



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

June 11, 1957

Honorable Earl Rudder
Commissioner, General Land Office
Austin 14, Texas

Opinion No. WW-155

Re: Duties and responsibilities
of various departments and
agencies in the control and
disposition of oil and gas
leases, and the proceeds
therefrom, of University
lands.

Dear Sir:

Your letter of May 15, 1957 requested the opinion of
the Attorney General upon the following matter:

"It thus appears that there are at least five departments or agencies concerned with oil and gas leases covering University lands. In view of this fact and in view of the fact that there may be some area where responsibility is not clearly defined by statute, on behalf of the Board for Lease of University lands, I respectfully request that you give me your official opinion outlining in detail the specific duties and responsibilities of the following departments or agencies particularly with regard to

- (a) the filing of reports and instruments affecting title to University oil and gas leases,
- (b) receiving and accounting, including the initial verification of data, for royalty and other payments made under the leases,

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- (c) post-auditing of the leases,
- (d) the adequacy of documents supporting oil and gas payments, and
- (e) amendment or extension of such leases:
 - 1. Commissioner of the General Land Office
 - 2. Board for Lease of University lands
 - 3. Board of Regents of the University of Texas under whose supervision the following offices are operated
 - a. University Audit Section
 - b. Midland Office- University lands and geology
 - c. oil field supervision
 - 4. University Audit section
 - 5. State Auditor

You mentioned Articles 2603a, 2603b, 5341e, 5382c, 4413a-13, V. A. C. S., and the Appropriations Act of 1955 as having to do with these questions. None of the statutes you referred to in your letter have received judicial interpretation upon the points for which you requested information.

The Commissioner of the General Land Office has the following statutory duties:

- a. He is a member of the Board for Lease of University lands, Art. 2603a(1), V.A.C.S.
- b. He is authorized to execute leases for the Board for Lease, Art. 2603a (8)(a), V.A.C.S.
- c. He is custodian for the surveys and data made under the powers granted the Board of Regents of University of Texas, Art. 2603b(1), V.A.C.S.
- d. He is authorized to receive the full amount of bonus payments for leases, Art. 2603a(5) (S.B. 73, 55th Leg.) V.A.C.S.

- e. He is authorized to execute oil and gas leases and is directed to keep a copy thereof in his files, Art. 2603a(8) (a), V.A.C.S.
- f. He is directed to extend leases under certain conditions, Art. 2603a (8)(b), V.A.C.S.
- g. He is directed to receive shut-in gas payments, Art. 2603a (8b) (Id), V.A.C.S.
- h. He is directed to receive royalty payments under leases and may inspect the records of production of lessors, Art. 2603a(11), V.A.C.S.
- i. He is directed to receive surveys, records, etc., of University lands.
- j. He is directed to receive all moneys paid under oil and gas leases Art. 2603a(14), V.A.C.S.
- k. He is directed to transmit all moneys received, except the additional one per cent special fee, to the State Treasurer for deposit to the credit of the Permanent University Fund. Art. 2603a (14), V.A.C.S.
- l. He is directed to transmit the additional one per cent special fee, hereinafter referred to as the "special fee", such "special fee" being provided for in Art. 2603a(14), which statute directs that it be transmitted to the Comptroller of the University of Texas to be disbursed according to law, and especially according to the provisions of Art. 2603a(5), V.A.C.S.

The Board for Lease of University lands is:

- a. Created by virtue of Art. 2603a(1), V.A.C.S.
- b. Entitled to receive reports of oil and gas activities by the geologists hired by the Board of Regents of the University, Art. 2603b(2), V.A.C.S.
- c. Confined to procedures for lease by Art. 2603a(4), V.A.C.S.
- d. Empowered to lease under the terms and conditions set forth in Art. 2603a(7), V.A.C.S.
- e. Allowed to prorate or reduce production for limited period of time, Art. 2603a (8) (c), V.A.C.S.

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- f. Allowed to suspend the running of the term of a lease for limited periods of time under certain conditions, Art. 5341e, V.A.C.S.

The University Board of Regents is given the following powers:

- a. It is given the duty to conduct surveys of University lands, compile records, etc., Art. 2603b(1), V.A.C.S.
- b. It is authorized to employ a geologist and is entitled to be kept informed of oil and gas activities affecting University lands which this geologist discovers, Art. 2603b(2), V.A.C.S.
- c. It is entitled to payment by the Commissioner of the General Land Office of the "special fee" required in addition to the bonus payments in oil and gas leases of University lands, Art. 2603a(5), V.A.C.S.
- d. As members of the Board of Regents any member thereof may inspect production records on oil and gas leases on production, Art. 2603a(11), V.A.C.S.
- e. It is entitled to receive the aforementioned one per cent from the Land Commissioner, Art. 2603a (14), V.A.C.S.

The University Audit Section is authorized by implication in Art. 2603b(3), V.A.C.S., and its services are paid for out of the one per cent in addition to the bonus to be collected as authorized by Art. 2603a(5), V.A.C.S. There appears to be no statutory provisions giving the University Audit Section any special powers to dictate the type and kinds of reports and instruments affecting title or records of oil and gas runs and it is submitted that Art. 2603a(18) would be controlling. This subsection gives the Board for Lease of University Lands the power to "adopt such forms and contracts and . . . promulgate such rules and regulations not inconsistent with the terms of this act, as in its judgment will best effectuate the purpose of this act and best protect the University, its lands, and income therefrom." Thus, it is our opinion that the University Audit Section is relegated to audit, rather than accounting duties.

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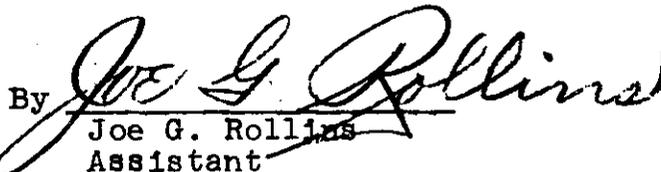
The State Auditor is authorized under Art. 4413a(13), V.A.C.S., Art. 4413a(14), V.A.C.S. and Art. 4413a(22), V.A.C.S., to conduct audits, independent of the powers invested in the Land Commissioner, Board of Regents of the University of Texas, or Board for Lease of University Lands.

SUMMARY

The duties and responsibilities of the various State agencies with reference to the leasing of University lands for oil and gas, and the disposition of the proceeds realized therefrom, are governed by the provisions of Art. 5341e, V.A.C.S., Art. 5382c, V.A.C.S., Art. 2603a, V.A.C.S., Art. 2603b, V.A.C.S., and Art. 4413a(13), V.A.C.S.

Yours very truly,

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Attorney General of Texas

By 
Joe G. Rollins
Assistant

APPROVED:

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