

OFFICIAL OPINION NO. 87-34, County aid roads

October 2, 1987

Mr. Eugene Jones  
Mellette County State's Attorney  
P.O. Box D  
White River, SD 57579

OFFICIAL OPINION NO. 87-34

**County aid roads**

Dear Mr. Jones:

You have requested an official opinion from this Office in regard to a creek crossing on a road that provides access to two residents of Mellette County to the County Highway System:

*FACTS:*

This is in an unorganized township on a road that once was an organized township road. (It is presumed the organized township was dissolved pursuant to SDCL 8-1-23, et seq. for purposes of this opinion.) A bridge had been in place and was replaced by culverts when it washed out. A "georgia ford" replaced the culverts when they were washed out.

Based upon the above facts, you have asked the following questions:

*QUESTIONS:*

1. Is the road or highway a "secondary highway" as defined in SDCL 31-1-5 which would give the county authority to construct a bridge over the creek?
2. If the answer to No. 1 is yes, what funds are available for the construction of the bridge?

In answer to your questions, if the county desires to construct a bridge across this creek, it can, in its discretion, determine the creek crossing to be a "County Aid Road" pursuant to SDCL 31-13-12. This would authorize the expenditure of county highway funds or township

funds apportioned pursuant to SDCL 31-11-4.1 and authorized to be spent by the county pursuant to SDCL §§ 31-11-7 and 31-11-8.

Sincerely,

Roger A. Tellinghuisen  
ATTORNEY GENERAL