



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

Gerald C. Mann
~~WILLIAM COLLESON XXXX~~
ATTORNEY GENERAL

April 20, 1939

(See O-638-A (Conference
Opin. 3073))

Hon. Ralph Logan
County Attorney
Tom Green County
San Angelo, Texas

Opinion No. O-638
Re: Authority of Commissioners' Court to
expend county funds for transportation of
W.P.A. workers engaged in drilling wells
and testing the mineral contents of water
in the county.

Dear Sir:

With reference to your letter of April 10th, to which the above opinion number has been assigned, kindly be advised that same has received the attention of this Department as per your request contained therein which reads:

"Can the Commissioners' Court legally expend county funds for transportation of WPA workers engaged in drilling wells and testing the mineral content of water over the county--such work being supervised by the Board of Water Engineers with the purpose of preparing a statistical map?"

Article 5, Section 18 of the Constitution of Texas, creating the Commissioners' Court, reads in part as follows:

"...The County Commissioners so chosen, with the county judge, as presiding officer, shall compose the county Commissioners' Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed."

The Commissioners' Court of a county is a creature of the Constitution under Article 5, Section 18, and its powers are limited and controlled by the Constitution and the laws passed by the Legislature.--Commissioners' Court of Madison County et al vs. Wallace et al--(Supreme Ct.) 15 SW 2nd 535.

We are unable to find any statutory authority, expressed or implied, granting to the Commissioners' Court the power to expend county funds for the transportation of W.P.A. workers engaged in testing the mineral content of water throughout their respective counties. The fact that such work is supervised by the Board of Water Engineers would have no weight upon the question of whether or not the Commissioners' Court had such authority. There being no statutes on the subject, such project in question would not come within the meaning of

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"county business" over which the Commissioners' Court can exercise a general authority, in the absence of special powers specifically conferred by the Constitution and laws of this State.--Bland vs. Orr, 90 Tex. 492.

It is, therefore, the opinion of this Department that the Commissioners' Court is unauthorized to expend county funds for transportation of W.P.A. workers engaged in drilling wells and testing the mineral content of water over their respective counties.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Wm. J. R. King
Wm. J. R. King, Assistant

APPROVED:
/s/ Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

See Conf. Opin. 3073

WmK:AM:wb