more than 180 days before the issuance of the lease. Each notice shall contain the legal description of the proposed lands to be leased and such other information as the commissioner may direct.

Subp. 7. Approval by state executive council. All negotiated leases approved for issuance by the commissioner of natural resources that cover 160 or more acres of land must also be approved by the state executive council.

6125.8500 PUBLIC SALE OF LEASES

Subpart 1. Time, place, and notice. The public sale of leases shall be held at such times and places as may be designated by the commissioner. The commissioner shall give public notice of each sale by publication in the *State Register*, the *EQB Monitor*, and a qualified newspaper that has its known office of issue in the county seat of the county in which the lease units to be leased are located. If no qualified newspaper has its known office of issue in the county seat of a particular county, then notice must be published in the qualified newspaper designated as the publisher of the official proceedings of the county board of that county.

The notice shall be published at least once in the above publications. The publication shall be at least 30 days but not more than 60 days before the date of the sale. Like notice may be published in additional newspapers and trade magazines as the commissioner may direct. Each notice shall contain the following information:

- A. time and place of holding the sale;
- B. the place or places where the list of lands to be offered for leasing and a copy of the lease form will be available for purchase or inspection, and where bid forms may be obtained; and
- C. such other information as the commissioner may direct.

Subp. 2. Copy of list of lands offered and lease form. Those interested in obtaining a list of the lands offered for leasing and the proposed lease form may obtain one by submitting a request to the commissioner. Each request must be accompanied by a check or money order, payable to the Department of Natural Resources, in the amount specified by the commissioner, based on copying and mailing costs, as a fee for a copy of the list and the lease form. Copies of the list and the lease form will be available for inspection at the Hibbing and St. Paul offices of the Division of Minerals.

Subp. 3. Lease form. At least 30 days before the date of the sale, the commissioner shall prepare the lease form that will cover the lands being offered. The lease shall be based on the model form contained in part 6125.8700. The lease may contain insertions, changes or additions as may be necessary to incorporate other particulars applicable to the industrial minerals being offered for lease at public sale, subject to the following:

- A. The primary term of the lease may not exceed ten years plus the unexpired portion of the calendar year in which the lease is issued.
- B. The rental rates may not be less than \$1.50 per acre per year for the unexpired portion of the calendar year in which the lease is issued and the next succeeding two calendar

years, \$5 per acre per year for the next succeeding three years, and \$25 per acre per year thereafter during the term of the lease.

C. The base royalty rates for the following commodities may not be less than:

- (1) three percent of the gross market value for dimension stone and 1-½ percent of the gross market value for any stone produced from waste stone and sold as a by-product;
- (2) five percent of the gross market value for kaolin clay, silica sand, and diamonds and other gemstones; and
- (3) three percent of the gross market value for all other industrial mineral commodities.

Subp. 4. Bids. Each bid shall be submitted on a form obtained from the commissioner. The bid royalty rate shall be an additional percentage of the gross market value above the base royalty rate.

Each bid form must be accompanied by a certified check, cashier's check, or bank money order, payable to the Department of Natural Resources, in the sum of the following amounts:

- A. an application fee of \$100; and
- B. rental for one full calendar year. For the purposes of the bid, the rental is calculated at \$1.50 per acre times the gross acreage of the lands offered for lease. The remaining rentals, due at the time the lease is issued, shall be due upon the effective date of the lease.

The bid, together with the certified check, cashier's check, or bank money order, shall be enclosed in a sealed envelope marked CONFIDENTIAL—BIDS FOR STATE MINERAL LEASES. Each sealed bid envelope shall be delivered in person or by mail to the commissioner at Division of Minerals, 500 Lafayette Road, St. Paul, Minnesota 55155-4045. Bids may be submitted any time before 4:30 p.m., St. Paul, Minnesota time on the last business day before the day specified for the opening of the bids, and no bids submitted after that time shall be considered. Upon receipt, the commissioner shall endorse upon each sealed bid envelope the exact time of presentation and preserve the same, unopened in the commissioner's office. At the time specified, the commissioner shall publicly open the bids and announce the amount of each bid separately.

The commissioner will request each high bidder to provide evidence it is qualified to hold state mineral leases pursuant to part 6125.8300. The evidence must be provided within 45 days of the request from the commissioner or the bids from that high bidder will be rejected.

Upon the award of a lease, the application fee submitted with the bid shall be deposited with the state treasurer as a fee for the lease. All bids not accepted shall become void and the application fee and rental payment accompanying the bids shall be returned to the respective bidders; provided, however, the application fee and rental payment accompanying a bid shall not be returned if the bidder was the high bidder and subsequently withdraws its bid prior to the awarding of a lease.

Subp. 5. Issuance of lease. Leases are awarded by the commissioner to the highest bidder for the lands offered for lease, provided that the bidder has shown evidence that the bidder is qualified to hold state mineral leases pursuant to part 6125.8300. Any public sale lease approved for issuance by the commissioner that covers 160 or more acres of land must also be approved by the state executive council.

Tie bids will be resolved by the commissioner by the random drawing of the name of one tied bidder from a pool comprised of the names of all the tied bidders.

