

Opinion No. 45-4804

October 8, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. Warren Bracewell State Inspector of Mines 612 Ridge Place Albuquerque, New Mexico

{*144} In connection with your request for an opinion concerning the jurisdiction of the State Mine Inspector on Indian lands, we wish to advise you that we have studied this matter in cooperation with the U. S. Department of the Interior, Office of Indian Affairs, and it is the opinion both of this office and of the U. S. Department of the Interior, Office of Indian Affairs, as follows:

1. The federal government has jurisdiction and assumes responsibility for mine safety inspection of all mines on Indian reservations within the State of New Mexico.

{*145} 2. The state, in our opinion, has no regulatory authority over the agency-operated and Indian-operated coal mines on the Navajo Reservation.

We further wish to state that we are assured by the U. S. Department of the Interior, Office of Indian Affairs, by the Commissioner, William A. Brophy, that when and if departmental coal leases are made to non-Indians, the lessees will be subject to the requirement that they comply with the state laws; the mines will also be subject to mine safety inspection by the Bureau of Mines under the Secretary of the Department of Interior's Order No. 1940. In such event, we wish to point out that it has been indicated that duplications of effort could be avoided by a cooperative arrangement and this, I suggest, would be a proper subject for discussion with the Director of the Bureau of Mines, should such leases be made to non-Indians on land situated within an Indian reservation.

By HARRY L. BIGBEE,

Asst. Atty. General