

No. 506

**GRASS CONSERVATION ACT—GRAZING
PREFERENCES, time for filing**

Held: An applicant for a preference in a state grazing district must apply within one year of the organization of the district; that is, one year from the election of officers and directors, and not one year from the filing of a plat of the district.

November 7, 1942.

Mr. Bruce T. Mott
Secretary
Montana Grass Conservation Commission
Miles City, Montana

Dear Mr. Mott:

You have submitted to this office the following question:

“Does the year period for making application for grazing preferences begin with the filing of a map or plat of the boundaries of a state district, as provided in Section 11, Chapter 208, of the Laws of 1939?”

In considering your question it is necessary to consider two sections of the Grass Conservation Act, Chapter 208, Laws of 1939.

Section 11 of the act provides in part:

“State grazing districts organized under this Act, shall, upon completion of their organization, file with the county clerk of each county in which their lands lie, a map or plat of the external boundaries of such state district so created and a copy of their articles.” (Emphasis mine.)

Section 21 of the Grass Conservation Act provides:

“Any person entitled to grazing preferences within any state grazing district based on dependent commensurate property or commensurate property must make application one year after the passage of this act to qualify for said preference; or, in the case of state districts hereafter organized, must make application **within one year after said district shall have been organized** to qualify for said preference.” (Emphasis mine.)

By the terms of Section 21 the preference will be granted if application is made “within one year after said district shall have been organized.”

“Organized” is defined in 13 Am. Jur., page 190, in the following manner:

“The term ‘organized’ or ‘organization’ means generally the election of officers, the subscription and payment of the capital stock, the adoption of by-laws, and such other steps as are necessary to endow the legal entity with the capacity to transact the legitimate businesss for which it was created.”

Under the above definition a state district would be organized, after the filing of articles of incorporation, by the election of officers and directors, adoption of by-laws, and being ready to transact business.

It is my opinion the one year period for applying for preferences begins with the completion of the organization and not with the filing of the plat of the district, as Section 21 provides application must be made “within one year after said district shall have been organized.” Organization is the determining time for commencing the one year period, while the map is filed upon completion of the organization.

Sincerely yours,

R. V. BOTTOMLY
Attorney General