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CHAPTER 9.

MINERALS AND MINERAL INTERESTS IN PUBLIC LANDS

ARTICLE 1.

GENERAL PROVISIONS

**SECTION 10‑9‑10.** Lease of gas, oil and certain other minerals.

The Public Service Authority may, through its board of directors, make and execute leases of gas, oil and other minerals and mineral rights, excluding phosphate and lime and phosphatic deposits, over and upon the lands and properties owned by said Authority; and the State Budget and Control Board and the forfeited land commissions of the several counties of this State may, with the approval of the Attorney General, make and execute such leases over and upon the lands and waters of the State and of the several counties under the ownership, management or control of such Board and commissions respectively.

**SECTION 10‑9‑20.** Minimum royalty.

No such lease shall provide for a royalty of less than twelve and one‑half per cent of production of oil and gas from the lease.

**SECTION 10‑9‑30.** Leases subject to conservation laws; lease of rights upon offshore and other State lands.

Nothing contained in this article shall estop the State from enacting proper laws for the conservation of the oil, gas and other mineral resources of the State and all leases and contracts made under authority of this article shall be subject to such laws; provided, that the State Budget and Control Board may negotiate for leases of oil, gas and other mineral rights upon all of the lands and waters of the State, including offshore marginal and submerged lands.

**SECTION 10‑9‑35.** Disposition of revenues received from offshore oil leases.

In the event that the State of South Carolina is the recipient of revenues derived from offshore oil leases within the jurisdictional limits of the State such revenues shall be deposited with the State Treasurer in a special fund and shall be expended only by authorization of the General Assembly.

Funds so accumulated shall be expended only for the following purposes:

(1) to retire the bonded indebtedness incurred by South Carolina;

(2) for capital improvement expenditures.

**SECTION 10‑9‑40.** Authority conferred by article is cumulative.

The authority conferred upon the Public Service Authority, the State Budget and Control Board and the forfeited land commissions by this article shall be cumulative and in addition to the rights and powers heretofore vested by law in such Authority, such State Budget and Control Board and such commissions, respectively.

ARTICLE 3.

PHOSPHATE

**SECTION 10‑9‑110.** Budget and Control Board has exclusive control of State’s phosphate interest.

The State Budget and Control Board shall be charged with the exclusive control and protection of the rights and interest of the State in the phosphate rocks and phosphatic deposits in the navigable streams and in the marshes thereof.

**SECTION 10‑9‑120.** Protection of State’s interest against adverse claimants.

The Board may inquire into and protect the interests of the State in and to any phosphatic deposits or mines, whether in the navigable waters of the State or in land marshes or other territory owned or claimed by other parties, and in the proceeds of any such mines and may take such action for, or in behalf of, the State in regard thereto as it may find necessary or deem proper.

**SECTION 10‑9‑130.** Board may issue leases or licenses; notice of applications.

The Board may issue to any person who applies for a lease or license granting a general right to dig, mine and remove phosphate rock and phosphatic deposits from all the navigable streams, waters and marshes belonging to the State and also from such of the creeks, not navigable, lying therein as may contain phosphate rock and deposits belonging to the State and not previously granted. Such leases or licenses may be for such terms as may be determined by the Board. The annual report of the Board to the General Assembly shall include a list of all effective leases and licenses. The Board may make a firm contract for the royalty to be paid the State which shall not be increased during the life of the license. Provided, that prior to the grant or issuance of any lease or license, the Board shall cause to be published a notice of such application in a newspaper having general circulation in the county once a week for three successive weeks prior to the grant or issuance. Provided, further, the lessee or licensee may not take possession if there be an adverse claim and the burden of proving ownership in the State shall be placed upon the lessee or licensee.

**SECTION 10‑9‑140.** Board may grant or refuse application for license.

In every case in which such application shall be made to the Board for a license the Board may grant or refuse the license as it may deem best for the interest of the State and the proper management of the interests of the State in such deposits.

