

Opinion No. 48-5168

September 3, 1948

BY: C. C. McCULLOH, Attorney General

TO: Mr. Angus L. Evans, Member Commission for Predator Control c/o Dept. of Game and Fish Santa Fe, New Mexico

{*161} We have the letter of Mr. W. E. Knott, Jr., Director of the Commission for Predator Control, requesting an opinion of this office as to whether or not the Commission for Predator Control may use a portion of the moneys appropriated to it from New Mexico's share of Taylor Grazing Act funds for administrative purposes.

The appropriation was made by the Laws of 1945, Chapter 134, Section 9, as follows:

"There is hereby appropriated for the use of the commission for predator control all of the funds derived from the taxes in section 8 of this act provided, together also with twenty-five (25%) per cent of the moneys received by the treasurer of New Mexico under the provisions of section 315i, Title 43, U. S. C., said statute being known as the Taylor Grazing Act. The treasurer shall annually upon receipt of said funds from the treasurer of the United States cover into the predator control fund the amount by this section appropriated to be used by the commission for predator control in accordance with the provisions of this act. Provided, nevertheless, that all funds so derived from the treasurer of the United States shall be used by the commission for predator control **in the county or counties as prescribed and limited in the above specified act of Congress.**"

Section 315i, Title 43, U. S. C., provides that moneys raised under the Taylor Grazing Act are to be {*162} expended as the State Legislature of the State may prescribe for the benefit of the county or counties in which the grazing districts, or the lands producing such monies, are situated; provided, that if any grazing district or any leased tract is in more than one state or county, the distributive share to each from the proceeds of said district or leased tract shall be proportional to its area in said districts or leased tract.

While the 1947 Legislature provided that the funds should be spent "**in the county**", they further qualified that statement by the phrase "as prescribed and limited in the above specified Act of Congress." You will note that the Federal Act only requires the money to be spent for the benefit of the county from whence the money came. It is my opinion that the Legislature did not intend to restrict the use of this money any further than required to comply with the Act of Congress above cited. This is evident from the second paragraph of Section 1 of Laws of 1945, Chapter 34, which reads:

"The legislature recognizes that in the state of New Mexico coyotes, bobcats and other predators are causing serious losses of domestic live stock and game animals and

birds, and desires to aid and supplement the efforts of the state game commission of New Mexico and the fish and wildlife service of the United States in the matter of predator control.

It is the purpose of this act to provide an adequate and flexible system for the payment of bounties in order to further predator control throughout the state."

Therefore, it is my opinion that the Taylor Grazing Act funds may be used for administrative purposes by the Commission for Predator Control if such expenses are for the benefit of all counties receiving credits under the Act, or for solely one county; provided, however, that in the latter instance, the funds used for the benefit of said county must not exceed that county's distributive share of the total.

By W. R. KEGEL,

Asst. Atty. General