

MAINE STATE LEGISLATURE

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Yes ✓
May 18, 1966

Raeburn W. Macdonald, Chief Engineer

Water Improvement Commission

Phillip M. Kilmister, Assistant

Attorney General

Licensing or Permits for Dredging Operations.

FACTS:

In your memorandum of April 6, 1966 you inquire as to whether or not the extraction of diatomite from pond beds requires licensure by the Water Improvement Commission or some other state agency.

QUESTION:

Is it necessary to obtain a license or permit from the Water Improvement Commission or any department of the State of Maine in order to extract diatomite from a pond bed?

ANSWER:

See Opinion.

We briefly answer your question by stating that permission to extract the mineral diatomite must be obtained from the Maine Mining Bureau. The mining law of the State of Maine is set forth in 10 M.R.S.A. § 2101-2111.

The establishment of the Maine Mining Bureau is set forth in 10 M.R.S.A. § 2101 and reads in part as follows:

"The Maine Mining Bureau, as heretofore established, shall consist of 7 members, one each from the State Departments of Agriculture, Forestry, State, Economic Development and Inland Fisheries and Game and the Water Improvement Commission, each of whom shall be appointed by the head of his respective department, plus the State Geologist. . . ." (Emphasis supplied.)

Although no license or permit to extract diatomite from a pond bed is required from the Water Improvement Commission, the Commission, by the mere fact that it is represented on the Mining Bureau, has some indirect authority to sanction or disallow such activity.

This is only true where the dredging or mining activity is performed upon state land however, i.e. land underlying great ponds. This is so because "the jurisdiction of the Mining Bureau is confined to land owned or held in trust by the State."

Where the dredging is to take place upon land underwater which is privately owned, permission from the owner of such land is all that is necessary in order to carry out dredging operations by the prospective miner of diatomite.

Phillip M. Kilmister
Assistant Attorney General

PMK/sll