

## **Opinion No. 58-51**

March 11, 1958

**BY:** OPINION OF FRED M. STANDLEY, Attorney General Alfred P. Whittaker, Chief Assistant Attorney General

**TO:** Mr. Ernest W. Bain, Chief, Local Government Division, Department of Finance and Administration, Santa Fe, New Mexico

### **QUESTION**

#### QUESTIONS

1. Is the Middle Rio Grande Conservancy District required to furnish reports to the Department of Finance and Administration, Local Government Division, as required by Chapter 250, Laws of 1957, New Mexico?
2. Are other Conservancy Districts which are formed under the laws of New Mexico required to furnish reports as required by Chapter 250, Laws of New Mexico, 1957?

#### CONCLUSIONS

1. Yes.
2. Yes.

### **OPINION**

#### ANALYSIS

We understand that the present inquiry is occasioned by the fact that the Middle Rio Grande Conservancy District has taken the position that Chapter 250 of the Laws of 1957, "does not and cannot apply to the Middle Rio Grande Conservancy District." Conservancy Districts in the State of New Mexico are organized pursuant to Chapter 45, Laws of 1957, as amended, compiled as Article 28, of Chapter 75, N.M.S.A., 1953. In dealing with the organization of a Conservancy District, this statute in Section 75-28-9 (2) explicitly provides as follows:

"(2) Thereupon the district shall be a political subdivision of the state of New Mexico and a body corporate with all the powers of a public or municipal corporation; shall have power to sue and be sued, to incur debts, liabilities and obligations, to exercise the right of eminent domain and of taxation and assessment as herein provided, to issue negotiable bonds; and to do and perform all acts herein expressly authorized, and all acts necessary and proper for carrying out the purposes for which the district was created and for exercising the powers with which it is invested."

In Opinions of the Attorney General No. 1785, dated October 19, 1937, and No. 1800, dated October 25, 1937, this office squarely held that the Middle Rio Grande Conservancy District in particular, together with all other conservancy districts was subject to the provisions of Section 134-505 (1939 Comp.), requiring reports from all public bodies to the State Comptroller. That statutory provision, compiled in the 1953 Compilation as Section 11-1-8, was repealed by Chapter 251 of the Laws of 1957. However, this amendment was part of the legislative package creating and defining the powers of the new Department of Finance and Administration; and Chapter 250, if anything, is more clear than the prior statute that all conservancy districts are subject to its provisions. "Local public bodies" as defined by Section 1 thereof means "every political subdivision of the State of New Mexico which expends public money from whatever source derived, including . . . conservancy . . . districts."

There can be no doubt whatever that conservancy districts as characterized by Section 75-28-9 (2), are subject to the provisions of Chapter 250, Laws of 1957.