

MEMORANDUM

TO: LDC  
FROM: LAW  
DATE: February 20, 1986  
RE: Cyprus Bagdad - SLD Water Purchase Contracts

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A.C.R.R. R12-5-773 states that an application to purchase must be filed with the State Land Department and shall contain the following information: Name and address of applicant, statement whether application is a corporation, individual, etc., state of incorporation, Arizona business address, affirmation of authorization to do business, description of land for which application is being made, location of mineral claims or leases on the land, location of abandoned mineral workings or common mineral materials pits, location of proposed roadways and routes of ingress and egress, location of improvements or crops. The rules do not state that a hydrology report is required, but they do indicate that "this rule shall not be taken or construed to limit or restrict the authority of the Commissioner to require the applicant to furnish such additional information ... as the Commissioner may deem necessary".

The application must be accompanied by the filing fee (\$50.00) and an application for commercial lease for whatever portion of the lands the applicant intends to undertake related commercial activities, place permanent improvements or otherwise use the surface.

Pursuant to A.C.R.R. R12-5-776 a public <sup>successive</sup> auction is held for the sale of the water. Public notice of the sale will be published once a week for not less than 10 weeks prior to the sale in a newspaper of general circulation.\* In the case of the applications that expire June 6, publication would have to begin prior to March 28.

A representative of the Department conducts the sale. The successful bidder must present to the auctioneer the amount of money that represents the minimum required in the notice of sale, and any additional sums are to be paid within 30 days.

\* at the state capitol - at location nearest interest to be sold.

- b. Advance annual rental of fifteen dollars per claim.
- c. A plat, to scale, accurately showing location of the claim properly tied in to known U.S. Public Survey corner monuments to properly identify the land claimed.
- d. A reasonably accurate drawing showing the proposed route of ingress and egress over other State land concerned.
- e. Evidence, in a form acceptable to the Commissioner, constituting the applicant's proof of a valuable mineral deposit within the bounds of the claim.

Final determination as to such proof shall be made by the Commissioner from the evidence submitted or by any other means at his disposal.

3. Ordinarily, both the application to lease, and the lease, shall be on the basis of one application per claim and one lease per claim. However,

a. The Commissioner may permit the acceptance of applications embracing more than one claim provided the claims are contiguous and further provided, that prior arrangement for such consolidation has been made and approval had; and,

b. The Commissioner may permit or cause consolidation of claims for lease purposes to the extent consistent with required Departmental administrative procedures. Any consolidation thus effected shall not alter the provisions of paragraph 2. above.

4. From and after the date of issuance of a mineral lease, the mineral claim or claims covered by such mineral lease shall be deemed to be excluded from the prospecting permit.

#### Historical Note

Original Rule, Art. VI-A, Subchapter B, Ch. II (Supp. 76-4).

## ARTICLE 20. COMMON MINERAL MATERIALS AND NATURAL PRODUCTS

### R12-5-771. Definitions

A. "Common mineral materials" includes cinders, sand, gravel and associated rock, fill-dirt, common clay, disintegrated granite, boulders and loose float rock, waste rock and materials of similar occurrence commonly used as aggregate road material, rip-rap, ballast, borrow, fill, for general construction and for similar purposes.

B. "Natural products" includes all other products severed from the land including, but not limited to, water and plants; but shall not include geothermal resources and those substances subject to the mining prospecting permit and leasing laws of Arizona.

C. "Royalty" means the monetary consideration representing the true appraised value of the common mineral materials or natural products.

D. For the purposes of any common mineral materials sales agreement, unless otherwise stated, the following terms shall have these meanings.

- 1. "Ton" is two thousand (2,000) pounds.

2. A "cubic yard" is a measurement of material that will fill a container that measures 1 yard by 1 yard by 1 yard and when a cubic yard is to be converted to tons Industry accepted measures of conversion will be used.

3. "Annual Production" is the number of tons of material that the Department determines is a reasonable amount to be extracted from the site in any 12 month period.

