

**Opinion No. 18-2113**

July 29, 1918

**BY:** C. A. HATCH, Assistant Attorney General

**TO:** Honorable Robert P. Ervien, State Land Commissioner, Santa Fe, New Mexico.

Oil Lease of State Lands May Provide for Renewal at Expiration of Five Year Term.

**OPINION**

We have your oral request for an opinion relative to the validity of an oil and gas lease covering State lands, which said lease was submitted by you with your request. We notice the lease provides that it shall be for a term of five years, and it also provides that upon the expiration of the original term, it may be renewed, subject to, and upon the conditions imposed in the original lease.

The authority given the Land Commissioner, to make such leases, is found in Section 10, of the Enabling Act. It is provided therein that any lease, or other contract, shall not be valid for a period longer than five years, unless, the lands, leases or contracts are sold at public auction after advertisement as prescribed in said section. Chapter 73 of the Laws of 1915, prohibits the execution of a lease or contract, by the Land Commissioner, for a longer period than five years, but it does authorize the commissioner to provide for the renewal of the lease, upon the same terms as prescribed in the original lease.

It is my opinion that the lease you submitted complies with both the provisions of the Enabling Act, and the Laws of 1915, if said lease is advertised and sold at public auction, as prescribed by the terms of the Enabling Act. If this is done, I think the lease will be valid, and will comply with all of our laws relative to the making and granting of such leases.

You will observe that this opinion has been confined to the question of the validity of the lease, with reference to the length of the term. I understand this is the opinion you desire, and I refrain from expressing any opinion relative to the conditions of the lease generally, as these matters are for your determination and discretion.

The lease and other papers submitted by you with your inquiry, are returned herewith.