The right is reserved to the state to reject any or all bids for leases offered at public lease sale.

6125.8600 AUTHORIZATION TO CONDUCT GEOLOGICAL DATA GATHERING ACTIVITIES

As an alternative to applying for a state mineral lease, any party may apply to the commissioner for authorization to conduct geological data gathering activities on state-owned land. The applicant must meet the qualifications to hold an authorization to conduct geological data gathering activities as specified in part 6125.8300.

For the purposes of this authorization, geological data gathering activities include geophysical and geochemical activities, sampling of glacial overburden, and the sampling and drilling of bedrock, provided that any drilling and sampling of bedrock is limited to a maximum penetration of 20 feet into bedrock. Each authorization granted by the commissioner is limited to the size of one township, or portion thereof. The fee for each authorization is \$100. The authorization will not grant any rights to a mineral lease and will be non-exclusive.

6125.8700 MODEL FORM OF LEASE

The form of lease for exploring for, mining, and removing industrial minerals belonging to the state shall consist of the following provisions, with insertions, changes, or additions as may be necessary to incorporate the royalty rates and other particulars applicable to each lease as may be authorized under parts 6125.8000 to 6125.8700:

This lease agreement is entered into on the day of 19 ... The parties to this lease are the State of Minnesota, called the state, and called the lessee.

1. **Term; description of leased premises.** This lease is issued in consideration of the covenants and conditions of this lease to be performed by the lessee and \$....., being paid by the lessee and the receipt of which is hereby acknowledged. The payment of \$..... also represents the rentals for unexpired portion of the current calendar year and for the next succeeding two calendar years at the annual rate of \$1.50 per acre of land and water area included in the leased premises.

This lease is issued for a primary term of ten years plus the unexpired portion of the calendar year in which the lease is issued. The primary term of this lease is from through The state leases to the lessee the following described leased premises, situated in the county of ... in the State of Minnesota:

2. **Extension of term.** The lease shall remain in effect for a primary term of ten years plus the time of the unexpired portion of the calendar year of the year in which the lease was issued.

The lessee may apply for and the state may grant an extension of the lease for an additional ten years, so long as the following has occurred:

- A. During the primary term of the lease acres have been prepared for mining operations and commercial production of leased minerals has taken place on ... contiguous acres covered by the lease; or

- B. The lessee has in good faith applied for all permits necessary to conduct mining operations and has been diligent in obtaining financing needed to conduct mining operations.

At any time, the lessee may request a determination from the commissioner as to whether the state will grant an extension for an additional ten years beyond the primary term. If the state decides in response to the lessee's request that an extension will be granted, the decision may require the lessee to meet additional conditions other than the conditions specified in this part.

The term of the lease will be extended for additional ten year periods by the state upon application by the lessee, so long as there has been commercial production from the leased premises within any of the last three years of the current ten year term; except that the final term extension shall only be for a period that will extend the lease not beyond a total lease term of 50 years.

The sum of the primary term and all extensions of the term of this lease shall not exceed 50 years.

- 3. **Definitions.** For the purposes of this lease, the following words have the meanings given them:
 - A. "Commercial production" means that in a calendar year the royalties due for the leased minerals removed from the leased premises exceed the minimum rentals paid for that year and that the leased minerals are being mined, removed, and shipped from the leased premises and sold by the lessee on a reasonably regular basis.
 - B. "Commissioner" means the commissioner of natural resources of the state of Minnesota, or the commissioner's designated representative.
 - C. "Leased minerals," whether singular or plural, are the following selected industrial minerals:
 - D. "Ton" means 2,000 pounds avoirdupois after removal of all free moisture from the material weighed, by drying at 212 degrees Fahrenheit.
- 4. **Use of surface of lands.** The leased premises are leased to the lessee for the purpose of exploring for, mining, and removing the leased minerals. The lessee has the right to construct or make buildings, excavations, openings, ditches, drains, railroads, roads, and other improvements on the leased premises as necessary or suitable for those purposes. All buildings and ditches must be constructed in accordance with applicable local ordinances. The location of railroads, roads, and other improvements are subject to review by the commissioner.

The lessee may contract with others for doing any work authorized or required under this lease, or for the use of the leased premises or any parts of it for the purposes of the lease, but no contract of this type relieves the lessee from any duty, obligation, or liability under the lease. No such contract providing for shipping, handling, or removal of leased minerals becomes effective for any purpose until an executed duplicate of the contract has been filed with the commissioner.
- 5. **State's right to lease other minerals.** The state reserves the right to lease or grant to other persons or corporations the right to explore for, mine, and remove any minerals other than the leased minerals that are located in the leased premises. The lessee shall be entitled to reasonably and prudently use the leased premises as is necessary to prospect

for, mine, and remove the leased minerals without unreasonable interference by any subsequent mineral lessee of the state.

Written notice shall be provided by the commissioner to the lessee whenever the commissioner is planning to issue a mineral lease in accordance with the rights reserved under this paragraph. The commissioner will meet with the lessee to obtain information for terms and conditions under which multiple mineral development could occur.

