

STATE OF MINNESOTA  
IN COURT OF APPEALS

**FILED**

June 23, 2023

OFFICE OF  
APPELLATE COURTS

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Mesabi Metallics Company LLC,

**STATEMENT OF THE CASE**

Relator,

**Court of Appeals No.** \_\_\_\_\_

v.

**Date of Decision:**

May 25, 2023

Minnesota Department of Natural Resources; Sarah Strommen, Commissioner of the Minnesota Department of Natural Resources; and Cleveland-Cliffs Minnesota Land Development LLC,

Respondents.

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**1. Court or agency of case origination and name of presiding judge or hearing officer:**

Minnesota Department of Natural Resources (“DNR”)

DNR Commissioner Sarah Strommen (“Commissioner”)

**2. Jurisdictional statement:**

**(B) Certiorari appeal.**

**Statute, rule or other authority authorizing certiorari appeal:**

This certiorari appeal is authorized by Minnesota Statute section (“Minn. Stat. §”) 93.50, the Minnesota Administrative Procedure Act (“APA”), Minn. Stat. §§ 14.63–.69, Minn. Stat. § 606.06, and Minnesota Rules of Civil Appellate Procedure 103 and 115. “Any person aggrieved by any final order, ruling, or decision of the [Commissioner of the

DNR] may obtain judicial review of such . . . decision under [the Minnesota APA].” Minn. Stat. § 93.50.

Relator Mesabi Metallics Company, LLC (“Mesabi”) appeals the Commissioner’s decision to award 30 state taconite iron ore mining leases in Itasca County (the “Leases”) to Cleveland-Cliffs Minnesota Land Development LLC (“Cliffs”). Commissioner findings are a necessary component of valid negotiated leases under Minn. Stat. § 93.1925, subd. 1 and the Commissioner’s decision is reviewable pursuant to Minn. Stat. § 93.50. The decision is also reviewable pursuant to Minnesota Statute section 606.06.

**Authority fixing time limit for obtaining certiorari review (cite statutory section and date of event triggering appeal time, e.g. mailing of decision, receipt of decision, or receipt of other notice):**

The Minnesota APA provides that a petition for writ of certiorari must be filed and served “not more than 30 days after the party receives the final decision and order of the agency.” Minn. Stat. § 14.63.<sup>1</sup> The DNR submitted its decision to issue the Leases to Cliffs for Executive Council approval on May 25, 2023, and the Executive Council approved the DNR’s decision on that date. Relator received notice through a local news article on June 7, 2023 that the DNR and Cliffs had executed the Leases.<sup>2</sup>

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<sup>1</sup> In the alternative, under Minn. Stat. § 606.01, the applicable time period is 60 days after the party applying for the writ of certiorari received due notice of the proceeding to be reviewed. Minn. Stat. § 606.01.

<sup>2</sup> Relator has submitted a request for a copy of the executed Leases, pursuant to the Minnesota Government Data Practices Act. See Minn. Stat. § 13.

**(D) Finality of order of judgment.**

The DNR decision to be reviewed disposes of all claims by and against all parties, including attorney fees, with respect to the Commissioner's award of the Leases.

**3. State type of litigation and designate any statutes at issue:**

This is a certiorari appeal from the decision of the Commissioner to award all 30 Leases in Itasca County to Cliffs. This litigation pertains to violation of Minn. Stat. § 93.1925 by the Commissioner of DNR, which requires specific factors to be met before the Commissioner may issue a mining lease through negotiations with an applicant. The decision is subject to judicial review pursuant to Minn. Stat. §§ 93.50 and 14.69.

**4. Brief description of claims, defenses, issues litigated, and result below:**

Minn. Stat. § 93.1925 limits the conditions under which a decision to issue a taconite iron ore mining lease through negotiations with a party can be taken —as opposed to a public sale process under Minn. Stat. § 93.16. Minn. Stat. § 93.1925 requires specific factual findings prior to issuing negotiated leases to applicants. Specifically, the statute provides:

**Subdivision 1. Conditions required.**

*When the commissioner finds that the best interests of the state will be served and the circumstances in clause (1), (2), or (3) exist, the commissioner, with the approval of the Executive Council, may issue an iron ore or taconite iron ore mining lease through negotiations to an applicant. A lease may be issued through negotiations under any of the following circumstances:*

(1) the state taconite iron ore is adjacent to taconite iron ore owned or leased for mining purposes by the applicant and the commissioner finds that it is impracticable to mine the state

taconite iron ore except in conjunction with the mining of the adjacent ore;

(2) the lands to be leased are primarily valuable for their natural iron ore content; or

(3) the state's mineral ownership interest in the lands to be leased is an undivided fractional interest and the applicant holds under control a majority of the remaining undivided fractional mineral interests in the lands to be leased.

