

1974 WL 27900 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 5, 1974

*1 Mr. Murray Wood
S. C. Land Resources Conservation Commission
1400 Lady Street
Post Office Box 11708
Columbia, South Carolina 29211

Dear Mr. Wood:

You have requested this Office advise you as to which party is responsible for securing a mining permit, when one entity leases a mineral deposit, and then sub-contracts the actual mining of the deposit.

The applicable law of this State, as set forth in Section 63.714 of the 1973 Cum. Supp. of the Code of Laws of South Carolina, states, 'no operator shall engage in mining without having first obtained from the Department an operating permit which covers the affected land . . .' Operator is defined in Section 63.713(h) as 'any person or persons, any partnership, limited partnership, or cooperation, or any association of persons, engaged in mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.' The definition of 'mining' being found in is sub-paragraph (a) of this same section is clearly broad enough to cover the situation which you posed. Based upon this statutory authority, it is clear that the first entity which you questioned is in fact engaged in mining, and comes within the definition of an operator, he is operating through an agent.

It is therefore the opinion of this Office, that under the circumstances you posed, the prime contractor or the original mining entity would be responsible for securing the mining permit, and his failure to do so would be contrary to the laws of this State.

Very truly yours,

Timothy G. Cuinn
Senior Assistant Attorney General

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