The state agrees that any permit or lease granted by it to any person or corporation to explore for, develop, mine, remove, or beneficiate any minerals other than the leased minerals shall contain a provision that the permittee or lessee shall exercise those rights so as not to cause any unnecessary or unreasonable injury or hindrance to the operations of the lessee of this lease in the exploration for or the development, mining, or removal of leased minerals from the leased premises. The lessee of this lease agrees that it will exercise the rights granted to it by this lease in such manner as not to cause any unnecessary or unreasonable injury or hindrance to the operations of any permittee or lessee of the state in the exploration for, or the development, mining, or removal of any minerals other than the leased minerals.

6. **State's right to lease surface and sell timber.** The state reserves the right to sell and dispose of all the timber upon the leased premises without hindrance from the lessee and according to the law now or hereafter governing the sale of timber on state lands, and reserves to the state and to the purchaser of the timber, and purchaser's agents, the right at all times to enter the leased premises, and to cut and remove timber from it according to the terms of the purchaser's permit from the state. The timber purchaser shall not unduly interfere with the exploration or mining operations. The state further reserves the right to grant leases, permits, or licenses to any portion of the surface of the leased premises to any person, partnership, corporation, or other association under the authority of Minnesota Statutes, section 92.50, or other applicable laws, after consultation with lessee. The surface leases, permits, or licenses shall not unduly interfere with the exploration or mining operations conducted on the leased premises.
7. **Annual Rental.** The payment required under paragraph 1 of this lease also represents the rental for the unexpired portion of the calendar year from the effective date hereof and for the next succeeding two calendar years. The lessee agrees to pay to the state rental for the leased premises at the rate of \$5 per acre per calendar year for the next three succeeding calendar years of the lease; and after that time at the rate of \$25 per acre per calendar year for the remainder of the term of this lease and any extension thereof pursuant to paragraph 2.

Rental for the entire calendar year, other than the advance payment required under paragraph 1 of this lease, shall be payable as of the first day of January of each year during the term of this lease, with payment due on or before the 20th day of January of each year. Any rental payments not received by the date due are subject to interest at the rate of six percent per year from and after the 20th day of January of the year for which rental is due.

The leased premises may include lands where an interest in the minerals is owned by the state, including trust fund lands, lands forfeited for non-payment of taxes and held in trust by the state, lands where severed mineral interests have forfeited under Minnesota Statutes, section 93.55, lands where severed mineral interests have been otherwise acquired, lands where severed mineral interests may be leased by the commissioner under Minnesota Statutes, section 93.55, subdivisions 1a and 3, the beds of public waters,

and lands otherwise acquired. Any amount paid for rental, at the time of payment, shall be allocated by the commissioner to the proper fund as determined by the mineral ownership.

Any amount paid and accrued for rental in excess of \$5 per acre per year shall be credited on any royalty that may become due for the same year in which rental was due but no further, and only to the extent that such rental was paid or deposited into the particular fund to which the royalty for such was due. If this lease is cancelled, terminated, or expires during a year for which rental has been paid, there shall be no reimbursement of the rental payment for that year.

When the lessee exercises its right under paragraph 31 of this lease to surrender any part or parts of the leased premises under this lease, the annual rental payment may be discontinued as to those parts for all subsequent calendar years; however, the rentals paid on the parts surrendered must not be credited on any royalties due for minerals removed from that part of the leased premises which remains under lease.

Where the state owns only a fractional undivided interest in the minerals in any portion of the leased premises, only that fractional part of the rentals and royalties established in this lease shall be paid for that portion.

If at any time during the term of this lease it is determined in a proper proceeding that the state does not own the minerals in a part of the area included in the leased premises, the commissioner shall delete from the description of the leased premises the part not owned by the state, and only if that determination is made prior to the fifth anniversary date of this lease is the lessee entitled to receive credit on future payments due the same fund, for payments made to the state on that part prior to the determination. If the commissioner deems it necessary, additional time to make the determination may be granted.

8. **Royalty.** The royalty to be paid to the state for the industrial minerals recovered from the leased premises is a base rate of ... percent of the gross market value after extraction and at the mine plus an additional bid rate of ... percent of the gross market value after extraction and at the mine.
9. **Gross Market Value at the Mine.** Gross market value after extraction and at the mine means the market price, including all bonuses and allowances received by the lessee, at the point of shipment from the leased premises of the first marketable product or products produced from the leased minerals and sold under a bona fide contract of sale.

It is expressly understood and agreed that none of the lessee's mining or product costs, including but not limited to, material costs, labor costs, overhead costs, transportation costs or general and administrative costs may be deducted from the market price in computing the royalty due. The receipts from all sales are subject to validation and verification by all parties to the sale and subject to review by the commissioner.

If the leased minerals are only sold or transferred by the lessee to an affiliate, or the leased minerals are to be stockpiled off the leased premises for future sales, the method to determine the gross market value of the minerals, for royalty calculation purposes, is subject to prior agreement between the commissioner and the lessee. The commissioner may require that the minerals or products be ranked or graded and inventoried prior to removal from the leased premises. Any adjustments due to differences between the method agreed to between the commissioner and the lessee and actual sales are limited to a period of six months after the leased minerals are removed from the leased premises.

