

1975 WL 29427 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 27, 1975

***1 Re: Lease of Burnt Gin**

John R. Tiller
State Forester
S. C. State Forestry Commission
5500 Broad River Road
P. O. Box 237
Columbia, South Carolina 29202

Dear Mr. Tiller:

Enclosed please find a copy of a lease which I have prepared in the above-mentioned matter. The lease is incomplete in three particulars:

- (1) A plat describing Burnt Gin must be attached and labeled 'Exhibit A'.
- (2) Section Two must be filled in as to dates; pen and ink entries will suffice.
- (3) Section Twelve must be filled in as to what percentage of insurance is desired—first written or printed, then in arabic numbers within the parenthesis. Once, again, pen and ink entries will suffice.

I have submitted a copy of this lease to Assistant Attorney General Randolph Mahan, who represents the Department of Health and Environmental Control, for that department's comments and approval.

Mr. Fred Horn requested that I give an opinion on whether the Commission may undertake this lease, without violating the Deed of June, 1955, from the United States of America, and the Lease of same premises also from the U. S. dated October, 1938. The 1938 lease was superceded by the 1965 deed, and the lease was not incorporated into the deed, therefore, provisions of the lease can be ignored. The only applicable restrictions in the 1955 deed are the mineral rights and the 'public purposes' limitation; these have been considered and handled in Section One, Five, and Thirteen of the lease agreement I now submit to you. The public purposes limitation is met by the very nature of the use of the premises by the State Agency operating in the public interest.

Therefore, it is my opinion that this lease will not violate the 1955 deed.

Please feel free to call on me at any time for assistance.

Very truly yours,

Harry B. Burchstead, Jr.
Staff Attorney

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