4. "Unit royalty rate" is the amount of money to be paid by the buyer to the Department for each ton of common mineral materials extracted.

#### Historical Note

Former Section R12-5-771 repealed as an emergency eff. Oct. 31, 1977, new Section R12-5-771 adopted eff. Sept. 16, 1977 (Supp. 77-5). Former Section R12-5-771 repealed as an emergency now repealed eff. Sept. 21, 1978 (Supp. 78-5).

#### R12-5-772. Miscellaneous Rules

A. Scope. These Rules are promulgated pursuant to authority vested in the State Land Department by statute and provide for the disposition of common mineral products and natural products in conformance with the enabling Act and Arizona Constitution. These Rules and Regulations shall supersede any existing Rules or procedures of the Department under this Chapter.

B. Application of Rules. As applicable, these Rules shall govern the sale of all common mineral materials and natural products.

C. State land subject to application to purchase. Any State-owned land containing deposits or accumulations of common mineral materials and natural products shall be subject to application for sale thereof it being understood that the State reserves the right to refuse to authorize the sale of common mineral materials or natural products on its lands.

D. Location prohibited. Common mineral materials and natural products are not subject to location as a claim, application for prospecting permit or to application for a mineral lease, as provided by Title 27, Chapter 2, Article 3 and 4 of Arizona Revised Statutes. The right to enter upon State land for the purpose of exploring and testing of common mineral materials is reserved by the Department.

E. Nature of agreement. A common mineral materials or natural products sales agreement is an agreement by virtue of which the holder may enter designated State trust lands and recover, extract, use, store, remove and dispose of the materials or natural products designated in the sales agreement, as set forth in R12-5-775.B., R12-5-778, and R12-5-779.

F. Area of activity. The agreement entitles the holder to pursue any permitted activity on or within the premises as determined by boundaries drawn vertically downward through the exterior boundaries of the premises.

G. Environmental protection. At any time during the course of the agreement, the Department may require the purchaser to employ new or other conservation measures in addition to any required at the time of purchase. Any such requirement shall not affect the royalty or minimum annual guarantee requirement.

H. Rehearings and appeals. The right to a rehearing or an appeal from an intermediate or final order of the Department, Commissioner or Board of Appeals from any action taken pursuant to this Article, shall be as authorized by the law pertaining to the conduct of the Department, Commissioner and Board of Appeals, the general rules pertaining to such rehearings and appeals and such right is neither enlarged nor diminished by this Article.

**Historical Note**

Former Section R12-5-772 repealed as an emergency eff. Oct. 31, 1977, new Section R12-5-772 adopted eff. Sept. 16, 1977 (Supp. 77-5). Former Section R12-5-772 repealed as an emergency now repealed eff. Sept. 21, 1978 (Supp. 78-5).

**R12-5-773. Application for purchase**

A. Qualification of applicant. Any citizen or one who has declared his intention to become a citizen, of the United States, partnership, or association of citizens, or a corporation organized under the laws of the United States or any State, or territory thereof, and authorized to transact business in the State, and any agency of the State of Arizona or any political subdivision thereof, may apply to the Department to purchase common mineral materials or natural products.

B. Area covered by application. A separate application shall be made for each common mineral materials or other natural products sale that relates to land in a different section or to non-contiguous parcels within a section. The size of any area subject to sale shall be determined by the Department in order to further the best interests of the State, and may represent consolidated applications.

C. Information to be furnished by the applicant.

1. The application to purchase shall be in such form as the Commissioner may prescribe, shall be filed with the Department by the applicant or an authorized agent for the applicant, and shall contain the following information:

- a. Name and address of applicant.
- b. Statement whether applicant is an individual, partnership or corporation or agency of the State or political subdivision thereof.
- c. Statement of citizenship, when applicable.
- d. If a corporation:
  - i. Name
  - ii. State of incorporation.
  - iii. Arizona business address.
  - iv. Affirmation of authorization to do business in Arizona.
- e. Age and marital status, when applicable.
- f. Description, according to the public land survey, of the land for which application is being made.
  - g. Location of mineral claims or leases on the land under application.
  - h. Location of abandoned mineral workings or common mineral materials pits on the land under application.
  - i. Location of proposed roadways within the area under application and of

proposed routes of ingress and egress over other State land.

j. Location of improvements or crops on land under application or on land over which proposed routes of ingress and egress pass (information required in g. through j. herein shall be conveyed by means of a reasonably accurate plat or drawing accompanying the application form).

