

Opinion No. 56-6522

September 27, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. Thos. B. Rapkoch, Assistant District Attorney, Third Judicial District, Second Floor Court House, Las Cruces, New Mexico

In reply to your letter of September 12, 1956, in which you raise two questions; (1) Can the county and city enter into an agreement to cooperate in sponsoring a flood control project, and (2) Whether the county and city can cooperate with the Federal government under provisions of Public Law 566, the following is submitted for your consideration.

In reply to your first question, Opinion No. 6511, dated August 21, 1956, submitted to your office, sets out the county authority to enter into such an agreement with the city. At Section 14-10-20, N.M.S.A., 1953 Compilation, we find the authority of the city as follows:

"It shall be the duty of the commission to pass all ordinances and other measures conducive to the welfare of the city, and to the proper carrying out of the provisions of this charter, and to do and perform all acts required for the general welfare of the city. . . ."

In this connection we again refer to the language of the Agua Pura Case, 10 N.M. 6, wherein the Court pointed out:

"We do not understand that the grant of powers to counties or other municipal corporations must contain a specification of each particular act to be done, but it is sufficient if the words used be sufficiently comprehensive to include the proposed acts."

It is, therefore, our opinion in reply to your question one, that the city and county may enter into an agreement to cooperate in sponsoring a watershed protection and flood prevention program.

In reply to your second question, it is well to point out that Section 15-50-1, N.M.S.A., 1953 Compilation, through Section 15-50-17, confer on the counties authority to deal with their problems concerning flood control. In addition, Section 14-31-8, N.M.S.A., 1953 Compilation, confers upon the municipality the authority to cooperate with any agency of the United States in securing protection from flood waters. Thus, it is our opinion that the county and city have power to cooperate with the Federal government in seeking aid under Public Law 566, designated Watershed Protection and Flood Prevention Act, subject to this provision. Since paragraph 2 of Section 4 of the Act will require contribution by the local agencies of a proportionate share of the cost, all monies that are needed or desired to be used in this program would have to be

provided in compliance with all statutory provisions concerning budgetary expenditures by local agencies.

We trust this fully answers your inquiries.

By: Harry E. Stowers, Jr.

Assistant Attorney General