

Opinion No. 45-4681

March 16, 1945

BY: C. C. McCULLOH, Attorney General

TO: Honorable John E. Miles Commissioner of Public Lands Santa Fe, New Mexico.
Attention: George A. Graham, Attorney

{*40} We are in receipt of your letter of March 13, 1945, in which you ask whether or not the word "gas", as used in an oil and gas lease, made {*41} pursuant to Section 8-1103 of the 1941 Compilation, includes carbon dioxide gas. You further ask whether the word "gas" in such lease would include nitrogen or helium.

Section 8-1103 of the 1941 Compilation was first enacted as Chapter 125 of the Laws of 1929, and amended by Chapter 18 of the Laws of 1931. Section 8-1101 of the 1941 Compilation, which authorizes the Commissioner to execute oil and gas leases, was enacted originally as Chapter 125 of the Laws of 1929, and amended by Chapter 18 of the Laws of 1931. This latter section was amended by Chapter 137 of the Laws of 1941, in which chapter the words "natural gas" were defined to cover carbon dioxide gas, as well as gas of the hydrocarbon kind. This Section is now compiled as Section 8-1102.

Inasmuch as these three sections are all amendments of the same act, they must be construed together.

In view of the foregoing, it is my opinion that the word "gas" used in the form of oil and gas lease means "natural gas," as defined by Section 8-1102. Further, the Commissioner, by this section, is given authority only to execute oil and gas leases covering the gas so defined.

It is further my opinion that the word "gas" as used in the oil and gas lease includes carbon dioxide gas, but does not include either hydrogen or nitrogen.

By ROBERT W. WARD,

Asst. Atty. General