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ARIZONA ATTORNEY GENERAL

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

Dear Mr. Murdock:

This is in reply to your question of June 11, 1951,  
which is as follows:

"Do lime and feldspar deposits come  
under the open pit mining laws, which  
are mined in the same manner as open  
pit copper mines?"

Before answering the above, we will rearrange it as  
follows:

"Does the mining of lime and feldspar  
deposits come under the supervision  
of the State Mine Inspector?"

Our statute, Section 65-230 ACA 1939, defines a mine  
as follows:

"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 equip-  
ment 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 mineral  
product; the term 'operator' shall mean  
the person, association or corporation  
in immediate possession of a mine, or  
mining claim, or accessories thereof,  
as owner or lessee thereof, and as such,

responsible for the management and condition thereof; the term 'inspector' signifies the state mine inspector and his deputies; the words 'excavations' and 'workings', signify any or all parts of a mine excavated, or being excavated, including shafts, tunnels, entries, winzes, raises, stopes, open cuts, and all working places, whether abandoned or in use."

The word "metalliferous" means producing or containing metal; yielding metal. Then "non-metalliferous" means not producing or containing metal.

The above definition of mine includes underground, surface and open cuts. It does not appear to make any difference the manner of mining or whether there is any mineral or metal in the product mined. It is still a mine if the parties are excavating and extracting material from the earth.

Section 65-204 gives us the authority of the State Mine Inspector as follows:

"The mine inspector shall visit, at least once every three months, every mine in this state employing fifty or more men underground, and every other working mine employing six or more men, at least once every year, and shall inspect and examine into the operation, conditions, safety appliances, machinery, sanitation and ventilation therein, the means of ingress and egress, and the means taken to protect the lives, health and the safety of the miners, the cause of accidents and deaths therein, and inspect and ascertain the means taken to comply with this chapter. The inspector may at all hours enter and examine any part of any mine, visit, investigate, and examine any plant or equipment connected therewith, or any part of the working thereof. All operators and their employees shall assist the inspector to make such examination."  
(Emphasis supplied)

Thus we see the inspector is required to inspect every mine employing six or more men at least once every year, even though it is an open pit mine, for purpose of determining what means are to be taken to protect the lives, health and safety of the miners, etc.

Section 56-114 declares among other things that open pit mining is hazardous as follows:

"The employment in all underground mines, underground workings, open cut workings, open pit workings, in or about, and in connection with, the operation of smelters, reduction works, stamp mills, concentrating mills, chlorination processes, cyanide processes, cement works, rolling mills, rod mills, coke ovens, blast furnaces, and electric light or electric power plants, is hereby declared to be injurious to health and dangerous to life and limb of those employed therein." (Emphasis supplied)

There is the old generalization of materials as follows: animal, vegetable and mineral. Lime and feldspar would be in the mineral classification. A working in the earth does not necessarily have to be producing precious metals or metal of any kind in order to constitute a mine.

We are therefore of the opinion that the mining of lime and feldspar deposits comes under the mining laws of the State of Arizona and are subject to the inspection by the State Mine Inspector as other mines.

Yours very truly,

FRED O. WILSON  
Attorney General

CHAS. ROGERS  
Assistant Attorney General

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