

**Opinion No. 68-28**

February 27, 1968

**BY:** OPINION OF BOSTON E. WITT, Attorney General

**TO:** Mrs. Grace Evans Executive Director Construction Industries Commission 1302  
Osage Santa Fe, New Mexico

**QUESTIONS**

If the Phelps-Dodge mining company hires Journeyman Electricians directly for the construction of their mill adjacent to the mine site at Tyrone, must they secure an Electrical Contractor license, and comply with the other rules and regulations applicable under Chapter 199, Laws of 1967?

**CONCLUSION**

No.

**OPINION**

**{\*51} ANALYSIS**

Section 67-35-3(C)(8)(P.S.) exempts the following from the definition of contractor:

Any mining company, gas company or oil company which installs, alters or repairs its facilities including {\*52} but not limited to plumbing fixtures or gas piping, where the work is an integral part of the installing or operating of a system owned or operated by the mining company, gas company or oil company. Provided the construction of a building by a mining company, a gas company or an oil company shall make such company a constructor for that purpose;

The test here is: Is this mill an integral part of the installing or operating of the system owned or operated by Phelps-Dodge Company? We believe that it is.

The important questions are: (1) What legal entity operates the mill? (2) What are the mill's functions?

The mill's functions include a division and construction of the desirable components of the ore taken from the mine. The desirable components are sent on to a smelter. The waste is disposed of through flotation or some other appropriate method.

In short, the mill is owned and operated by the mining company. It's functions constitute one step in the Company's system. It is the opinion of this office that the mill is an

integral part of the Phelps-Dodge system. As such, the Company may not be considered an electrical contractor in its construction or installation of the mill.

By: Donald W. Miller

Assistant Attorney General