

OPINION
64-439

November 27, 1964 (OPINION)

Mr. Ray H. Walton, State's Attorney

Williams County

RE: Townships - Powers - Acquisition of Dam Sites

This is in reply to your request of November 18, 1964, for our opinion in regard to township acquisition of dam sites.

You inform us that a particular township in your county in connection with other governmental agencies is interested in building and developing a dam site within their township. They have been advised that in order to proceed with the program the township will have to acquire the land needed for the dam site as well as other necessary flood easements. They wish to know whether the township may purchase the land and secure easements for such a project, and if so, how this can be done.

You call our attention to various statutory provisions with relations to township function and township projects and state your conclusion therefrom.

We note in addition to the statutory provisions you cite that chapter 61-22 of the North Dakota Century Code entitled "Township Projects" was repealed in the 1963 Session of the North Dakota Legislative Assembly, (Chapter 421, Section 22, 1963 Session Laws). The taxing authority therein provided would therefore not be available to build dams or acquire dam sites.

The only replacement for said chapter 61-22 we have been able to find in the Supplement to the North Dakota Century Code is section 61-02-24.1 which provides:

COOPERATION AND PARTICIPATION OF POLITICAL SUBDIVISIONS. All political subdivisions, including but not limited to, counties, townships, cities, villages, park districts, and water management districts may separately or jointly with other political subdivisions, the state or federal departments or agencies, investigate, plan and do all things necessary for participating in or undertaking underground or surface water surveys, development, construction, reconstruction and maintenance of works, dams, projects for the beneficial utilization and control of water resources."

On the basis of this statutory provisions we believe that the type of project contemplated would be within the purview of the language: "all township charges and necessary expenses" as same is used in section 57-15-19 of the North Dakota Century Code though same would definitely have to come within the eighteen mill limitation provided in section 57-15-20 of the North Dakota Century Code together with

other general township taxes and no excess levy for such purpose would be permissible. Also, insofar as no specification of such purposes is made in section 21-03-06 of the North Dakota Century Code no bonds could be issued for such purpose.

HELGI JOHANNESON

Attorney General