

## CHAPTER 93

## MINERAL LANDS

**93.01 RESERVATION OF MINERALS AND WATER POWERS.**

Marl is classified as a mineral. OAG June 25, 1945 (311-e).

Sand and gravel are not minerals within the meaning of the statute providing for the reservation of mineral rights to the state. OAG Aug. 13, 1946 (311-J).

Rights in soil and minerals under water. 1 MLR 34.

State control of use of its national resources. 11 MLR 129, 233.

**93.06 RESERVATION OF MINERALS UNDER MEANDERED LAKES.**

Amended by L. 1947, c. 521, s. 1.

This section applies to all waters which were navigable as of the date when the state was admitted into the union. OAG June 25, 1945 (311-e).

Marl being a mineral, the title when marl is found underlying the bed of a public water depends upon whether or not the water was navigable when Minnesota was admitted as a state. The question must be determined according to federal regulations. OAG June 25, 1945 (311-E).

Proposed drainage of a portion of a lake by a mining company which would destroy riparian rights of its cotenant is an improper exercise of rights of cotenancy. Any such taking must be through eminent domain proceedings. *Petraborg v Zontelli*, 217 M 536, 15 NW(2d) 174.

Rights in soil and minerals under water. 1 MLR 34.

**93.08 PROSPECTING FOR MINERALS UNDER WATERS OF MEANDERED LAKES AND STREAMS.**

Amended by L. 1947, c. 473, ss. 1, 2.

"Low-water mark," "ordinary low-water mark," "mean low-water mark," and "mean low-water elevation contour" defined and distinguished. OAG June 25, 1945 (311-E); OAG Nov. 22, 1946 (311-D-5).

**93.13 DRAINING OF LAKES AND LEASING OF ORE LANDS IN BEDS THEREOF.**

"Low-water mark," "ordinary low-water mark," "mean low-water mark" and "mean low-water elevation contour" defined as determining the line between the riparian owner and the lake bed lessee. Neither high nor low water mark means the highest or lowest point reached by the waters of the lake during periods of extreme freshets or extreme drought, but does mean the high and low points of variation under ordinary conditions, unaffected by extremes. OAG June 25, 1945 (311-E); OAG Nov. 22, 1946 (311-D-5).

**93.17 APPLICATION FOR PERMITS; BIDS; AWARDS.**

Where more than one application is before the commissioner, the award must be made to the one who offers the most pay. *Whiteman v Severance*, 46 M 495, 49 NW 255.

**93.18 RIGHTS AND DUTIES OF PERMIT HOLDERS.**

Where a permittee fails to do any prospecting under a permit, but files the affidavit stating that no work was done and pays the quarterly royalty payment, he is entitled to a lease up until the time that the permit is canceled by the commissioner or expires in accordance with its terms. OAG June 6, 1946 (311-D-4).

**93.19 LEASES TO PERMIT HOLDERS; ROYALTIES.**

Contract whereby the state leased school lands for 50 years, was a "lease" and not in fact a sale or conveyance of ore on the leased premises, as respects whether income received by the corporation from its sublessees was subject to federal taxation. *Wanless Iron Co. v. Commissioner of Internal Revenue*, 75 F(2d) 779.

**93.191 MODIFICATION OF IRON ORE MINING LEASE.**

HISTORY. 1947, c. 111, ss. 1, 2.

**93.192 STATE LEASE TO ADJACENT PERMITTEE.**

HISTORY. 1947, c. 409, s. 1.

**93.20 FORM OF LEASE; RENTAL AND ROYALTIES.**

A mining lease is not a sale of the ore, nor the royalties reserved the purchase price; but the contract is one of lease as designated, and the stipulated payment is rent. *Nelson v Republic Iron & Steel*, 240 F 285.

**93.203 COMMISSIONER OF CONSERVATION MAY EXTEND CONTRACTS OR LEASES.**

HISTORY. 1947, c. 504, ss. 1, 2.

**93.22 DISPOSAL OF MONEYS RECEIVED.**

Leasing authority conferred on county officials by L. 1941, c. 355, pertains only to the surface of the land, and does not authorize any lease with reference to minerals or other things under the surface. 1942 OAG 317, March 20, 1942 (311-D-8).

**93.24 MINING OF ORES OTHER THAN IRON.**

Amended by L. 1947, c. 96, s. 1.

If in the public interest, the state may engage in the mining and disposition of marl. OAG June 25, 1945 (311-e).

**93.25 PERMITS TO PROSPECT FOR ORES OTHER THAN IRON; LEASES; RENTS; ROYALTIES.**

The word "valuable" used as an adjective in section 93.01 may be an aid in construction, and its omission in sections 93.04, 93.24 and 93.25 is of no significance. OAG Aug. 13, 1946 (311-J).

**93.34 UNLAWFUL TO MINE UNDER PUBLIC WATERS.**

Title to soil or minerals under public waters a question of fact. 1 MLR 34; 2 MLR 313, 429.

**93.351 SALE OF PERMITS TO PROSPECT FOR IRON ORE.**

A riparian owner as such has an interest and property right in the maintenance of the waters in their natural condition which is special and distinct from that of the public in general. The proposed drainage of one section of a public lake by one riparian owner constituted an unreasonable use of the waters. *Petraborg v Zontelli*, 217 M 537, 15 NW(2d) 174.

**93.354 PERMIT HOLDERS MAY RECEIVE LEASES; ROYALTIES.**

Where at the time the lease was executed the taking possession procedure was under a statutory provision afterward repealed, neither the lessee nor the court should substitute a different manner of settlement. *Petraborg v Zontelli*, 217 M 537, 15 NW(2d) 174.

**93.37 AGREEMENTS FOR WEIGHING ORE.**

Being within the classified service, weighmasters of the division of mines and minerals enjoy the benefit of civil service rules as to allowance for vacation leave and sick leave. OAG June 27, 1940 (311).