

Opinion No. 14-1312

September 3, 1914

BY: FRANK W. CLANCY, Attorney General

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

WATER.

Illegal to divert water from New Mexico to Colorado for storage.

OPINION

{*170} Referring to the taking of water by the San Luis Power and Water Company from New Mexico into Colorado for use in that state, I am clearly of opinion that the company can have no lawful authority to do anything of the kind. As far back as May, 1909, this question was presented to me, as you will see by reference to the first printed volume of opinions of this office at page 46, where you will find a letter addressed to the Honorable Charles Springer, President of the Board of Water Commissioners, upon the subject of an application to take water from a stream in New Mexico for use in Arizona, and my conclusion was that this was not permissible as long as the water could be used within our own limits. In the present case it clearly appears, from the papers transmitted to me from your office, that the water sought to be taken for use in Colorado can be used in New Mexico, as there is a large amount of land which could be irrigated by that water.

I dislike very much to be compelled to initiate any litigation against any irrigation company which may be engaged in efforts to develop agricultural resources, but I feel compelled to say that, unless the company should desist from its unlawful course, I will certainly begin some proceedings in court on behalf of the State of New Mexico to protect its citizens against these acts of aggression.

Before doing anything further, however, I wish that you would call the matter distinctly to the attention of the company in the {*171} hope that it will so amend as to make litigation of any kind unnecessary.

I return herewith the various papers sent to me from your office.