

ATTORNEY GENERAL
STATE OF MONTANA

Tim Fox
Attorney General



Department of Justice
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P.O. Box 201401
Helena, MT 59620-1401

November 28, 2017

Nancy L. Rohde, County Attorney
Stillwater County, Montana
P.O. Box 179
Columbus, MT 59019

Re: Request for Attorney General Opinion – September 29, 2017

Dear Ms. Rohde:

We respectfully decline your request for an Attorney General Opinion regarding the nature of mineral rights (September 29, 2017). Shortly after receiving your request, an attorney representing the Stillwater Protective Association called, expressing great interest in commenting. He has called several times since. Yesterday another attorney who might represent other interested parties called to inquire. In the normal course, interested parties would be included in commenting, but only after the Attorney General determines that a formal Attorney General Opinion is warranted and a draft is issued. We had not yet reached that point.

An Attorney General Opinion may not be issued in “matters that will likely result in litigation irrespective of the outcome of a written opinion from the Attorney General’s Office.”¹ Because of the calls referenced above and the varying interests that they represent, it appears that litigation is likely regardless of any conclusion that we might reach.

That being said, you may wish to take a look at Mont. Code Ann. §§ 1-1-205(4) and 70-16-101; *Stokes v. Tutvet*, 134 Mont. 250, 328 P.2d 1096, 1099 (Mont. 1958); *Rist v. Toole County*, 117 Mont. 426, 159 P.2d 340, 342 (Mont. 1945); *Libby Placer* ¶¶ 36-39, 42 and 43; *In re Aue*, 2012 Bankr. LEXIS 2683 at *7-8 (D. Mont. 2012); and *Broderick v. Stevenson Consol. Oil Co.*, 88 Mont. 34, 290 P. 244, 245 (Mont. 1930). These authorities might answer your question.

Please call me with any questions.

Very truly yours,


PATRICK M. RISKEN
Assistant Attorney General

¹ <https://dojmt.gov/agoffice/attorney-generals-opinions/>