

Opinion No. 20-2740

November 30, 1920

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: State Tax Commission, Santa Fe, New Mexico.

Valuation of Grazing Lands for Taxation.

OPINION

In reply to your letter of the 26th instant enclosing a copy of the protest of the Board of County Commissioners of Colfax County in regard to the assessment of grazing lands in that County, and your answer to that protest, and requesting our opinion regarding the question raised therein, we wish to advise you as follows:

First. Section 4 of Chapter 115, Laws 1919, impose upon the State Tax Commission the power and authority to classify and fix the valuation, for purposes of taxation, of all grazing lands in the state.

At your November 1919 session, by a general order, you divided the State into eight districts for the purposes of the classification and valuation of grazing lands, and in the first district, placed the Counties of Colfax, Mora, San Miguel and Union, and fixed the valuation of grazing lands in that district at \$ 3.75 per acre. By this classification and valuation you have complied with Section 4 of Chapter 115, Laws 1919, in the matter of the classification and valuation of grazing lands in that district.

As we understand it, certain interests owning grazing lands in Colfax County appeared before your Commission, and after making a showing that the valuations upon their lands, as fixed by your Commission, were excessive, demanded a reduction in such valuations; that your Commission, in some cases, where personal examination was made, reduced the valuations of the lands owned by these interests. The Board of County Commissioners now demand that all grazing lands in the county of Colfax be reduced proportionately, although no appeal or showing is made to authorize or justify such a reduction.

In connection with the classification and valuation of grazing lands in accordance with the section of the statutes above mentioned, the Commission has adopted certain rules regarding the method of determining and fixing the valuation of such lands, and providing for appeals to the Commission, in the event of dissatisfaction upon the part of the owners with such valuations as fixed.

The first question involves the right of the Commission to make such rules and regulations. The Commission is by law authorized to make rules and regulations to carry out the purposes for which it was created, and so long as these rules and

regulations are not in conflict with the Constitution or the laws of the State, in our opinion, they are valid and proper.

The second question which arises, involves the authority of the Board of County Commissioners to appeal to your Commission upon behalf of all of the property owners in Colfax County who have grazing lands, and the demand by such Board of a reduction.

We do not believe that a determination of this question is necessary for a final disposition of the matter as presented to us.

It was a physical impossibility, with the funds that were provided for the Commission, to make a classification of all of the grazing lands in the state in one year. By adopting the procedure outlined in your order of November 1919, you did classify and value grazing lands in New Mexico according to rainfall. You subsequently classified and revalued some of the lands in the state through your field agents, by actually going upon such lands and determining their market value.

This, in our opinion, is all that could be demanded of you, and the Commission has performed its duty in compliance with the law imposing upon it the duty of classifying and valuing grazing lands.

The attitude of the Commission in agreeing by Rule 3 as set out in the pamphlet entitled "Classification of Grazing Lands and Live Stock" to give any person a hearing upon a complaint or petition being filed, claiming the valuation of such lands to be improper or excessive, is all that the law can contemplate, in view of the vast quantity of grazing land in the state requiring classification and valuation for taxation purposes.

Unless errors in classification and valuation are called to the attention of the Commission, they are in no position to reclassify and revalue, and therefore, it would be necessary for appeals to be filed with the Commission before the Commission could act in cases where the classification and valuations as made, do not meet with the approval of the land owners.

In our opinion, therefore, the action of the Commission in denying the relief demanded by the Board of County Commissioners of Colfax County is legal, and as a matter of policy, appears to be the only action that could be taken, in view of the conditions and circumstances as they exist.