

No. 142

**OIL AND GAS LEASES, extension of—STATE LANDS—
LEASES**

Held: Under Chapter 109, Laws of 1941, oil and gas leases in existence on or before July 1, 1941, may be extended (as provided in said Chapter) where production is had within limits of original lease and where oil and gas are produced in commercial quality and quantity, although product is temporarily unmarketable.

June 13, 1941.

Mr. J. W. Walker, Commissioner
State Lands and Investments
The Capitol
Helena, Montana

Dear Mr. Walker:

You have requested my interpretation of Chapter 109, Laws of 1941, in the following particulars:

1. May oil and gas leases in effect on and prior to July 1, 1941, be extended from a term of fifteen years to a term of twenty years where there are no producing wells on the lands as of July 1, 1941 (the effective date of Chapter 109), but where producing wells are brought in thereafter during the term of the original fifteen-year lease?

2. May oil and gas leases be extended from a term of fifteen years to a term of twenty years where oil and gas of commercial quality and commercial quantity may readily be produced from existing wells, but actual production is stopped due to unfavorable market conditions?

I shall answer both of your questions in the affirmative.

As to the first question, the pertinent portion of Section 1882.2 of the Revised Codes of Montana, 1935, as amended by Chapter 109, Laws of 1941, provides:

"The State Board of Land Commissioners is hereby authorized to extend the term of oil and gas leases issued prior to the date when this act takes effect, and where oil or gas of commercial quality and in commercial quantity is produced from the land covered thereby, from a term of fifteen (15) years commencing with the date of such lease or leases to the term of twenty (20) years commencing with the date of such lease or leases."

The phrase—"and where oil or gas of commercial quality and in commercial quantity is produced from the land covered thereby"—refers, in my opinion, to such production within the limits of the original lease, and not only until July 1, 1941.

In ruling as I have on your second question, I am assuming the unmarketable state of the products is only a temporary condition. If, of course, under ordinary conditions the products in their particular territory are unmarketable, excluding considerations of quality, doubt would naturally arise as to whether the products could be produced in commercial quantities.

Sincerely yours,

JOHN W. BONNER
Attorney General