

## Opinion No. 62-67

June 5, 1962

**BY:** OPINION OF EARL E. HARTLEY, Attorney General J. E. Gallegos, Assistant Attorney General

**TO:** Jack E. Holmes, Chief, State Tax Commission, State Capitol, Santa Fe, New Mexico

### QUESTION

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Should county assessors place upon the tax rolls as improvements subject to separate assessment erosion control dams and earthen stock tanks?

#### CONCLUSION

No.

### OPINION

#### ANALYSIS

The state legislature has the power to make reasonable and natural classifications for the method of assessment of property for purposes of taxation. 51 **Am Jur.** "Taxation", Section 173; 84 **C.J.S.**, Section 410; **Edmunds v. Bureau of Revenue**, 64 N.M. 454, 330 P. 2d 131 (dealing with excise tax). The New Mexico legislature has clearly specified a method for assessment of dams and earthen tanks where used for irrigation or stock watering purposes. This is found in Section 72-2-2, N.M.S.A., 1953 Comp., which reads as follows:

**" Value for Assessment -- Basis -- Appurtenances to be Included in Value of Land.**  
-- Property, real, personal and intangible shall be assessed in proportion to its value. Dams, reservoirs, tanks, canals, and similar structures used for irrigation or stock watering purposes, water rights and private roads shall for the purposes of assessment be considered as appurtenances to the land they serve in New Mexico, and shall not be separately assessed, but their value shall be included in the value of the land which they serve."

It is obvious that this law is simply stating a method for assessment and not an exemption from assessment. It assumes that the subject matter will in fact be taxed.

On the basis of the unequivocal language in this statute, it is our opinion that the county assessors should not place erosion control dams and earthen stock tanks on the rolls

as improvements for separate assessment. Rather, the value of such structures should be considered in arriving at the whole value of the land on which they are situated.

It is observed that, though a dam might serve an erosion control purpose, assessment of it would nonetheless be governed by Section 72-2-2, N.M.S.A., 1953 Comp., if it also is used for irrigation or stock watering purposes.