2. This Rule shall not be taken or construed to limit or restrict the authority of the Commissioner to require the applicant to furnish such additional information, either generally or specifically, as the Commissioner may deem necessary for the proper administration of the law governing sales of common mineral materials or other natural products.

D. Filing application for sale. Each application filed with the Department shall be accompanied by the filing fee provided by law and an application for commercial lease of whatever portion, if any, of the lands covered by the sale application upon which the applicant intends to undertake related commercial activities, place permanent improvements or otherwise use the surface.

#### Historical Note

Former Section R12-5-773 repealed as an emergency eff. Oct. 31, 1977, new Section R12-5-773 adopted eff. Sept. 16, 1977 (Supp. 77-5). Former Section R12-5-773 repealed as an emergency now repealed eff. Sept. 21, 1978 (Supp. 78-5).

#### R12-5-774. Exploration permits

Common mineral materials and natural products, exploration, permits.

1. Scope. Following receipt of an application to purchase, the Department may issue permits to any person to explore for common mineral materials or natural products which are subject to sale.

2. Issuance of permits. Such permits will be issued only for limited entry into designated areas for the purpose of exploring or testing for common mineral material or natural products.

3. Non-assignability of permits. Such permits are non-assignable and subject to control stipulations by the Department.

4. No reimbursable improvements will be authorized or recognized by the Department in connection with any activity pursuant to an exploration permit.

5. Filing an application for sale shall entitle an applicant to an exploration permit without payment of further fees; any other person wishing to explore must pay a sum equal to the application fee.

6. All related State land must be restored after exploration and before sale by the exploring person(s).

#### Historical Note

Former Section R12-5-774 repealed as an emergency eff. Oct. 31, 1977, new Section R12-5-774 adopted eff. Sept. 16, 1977 (Supp. 77-5). Former Section R12-5-774 repealed as an emergency now repealed eff. Sept. 21, 1978 (Supp. 78-5).

**R12-5-775. Use of land**

A. Rights of applicant. Except as may be provided by an exploration permit duly issued pursuant to R12-5-774, the filing of an application for a common mineral material or other natural products sale shall not confer upon the applicant any greater right to the use of the land under application or to the common mineral materials or other natural products therein than were held by the applicant before filing.

B. Rights of Buyer. The Buyer shall have the right to use as much of the surface of the premises as is reasonably necessary for the extraction, severance, temporary storage, removal and disposition of the materials from the premises, including the right to wash, screen, crush, sort or otherwise mechanically process those materials, together with the right of ingress to and egress from the premises across other State lands along designated routes approved by the Department. The right herein granted shall be perfected by Buyer obtaining the commercial lease referred to in R12-5-773.D.

C. Use by other than Buyer; assignability of Buyer's rights. No one other than the employees or officers of the Buyer or those of an independent contractor engaged in the performance of a written contract with the Buyer shall have the right to enter upon the premises to perform any act permitted Buyer under the sales agreement. However, Buyer may assign its interest upon the prior written approval of the Department upon a form provided for such.

D. No reimbursable improvements shall be authorized or recognized by the Department no matter by whom or for what purpose constructed insofar as the Buyer of a common mineral materials or natural products agreement is concerned. The Buyer shall have 90 days following the expiration or termination of the agreement, provided Buyer has performed all acts to be performed by it; to remove any improvements, further provided that such removal does not interfere with the land being returned to an acceptable condition. Otherwise, any such improvements shall be deemed abandoned to the trust. Nothing in this provision, however, shall interfere with any right to reimbursement for improvements which Buyer might have by virtue of its status as a lessee of the Department.

