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August 16, 1933

Mr. T. S. O'Connell
State Highway Engineer
State Highway Department
Phoenix, Arizona

Dear Sir:

At the meeting of the Arizona State Highway Commission on August 2nd, the following set of facts were presented to it for consideration:

When the department widened the highway through St. David, it became necessary for them to acquire additional right of way. In so doing, there was no area left on the West side of the right of way between the St. David Canal Company's ditch and the highway where the spoil from the Canal Company's ditch could be received, it being necessary that the spoil be dumped on the East side of its ditch. It was pointed out that the continued disposition of the spoil from the ditch upon the place aforementioned would continually cause a menace to the highway and considerable expense to the department each year in abating the menace.

Mr. Sieboth, right of way agent for the department, informed me that the land on the East side of the highway, at the point of discussion, slopes from East to West and that the rains and floods in that vicinity each year cause considerable damage to the highway by reason of the fact that there is not proper drainage facilities to take care of the run-off.

The question of how the department might legally eliminate the menace caused by the spoil from the ditch of the Canal Company was referred to the Attorney General.

It is my opinion that in order to eliminate this problem and menace, the department may construct a ditch for the Canal Company on the East side of the highway right of way, as a protection to the highway against the run-off caused from rains and floods which damage the highway in that vicinity practically every year, provided the Canal Company will secure a right of way for the ditch.

Very truly yours,

Attorney General

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Assistant Attorney General

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