Minn. Stat. § 93.1925, subd. 1 (emphasis added).

Here the DNR relied on the first and third clauses of Minn. Stat. § 93.1925, subd. 1.

The Leases state:

The Commissioner of Natural Resources, pursuant to Minnesota Statutes 2022, section 93.1925, has found the state taconite ore is adjacent to taconite ore owned or leased for mining purposes by the applicant and the commissioner finds it is impracticable to mine the state taconite iron ore except in conjunction with the mining of the adjacent ore.

In advance of the DNR's submission of its decision to the Executive Council, multiple parties and organizations with varied interests provided public comments opposing the decision to award the Leases to Cliffs. In addition to Relator, these parties included many entities with mining and business interests in the region, including Itasca County (where the Leases are located), Scranton Holding Company ("Scranton"), multiple labor unions, the City of Nashwauk, and the Western Mesabi Mine Planning Board.

As explained below, the decision of the DNR to award negotiated leases to Cliffs without meeting the specific conditions as required under Minn. Stat. 93.1925 exceeded the statutory authority of the agency. Minn. Stat. § 14.69(b). The decision of DNR to award all 30 Leases to Cliffs in one block without meeting the statutory conditions for entering into a negotiated lease under Minn. Stat. § 93.1925 with respect to each individual

lease was made upon unlawful procedure. Minn. Stat. § 14.69 (c) The DNR’s decision is affected by other errors of law, is unsupported by substantial record evidence, and is arbitrary and capricious. Minn. Stat. § 14.69 (d), (e), (f). For these reasons, the Commissioner’s decision to award the Leases should be remanded to the DNR for further proceedings to determine on a lease-by-lease basis whether the statutory prerequisites have been met.

**A. The Conditions of Minn. Stat. § 93.1925 Are Not Met Because (a) Cliffs’ Rights in the Lands Adjacent to the State Ore Are Currently Restricted and (b) it is Practicable for Other Entities to Mine the State Leases.**

As illustrated below, the Leases do not satisfy the statutory requirements in several respects.

*First*, Minn. Stat. § 93.15 requires that each state taconite iron ore lease to be awarded must satisfy the specific conditions under Minn. Stat. § 93.1925. The DNR exceeded its statutory authority by determining that the 30 Leases be issued to Cliffs as a single package without determining that each such lease met the statutory requirements for negotiated leases. Minn. Stat. § 93.1925 provides that “*a lease* may be issued through negotiations” where the statutory requirements are met. (Emphasis added). Separately, Minn. Stat. § 93.15 requires that each “mining unit” as designated by the state be covered by a separate lease. Accordingly, this necessarily requires that the DNR separately consider the statutory factors under Minn. Stat. § 93.1925 for each separate lease. Relator and Scranton both submitted public comments to the DNR that for several leases, it is practicable for other parties to mine these leases and therefore that the conditions under Minn. Stat. § 93.1925 have not been met for all 30 Leases. Relator supports the underlying

reason of the award of *some* state taconite leases to Cliffs in order to support Hibbing Taconite jobs, but the decision of awarding *all* the Leases (even those six leases within Relator's permit to mine area) exceeds the DNR's authority under the statute, as the conditions under Minn. Stat. § 93.1925 have not been met.

*Second*, even though several leases of the state taconite iron ore are not adjacent to taconite iron ore owned or leased for mining purposes by Cliffs, the DNR included in the Leases state parcels that are not adjacent to any parcel in which Cliffs has an interest.<sup>3</sup> As noted in Minn. Stat. § 93.1925(1), "A lease may be issued through negotiations . . . [if] the state taconite iron ore is ***adjacent to*** taconite iron ore owned or leased for mining purposes by the applicant and the commissioner finds that it is impracticable to mine the state taconite iron ore except in conjunction with the mining of the ***adjacent ore***[" (Emphasis added). The leasing of state parcels that are not adjacent to any Cliffs parcel is beyond the DNR's statutory authority and an error of law.

*Third*, the adjacent parcels cannot be mined by Cliffs due to various pending litigation, let alone satisfy the condition that the state parcels can only be mined in conjunction with mining of such adjacent parcels. It must be observed that Cliffs does not have any mining rights for the taconite iron ore that is adjacent to the state taconite iron ore because Cliffs' rights in adjacent parcels are limited and subject to continuing stay in ongoing legal disputes in litigation pending in other jurisdictions, which prevents Cliffs

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<sup>3</sup> An opinion by the Trenti Law Firm contained in the public comment submissions to the DNR demonstrates that the statutory prerequisites for negotiated leases that the DNR relied upon have not, in fact, been satisfied.

from mining the land. Cliffs' adjacent parcels fall into two categories: (1) parcels that are jointly-owned with Mesabi and (2) parcels in Mesabi's project area for which Cliffs purportedly obtained lease rights from a third party. Cliffs' rights in both categories are subject to the outcome of pending litigation elsewhere.

