

Opinion No. 34-797

August 8, 1934

BY: E. K. NEUMANN, Attorney General

TO: Honorable G. D. Macy, State Highway Engineer, Santa Fe, New Mexico.

{*150} Your letter of August the 7th refers to the original plan of the State Road System many years ago through various municipalities, and states that when these routes were planned certain streets and roads through the counties were used; that at this time, due to various federal projects, many of these routings have been changed and now the question has been raised as to the legality of this procedure.

It is the contention of the State Highway Commission that until that body certifies back to the county or the municipality any section of road which it has been using as a part of the State Highway System that the same remains as part of such system and that the State Highway Commission has the power to improve same as it desires, regardless of the fact that some alternate system or routing may have been established.

That the State Highway Commission has the power to establish alternate routings there can be little doubt, and we have statutory provisions which appear to be very specific and definite relative to the powers and duties of the Commission in connection with the general state road system. We also have statutory provisions in regard to certification of certain portions of highways back to the counties for maintenance.

In order that you and the Commission may have the pertinent statutory provisions before you, I will herein give you a list of the citations which we believe are pertinent to your inquiry. Inasmuch as some of them are quite lengthy, they will not be set forth, but may be referred to in the statute.

These provisions are: Sections 64-212, 64-302, 64-308, 64-309, 64-326, 64-331 and 64-333 of the New Mexico Statutes, Annotated, 1929 Compilation.

We believe the system followed by you and the Commission is fully warranted by these provisions of law.

By: FRANK H. PATTON,

Asst. Attorney General