

Opinion No. 24-3763

March 21, 1924

BY: MILTON J. HELMICK, Attorney General

TO: Requested by: Hon. Geo. M. Neel, Deputy State Engineer, Santa Fe, New Mexico.

Chapter 40 of the Laws of 1923 Appropriating Money for Development of Water in the Estancia Valley is Valid Legislation, and the State Engineer May Expend the Money for Drilling the Wells Under A Plan by Which the Owner of the Land Upon Which the Well is Drilled Repays the Expenditure. See Opinion No. 3669.

OPINION

{*140} The inquiry of the State Engineer shows that a preliminary survey of the Estancia Valley has been made under Chapter 40 of the Laws of 1923. The question is asked whether or not a practical carrying out of the program submitted by the people of the Estancia Valley will be a strict compliance with the legislative act in question. The program submitted, while somewhat lengthy, may be summed up as a proposal that the State Engineer drill wells at selected locations with castings not less than 12 1-2 inches in diameter perforated when sufficient water bearing strata has been penetrated; it is also proposed that a log should be kept at each well, and that the same may be drilled at selected locations with a view to charging the real owner for the well. Various other details are mentioned in the proposal.

I think the answer to this inquiry is covered by my opinion rendered Senator Ayers and Representative Geo. H. Alter on February 12th, 1923, numbered 3669, a copy of which opinion I am transmitting herewith. This opinion was a rather exhaustive one and went fully into the right of the state to make an appropriation for the purpose of developing water for irrigation purposes by means of wells. I think this opinion fully covers the inquiry of the state engineer. I think that Chapter 40 of the Laws of 1923 clearly authorizes the expenditure of the State Engineer of the money thereby appropriated for locating permanent underground reservoirs for irrigation purposes, and for making investigations, tests and developments in the shallow water belt of the Estancia Valley.

The work expended in drilling wells which it is proposed to have drilled, completed and carefully tested will be in strict compliance with said Act of the Legislature, in my opinion.