**Historical Note**

Former Section R12-5-775 repealed as an emergency eff. Oct. 31, 1977, new Section R12-5-775 adopted eff. Sept. 16, 1977 (Supp. 77-5). Former Section R12-5-775 repealed as an emergency now repealed eff. Sept. 21, 1978 (Supp. 78-5).

**R12-5-776. Notice and conduct of competitive sales****A. Nature.**

1. All sales of common mineral materials and natural products, except to governmental agencies, shall be by public auction.

2. Common mineral materials or natural products may be sold to governmental agencies without public auction on terms specified by the Commissioner, provided

that the materials or products are sold at their true appraised value and that they are to be used for governmental purposes.

B. Sales notice. Public notice of sale at public auction for common mineral materials or natural products shall be published once each week for not less than ten (10) successive weeks in a newspaper of general circulation published regularly at the State Capitol and in a newspaper of general circulation published regularly nearest the location of the interest to be sold and with the same formality as required for the sale of land.

C. Conduct of sales. A representative of the Department shall conduct the public auction in a manner as consistent as possible as that provided for sales of land. Specifically, bidding shall be conducted in the following manner:

1. Bidding shall be by voice bid but no bid will be considered or recorded which is not higher than the highest preceding bid, except the initial bid may be for the unit royalty rate established in the notice of sale.

2. No bid shall be accepted for less than the unit royalty rate established in the notice of sale and the Department reserves the right to reject any or all bids, if determined by it to be in the best interests of the State.

3. Before a final bid at public auction is accepted, bidder must present to the auctioneer the amount of money that represents the minimum required in the notice of sale. The successful bidder shall have an additional thirty (30) days from the date of sale in which to pay such additional sums, post such bonds and complete whatever other requirements may be required. Failing to do so will result in the abandonment of such sums already paid to the Department as liquidated damages and the freeing of the Department to reconsider such other bidders as the proper recipient of the sales agreement.

D. Execution of agreement.

1. Upon approval by the Department of the successful bid for a common mineral materials or other natural products sale, the Department, by mail, will tender the sales agreement to the Buyer for its signature, and simultaneously will notify it of the bond coverage required by the Department as a condition of issuing the sales agreement and will further state the execution fee required by law.

a. When the executed sales agreement is filed with the Department by the Buyer and the Buyer has posted the bond or bonds required as a condition of issuance of the agreement, and the agreement has been signed by the Commissioner, the agreement will be in full force and effect.

b. The date of commencement of the agreement will be the date of sale.

#### Historical Note

Adopted eff. Sept. 16, 1977 (Supp. 77-5).

#### R12-5-777. Common mineral materials

A. Material to be specified. Common mineral materials sales agreements will recite the material or materials covered by such agreements and the rights of Buyers will pertain only to such materials as specified in the agreement.

1. It is understood that flora will necessarily be distributed by Buyer's activities, but such disturbance shall be minimal and the Department may so direct Buyer's activities to assure such minimal disturbance.

2. Buyer shall not be entitled to keep, give, sell or otherwise dispose of any flora on the premises unless the agreement so provides, in which event such flora shall have been appraised by or for the Department and a separate price therefore set forth in the agreement.

3. This agreement shall confer the right on the Buyer to extract groundwater from the land area subject to the sale for the purposes stated in R12-5-772, Subsection E. and R12-5-775, Subsection B., and purposes incidental or related thereto which uses and purposes shall be set forth in the Notice of Sale and which shall have been a factor in the establishment of the minimum acceptable unit royalty rate however, groundwater may be separately noted for sale in which event the notice of sale shall specifically so provide.

4. The granting of a right to extract groundwater shall not constitute a representation or guarantee by the Department that there is any groundwater available at any level or any quality for extraction.

5. Any right to extract groundwater conferred hereby is subject to any and all limitations and provisions existing in law or regulation of any agency including any such applicable other regulation of this Department.

