



STATE OF KANSAS

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May 11, 1983

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ATTORNEY GENERAL OPINION NO. 83- 74

Mr. Lynn Burris, Jr.  
Director, Kansas State Park  
and Resources Authority  
503 Kansas Avenue  
Topeka, Kansas 66601

RE: State Boards, Commissions and Authorities -- State  
Park and Resources Authority -- Oil, Gas and Other  
Mineral Leases.

Synopsis: In the absence of specific statutory authority, the  
State Park and Resources Authority is without authority  
to lease state park lands for the production of oil,  
gas or other minerals. Cited herein: K.S.A. 55-211,  
55-211a, 74-3315, 74-4501, K.S.A. 1982 Supp. 74-4510,  
K.S.A. 76-164 and 76-514.

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Dear Mr. Burris:

As Director of the Kansas State Park and Resources Authority  
(Authority), you have asked whether the Authority can lease lands  
at Meade, Scott, Crawford and Sand Hills State Parks for the pro-  
duction of minerals, oil or gas.

Although the Authority is given broad powers governing the acqui-  
sition, development, operation, management and control over all  
lands authorized and designated state parks by the legislature  
(K.S.A. 74-4501 et seq.), we find no specific statutory authority  
for the leasing of state park lands for the exploration and pro-  
duction of oil, gas or other minerals. We have examined the pro-  
visions of K.S.A. 1982 Supp. 74-4510, which does refer to the  
leasing of lands by the Authority. The leases referred to apply  
to the acquisition of lands and facilities for state park purposes,

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as well as leases of park concessions to persons for the use and pleasure of park visitors. The leasing referred to in the aforementioned statute does not, in our opinion, apply to the leasing of park lands for mineral production. The well-established rule in Kansas, succinctly stated in Murray v. State Board of Regents, 194 Kan. 686, 689, 690 (1965), is that "[g]overnmental agencies are creatures of the legislature, and can exercise only such powers as are expressly conferred by law." State, ex rel. v. City of Kansas City, 181 Kan. 870 (1957); State, ex rel. v. City of Overland Park, 192 Kan. 654 (1964).

The legislature has specifically addressed the issue of mineral production on government lands by authorizing school districts, governing bodies of governmental entities and some state agencies to lease lands under their control for the production of oil and gas or other minerals. K.S.A. 55-211a, for example, provides in part:

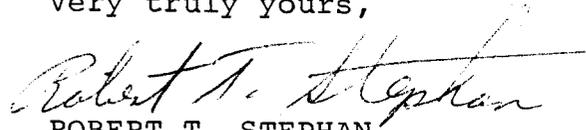
"The governing body of any municipal corporation, board of park commissioners of any municipal corporation, trustees or directors of any cemetery association or improvement district, directors of any cemetery district, or township board of any township, or any other public agency or quasi municipal corporation, owning or having the management and control of any tract of land within the state of Kansas, is hereby authorized and empowered to lease such lands, or any part thereof, for drilling for oil or gas."

School districts are empowered to lease grounds for drilling for oil and gas (K.S.A. 55-211). The State Fish and Game Commission is authorized by K.S.A. 74-3315 to lease state-owned lands under its control for the "production of oil, gas or other minerals." The Board of Regents has similar authority on state-owned lands under its control (K.S.A. 76-164), as well as lands of the abandoned Fort Hays military reservation (K.S.A. 76-514).

Thus, as evidenced by the statutory authority cited, the legislature has specifically empowered school districts, governing bodies of certain governmental entities and specified agencies to lease certain lands within their control for the production of oil, gas or other minerals. No similar grant of authority has been vested in the Park and Resources Authority and, in our opinion, the absence of a statute granting the Authority the power to lease state lands for mineral production precludes the Authority from entering into such leases.

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Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



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RTS:BJS:CMA:kb