The parcels that are jointly-owned with Mesabi are subject to an action under Minn. Stat. Ch. 560 to determine who between Mesabi and Cliffs has the right to mine the parcels. This 560 Action is currently pending in Delaware bankruptcy court and has been informally stayed pending resolution of antitrust litigation brought by Mesabi against Cliffs, pending in the same court. *See Mesabi Metallics Co. LLC v. Cleveland-Cliffs, Inc.*, Adv. Pro. No. 17-51210-CTG (Bankr. D. Del.) (the "Antitrust Litigation"). Notably, the Ramsey County District Court issued a stay in litigation brought by Cliffs in 2018 regarding Mesabi's project because of the dispute over Cliffs' legal rights in those jointly owned parcels. In that matter, the Court found that the disputed status of Cliff's rights in those parcels is "squarely before the federal courts of Delaware" and that a stay was warranted to "avoid the risk of inconsistent determinations." *Cleveland-Cliffs Minn. Land. Dev., LLC v. Mesabi Metallics Co., LLC*, No. 62-CV-18-7473, Order Granting a Stay, at 7 (Ramsey Cty. Ct. July 31, 2019).

The lands that Cliffs acquired in Mesabi's project area from a third party are subject to challenge in the Antitrust Litigation. As part of that litigation, Mesabi is seeking to avoid the transfer of such lands to Cliffs on a number of grounds, including that Cliffs violated the antitrust laws. The status of Cliffs' property rights in the parcels adjacent to state land will have a material impact on compliance with the Minnesota statutory factors,

and only once these legal disputes are resolved will there be clarity as to Cliffs' property rights and ability to mine many of the state parcels.

*Fourth*, the DNR has erroneously concluded that the state parcels can only practicably be mined in conjunction with Cliffs' adjacent lands. Unless the legal challenge to the status of the disputed parcels is resolved in Cliffs' favor in Delaware, Cliffs will not have property rights that support such mining, and thus will be incapable of mining the state Leases. Moreover, it is simply incorrect that mining the state parcels would be impracticable except in conjunction with Cliffs' adjacent ore. Even if Cliffs had undisputed rights to the adjacent ore, there are other parties situated to practicably mine the state parcels. Another mining company from the Iron Range—Scranton—has also submitted the same argument to the DNR that it is practical for other parties also to mine the state mineral leases.

*Finally*, the state Leases in general also do not meet the conditions of the third clause of the statute, which requires “the state’s mineral ownership interest in the lands to be leased is an undivided fractional interest and the applicant holds under control a majority of the remaining undivided fractional mineral interests in the lands to be leased.” Minn. Stat. § 93.1925, subd. 1(3). This is due to pending litigation regarding the ownership of such parcels.

Given the fact that some of the leased parcels are not adjacent to any Cliffs parcel, along with the disputed nature of Cliff's property and mining rights in other adjacent parcels, the transaction does not meet the requirements prescribed by Minnesota law. The DNR has not demonstrated the satisfaction of the Minnesota Statutes for the award of



negotiated leases and there is substantial evidence to the contrary. Accordingly, Mesabi respectfully requests that the Commissioner's decision be remanded to the DNR for further proceedings to determine on a lease-by-lease basis that all statutory prerequisites have been met. Minn. Stat. § 14.69.

**5. List specific issues proposed to be raised on appeal.**

The issues to be considered include, but are not limited to:

Whether the DNR's decision to award the Leases to Cliffs exceeded the DNR's statutory authority, was made upon unlawful procedure, is unsupported by substantial evidence, and/or is arbitrary and capricious under Minn. Stat. § 14.69 because the Leases do not meet the conditions set forth in clauses (1) or (3) of Minn. Stat. § 93.1925.

**6. Related appeals:**

None.

**7. Contents of Record.**

Is a transcript necessary to review the issues on appeal? Yes ( ) No (X) Relator has been informed by the Executive Council that there is no recording or transcript of the May 25, 2023 meeting where the DNR presented its decision.

If a transcript is unavailable, is a statement of the proceedings under Rule 110.03 necessary? Yes ( ) No (X)

In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? Yes ( ) No (X)

**8. Is oral argument requested?**

Yes (X) No ( )

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes ( ) No (X)

**9. Identify the type of brief to be filed.**

Formal brief under Rule 128.08.

**10. Names, addresses, and telephone numbers of attorney for appellant and respondent.**

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Unknown

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