6. Nothing herein shall affect any right to the use of groundwater which buyer might otherwise possess by virtue of being a lessee of the Department or having otherwise acquired a groundwater permit through Public Auction Sale by the Department.

**B. Advertising of sale.** The advertising of sale of common mineral materials shall state the location by legal description of the tract or tracts on which the material is being offered, the kind of material, the term, the time and place of auction, the unit, the minimum unit royalty rate, minimum annual production, total bid deposit required, bond requirements, the office where additional information may be obtained and such additional information as the Department may deem necessary.

1. When the materials to be sold on a basis other than the standard one set forth in these Rules, the notice of sale shall so state in specific detail.

**C. Appraisals.** Common mineral materials to be sold will be appraised by the Department when the materials are in their undisturbed natural condition ("in situ") using acceptable appraisal standards. The appraisal will determine the minimum unit royalty rate and minimum annual production.

**D. Annual royalty.** Until any reappraisal goes into effect, the annual royalty shall be the higher of

1. The minimum annual royalty as determined by the bidding process as provided in R12-5-777.E.,

2. The number of units of material extracted multiplied by the unit royalty rate.

Upon reappraisal, (1) and (2) shall be adjusted to reflect the reappraisal.

a. The minimum annual royalty payment shall be due and payable in advance on the anniversary of the agreement. Royalty for any material extracted, severed or disposed of in excess of the minimum annual production shall be due and payable in advance on the anniversary of the agreement. Royalty for any material extracted, severed or disposed of in excess of the minimum annual production shall be due and payable monthly within 30 days after billing by the State Land Department.

b. Minimum annual royalty payments shall be applied as a credit to payment for materials for which payment must be made, provided, however, that monies so advanced and not credited against payments for materials shall become the sole property of the State upon termination or expiration of the agreement.

c. For purposes of determining minimum annual royalty payment due in any particular year:

i. Multiply the original minimum annual royalty by the number of years of the agreement;

ii. Subtract the royalties thus far paid from (i);

iii. Divide (ii) by the years remaining and that will give the minimum annual royalty for the year in question.

d. In no event will the minimum royalty be less than 5% of the original minimum annual royalty.

E. Bids. Unless otherwise provided by the Commissioner and specifically published in the notice of sale, all bids shall be by the unit royalty rate.

1. In determining the minimum annual royalty, the Department shall multiply the unit royalty rate bid by the successful bidder times the minimum annual production which shall be determined solely by the Department and set forth in the notice of sale.

F. Reappraisals. The royalty rate established initially shall remain fixed for the first two (2) years of the agreement. For each subsequent year the Department may reappraise in the following manner:

1. No later than sixty (60) days before the end of any anniversary date the Department may reappraise the material to determine the unit rate and/or the acceptable minimum annual royalty, that reappraisal shall be effective for the second year following the one in which the reappraisal is made.

2. The Department shall notify the Buyer within thirty (30) days of the reappraisal and Buyer shall be obligated for payments based on such reappraisal for the second year following the one in which the reappraisal is made. If any proper appeal is taken by Buyer and not concluded before the effective date of the reappraisal, the prior royalty shall be paid, with any necessary adjustment being made immediately upon the conclusion of such appeal.

3. The Department is not obligated to reappraise in any particular year and its failure to do so merely means the last appraisal results shall remain in effect until a proper reappraisal is made.

(The next page is 120.1.)

**G. Provisions of the agreement****1. Term**

a. The term of a common mineral material sales agreement shall not be for more than twenty (20) years.

b. The Department will set the term of each sales agreement in such manner as to best utilize the resources and provide an economically sound term compatible with the law, the best interest of the trust and of the State.

2. For contract administration and sales related expenses a charge of 2% will be added to the minimum annual royalty and to royalties paid for production in excess of minimum annual production.

3. The royalty provisions shall be set forth in the agreement.

4. All common mineral materials removed from the premises shall be measured by volume, weight or truck tally or a combination of these methods or any other form of measurement the Department determines to be to the best interest of the State.

