

**Opinion No. 53-5786**

July 21, 1953

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. John R. Erickson Interstate Stream Engineer Santa Fe, New Mexico

{\*189} In your letter dated July 16, 1953, you enclosed a copy of a letter dated July 7, 1953, from John H. Bliss to you appointing you as Acting State Engineer while he is absent on his vacation. You are wondering whether you have complete authority to act as State Engineer under such appointment.

Under the law, the State Engineer is made a member of the Interstate Stream Commission and is designated as Secretary of the Commission. In the absence of the State Engineer, I believe the Interstate Stream Commission would have the authority to name you as Acting Secretary, however I do not believe that the designation as Acting State Engineer would add anything to your legal status as Acting Secretary of the Commission.

In Section 77-202 of the 1941 Compilation, the State Engineer is authorized to employ assistants for the proper conduct and maintenance of his office and department, however, the law does not give the assistants the authority given to the State Engineer and the Engineer could not delegate his quasi judicial authority and duties to anyone else. For that reason it is the opinion of this office that under such designation and delegation of authority you would have charge of the ministerial duties performed by the State Engineer, but any quasi judicial duties would have to be performed and done by you acting in his name rather than in your capacity as Assistant {\*190} or Acting State Engineer.

By: C. C. McCulloh

Assist. Attorney General