

State Lands—Prospectors' Permits—Mining Leases.

A prospector is required to obtain a permit from the state land board before prospecting on state lands. If such prospector makes a valuable discovery he may apply for a mineral lease to the said board which fixes the terms, and such prospector is then given a preference right of leasing the same.

Mr. W. S. Wade,
Chief of Field Division,
General Land Office,
Helena, Montana.

March 29, 1932.

My dear Mr. Wade:

You have requested my opinion on the following questions:

1. Would a prospector for metalliferous minerals be in trespass if he went upon state-owned land and prospected same without a permit from the state board of land commissioners?
2. Is a prospector for such mineral required to pay a prospecting fee to the state before he may prospect upon state-owned land?
3. Would a prospecting permit in any case cost the prospector in excess of \$10.00, the minimum fixed by chapter 60, section 49, session laws of 1927?
4. If a prospector discovered valuable metalliferous mineral could he in any way secure a fee simple to the land upon which discovery was made?
5. If a prospector discovers valuable metalliferous mineral upon

state-owned land, and he cannot secure the fee simple title, would his lease application for the land on which such discovery was made be offered for sale to the highest bidder?

In answer to your first question will say that a prospector would be trespassing upon state land unless he went upon the same under prospecting lease or permit as provided by sections 48 and 49, chapter 60, laws of 1927.

In answer to your second question will say such prospector is required to pay a minimum annual prospecting fee of \$10.00 per section or a part thereof.

In answer to your third question will say that section 49 of said act fixes the \$10.00 fee in question as the minimum fee and the state land board could charge any fee that it should fix but could not make it less than this amount.

In answer to your fourth question will say that a prospector could not, under any circumstances, secure a fee simple title to the land upon which a discovery was made.

In answer to your fifth question will say in case the prospector makes an application for annual lease on the land in question the state land board determines the terms on which such land shall be leased and the prospector is then given a preference right of leasing the same on these terms.

Very truly yours,

L. A. FOOT,

Attorney General.