

Opinion No. 41-3731

February 26, 1941

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Felix A. Armijo County Extension Agent Espanola, New Mexico

{*42} Your letter dated February 25, 1941, requests an opinion from this office upon the following questions:

"1. Does the Soil Conservation District law authorize the district officials to tax or assess the land upon which work is performed?"

"2. Has the District any right to issue bonds to raise money to defray any expenses that may arise from the operation of such districts?"

"3. Is the landowner's ownership of the land affected in any way because his land is signed up under such a district?"

These questions are answered in view of the provisions of Chapter 219, Laws of 1937, as amended by Chapter 163, Laws of 1939.

Your first question is answered in the negative. District officials may not tax or assess the land upon which Soil Conservation work is performed. For your information, I call your attention to Section 11 of Chapter 219, Laws of 1937, which provides that where land use regulations are not observed and that non-observance tends to increase erosion, suit may be brought against the non-complying land owner to compel his observance, and if he thereafter fails to do the work required by the regulation, the Soil Conservation office may do the same, and after due notice to the land owner, may obtain judgment against him for the amount of costs and expenses of these improvements. This judgment is a lien upon the lands improved and after obtained, shall be collected by the County Treasurer in the same manner as are general taxes upon realty.

Your second inquiry is answered negatively. There are no provisions in the law allowing district officers or any one else to raise money by the issuance of bonds. Without a provision of this type, no bonds shall be issued.

Your third question is also answered in the negative. The ownership of land in a Soil Conservation District is in no way affected by the owner signing up under such {*43} a district. As pointed out in the answer to your first question, a lien may be acquired if judgment is taken against a non-observing owner but title to the land is not affected by the mere signing up.

Your inquiry as to the irrigation rights of land owners is answered by Opinion No. 3680, written by Mr. Howard F. Houk, Assistant Attorney General. A copy of the same is enclosed herewith.

Trusting that the foregoing answers your inquiries, I am

By George H. Hunker, Jr.

Asst. Atty. General