

28 November 1945

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ARIZONA ATTORNEY GENERAL

Mr. Clifford J. Murdock
State Mine Inspector
Phoenix, Arizona

Dear Mr. Murdock:

We have your letter of 27 November 1945 asking the following questions:

- "1. Is an Open Pit a Mine?
2. Does the State Mine Inspector have authority to inspect Open Pits for the protection of lives, health and safety?
3. Is it necessary for a company to give us a report of serious and fatal accidents when requested?
4. Is it necessary for a Mine Inspector to obtain a pass from the company before proceeding to inspect a mine?"

Answering your first question, we invite your attention to Section 65-230, Arizona Code Annotated 1939, which reads in part:

"This article shall apply to all mines in the state, and as herein used the term 'mine' shall include all parts of a mine and any mining plant or equipment connected therewith, underground or on the surface, which contributes, or may contribute, to the mining or handling of ore, coal, or other metal-liferous or non-metalliferous product;
* * * * *

Other definitions of "mine" have been defined by courts in other states as follows:

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"A mine is a work for the excavation of minerals by means of pits, shafts, levels, tunnels, etc." Murray vs. Alreed, 43 S.W. 355, 358.

"'Mine' is a pit or excavation of the earth in which ore, precious stone, coal, or other mineral substances are taken by digging." Richardson vs. Freeman Coal Co., 179 Pac. 380, 381, 382.

From the above definitions it is clear that an open pit is just a method used to excavate ore from the earth.

Answering your second question, Section 65-204, A.C.A. 1939, imposes a duty on the State Mine Inspector to inspect and examine into the operation, condition, etc., of every mine in this state employing fifty or more men underground, and every other working mine employing six men or more.

Answering your third question, your attention is invited to Section 65-208, A.C.A. 1939. It is the duty of any mine operator to give immediate notice in writing to the State Mine Inspector of any loss of life or serious accident, and the refusal or failure of the operator to so report shall be a misdemeanor.

Therefore, it is not only our opinion that it is necessary for the operator of the mine to give the State Mine Inspector a report, but also declares it a misdemeanor if they should fail to report any fatal or serious accident.

Answering your fourth question, it is our opinion that it is not necessary for you to obtain a pass from the company before proceeding to inspect a mine. Under the law it is your duty to enter at any hour and examine any part of any mine, visit or investigate any plant or equipment connected therewith, and it is the duty of all operators and their employees to assist you in such examination.

Trusting the above answers your questions satisfactorily, we are

Very truly yours,

JOHN L. SULLIVAN
Attorney General

MAURICE BARTH
Assistant Attorney General

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