

Opinion No. 200

**Irrigation Districts—Waters—Board of  
Commissioners, Powers of—  
State Examiner, Duties.**

HELD: The board of irrigation commissioners has only such powers as are expressly given by statute and such implied powers as are necessary to carry out the purposes of the district.

Where there is a question whether certain expenditures by the irrigation commissioners come within the implied powers of the commissioners and there are not sufficient funds before the examiner to determine the question, his statutory duty is discharged by calling attention in his examination report to the questioned expenditures.

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February 13, 1940.

Hon. W. A. Brown  
State Examiner  
The Capitol

Dear Mr. Brown:

You have submitted the following:

“1. Is it legal for Irrigation District Commissioners to contribute or

donate Irrigation District Funds to Reclamation Associations, Reclamation Congresses or any other bodies or persons for the purpose of promoting the welfare of Irrigation Districts?

"2. Is it legal for a Commissioner of an Irrigation District to go to Washington, D. C., to represent the District in matters there, before the Reclamation Bureau, or to advocate legislation and such other matters that are beneficial to the District and charge and collect from the District Funds per diem at the rate of \$10.00 per day, or any other sum, also transportation, meals, rooms and other incidental traveling expenses?

"3. Is it legal for a Commissioner of an Irrigation District to collect District Funds for time spent at the rate of \$5.00 per day or any other amount, and transportation, meals, rooms and other incidental traveling expenses, for attending, as a Delegate, a Reclamation Congress at Reno, Nevada?"

Irrigation districts have only such powers as are given by the legislature, either as are expressly stated or such as are necessarily implied in order to carry out the purposes of the district (67 C. J. 1316, Sec. 901). The officers of the district are charged with notice of the statutory powers and limitations thereof. (Id.) One dealing with the corporation is also charged with notice of the extent of its powers. (Id.) It has been said, however:

"The board of directors of an irrigation district being clothed with a wide discretion as to the manner in which it shall manage the business of the district, the courts are not warranted in interfering on any mere question of good business policy; nothing short of a gross abuse of its powers warranting interference."

It is therefore necessary to examine the statutes to determine the powers, duties and methods of procedure of the officers of an irrigation district relative to the government of the district. Section 7174, R. C. M., 1935, enumerates the powers and duties of the board of commissioners of irrigation districts. The expenditures mentioned in your inquiry do not seem to come within the express powers given in this section. While we question the

legality of these expenditures, we are unable to say on no more facts than are stated in your letter, whether they come within the powers necessarily implied in order to carry out the purposes of the district. Until we have heard all the facts we should be unwilling to express an official opinion thereon. We think that your statutory duty will be discharged by calling attention to the expenditures and raising a question as to their legality. This will be sufficient to give notice to the land owners and taxpayers in the district so that they may investigate the same and bring such action, if any, as the facts warrant.