For the purpose of this lease, “affiliate” means the lessee, or any business entity that is effectively owned or controlled directly or indirectly by the lessee or that directly or indirectly effectively owns or controls the lessee, or any business entity operated by or that operates the lessee.

[Note: For certain industrial minerals, there are limited or no established market prices. A lease covering these minerals should include a method to determine the gross market value for royalty calculation purposes. Umpire assays or evaluations is an option for some minerals, such as diamonds. Under certain circumstances, for certain industrial minerals, there may be extensive chemical treatment of the leased minerals on the leased premises prior to shipment. A lease covering this situation should include a method to determine the point at which the first marketable product is arrived at for royalty calculation purposes.]

10. **Quarterly payment on minerals removed.** The lessee agrees to pay the state, on or before January 20, April 20, July 20, and October 20 in each year during the period this lease continues in force, royalty at the rates specified in paragraph 8 for all of the minerals removed from the leased premises during the previous calendar quarter. Any amount paid for royalty must be allocated by the commissioner to the proper fund as determined by the mineral ownership. The lessee is liable for payment of royalty when due on all minerals removed from the leased premises from the actual time of removal; and if the royalty due on the minerals is not determined and accounted for as provided by the next royalty payment date, the commissioner may determine the royalty by any method that the commissioner deems appropriate and consistent with the royalty rates set forth in this lease. Any royalty payments not received by the date due are subject to interest at the rate of six percent per year from the quarterly due date.
11. **Method of computing royalty rates.** In computing rental and royalty rates hereunder, any fraction of a cent less than five-thousandths shall be disregarded and any fraction amounting to five-thousandths or more shall be counted as one-hundredth of a cent.
12. **Weighting for royalty purposes.** Royalty must be computed on the dry weight of the minerals. The dry weight of the minerals shall be calculated from natural weights and moisture percentages from samples taken at the time the minerals are weighed.

The methods of obtaining the weights used in the calculation of royalty, or to determine other weights required by the state, are subject to the approval of the commissioner.
13. **Lessee to transmit statement of minerals removed and royalty due.** The lessee shall transmit to the commissioner with each royalty payment an exact and truthful statement of the weight and royalty value of the minerals mined and removed from the leased premises during each of the three months for which the payment is made, and the amount of royalty due on the minerals, separated as to the various state fund ownerships.

The lessee shall provide for all the operations required for these determinations except as otherwise specified.
14. **Commingled minerals.** The lessee has the right to commingle leased minerals from the leased premises with other minerals of the same nature and type, either in the mine, in stockpile, or in the shipment, but the leased minerals must be kept entirely separate and distinct until their quantities and rank, grade or mineral content have been separately measured and the amount of royalties due are determined.
15. **Sampling.** The commissioner may require that samples for royalty purposes be taken of the minerals and their products at appropriate places and intervals. A portion of each

sample or composite sample must be delivered to the commissioner unless, by mutual agreement, it has been decided that certain of such portions are not needed by the state. Except as otherwise permitted by the commissioner, all leased minerals mined from the leased premises must be sampled, their weight determined, and the amount of royalties due determined before being commingled with any other minerals.

Each royalty sample must be analyzed at the expense of the lessee by analytical and testing laboratories approved in writing by the commissioner. The elements in the royalty sample and the physical properties for which analytical determinations will be made are subject to agreement between the commissioner and the lessee.

16. **Monthly reports.** Except as otherwise permitted by the commissioner, the lessee shall transmit within 20 days after the end of each calendar month, statements for that calendar month in the form the commissioner may require, covering the weights and analyses of the following: all minerals mined from the leased premises, all minerals stockpiled from the leased premises, all minerals mined from any source and commingled with minerals from the leased premises, all commingled minerals stockpiled, and such other information as may reasonably be required by the commissioner for the purpose of verifying the amount of royalty due.

The weight of the minerals and products as set forth in the monthly statements shall prima facie be binding as between the parties. However, the state has the right to do the following: sample the minerals; check the analyses of test results; inspect, review and test the correctness of the methods, books, records, and accounts of the lessee in sampling, analyzing, recording, and reporting the weights; and to inspect, review, and test the correctness of the weights and scales and other equipment used in measuring the amount of minerals. It is understood that any errors in these reports, when ascertained, shall be corrected.

17. **Additional monthly and annual reports to be furnished by lessee: exploration; mine samples required.** Except as otherwise permitted by the commissioner, in addition to other reports or statements required in this lease, the lessee shall furnish the following:
- a. Copies of all exploration data, including, but not limited to, all logs and drill hole records; all maps and coordinates showing drill holes, geophysical grids, geochemical and geologic sampling, trenching, and survey data; all mineral analyses and assays; all chemical and analytical data and information; all laboratory test data; all geophysical, geochemical, and geologic records; all results of mine and mineral processing testings; and all periodic mine maps, analyses maps, cross sections, and development plans. All material required under this subparagraph must be available to the commissioner at all reasonable times. Copies must be submitted annually to the commissioner when the data is in the form customarily prepared for permanent record of the operations on the leased premises. Material available to and furnished to the commissioner under this subparagraph and subparagraph b. shall be considered confidential during the life of this lease.
 - b. A representative portion of all exploration samples and, when requested by the commissioner in writing, a representative portion of mine samples. In the event that the lessee requires certain exploration samples in their entirety, the commissioner may waive the requirement for a quarter-portion of such exploration samples, provided that the lessee grants the state an opportunity to examine and classify such samples before they are crushed or processed.

