

## Opinion No. 14-1288

July 28, 1914

**BY:** FRANK W. CLANCY, Attorney General

**TO:** Honorable James A. French, State Engineer, Santa Fe, New Mexico.

### **WATER.**

Upon the question of taking water from New Mexico into Colorado for storage purposes.

### **OPINION**

{\*148} Referring to the matter of complaints made against the San Luis Power & Water Company to the effect that that company is taking water from New Mexico into Colorado for storage in a reservoir in that state and for use upon lands there to be irrigated from that reservoir, I have to say that, if these statements are correct, the company is proceeding in a very lawless manner. We cannot permit water from New Mexico to be taken into an adjoining state, there to be used as long as there is any possible use to be made of the water upon our own lands, and I gather from the complaints made that there are New Mexican people who desire to use, and who can use, the water if it is not taken away.

As to the remedy to be applied, the people complaining could, of course, go into court to obtain an injunction to restrain the company from its lawless course, but it ought not to be necessary for such people, many of whom are probably poor, to be put to the expense of litigation which might run up to a large figure. I incline to the belief that this is a matter as to which the State, in some form, should take action and I recommend that you first satisfy yourself as to the facts and, if they are as they have been represented, then notify the company that they must change their course and desist from taking water from us into Colorado, or some steps will be taken in court, by the State, to apply a remedy to their wrongful proceedings.

I incline to the opinion that what they are said to have done would be sufficient ground for our courts to put an end to their corporate existence.

I return herewith the papers which you sent me relative to this matter.