



THE ATTORNEY GENERAL
OF TEXAS

R-319

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AUSTIN 11, TEXAS

February 23, 1954

Hon. M. K. Weitzel, Administrator
Texas Water Resources Committee
Drawer B, Capitol Station
Austin, Texas

Letter Opinion No. MS-116

Re: Period of time within which
a permittee must appropriate
and use water to avoid can-
cellation of his permit un-
der Article 7519a, V.C.S.

Dear Mr. Weitzel:

Your request for an opinion of this office concern-
ing the construction of Article 7519a, Vernon's Civil Statutes,
contains the following specific question:

" . . . whether, under the provision of Arti-
cle 7519a, a permittee must, during the ten (10)
years prior to the effective date of the Act,
make use of water under his permit every year for
a period of ten (10) consecutive years next pre-
ceding the effective date of the Act in order to
perpetuate his permit or, is it the purport of
this Article that, if any water authorized to be
withdrawn and appropriated has been put to bene-
ficial use at some time during a ten (10) year
period prior to the effective date of this Act,
the permit will be perpetuated?"

Article 7519a provides in part:

"All permits or certified filings for the
appropriation and use of public waters granted
by the Board of Water Engineers, or filed with
said Board, more than ten (10) years prior to the
effective date of this Act and under which no
part of the water authorized to be withdrawn and
appropriated has been put to beneficial use for
a period of ten (10) consecutive years next pre-
ceding the effective date of this Act are hereby
cancelled and shall be of no further force and
effect."

Hon. M. K. Weitzel, page 2 (MS-116)

Your question turns upon the force of the phrase "For a period of ten (10) consecutive years" in the language quoted.

The preposition "for", when used in connection with time, means "during". Cunningham v. State, 119 Tex.Crim.R. 572, 44 S.W.2d 739 (1931); 17 Words and Phrases, Permanent Edition 220-223.

Ten consecutive years is, of course, a definite designation of time; therefore the period during which some water must have been put to beneficial use to avoid cancellation is certain. We find no language in the statute which purports to divide this single period of ten years duration into ten separate periods during each of which a permittee must have put some water to beneficial use. If the Legislature had intended the latter construction they could have clearly expressed this intention by inserting the words "every year" before "for a period of ten (10) consecutive years. . ."

We conclude that Article 7519a effects cancellation of a permit or certified filing unless some part of the water authorized to be withdrawn and appropriated has been put to beneficial use at some time during the ten year period next preceding the effective date of said Act.

Yours very truly,

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By
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Assistant

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