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August 18, 1954
Letter Opinion
No. 54-211-L

Mr. R. A. Hoffman
Engineer of Bridges and Dams
Arizona Highway Department
Phoenix, Arizona

Dear Mr. Hoffman:

Re: Powers and duties of Deputy
Engineer.

Question: Does the Deputy Engineer
have full power and authority to is-
sue a permit for the construction of
a new dam when the office of State
Highway Engineer is vacant?

Section 75-1303, A.C.A. 1939 provides in part as follows:

"Construction of any new dam or the enlargement
of any existing dam shall not be commenced un-
til a written approval of plans and specifications
has been obtained from the State Engineer.***"

Section 75-1301 defines the "State Engineer" as meaning the "Ariz-
ona State Highway Engineer".

At the present time there has not been a State Highway Engineer
appointed since the decease of Mr. Canfield. The question then arises -
Who may authorize the approval of plans for a new dam?

Section 59-109, A.C.A. 1939 provides that the State Engineer shall
appoint, with the approval of the Commission, a Deputy State Engineer
who shall possess the qualifications required of the State Engineer.
Said section also provides in part as follows:

"The Deputy shall perform such duties as may be
assigned to him and shall have all the powers
of the State Engineer in his absence from the
state.***"

Chapter 12 of the Code contains general provisions relating to pub-
lic officials. Section 12-202, A.C.A. 1939 provides as follows:

"Unless otherwise provided, each deputy of any
state or county officer possesses the powers,
and may perform the duties attached by law to
the office of the principal, and whenever the

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official name of any principal officer is used conferring power or imposing duties, liabilities or prohibitions, it includes his deputies."

In the case of CONWAY vs MOSHER, 55 Ariz. 307, 101 P. 2d 209, the Arizona Supreme Court held that a certificate of purchase signed by a deputy treasurer instead of the treasurer was sufficient and did not void the certificate.

It is our opinion, therefore, when the office of State Highway Engineer is vacant, the Deputy Highway Engineer has all the powers and duties imposed upon the State Highway Engineer, and the Deputy Highway Engineer could issue a permit for the construction of a new dam under the provisions of Section 75-1303, A.C.A. 1939.

Very truly yours
ROSS F. JONES
The Attorney General

IRWIN CANTOR
Assistant to The Attorney General