

No. 397

**TAYLOR GRAZING ACT—RANGE IMPROVEMENTS,
what are—DISTRICT ADVISORY BOARDS, powers of**

Held: If the district advisory board approves the use of funds derived from the Taylor Grazing Act for range surveys and purchasing of aerial photographs to be used in connection with or as a basis of a range improvement program, then the funds may be so used, since such approval would not seem to be an abuse of the discretion of the advisory board.

April 14, 1942.

Mr. Leonard A. Schulz
County Attorney
Beaverhead County
Dillon, Montana

Dear Mr. Schulz:

You have asked the opinion of this office on the following question:

“May contributed trust funds returned from the United States Treasurer under Section 10 of the Taylor Grazing Act to the counties from which such funds originate be used in making range surveys and purchasing aerial photographs for such surveys?”

You point out the range survey is an activity which furnishes an accurate inventory of location, kinds and amounts of available range forage; yields a map showing this forage inventory in relation to stock water facilities, fences, material barriers, trails, roads, etc.; and, where aerial photographs are available, the same constitute basic field maps upon which all important range improvement data are recorded.

The answer to your question depends upon the interpretation of Section 191.2 of the Revised Codes of Montana, 1935, as last amended by Chapter 102 of the Laws of 1939, which provides, in part, with respect to the funds to which you refer:

“The funds comprising said special grazing fund shall be expended only for range improvements such as fences, reservoirs, wells, and for such other range improvements as the district advisory board may approve. . . .”

Under two previous opinions of this office, it was held this provision vested broad discretionary powers in the district advisory board. (Opinions No. 123 and 132, Volume 19, Opinions of the Attorney General.) It was pointed out that, in the absence of fraud or manifest abuse of discretion, its determination is conclusive. (*Guillot v. State Highway Commission*, 102 Mont. 149, 56 Pac. (2nd) 1072; *State ex rel. Pew v. Porter*, 57 Mont. 535, 189 Pac. 618.)

It is my opinion that, if the district advisory board approves the use of funds derived from the Taylor Grazing Act for range surveys and purchasing of aerial photographs, to be used in connection with or as a basis of a range improvement program, then the funds may be so used, since such approval would not seem to be an abuse of the discretion of the advisory board.

Sincerely yours,

JOHN W. BONNER
Attorney General