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- c. A monthly report showing the estimated weights, grades, analyses, or other appropriate measure of all minerals stockpiled and divided as to property of origin and deposition.
 - d. Certified copies of settlement sheets or receipts from sales involving minerals produced from the leased premises showing the product sold and factors relevant to the calculation of royalties.
 - e. Not later than March 1 of each year during the term of this lease, a summary statement of the weights, grades, analyses, or other appropriate measure of all minerals mined and all minerals placed in or removed from stockpile during the previous calendar year, divided as to the property of origin and the disposition of the minerals and showing such analyses of them as the commissioner may require.
18. **How remittances and reports are to be transmitted.** All remittances by the lessee under this lease must be made payable to the state treasurer. All such remittances and all reports, notices, and documents required under this lease must be transmitted to the commissioner through the director of the Division of Minerals at 500 Lafayette Road, St. Paul, Minnesota 55155-4045.
19. **State inspection; inspectors at plants and mines.** The commissioner may at all reasonable times enter the leased premises and any other premises used or operated by the lessee in connection with the operation of the leased premises, inspect the operations conducted under this lease, and conduct such engineering and sampling procedures and other investigations as the commissioner may require, not unreasonably hindering or interrupting the operations of the lessee.
- Whenever royalties or rentals due the state are required to be distributed to more than one fund, or when minerals from the leased premises are commingled with other minerals, or when minerals from the leased premises are concentrated at the same plant as other minerals, the commissioner may appoint special inspectors as the commissioner considers necessary to insure proper accounting and protect the interests of the state. The lessee shall reimburse the state monthly for the cost of this inspection service upon notification by the commissioner.
20. **Removal of minerals for experimental purposes.** Notwithstanding paragraph 10, upon written application of the lessee, the commissioner may authorize the removal of industrial minerals from the leased premises for experimental purposes, without payment of royalty. It is further understood that the removal of samples obtained by drilling, trenching, or testpitting, for the purposes of exploration, is not subject to the payment of royalty.
21. **Stockpiled minerals.** All minerals mined and not shipped from the leased premises remain the property of the state and shall be stockpiled only in such manner and on such sites as may be authorized by the commissioner in writing.
22. **Reversion of title on land conveyed to the state for stockpiling purposes.** When the commissioner determines that it is necessary and that the interests of the state will be fully protected, the lessee may convey land to the state upon the condition that it be used for the storage of minerals or other materials having present or potential value belonging to the state. The commissioner may accept a conveyance that provides for the state's interest in the land to terminate and title to revert to the lessee when the land is no longer needed or used for storage of minerals or other materials. No consideration shall be paid for the conveyance unless authorized by law.

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23. **Cross-mining rights.** The lessee is hereby granted the right to mine and remove any leased minerals from the leased premises through any shafts, openings, or pits that may be made upon adjoining and nearby premises controlled by the lessee. The lessee may, if it so desires, use the leased premises and any shafts, openings, or pits made on it for the mining or removal of any minerals of the same nature and type as the leased minerals from adjoining or nearby premises. The lessee's use of the leased premises for these purposes may not, however, prevent or interfere with the mining or removal of minerals from said leased premises. The minerals taken from the leased premises must at all times be kept entirely separate and distinct from any other minerals until measured and sampled as provided in this lease so that the rights of the state are at times preserved and protected. The state recognizes the rights and liens of the owners of any nearby or adjoining premises in any minerals mined from them and transported through the leased premises.
24. **Lessee's obligations under state and federal laws and regulations.** The provisions of this lease are subject to all applicable state and federal statutes, orders, rules, and regulations, and all operations under this lease shall be conducted in conformity with them. No interference, diversion, use, or appropriation of any waters over which the commissioner or any other state agency has jurisdiction, may be undertaken unless authorized in writing by the commissioner or the state agency.
25. **Operations to be conducted in accordance with good mining engineering.** The lessee shall advise the commissioner when any mining activities on the leased premises are about to begin. The lessee shall open, use, and work the mine or mines on the leased premises in such manner only as is usual and customary in skillful and proper mining operations in accordance with the requirements, methods, and practices of good environmental and mining engineering, and in such manner as not to cause any unnecessary loss of minerals, or unusual permanent injury to the leased premises. Surface lands owned by the state in the leased premises are not to be cleared or used for roads, construction, or stockpiling purposes until such use has been approved by the commissioner in writing. The surface use of the leased premises must be conducted in such manner as to prevent or reduce scarring and erosion of the land and pollution of air and water.
26. **Notice to owner of surface estate.** When the leased premises do not include the surface estate, the lessee shall give notice, in writing, to the owner or administrator of the surface estate at least 20 days in advance of any activities which will require use of the surface estate on the leased premises. The notice shall sufficiently describe the activities to enable the owner or administrator of the surface estate to evaluate the extent of the use of the surface estate.
27. **Review of exploration; exploration site closure and stabilization.** Exploration means the act of searching for or investigating a mineral deposit. Exploration includes examination of an area to determine the quality and quantity of minerals, including obtaining a bulk sample by drilling, excavating, trenching, constructing shafts, ramps, tunnels, pits, and producing refuse and associated activities. Exploration does not include activities intended, by themselves, for commercial exploitation of the ore body.
- A. The lessee shall advise the commissioner, in writing, at least 20 days in advance of any exploration activities on the leased premises. The lessee shall specify:
- (1) the location of proposed activities depicted on a 1:24,000 scale United States Geological Survey 7-½ minutes quadrangle map or other map of the same scale;