**5. Buyer's conduct on premises**

a. The Buyer will conduct its operations in a workmanlike manner at all times, to protect the premises and soils thereof and including, but not limited to:

i. keeping the premises free of all litter, junk or debris;

ii. taking precautions as necessary to protect the safety of persons or property upon the premises;

iii. complying with all flood control regulations which may be applicable to the premises;

iv. fencing all dangerous workings for the protection of humans and livestock;

v. complying with all other Rules and Regulations prescribed from time to time by the Department or any other agency having jurisdiction over the premises or the activities.

b. Upon termination of the agreement, the Buyer will restore the surface of the premises to a reasonable condition in accordance with good mining practices, such restoration to include:

i. the sloping of side banks of the excavation resulting from the operation to a grade of not more than one (1) foot vertical for each two (2) feet of horizontal distance, unless otherwise specified by the Department;

ii. the backfilling into the excavation of all unused waste materials and overburden resulting from the operation, and the leveling of such backfill to a reasonably uniform depth on the floor excavation, unless otherwise specified by the Department;

iii. the removal and restoration of the surface of any new haul roads constructed on State land by Buyer, which roads the Department does not elect to retain, any such election of retention to be made in writing.

c. The Buyer will indemnify, hold and save harmless, the State of Arizona, the Department and all of their officers and employees, against all loss, damage,

liability, expense, costs and charges incident to or resulting in any way from use, condition or occupation of the premises.

6. Transfers.

a. The Buyer, with prior approval of the Commissioner, may assign the agreement.

b. The application for assignment and the assignment and assumption of the agreement will be on such forms as the Department may prescribe.

c. Assignment shall not relieve the Buyer from any duties under the agreement but the assignee shall succeed to all of the rights and be jointly and severally liable, along with the assignor, to all of the obligations existing under the agreement dating from its inception.

d. No transfer of the Buyer's interest or any portion thereof is authorized except as specifically provided in these Rules.

7. Termination of sales agreement

a. Upon thirty (30) days written notice to Buyer, the Department may terminate the agreement for the failure or neglect of the Buyer to perform any of its provisions, including those specified by these Rules. Failure to pay royalties when due is such a failure of performance.

b. Notices of termination shall be mailed to the address of record at the Department of the Buyer. Such notice shall set forth the reason for the termination.

c. Provided Buyer is not in default in any of the terms and conditions of the agreement, the Buyer shall have the right to terminate the agreement upon any annual anniversary date thereof by giving the Seller not less than thirty (30) days prior notice in writing of Buyer's intention to do so.

8. Upon termination or expiration of the agreement, Buyer shall have 90 days, provided it has fully performed under the agreement, to remove any stockpiled material on the premises. The Commissioner may, if the Buyer so requests in writing within 10 days before the expiration of any such removal period, or extension thereof, grant a further extension not to exceed 60 days and provided that the cumulative removal period, along with extensions, shall not exceed 210 days. If the Buyer has not fully performed or fails to remove the stockpiled material within that specified time, such material will be deemed abandoned to the Trust. Any subsequent buyer of material on the portion of the premises on which stockpiled will succeed to its ownership and pay the Department the new Buyer's royalty rate therefor upon removal.

9. The agreement shall not provide for any renewal thereof.

10. Bonds

a. The Commissioner may require the Buyer to post a cash deposit or surety bond to guarantee the performance of the sales agreement and the payment of all monies due the State under the sales agreement.

b. Restoration and surface damage bond

i. The Commissioner shall require the Buyer to furnish bond, in a reasonable amount, to be fixed by the Commissioner, conditioned that the Buyer will guarantee restoration of the surface of the land described in the sales agreement to a reasonable condition in accordance with good mining practices, upon termination of the sales agreement.

