

Opinion No. 20-2486

February 17, 1920

BY: O. O. ASKREN, Attorney General

TO: Mr. Otto Goetz, Mayor, Hot Springs, New Mexico.

Owner of Continuously Flowing Wells Subject to Penalty.

OPINION

In reply to your letter of February 17th, concerning flowing wells being allowed to run continuously without capping, advise that section 247 of the Compiled Laws of 1915 provides that if the owner of the land upon which such well is located permits said well to remain or to continue to flow without the same being securely cased, capped and furnished with such mechanical appliances at the well as will readily and effectively arrest and prevent the entire flow of water from such well shall be deemed guilty of a misdemeanor; and section 260 of said laws provides that on complaint being made by any citizen, it is the duty of the sheriff, county commissioners, road supervisors, city engineers, city, town, and precinct officers, to institute criminal action for such violation.

Such action is simply a misdemeanor, the fine not exceeding one hundred dollars, and the same may be prosecuted before any justice of the peace, and each day constitutes a separate violation of the law.