- (2) the exploration activities that will be performed, including, but not limited to, the type of activity, method of sampling, and types and sizes of vehicles and equipment that will be used;
- (3) the approximate beginning and ending dates of the proposed activities;
- (4) for exploration activities at sites with special features or uses, methods of mitigation to be used in the exploration to minimize, to the extent practicable, adverse impacts on special features or uses;
- (5) the location and method of access to the exploration site, and if new roads or trails are to be constructed, the location of the proposed roads or trails; and
- (6) proposed plan for site closure and stabilization, if needed.

The commissioner will identify special features or uses within the leased premises. Conditions identified as special features or uses include: wildlife management areas and sites; peatland watershed areas of the peatland scientific and natural areas; the Black Bay Management Area; natural heritage sites and features; designated trout streams; state canoe and boating routes; state trails; historic and archaeological sites; rights-of-way; fire towers; campgrounds; public access sites; state highway rest areas; and other existing easements, sites, conditions, and encumbrances. The commissioner may require the lessee to adjust its exploration plans or its plans for construction of roads or trails due to special features or uses within the leased premises or due to other natural resource management concerns.

Upon completion of the exploration, the lessee must promptly remove its supplies and equipment and the lessee must restore the leased premises and roads to a condition satisfactory to the commissioner. The lessee must, when needed, implement and complete closure and stabilization of the exploration site to the satisfaction of the commissioner. The lessee shall be relieved of obligations imposed by the plan for exploration site closure and stabilization only when the lessee notifies the commissioner in writing that site closure and stabilization has been completed and release has been granted by the commissioner.

28. **Lessee's obligation for damages.** It is understood and agreed that in case any interest in the land or minerals covered by this lease is owned by anyone other than the state, this lease shall not be construed as authorizing any invasion of or trespass upon such other interest. The lessee hereby agrees and is obligated to indemnify and hold the state harmless from all damages or losses caused directly or indirectly by operations under this lease, whether to land, timber, minerals, growing crops, or buildings, or to any person or other property, including damages suffered by that other owner of the surface or mineral rights, and the state shall not be liable for them.
29. **Lessee to pay all taxes.** The lessee agrees to pay when due all taxes, general and specific, personal and real, that may be assessed against the leased premises and the improvements made on it, and the leased minerals in it or mined from it, and any personal property on the leased premises owned, used, or controlled by the lessee. This covenant does not apply to taxes assessed against any part of the leased premises as a result of any other lease granted by the state to other parties. The cancellation, termination, or expiration of this lease does not relieve the lessee of the obligation to pay taxes assessed during the continuance of the lease, even though such taxes may be due or payable after the cancellation, termination, or expiration date.
30. **State lien for unpaid sums due.** The state reserves and shall at all times have a lien upon all minerals mined from the leased premises and all improvement made under this lease for any sums not paid when due.

31. **Lessee's right to terminate lease.** The lessee may at any time deliver to the commissioner written notice of intention to terminate this lease, and this lease shall terminate 60 days after the delivery unless the notice is revoked by the lessee by further written notice delivered to the commissioner before the expiration of 60 days.

On December 31, following the third anniversary date of this lease, and on any succeeding December 31, the lessee may surrender its rights and privileges granted in this lease on any part or parts of the leased premises, by giving the lessor written notice of its intention so to do at least 60 days before the date of such surrender. For the purposes of this paragraph, "part of the leased premises" means a quarter section of a quarter section or a government lot as described by the public land survey, or a bed of public waters.

All sums due to the state under this lease up to the effective date of termination must be paid by the lessee. Any sums not received within 20 days after the effective date of termination are subject to interest at the rate of six percent per year from the effective date of termination.

