

OPINION
51-52

June 28, 1951 (OPINION)

DRAINS

RE: Disposition of Funds

My opinion has been requested by the State Water Commission as to the disposition of \$2806.92 paid the Commission by the State Highway Department and by the Lewis and Clark Irrigation District. The circumstances surrounding the payment of said sum to the Commission are as follows:

In 1947 the Legislature appropriated into the Administrative Fund of the State Water Commission the total sum of \$600,400, or so much thereof as may be necessary for the payment of all general administration expenses of said Commission...., for the biennium beginning July 1, 1947, and ending June 30, 1949.

The purposes for which the 1947 appropriation was made are itemized. Among them is the item listed as "Reconstruction, Drains or Irrigation, \$200,000."

Prior to June 30, 1949, the Commission agreed to contribute forty percent of the cost of lowering and properly installing a large concrete culvert or concrete structure through Federal Highway No. 85 for the purpose of facilitating the flow of water into the Missouri River in the drain established by the Lewis and Clark Irrigation District for the drainage of a large slough into which waste and seepage waters flow when lands are irrigated. The State Highway Department agreed to pay forty percent of the cost of the work required to lower said culvert and the Irrigation District agreed to pay twenty percent of such cost.

The work of installing and lowering said culvert was let to the lowest responsible bidder and an agreement or contract entered into accordingly. When the work was completed the State Water Conservation Commission paid the entire cost of the work with the understanding that it would be reimbursed to the extent of forty percent by the State Highway Department and twenty percent by the Irrigation District. Recently the Commission has received checks from the Highway Department and the District aggregating \$2806.92.

The question concerning which the Commission desires my opinion and the opinion of the Attorney General is whether the \$2806.92 should be paid into the state's general fund pursuant to the so-called "Jackpot" amendment to our state constitution, or whether said amount should be paid into and credited to the fund of the Commission's 1947 appropriation designated as "Reconstruction, Drains or Irrigation".

I am advised that when the Commission agreed to cooperate with the Highway Department and Irrigation District in meeting the cost of lowering the culvert above mentioned, the irrigation district was assured of financial aid in deepening and generally in improving its

drain. And if such is the case it is my opinion that the \$2806.92, or so much thereof as is necessary, may now be used to meet the commitment made to the irrigation district during the biennial period ended June 30, 1949, and that such amount does not revert to the state's general fund.

ELMO T. CHRISTIANSON

Attorney General