**SECTION 10‑9‑150.** Bond of licensee.

As a condition precedent to the right to dig, mine and remove the rocks and deposits granted by any such license, each licensee shall enter into bond, with security, in the penal sum of five thousand dollars, conditioned for the making at the end of every month of true and faithful returns to the Comptroller General of the number of tons of phosphate rock and phosphatic deposits so dug or mined and the punctual payment to the State Treasurer of the royalty provided at the end of every quarter or three months. Such bond and sureties thereon shall be subject to the approval required by law for the bonds of State officers.

**SECTION 10‑9‑160.** Additional security to bonds may be required.

Whenever the Board shall have reason to doubt the solvency of any surety whose name appears upon any bond executed for the purpose of securing the payment of the phosphate royalty by any person digging, mining and removing phosphate rock or phosphatic deposits in any of the territory, the property of the State, under any grant or license, the Board shall forthwith notify the person giving such bond and the sureties thereon and require that one or more sureties, as the case may be, shall be added to the bond, such surety or sureties to be approved by the Board.

**SECTION 10‑9‑170.** Proceeding for relief of sureties; new bond and its effect.

The Board, upon petition filed by any person who is surety on any such bond as aforesaid and who considers himself in danger of being injured by such suretyship, shall notify the person giving such bond to give a new bond with other sureties and upon failure of such person to do so within thirty days shall cause such person to suspend further operations until a new bond be given. But in no case shall the sureties on the old bond be discharged from liability thereon until the new bond has been executed and approved, and such sureties shall not be discharged from any antecedent liability by reason of such suretyship.

**SECTION 10‑9‑180.** Power to fix and change rates for digging phosphate.

The Board is hereby vested with full and complete power and control over all mining in the phosphate territory belonging to this State and over all persons digging or mining phosphate rock or phosphatic deposit in the navigable streams and waters or in the marshes thereof, with full power and authority, subject to the provisions of Sections 10‑9‑130 and 10‑9‑190 to fix, regulate, raise or reduce such royalty per ton as shall from time to time be paid to the State by such persons for all or any such phosphate rock dug, mined, removed and shipped or otherwise sent to the market therefrom. But six months’ notice shall be given all persons at such time digging or mining phosphate rock in such navigable streams, waters or marshes before any increase shall be made in the rate of royalty theretofore existing.

**SECTION 10‑9‑190.** Returns of rock mined; payment of royalty; rate of royalty.

Each person to whom a license shall be issued must, at the end of every month, make to the Comptroller General a true and lawful return of the phosphate rock and phosphatic deposits he may have dug or mined during such month and shall punctually pay to the State Treasurer, at the end of every quarter or three months, a royalty of five cents per ton upon each and every ton of the crude rock (not of the rock after it has been steamed or dried), the first quarter to commence to run on the first day of January in each year.

**SECTION 10‑9‑200.** Comptroller General notified of licenses issued.

The State Budget and Control Board shall, within twenty days after the grant of any license as aforesaid, notify the Comptroller General of the issuing of such license, with the name of the person to whom issued, the time of the license and the location for which it was issued.

**SECTION 10‑9‑210.** Mining without license; penalty.

Every person who shall dig, mine or remove any phosphate rock or phosphatic deposit from the beds of the navigable streams, waters and marshes of the State without license therefor previously granted by the State to such person shall be liable to a penalty of ten dollars for each and every ton of phosphate rock or phosphatic deposits so dug, mined or removed, to be recovered by action at the suit of the State in any court of competent jurisdiction. One half of such penalty shall be for the use of the State and the other half for the use of the informer.

**SECTION 10‑9‑220.** Purchasing or receiving from unlicensed person.

It shall be unlawful for any person to purchase or receive any phosphate rock or phosphatic deposit dug, mined or removed from the navigable streams, waters or marshes of the State from any person not duly authorized by act of the General Assembly of this State or license of the Board to dig, mine or remove such phosphate rock or phosphatic deposit.