32. **Lessor's right to cancel lease upon default.** This lease is granted upon the express condition that, if any sum owed under it by the lessee for rental, royalty, or otherwise remains unpaid after the time when it became due, or if the lessee or its agent or servant knowingly or willfully makes any false statement in any report, account, or tabulation submitted to the state or to the commissioner, or any of the commissioner's agents pertaining to any matter under this lease, or if the lessee fails to perform any of the conditions required by this lease, the commissioner may cancel this lease by mailing or delivering to the lessee 60 days' notice of the cancellation in writing, specifying such non-payment or other default as the case may be. This lease shall terminate at the expiration of the 60 days, and the lessee and all persons claiming under the lessee shall be wholly excluded from the leased premises except as hereinafter provided in paragraph 33. Termination does not relieve the lessee from any liability for payment or other liability incurred under this lease. If the default consists of a non-performance of an act required under this lease other than payment of royalty or rental, the lessee may perform within the period of 60 days and the lease continues in effect. If the correction of any such default requires more time than 60 days after the notice has been received by the lessee, the commissioner, upon written request of the lessee and for good cause shown, may, at the commissioner's discretion, grant an extension of the period of 60 days. If the default consists of a non-payment of royalty or rental and the lessee performs within 15 days from the mailing or delivery of notice of cancellation, the lease continues in effect; and if the lessee performs at any time thereafter within the period of 60 days, the commissioner, at his or her discretion, may continue the lease in effect.

33. **Rights of lessor and lessee during 180-day period following termination.** Upon termination of this lease or surrender of any part or parts of the leased premises, whether by expiration of its terms or by act of either party, except as necessary to comply with any reclamation requirements, the lessee has 180 days after termination or surrender in which to remove all equipment, materials, railroad tracks, structures and other property placed or erected by the lessee upon said leased premises or the part surrendered thereof. Property not removed within that time shall, at the discretion of the commissioner, either be removed by the state at the lessee's expense or become the property of the state.

The lessee shall not remove or impair any supports placed in any mine or mines on the leased premises, or any timber or framework necessary to the use or maintenance of shafts or other approaches to such mine or mines or tramways within the leased premises, all of which become the property of the state. The lessee shall, at its own expense, properly and adequately fence all pits, level banks, and refill all test pits and cave-ins that

may be deemed dangerous or are likely to cause damage to persons or property, and the lessee shall do all other work which the commissioner deems necessary to leave the premises in a safe and orderly condition to protect against injury or damage to persons or property, and shall restore and reclaim the premises to a condition satisfactory to the commissioner. The lessee shall complete these requirements within 180 days after termination or surrender of the lease, unless a longer period is needed in order to comply with reclamation requirements.

Subject to the foregoing, upon the termination of this lease or surrender of any parts or parts thereof, whether by expiration of the term hereof or otherwise, the lessee shall quietly and peaceably surrender possession of the leased premises or the surrendered part or parts thereof to the state.

34. **Recovery of expenses.** If it is necessary for the state to incur expenses by court action or otherwise for the eviction of the lessee, or removal from the leased premises of the lessee's property, or recovery of rent or royalties, or for any other remedy of the state under this lease, and the state prevails in the court action or otherwise, then the lessee shall pay to the state all expenses, including attorney's fees, thus incurred by the state.
35. **Agreements, assignments, or contracts.** All assignments, agreements, or contracts affecting this lease must be made in writing and signed by all parties thereto, witnessed by two witnesses, properly acknowledged and must contain the post office addresses of all parties thereto, and when so executed must be presented in triplicate to the commissioner for record. No such instrument is valid until approved in writing by the commissioner and approved as to form and execution by the attorney general. No assignment or other agreement relieves the lessee of any obligation of liability imposed by this lease, and all assignees, sublessees, and subcontractors are also liable for all obligations or liabilities imposed by this lease.
36. **Lease binding on assignees and successors.** The covenants, terms, and conditions of this lease run with the land and extend to and bind all assignees and other successors in interest of the lessee.
37. **Notices.** For purposes of this lease, the addresses of the parties, unless changed by written notice to all parties, are: For the state; Commissioner of Natural Resources, State of Minnesota, Division of Minerals, 500 Lafayette Road, St. Paul, Minnesota 55155-4045; and for the lessee,.....
38. This lease is issued under all applicable provisions of Minnesota Statutes, chapter 93; and Minnesota Rules, parts 6125.8000 to 6125.8700.

Effective Date: June 26, 1995

Application for Negotiated Industrial Minerals Lease

Minnesota Department of Natural Resources, Division of Minerals
500 Lafayette Rd., St. Paul, MN 55155-4045

1. Applicant Information:

a. Business Name/Corporate Identity and Authorized Representative

b. Business Address (P.O., Street, City, State or Province, Country, Zip Code)

c. Telephone Number (include area code)

Facsimile Transmittal Number (include area code)

2. Legal Description of the Lands Requested for Lease:

County: _____ Township: _____ Range: _____
Section: _____

Forty(ies) and/or Government Lot(s):

Include metes and bounds descriptions if applicable (use additional sheets if necessary).

3. Identification of the Industrial Minerals Requested for Leasing:

Description of Mineral(s) Requested

4. Evidence of Qualification to Hold Lease: See instructions on the back of the application form at letter 4 a and b

a.

a. Identify by number from the instructions from the back of the form which type of qualification to hold a state lease is included with the application

b.

b. Check here if applicant is qualified under the exploratory borers law

5. **Fee:** The \$100 non-refundable application fee in the form of a certified check, cashier's check or bank money order must be included with the application. Your application cannot be processed without the application fee.

