

Opinion No. 19-2424

November 5, 1919

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: Mr. L. A. Gillett, State Engineer, Santa Fe, N.M.

Authority of State Engineer Over Bridges Within Municipal Limits.

OPINION

Upon my return to the office after an absence of about two weeks I find your letter of October 17th, making certain inquiries regarding your authority in connection with the approval of the contract and plans and specifications for the erection of a bridge over the Arroyo Masacares within the city limits of the City of Santa Fe.

You state that the contract which has been entered into between the County Commissioners of the County of Santa Fe and the Midland Bridge Company for the construction of this bridge is signed by N. Howard Thorp, County Highway Superintendent, on behalf of the County Commissioners but not signed by the said Commissioners, and request an opinion as to the execution of the contract in the manner stated.

I have submitted to you a copy of an opinion rendered to the Board of County Commissioners upon this subject, which I believe fully answers this inquiry.

You next state that the cost of the bridge, in your opinion, is in excess of the price for which a bridge of a different description could be constructed over this arroyo, and request an opinion as to your authority to pass upon the cost of the structure in question.

In our opinion, your authority over the matter of county bridges is prescribed by section 2644, Code 1915, wherein it is stated that no bridge costing over the sum of one thousand dollars shall be built unless approved by the State Engineer as to the site or contract and specifications therefor, and we do not find in that language any authority reposed in or duty imposed on the State Engineer to pass upon the question of the class of structure to be erected or the cost of the erection thereof. In our opinion the question of the cost of the structure is one entirely within the jurisdiction of the Board of County Commissioners.

You also ask whether it is within your province to withhold approval of the structure of this bridge where it does not appear that the moneys to pay for the same are available, and in answer to this inquiry we would advise you that in our opinion this is not a matter which is within the jurisdiction of the State Engineer, but that is entirely one between the county and the company which will erect the structure.