

Opinion No. 53-5780

July 14, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Fred R. Sweet Comptroller New Mexico Institute of Mining and Technology
Campus Station Socorro, New Mexico

{*182} This is in reply to your letter of June 26, 1953, in which you request an opinion as to whether or not (1) the Board of Regents of your Institution can go ahead and destroy or mutilate the \$ 300,000.00 Bond Issue authorized during the year 1950 by the New Mexico School of Mines.

I gather from your letter that this Bond Issue of \$ 300,000.00 was never sold because of the start of the Korean War, which resulted in priority of construction materials, which caused uncertainty as to whether or {*183} not the project could be undertaken. I find no specific statute which provides for the destruction of Bond Issues which were never sold or which did not become an obligation on your Institution. However, I believe that the majority of the Board Members of your Institution have the authority to burn the bonds in their presence by notifying the Board of Finance of the State of New Mexico of the date and the time when said bonds will be destroyed, this for your own record and protection.

Your second question is whether or not Bond Issues both general obligation and revenue bonds which have been refunded and redeemed by your Institution can be destroyed or retained by you. Section 7-514 of the 1941 Compilation provides as follows:

"Upon the surrender of any bonds refunded under the provisions of this act, there shall be entered on the records of the state auditor the fact of such surrender and the number, amount, date and character of the bonds so surrendered; and such bonds shall be destroyed by the state board of finance and the fact of such destruction shall be likewise entered on such record."

The above quoted statute specifically provides that bonds surrendered for refund shall be entered on the records of the State Auditor together with the number, amount, date and character of the bonds so surrendered and the State Board of Finance shall destroy the same, and the fact of such destruction shall be entered on the records of the Finance Board.

It is therefore my opinion that refunded or redeemed bonds in your possession should be surrendered to the State Auditor as herein before specified, and the bonds destroyed by the State Finance Board as herein provided. The fact of such destruction being entered in the records of the Board of Finance.

Trusting that this fully answers your inquiries, I remain,

By: Hilario Rubio

Assist. Attorney General