ii. The Commissioner shall also require the Buyer to include in the above bond an amount set by the Department as a surety bond in the form, amount, and with surety approved by the Commissioner, conditioned upon prompt payment to the owner or lessee of the surface of State land covered by the common mineral materials sales agreement, or across which the common mineral materials Buyer exercises the right of ingress, for any loss to such owner or lessee for damage or destruction caused by the common mineral materials Buyer or Buyer's agents or employees, to grasses, forage, crops and improvements upon such land.

iii. Assignment of the sales agreement will not relieve the assignor of his obligation as principal under the bond. Release of the assignor's obligation under the bond may be effected through the posting of a replacement bond by the assignee, but only after approval by the Commissioner in lieu of a replacement bond, the bonding company may furnish a bond rider form changing the name of principal.

iv. The Commissioner, in his discretion reasonably exercised, may reduce or increase the principal amount of any bond.

v. After determination by the Commissioner that full discharge of the conditions of the obligation under any bond has been effected, he will, in writing, notify the principal and surety held by the bond so that it may be formally terminated.

vi. Surety on the bond shall have the right to cancel the bond and be relieved of future liability, but not previous liability after the period of notice, by giving thirty (30) days notice to the Buyer and the Department of its desire to so cancel. Failure by the Buyer to post a replacement bond before the expiration of the thirty (30) days, mentioned next above, shall constitute a default by the Buyer and cause for cancellation of the sales agreement.

#### 11. Records and reports

a. A monthly report of production (either affirmative or negative) shall be submitted by the Buyer of each common mineral materials sales agreement within fifteen (15) days after the end of the month in which his sales agreement was issued, and by the 15th of each month thereafter.

b. The report shall be in such form as the Commissioner shall prescribe and shall contain such information as the Commissioner shall require, including, but not limited to, the type, volumes, weights and classifications of the common mineral materials removed or disposed of.

c. Each Buyer shall make and keep an accurate account of all operations, showing the sales, prices, dates, purchasers and the total amount of material

disposed or removed from the subject premises.

**Historical Note**

Adopted eff. Sept. 16, 1977 (Supp. 77-5).

**R12-5-778. Natural products – groundwater**

When the law permits and the Department believes it consistent with the best interests of the State, groundwater may be sold at public auction in the same manner and subject to the same forms, insofar as possible, as are common mineral materials.

**Historical Note**

Adopted eff. Sept. 16, 1977 (Supp. 77-5).

(The next page is 121.)

**R12-5-779. All other natural products**

When the Department believes it consistent with the best interests of the State, natural products other than groundwater may be sold at public auction in the same manner and subject to the same terms, insofar as possible, as are common mineral materials.

**Historical Note**

Adopted eff. Sept. 16, 1977 (Supp. 77-5).

**ARTICLE 21. OIL AND GAS LEASES****R12-5-781. Definitions**

In these Rules and Regulations the following terms shall have the meaning herein given:

1. "Department" means the State Land Department.
2. "Lease" as used herein, shall mean an oil and gas lease issued pursuant to the provision of this Act.
3. "Lessee" means the holder of an oil and gas lease issued pursuant to this Act; and shall also include any assignee of an original lessee.
4. "Surface lease" means a lease on the surface of any State land for grazing, agricultural, commercial, or homesite purposes.
5. "Surface lessee" means the holder of a lease on the surface of any State land for grazing, agricultural, commercial or homesite purposes.
6. "Oil and gas" and "oil or gas" when used herein shall be deemed to include "oil, gas and other hydrocarbon substances."
7. "Produced" when used herein shall be deemed to include the words "procured and produced."
8. "State lands" means any land or any interest therein owned or held in trust, or otherwise, by the State, including, but not limited to, leased school or university lands.

**Historical Note**

Original Rule, Art. VII, Subchapter B, Ch. II (Supp. 76-4).

**R12-5-782. Who may lease for oil and gas — qualified lessees**

Any person of the age of twenty-one years or over, a citizen of the United States, or who has declared an intention to become a citizen of the United States, or any firm, association, or corporation which has complied with the laws of the State, shall be qualified to lease State lands.

**Historical Note**

Original Rule, Art. VII, Subchapter B, Ch. II (Supp. 76-4).