

Opinion No. 35-1110

July 26, 1935

BY: FRANK H. PATTON, Attorney General

TO: Hon. Frank Vesely, Secretary, Oil Conservation Commission, Santa Fe, New Mexico.

{*75} Your letter of July 20, 1935, has been duly received. You ask for our opinion as to the extent of the jurisdiction of the Oil Conservation Commission under Chapter 72, Laws of 1935, over lands belonging to the United States, located within the boundaries of the state.

I presume you have reference to that portion of the public domain held by the United States in their proprietary capacity. Of course, there can be no question as to the exclusive jurisdiction of the United States over Indian Reservations, military posts, arsenals and other property of like nature which has been purchased or acquired with the consent of the Legislature of the State and jurisdiction thereon yielded to the United States.

As to the remainder of the public domain owned by the Federal Government which is held merely in a proprietary capacity, it is the general rule that the State has jurisdiction to punish offenses against state laws committed thereon. Chapter 72, Laws of 1935 makes it unlawful to produce or handle crude petroleum oil or natural gas in such manner as to result in waste and gives the Oil Conservation Commission power to adopt rules to carry out the purposes of the act. It has been held that the states may prescribe reasonable police regulations applicable to public land areas in so far as such regulations do not conflict with congressional enactments. *McKelvey vs. United States*, 260 U.S. 353, 43 Sup. Ct. 132, 67 Law Ed. 301.

To the extent that the rules of the Commission and the provisions of Chapter 72 are not inconsistent with applicable congressional enactments, I am of the opinion that they would apply to private individuals or concerns operating within {*76} such public land areas. However, I call your attention to Sections 187 and 189, Title 30, U.S.C.A., under which it appears that the Secretary of the Interior has the power to make rules to prevent undue waste on lands leased by the United States Government to private individuals or firms. I suggest that the Commission take this matter up with the Secretary of the Interior and find out to what extent, if any, its rules may be made to apply without coming into conflict with the rules promulgated by the Interior Department.

By QUINCY D. ADAMS,

Asst. Atty. General