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STATE CAPITOL  
PHOENIX, ARIZONA

September 27, 1968

DEPARTMENT OF LAW LETTER OPINION NO. 68-25-L (R-103)

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REQUESTED BY: OBED M. LASSEN, State Land Commissioner

QUESTION: Do A.R.S. §§ 27-251 et seq. and, specifically, § 27-252.A.5 prevent the holder of a mineral exploration permit, prior to the expiration of any of its annual periods, from relinquishing or surrendering said permit, or any incremental portion of said permit, and immediately thereafter filing an application for, and receiving, a new mineral exploration permit covering the same land?

ANSWER: Yes.

It is clear that our Legislature adopted the prospecting permit law in order to develop the mineral resources located on state lands. To insure that holders of prospecting permits actively pursue the location of minerals on these lands, our Legislature provided that the permittee should perform annual assessment work upon the land. The Legislature further limited the renewal period for prospecting permits to a period "not to exceed five years".

The terms and conditions for the issuance and termination of prospecting permits are set by statute. Regarding the termination of prospecting permits, § 27-252, Arizona Revised Statutes, states:

"The permit shall terminate automatically as of the end of any annual period from and after the date of issuance thereof unless during such annual period the permittee shall have expended in exploration for valuable mineral deposits . . . not less than the amount per acre provided in this article, . . ."

(Emphasis added.)

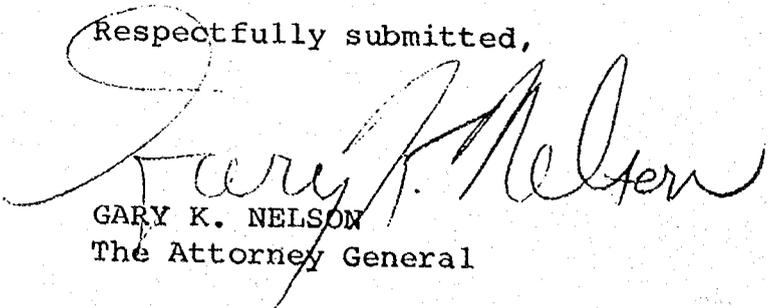
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This statute then provides for a method of termination of the permit before the end of the annual period by the permittee, by filing an "instrument in writing with the department". This section, however, makes no provision for the re-filing for a permit by a person who has terminated his permit before the end of the annual period.

To interpret Arizona Revised Statutes, § 27-251 et seq., as allowing a permit holder, prior to the expiration of the one year term of the permit, to cancel said permit and contemporaneously file an application for and receive a new permit covering the same land does violence to the legislative intent and purpose of the statutes in question. It allows a permit holder to circumvent the very requirement and restriction upon which the statutes are grounded and upon which their viability depends; that is, the requirement that in order to qualify for renewal of his permit for another year, the permittee must have expended during the term a certain amount for exploration, and the restriction that a mineral exploration permit shall not be issued to a person for longer than a five year period.

It is, therefore, the opinion of this office that the statutes prevent the holder of a mineral exploration permit, prior to the expiration of any of its final periods, from relinquishing or surrendering said permit, or any incremental portion of said permit, and immediately thereafter file an application for, and receiving, a new mineral exploration permit covering the same land.

Respectfully submitted,

  
GARY K. NELSON  
The Attorney General

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