

## Opinion No. 15-1411

January 6, 1915

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

**TO:** Col. R. G. Marmon, Laguna, N. M.

**Pueblo Indians are subject to the payment of road tax.**

### OPINION

{\*9} Your letter of the 4th inst. in which you asked me for an opinion as to whether Pueblo Indians between the ages of 21 and 60 years, are liable for road tax on the public roads traversing their patented grant lands, was received while I was in El Paso, and as a consequence, was mislaid and neglected until the present time. I regret the delay.

You say that the road supervisor appointed by the County Road Board has informed you that the police judge of Laguna has advised his people not to pay any attention to the orders of the supervisor as his people are not subject to any kind of tax. Under the act of Congress providing for the admission of New Mexico to statehood, and under the Constitution, it is provided that the lands of Indian tribes shall be and remain subject to the disposition and under the absolute jurisdiction and control of the congress of the United States, and by a decision of the supreme court of the United States, it is held that this language includes the Pueblo Indian lands. A further clause in the Constitution exempts all such lands from taxation, but I do not find that there is any other exemption of Pueblo Indians from taxation. The fact remains, however, that the Pueblo Indian lands are under the exclusive jurisdiction and control of the Congress of the United States and that being so, I am unable to see how our local authorities, in pursuance of our state laws, can do anything as to roads within the Pueblo lands, even though Congress has made no provision on the subject of such roads. If the Indians are unwilling to cooperate with the county authorities in constructing or maintaining proper roads through their lands, it might become necessary for the county road board, if it is practicable to do so, to establish roads which would not cross any of the Indian lands, and thus leave the Indians to themselves with regard to their roads. This would be more of a misfortune to the Indians than to anyone else.

I am of opinion, however, that the Indians might be subject to the road tax for the benefit of roads outside of their own lands, and might be required, either to pay or to work on such roads in lieu of {\*10} payment. I have no doubt that they are citizens of the state, but the road tax is not applicable merely to citizens, but is imposed upon every able-bodied man between the ages of twenty-one and sixty years, and I can discover nothing which would exempt able-bodied Indians from this tax.

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