6. Signature:

Signature of Authorized Representative

Date _____

Office Use Only:

Date Received:

Time

Received By:

Instructions for the Application for Negotiated Industrial Minerals Lease

Following are instructions for completion of the Application for Negotiated Industrial Minerals Lease. Applications will be accepted between 8:30 a.m. and 4:00 p.m. central standard time, by mail or in person, on regularly scheduled business days at the Department of Natural Resources, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045. Incomplete applications will be rejected. If you have any questions, please contact the Department of Natural Resources, Leasing Section, Box 45, 500 Lafayette Road, St. Paul, Minnesota 55155-4045. telephone (612) 296-4807.

1. Applicant Information

- a. List the complete name of the applicant. If the applicant is a corporation or business partnership, this should also be indicated, along with the name of the authorized representative making application on behalf of the corporation or other business entity.
- b. List the complete address of the applicant, including the post office box, street address, city, state or province, country and zip code.
- c. Also include the telephone number, including the area code, where the authorized representative can be reached. You may also include a number where correspondence may be sent to the applicant by facsimile transmittal.

2. Legal description of the lands requested for leasing

Identify the land requested for leasing by legal description. Include the county, township, range and forty, along with any metes and bounds descriptions as may be necessary to identify the lands. Note that the lands covered by a single application are limited to a contiguous tract of 640 acres, except an area not exceeding 800 acres consisting of one government section according to the government survey. Include additional sheets as necessary to completely and accurately describe the premises.

3. Identification of the industrial minerals requested for leasing

Specifically identify the industrial mineral that the applicant seeks to lease, as identified in Minnesota Rules, part 6125.8100, subp. 3.

4. Evidence of Qualification to hold a mineral lease as required under part 6125.8300.

Information concerning the applicant's qualifications to hold a state mineral lease must be included with the application in order for the application to be reviewed. Indicate the type of evidence of qualification to hold a state mineral lease that is submitted with the application by inserting the appropriate number from the choices listed below in box 4a. If this information is not included, the application will be rejected.

- a. The applicant is qualified to do business in Minnesota as shown by:
 - (1) If a corporation organized under the laws of Minnesota, a Certificate of Incorporation from the Minnesota Secretary of State's office;
 - (2) If a corporation organized under the laws of any state other than Minnesota or another country, a Certificate of Authority to Transact Business in Minnesota from the Minnesota Secretary of State's office;
 - (3) If a limited partnership, a Certificate of Limited Partnership from the Minnesota Secretary of State's office;
 - (4) If an individual, proof of United States citizenship and of legal age; or
 - (5) If a general partnership or other business entity, evidence that the general partners or individuals controlling the business entity meet the requirements listed above in this part; and
- b. In box 4b indicate whether or not the applicant is qualified to conduct exploratory borings in Minnesota by having fulfilled the requirements of Minnesota Statutes, section 103I.601, subdivision 3. If not applicable as to the industrial mineral the applicant seeks to lease, insert *n/a* (not applicable) in the blank.

Note that although the applicant is not at this time requested to submit further evidence on the applicant's financial and technical capability to perform under a state mineral lease, the Department of Natural Resources, Division of Minerals reserves the right to request this information at a later date under the provisions of Minnesota Rules, part 6125.8300.

5. Fee: A non-refundable fee of \$100 per lease application, made by certified check, cashier's check, or bank money order, made payable to the Department of Natural Resources, must be included with the application. The application will be rejected if the fee is not included.

6. Signature. The application must be signed and dated by the applicant or the authorized representative of the applicant. Unsigned applications will be rejected.

This material is available in an alternative format upon request. TTY: 1-800-657-3939.

SIX GOOD REASONS FOR EXPLORING IN MINNESOTA

A century of mining has barely scratched the surface of Minnesota's mineral wealth. Thousands of square miles of our state await exploration for untapped bodies of ore. The DNR Minerals Division has invited explorers to conduct searches for this ore. Here are six reasons why they should accept.

Mineral potential. Much of our geologic terrain is a continuation of the mineral-rich Canadian Shield which has yielded zinc, copper, nickel, titanium, gold, silver, and other sought-after metals.

Extensive data base. Drill cores totaling more than two million feet from many formations are cataloged for convenient reference in a rock library. Available, too, are geologic maps, high-resolution aeromagnetic maps, and geo-chemical results of test drillings.

Land for exploration. Millions of acres of state-owned mineral rights are available for lease.

Mining tradition. The first load of iron ore was shipped from northern Minnesota more than a century ago. This long association with mining has taught Minnesotans how to accommodate mineral development while protecting the environment and the state's economic interests.

Trained workers and support industries. A skilled labor force and network of support industries undergird Minnesota's mining industry. Labor and supplies are available.

Roads, rails, and power. Mining sites are never far from highways, railroads, utilities, and four Great Lakes cargo ports.

Our state's vast mineral wealth has hardly been touched. To explorers we're saying, "Come and investigate the possibilities in Minnesota!"