



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

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BRUCE E. BABBITT
ATTORNEY GENERAL

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September 24, 1975

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Mr. W. E. Allen
Enforcement Section
Oil and Gas Conservation Commission
8686 North Central, Suite 106
Phoenix, Arizona 85020

Dear Mr. Allen:

This letter is in response to your request for a legal opinion regarding the Oil and Gas Conservation Commission's responsibility concerning the following situation:

Certain companies, municipalities and universities are conducting experiments to determine the feasibility of recovering methane gas from landfills. To recover methane gas from the landfills, it is necessary to drill holes in the landfill to a depth ranging from 30-40 feet, perhaps deeper. The methane gas would then be retrieved, treated, if treatment is necessary, and distributed in whatever way is practicable.

It would appear from our review of Title 27, Chapter 4, Article 1, that the Oil and Gas Conservation Commission is not required to regulate the type of methane recovery you have described.

A.R.S. § 27-501.21 defines the term "well" as follows:

'Well' means and includes any hole drilled in for the purpose, with the intention, or under the representation of penetrating oil or gas bearing strata, or of penetrating any strata in search of stratigraphic data pertinent to the location of oil or gas bearing strata, whether or not in either case, oil or gas is actually discovered. The commission may, as it shall deem to be to the best interests of the state, determine that any hole drilled or spudded in shall be included within the above definition to the extent necessary for



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the administration and enforcement of the rules required by § 27-516. The determination of the commission shall be final in any circumstance involving the question of purpose, intent or representation provided such determination shall be subject to appeal as provided by § 27-520.

The Commission has promulgated a regulation which defines "well" verbatim to the above provision. In reading this definition, it appears the Legislature intended to cover only holes drilled or spudded in for the purpose, with the intention, or under the representation of penetrating oil or gas bearing strata, or of penetrating strata in search of oil or gas. The key term appears to be "strata" or "stratum". Webster's New World Dictionary, College Edition, 1964, defines "stratum" as used in geology as:

. . . a single layer of sedimentary rock representing the disposition of a single geological period. [emphasis added]

In other words, "strata" (the alternative plural of "stratum") in its normal usage would mean layers of natural rock.

The above definition of "well" would seem to exclude wells which do not penetrate actual natural rock layers. In the situation described above, it is our understanding that the holes to be drilled only would be drilled to a shallow depth and normally would not penetrate beyond the maximum depth of the artificially created landfill, which apparently is the source of the methane gas.

It appears from reading the statutes which the Commission administers that the substantial part of its regulation concerns wells drilled or to be drilled for oil or gas, and the production and distribution of oil and gas from such wells. However, since it appears from the facts submitted that the wells contemplated for methane gas recovery do not involve penetration of the natural geologic strata, the Commission is not required to regulate this area.

Sincerely,


BRUCE E. BABBITT
Attorney General

BEB:GLS:nms