



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

January 11, 1978

ATTORNEY GENERAL OPINION NO. 78- 14

Mr. W. Keith Weltmer
Secretary of Administration
Department of Administration
2nd Floor - State Capitol Building
Topeka, Kansas 66612

Mr. Charles V. Hamm
Chief of Legal Services
Department of Social and
Rehabilitation Services
6th Floor - State Office Building
Topeka, Kansas 66612

Re: Oil and Gas--State Lands--Leases

Synopsis: K.S.A. 76-112 authorizes the execution of a lease for the exploration and production of oil and gas on property conveyed pursuant to K.S.A. 76-14a03, by deed dated July 9, 1959, concerning which the State Board of Social Welfare retained the mineral rights thereto.

* * *

Gentlemen:

I have reviewed Opinion No. 74-197, dated June 12, 1974, issued by Attorney General Vern Miller, concerning the authority of the Secretary of Social and Rehabilitation Services to execute leases for oil and gas exploration and production on lands previously owned by the State of Kansas and used for the Mother Bickerdyke Home, previously under the control of the State Board of Social Welfare. Pursuant to a 1959 legislative enactment, now found at K.S.A. 76-14a03, the State Board was authorized to and did sell the property, retaining the mineral rights thereto.

Mr. W. Keith Weltmer
Mr. Charles V. Hamm
Page Two
January 11, 1978

K.S.A. 76-112 authorizes the lease of lands the title to which is vested in the State of Kansas for the production of oil, gas and other minerals. In the cited opinion, the Attorney General construed the statute as not authorizing the execution of a lease for the production of oil and gas respecting land to which the state did not hold fee title. Upon reconsideration of this opinion, in my judgment, it construes the term "land" unduly restrictively. The purpose of the statute was to authorize the lease of oil and gas interests held by the state, and it should not be construed to authorize or prohibit such leases depending upon the technical title of the state to the surface. Rather, it should be construed so as to accomplish and effect its purpose, to permit the leasing of any oil and gas interests which the state holds and which are lawfully the property of the state so as to let for exploration and production.

Accordingly, Opinion No. 74-197 is herewith withdrawn. It is my opinion that K.S.A. 76-112 authorizes the execution of leases of the mineral rights held by the state in the cited property.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj