

FILE

Subject

Defense
Kansas National Guard

APPROVED BY

DIVISION CHIEF

Copy to

June 2, 1975

Opinion No. 75-238

Major General Edward R. Fry
The Adjutant General of Kansas
Kansas Military Department
535 Kansas Avenue
Topeka, Kansas 66603

RE: Mineral leases - National
Guard Armory sites

Dear General Fry:

You have inquired at this office whether the Kansas Military Board and the Kansas Armory Board are lawfully empowered to lease the mineral rights to National Guard armory sites to private individuals or corporations.

K.S.A. 48-301, *et seq.* delineates the Military Board's power and authority relative to the acquisition, care and management of state armories and though the Board's powers are somewhat broad, they appear primarily limited to meet only one objective: providing armories for "drill, meeting and rendezvous purposes by the organization of the national guard." We find no authority either express or implied which empowers the Military Board to lease the mineral rights of property under its jurisdiction. This conclusion applies equally to the Armory Board which functions under more specific guidelines. The Armory Board under K.S.A. 1974 Supp. 48-317(e) may

" . . . acquire sites, buildings, equipment and other property of any description, both real and personal, suitable for armory purposes . . . hold, use, maintain, lease, convey and exchange such property, in whole or in part."

These provisions too, appear broad, but are expressly limited in application to the end that the purpose and duty of the Board is accomplished, which like the Military Board is to provide the State with buildings, sites and equipment suitable for armory purposes.

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Accordingly it is the opinion of this office that the power and authority of the Armory and Military Boards is to be strictly construed to meet the objectives and purposes for which they were created, and thus, absent specific authority to lease the mineral rights to lands under their jurisdiction they are without power to do so.

If we may be of further assistance to you in this matter, please feel at liberty to contact us.

Yours very truly,

CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj