

Opinion No. 13-1097

August 28, 1913

BY: FRANK W. CLANCY, Attorney General

TO: Hon Trinidad C. de Baca, State Game Warden, Santa Fe, N. M.

FISH.

Fish warden may use money for operating a fish hatchery.

OPINION

{*271} I have received your letter of yesterday enclosing another of July 22 from Mr. Thomas H. Bartlett, which I return to you herewith.

Mr. Bartlett in his letter states that he wants this coming year about 300,00 fish to plant in his streams, and that the Adams Cattle Company wants about 200,000 to use on the Costilla, and that if the state would like to take over his fish hatchery and run it, delivering these 500,000 fish, either rainbow, eastern brook or natives during the year, he would be willing that the state should have the hatchery, the state assuming all expense of its operation. You ask my opinion as to whether you would have the authority to use any money in the game protection fund for the purpose of starting the plant and running it, and you call attention to the proviso at the end of Section 31 and to Section 49 of Chapter 85 of the Laws of 1912.

I am of opinion that the statutory provisions to which you refer are to be liberally construed so as to effectuate the general purposes of the act and should not be given any narrow construction. The proviso at the end of Section 31 is in part "that nothing in this act shall be construed as affecting the right of the state warden to use such means as may be proper for the promotion of game and fish propagation and {*272} culture." That portion of Section 49 which relates to this subject is that which provides that the game protection fund may be used "for the purchase, transportation and distribution of game and fish for propagating purposes." The use of an already established fish hatchery and the payment of the expenses of its operation, are proper means for the promotion of fish propagation and culture, and while the statute does not in distinct terms authorize you to buy, construct or operate a fish hatchery, yet I believe you can use the fund at your disposal for such purposes as being within the spirit and general scope of the statute.