

Opinion No. 36-1375

June 2, 1936

BY: FRANK H. PATTON, Attorney General

TO: Bureau of Revenue, Gasoline Tax Division, Santa Fe, New Mexico. Attention: S. W. Burr, Director,

{*119} We have your letter of June 1st to which you attach the file of correspondence with respect to a claim of gasoline tax refund by the Middle Rio Grande Conservancy District.

From the correspondence submitted to us it appears that a proper claim for refund was made by the Middle Rio Grande Conservancy District on 3109 gallons of gasoline purchased and used in the month of January, 1935, said claim {*120} for refund being filed in the office of the State Comptroller on February 23, 1935. It appears that the claim for refund was proper and legal in all respects but that it was lost after being so filed and that no refund has ever been made on account of said claim. Affidavits and other documentary evidence submitted by claimant substantiate all of these facts and we are of the opinion that the refund should now be made for the reason that the claimant does not appear to have been at fault in any respect and therefore should not be penalized for the loss of his claim by the state.

By J. R. MODRALL,

Asst. Atty. General