

**Opinion No. 43-4343**

July 26, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Honorable G. T. Watts, District Attorney, Roswell, New Mexico

In your letter dated July 24, 1943, you state that the County Treasurer is undecided as to what action to take regarding a tax sale certificate purchased November 18, 1920, upon which a tax deed was issued February 26, 1924, which deed was not subsequently recorded. The Treasurer is wondering whether he can now issue another deed on this property in order to correct the failure to file and record the original deed.

Section 76-719 of the 1941 Compilation provides that any tax deed which is not recorded within one year from the date of issuance thereof shall be null, void and of no effect.

Since the lien of taxes and the tax sale certificate merge in the tax deed, I do not believe the Treasurer has any authority to issue a subsequent tax deed to make valid a deed which is declared void under the statute. This assumption is strengthened by the provisions of section 76-718 of the 1941 Compilation, which prohibits the holder of a tax sale certificate based upon taxes more than ten years delinquent from obtaining a tax deed based upon such certificate.

In view of these two sections, it is my opinion that the Treasurer has no authority at this time to issue another tax deed based upon such delinquent taxes.

By C. C. McCULLOH

First Asst. Atty. Gen.