**SECTION 10‑9‑230.** Penalty for violation of Section 10‑9‑220.

Any person violating Section 10‑9‑220 shall forfeit to the State the sum of ten dollars for each and every ton of phosphate rock or phosphatic deposit so purchased or received, to be recovered by action in any court of competent jurisdiction. One half of such forfeiture shall be for the use of the State and the other half for the use of the informer.

**SECTION 10‑9‑240.** Board may take proceedings to prevent interference, obstruction and the like.

Should any person whosoever interfere with, obstruct or molest or attempt to interfere with, obstruct or molest the Board or anyone by it authorized or licensed hereunder in the peaceable possession and occupation for mining purposes of any of the marshes, navigable streams or waters of the State, then the Board may, in the name and on behalf of the State, take such measures or proceedings as it may be advised are proper to enjoin and terminate any such molestation, interference or obstruction and place the State, through its agents, the Board or any one under it authorized, in absolute and practical possession and occupation of such marshes, navigable streams or waters.

**SECTION 10‑9‑250.** Forfeiture of boats, vessels, dredges, and the like used by unlicensed persons; enforcement proceedings.

Should any person attempt to mine or remove phosphate rock and phosphatic deposits from any of the marshes, navigable waters or streams, including the Coosaw River phosphate territory, by and with any boat, vessel, marine dredge or other appliances for such mining or removal, without the leave or license of the Board thereto first had and obtained, all such boats, vessels, marine dredges and other appliances are hereby declared forfeited to and property of the State, and the Attorney General, for and in behalf of the State, shall institute proceedings in any court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which action the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person owning them, or his agents, in possession of such boats, vessels, marine dredges or other appliances. In any such action the State shall not be called upon or required to give any bond or obligation such as is required by parties plaintiff in action for claim and delivery.

**SECTION 10‑9‑260.** Interfering with State, Board or licensees; mining without license.

Any person wilfully interfering with, molesting or obstructing or attempting to interfere with, molest or obstruct the State or the State Budget and Control Board or anyone by it authorized or licensed in the peaceable possession and occupation of any of the marshes, navigable streams or waters of the State, including the Coosaw River phosphate territory, or who shall dig or mine or attempt to dig or mine any of the phosphate rock or phosphatic deposits of this State without a license so to do issued by the Board shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than one nor more than twelve months, or both, at the discretion of the court.

**SECTION 10‑9‑270.** Annual report to General Assembly.

The Board shall report annually to the General Assembly its actions and doings under this article during the year to the time of the meeting of the Assembly, with an itemized account of its expenses for the year incurred in connection with its duties and powers under this article.

ARTICLE 5.

GEOTHERMAL RESOURCES

**SECTION 10‑9‑310.** Definitions.

For purposes of this article geothermal resources mean the natural heat of the earth at temperatures greater than forty degrees Celsius and includes:

(1) The energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat.

(2) The material medium, including the brines, water, and steam naturally present, as well as any substance artificially introduced to serve as a heat transfer medium.

(3) All dissolved or entrained minerals and gases that may be obtained from the material medium but excluding hydrocarbon substances and helium.

**SECTION 10‑9‑320.** Lease of development rights to geothermal resources underlying surface lands owned by State.

The State Budget and Control Board (board) may lease development rights to geothermal resources underlying surface lands owned by the State. The board must promulgate regulations regarding the method of lease acquisition, lease terms, and conditions due the State under lease operations. The South Carolina Department of Natural Resources is designated as the exclusive agent for the board in selecting lands to be leased, administering the competitive bidding for leases, administering the leases, receiving and compiling comments from other state agencies concerning the desirability of leasing the state lands proposed for leasing and such other activities that pertain to geothermal resource leases as may be included herein as responsibilities of the board.

**SECTION 10‑9‑330.** Oil, natural gas, or minerals drilling lease as requiring specific reference to geothermal energy drilling rights.

Any lease of rights to drill for and use oil, natural gas, or minerals on public or private lands must not allow drilling for or use of geothermal energy by the lessee unless the instrument creating the lease specifically provides for such use.