Opinion No. 10

State Entomologist—Grasshopper Eradication—County Participation in Program—Individual Participation in Program.

Held: 1. Under the provisions of House Bill No. 304, Chapter 76, Session Laws of 1949, the State of Montana cannot match funds with individuals to provide for eradication of grasshoppers.
2. It is necessary that the several counties each establish and administer a fund, which fund may consist of county funds and/or private donations.

March 18th, 1949.

Mr. J. H. Pepper
State Entomologist
Bozeman, Montana

Dear Mr. Pepper:

You have requested an opinion on the following questions:

1. Under the provisions of House Bill No. 304 of the Thirty-first Legislative Assembly of Montana, now Chapter 76, Session

Laws of 1949, may the State of Montana match State funds with funds supplied by individuals of the several counties, in which no County participation is involved.

2. Is it necessary that the several counties themselves establish funds consisting of county funds plus private donations, that will match the money to be expended by the State, the total of the State and County funds to equal the Federal Appropriation.

House Bill No. 304 was passed as an emergency measure. The Legislature recognized that in certain areas of the State, the infestation of grasshoppers was so severe that the owners of the lands could not cope with the situation. The Federal Bureau of Entomology and Plant Quarantine has also recognized the emergency and is authorized to expend the sum of One Hundred Thousand Dollars ($100,000.00) in the State of Montana on a matching basis with the State and counties. House Bill No. 304 appropriated Fifty Thousand Dollars ($50,000.00) to supply the State's portion of the matching funds and the remainder must come from the counties.

An answer to the question of whether the State can cooperate with individuals in carrying out the provision of House Bill No. 304 necessitates an examination of the Bill. No mention is made of individuals in any of its provisions. The following language of the bill is pertinent to your question:

"Section 2. The State Entomologist of the State of Montana, and the several counties of the state are hereby authorized and empowered to cooperate with the Federal Bureau of Entomology, and Plant Control, Grasshopper Division, and enter into agreements therewith . . ., and the said counties are hereby authorized to use funds raised by taxation as now provided by law for the purpose of matching funds made available by said Federal Bureau and the State of Montana for such purpose."

The above quoted portion of House Bill No. 304 authorizes the State and the several counties to cooperate with the Federal Bureau. It is silent as to agreements with individuals. While the bill does not expressly exclude agreements with individuals, its language is such that a fair interpretation is that it is to be carried out as a County function, or not at all.

This conclusion is strengthened by a statement of the Federal Bureau of Entomology and Plant Quarantine, that the Federal Government will not enter into an agreement with private individuals. It will only contract with the State and County governments. Thus, the purpose of the Bill could not be carried out if the State matched individual funds as the Federal funds would not be available in such case.

Question No. 2 suggests that individual owners of range lands have offered to supply funds to assist in grasshopper eradication. It is my opinion that these funds can be used for such purpose with the

proviso, that they be administered as a county fund. This would obviate the objection of the Federal Bureau, and also comply with the provisions of House Bill No. 304. The county should act as an intermediary for the private funds and in the discretion of the Board of County Commissioners may or may not supplement such funds with County funds raised by taxation.

It is my opinion that under the provisions of House Bill No. 304, the State cannot match individual funds, and that it is necessary that the several counties themselves establish a fund consisting of county funds and/or private donations, that will match the money to be expended by the State, the total of the State and County funds to equal the Federal appropriation.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.