

**State Arid Land Grand Commission, Registration of Warrants
Issued By—Warrants, Issued by Arid Land Grant
Commission Must Be Registered.**

Warrants issued by the State Arid Land Grand Commission against any reclamation district must be registered by the State Treasurer upon presentation for payment, if there are no funds on hand with which to pay the same. Such fund is not a state fund but is a trust fund and, therefore, the provisions of the laws and constitution of the State, with reference to State funds, are not applicable.

February 14, 1905.

Hon. J. H. Rice, State Treasurer, Helena, Montana.

Dear Sir:—You have requested the opinion of this office as to whether a certain warrant issued by the State Arid Land Grant Commission for \$732 on November 18, 1902, against District No. 4, which has been presented to you for payment should be registered. It has been held that the Arid Land Grant funds are not state funds within the meaning of the Constitution, but that they are trust funds and therefore neither the State Auditor nor the Board of Examiners has any duty to perform with regard to them before payment by the Treasurer. In deciding this question the court used the following language:

“The trust relationship must continue over the funds. The treasurer, therefore, is not prevented by the Constitutional clause cited—which has reference to state funds—from registering the relator’s warrants as required by law, without regard to any action being had by the auditor or the state board of examiners.” (State ex rel. Armington v. Wright, 17 Mont. 572.)

In the course of the opinion in the case above referred to the court, in referring to the law creating the State Arid Land Grant Commission, says:

“Provision is made for the sale of the lands to actual settlers. The money realized from such sales shall go into what the law denominates the ‘Federal Grant Reclamation Fund.’ No payment can be made from this fund for any purpose whatever, and no part of said fund can be credited to any other fund. It is especially dedicated to the redemption of warrants and interest accrued and to accrue under the arid land act of the legislature. There is throughout the entire state law referred to, no mention of any warrants other than those in favor of the commissioners and the employes and contractors, nor is there any mention of any

fund except the 'Federal Grant Reclamation Fund.' It follows, therefore, that the compensation of the commissioners shall be paid by warrants on this fund, and from it exclusively. The law under consideration, like the capitol commission bill, already considered by the court (*State v. Cook, supra*), has created the special fund named in its provisions for the purpose of enabling the state to accept the beneficial offer of the United States. The fund created by the law is pledged for the payment of all outstanding warrants to be issued against it under the provisions of the act. No holder of any warrant can claim against the state. He may look alone to the fund established, and to the custodians of that fund, and other agents of the state, to do their respective duties under the act."

Further on the court says:

"From our opinion upon these several propositions, the relator, is entitled to have the warrant issued to him registered by the treasurer, unless the law requiring him to register is in itself unconstitutional. The validity of the statute has been ably discussed by counsel for relator, although it was not seriously questioned by the attorney general. We are satisfied that the law is valid."

I would therefore say that it is unquestionably your duty to register warrants issued by the State Arid Land Grant Commission in the order in which they are presented, in the event that there are no funds with which to pay them; and, upon receipt of funds, to pay them in the order in which they are presented for payment, or have been registered.

I have quoted thus fully from the decision of the Supreme Court in order that you may better understand your duties with regard to this fund and the fund of any other reclamation district that may now be or hereafter come into your hands.

Yours very truly,

ALBERT J. GALEN,

Attorney General.