

Opinion No. 43-4385

September 27, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. George A. Graham, Attorney, New Mexico State Land Office, Santa Fe, New Mexico

We are in receipt of your letter of September 25, 1943, together with the letter from Hervey, Dow, Hill and Hinkle, and the proposed unitization agreement.

In your letter you ask whether Chapter 88 of the Laws of 1943 is constitutional and whether the proposed unitization agreement is constitutional and comes within the provisions of the above mentioned law.

As to the constitutionality of this act I refer you to Opinion No. 4210, addressed to your attention under date of January 13, 1943, in which the constitutionality of such an act as Chapter 88 was dealt with at length. I have examined this statute with care and find that it has been carefully limited to the scope of the above mentioned opinion. It is, therefore, my opinion that this act is clearly within the constitutional authority granted the Legislature by Article 24 of our Constitution and, therefore, it is constitutional and valid in all respects.

I have carefully examined the unitization agreement and find that it comes clearly within Chapter 88, both as to the authority of the State Land Commissioner to approve such agreement -- including the authority to modify previous lessees -- and as to the right of lessees holding State oil and gas leases to enter into such agreements.

I have not attempted to pass on the advisability of such contracts nor as to whether or not such contracts would accomplish the end desired by the Land Commissioner and the lessees.

Trusting the foregoing sufficiently answers your inquiry, I am,

By ROBERT W. WARD,

Assistant Attorney General