

Opinion No. [30-56]

June 3, 1930

TO: Office of the Attorney General of New Mexico

MIDDLE RIO GRANDE CONSERVANCY DISTRICT -- To bear just share of costs of improvements.

OPINION

Reference is made to yours of the 29th ult. in re the propriety of charging the Middle Rio Grande Conservancy District the usual and statutory filing fees on the application for a permit to construct the El Vado Storage Dam.

We note that Mr. Rodey, to whom we are sending a copy of this letter, has raised a question on the charging of fees. We are not quite sure on what ground he bases his objection but apparently it is on the theory that the charging of fees amounts to a form of taxation either of property belonging to the district or property belonging to the Federal Government, or over which it has jurisdiction.

We do not so construe the situation. This permit is applied for by the Middle Rio Grande Conservancy District. That district no doubt under the authority conferred by statute (see section 30-201, Codification of 1929, et. seq.) has entered into a contract, but that fact does not render the charging of the applicant the fees prescribed by statute a taxation of government property or any government agency.

Unquestionably the necessary filing fees are a part of the cost of the improvement of lands under the El Vado Dam. All lands under the dam, whether Federal, State or of private ownership, must bear their proportionate share of assessments, levies, etc., to meet the costs.

We are of the opinion that you were right in assessing the fees in this case as you would in any other.