

**Opinion No. 489.****County Commissioners—Taxation—Delinquent Taxes—Federal Right-of-Way Property, Agreement Not to Hold Delinquent Taxes Against.**

There is no authority, either express or implied, for the county commissioners to execute an agreement, if such it can be called, with the Federal Government not to hold delinquent taxes against Federal right-of-way property for power line from Fort Peck project.

March 8, 1934.

Your letter to us of recent date reads as follows:

"The United States' Government War Engineering Department have requested the County Commissioners of this county to give them a statement agreeing to hold the delinquent taxes now against said right-of-way property which is being obtained by the government for power line across this county, as well as others which power line runs to the Fort Peck project, and thinking this matter might have come up before I am writing to obtain an opinion from your office in regard to same, and see what the procedure is, in connection therewith.

"The Government is obtaining a right-of-way strip of land in this county as well as other counties for the purpose of putting in their power line and as against most of this property, there are delinquent taxes. It appears that they want an agreement from Cascade County, that they will not hold delinquent taxes against this right-of-way property."

The principle is firmly established in this jurisdiction that the Board of County Commissioners may exercise only such powers as are expressly granted it by statute and such as are necessarily implied from those expressly granted. (*Lewis v. Petroleum County*, 92 Mont. 563; *American Surety Co. v. Clarke*, 94 Mont. 1.)

The authority of the Board of County Commissioners, then, to execute the agreement, if such it can be called, which the War Engineering Department of the United States desires must be found in the laws of the State of Montana or it cannot be said to exist at all. A close reading on our part of the pertinent provisions of our Codes and Session Laws does not disclose the existence of the particular power sought to be utilized in this instance.

The Board of County Commissioners should govern itself accordingly.