

No. 66

RANGE IMPROVEMENTS—COYOTE, Destruction of as Range Improvement—PREDATORY ANIMAL HUNTERS, Hiring of—SPECIAL GRAZING FUND, Proceeds from Sale of Skins and Pelts Credited to.

Held: Under the provisions of Chapter 102, Laws of 1939, moneys derived from the sale of pelts and skins of predatory animals should be placed back in the district advisory board's "special grazing fund," thereafter to be used to continue its program against predatory animals and/or for other range improvements as the advisory board may approve, in accord with the provisions of Chapter 102, Laws of 1939.

March 29, 1941.

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

Dear Mr. Schulz:

You have submitted the following:

"By the terms of Section 1, Chapter 102, of the Session Laws of 1939, it is provided that the State Treasurer shall apportion and allocate all moneys received from the Treasurer of the United States as provided by Section 10 of said Taylor Grazing Act to the several County Treasurers. Thereupon it is the duty of the County Treasurers to allocate a portion of said money so received to a special grazing fund which fund shall be paid, on warrants issued by the District Advisory Board for such range improvements as the District Board may approve.

"The District Advisory Board of this district has devoted a portion of the funds so placed at its disposal for the employment of predatory-animal hunters within its district. These predatory-animal hunters are required to turn the pelts and skins from the animals taken over to the District Advisory Board, which in turn has sold them in open market.

"The District Advisory Board desires to know: (1) Whether or not the proceeds from the sale of these pelts and skins may be placed back in its 'special grazing fund' thereafter to be used to continue its program against such predatory animals and for other range improvements; and (2) whether or not the proceeds from the sale of such pelts and skins can be turned over to the Treasurer of the United States for the use of the Fish and Wildlife Service in the control of predatory animals within the district."

Section 315, Chapter 8A, Title 43 U. S. C. A. (GRAZING LANDS) among other things provides:

". . . and 50 percentum of the money received under (this chapter) during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the state in which the grazing districts or the lands producing such moneys are situated, to be expended as the State Legislature of such State may prescribe for the benefit of the county or counties in which the grazing districts or the lands producing such moneys are situated: . . ."

Under the section above cited, the Secretary of the Treasury pays the money to the state in which the grazing districts or the lands producing such money are situated, to be expended as the Legislature of such state may prescribe for the benefit of the county or counties in which the grazing districts or the lands producing such money are situated.

We turn now to Chapter 102, Laws of 1939, to ascertain the purpose for which money placed into the "Special Grazing Fund" shall be expended.

Sub. 2 (a) Section 1, Chapter 102, Laws of 1939, among other things provides that:

". . . 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. Before any improvements herein provided for can be made, or any money expended, such improvements shall be approved by the district advisory board and a record of approval of such improvements shall be spread upon the minute records of the board . . ."

Thus any money expended from the special grazing fund must be for range improvements designated under the statute such as fences, reservoirs, wells, and for such **other range improvements as the district advisory board may approve**. If the money or some of it has been expended for the hiring of predatory-animal hunters, with the advisory board's approval, and the hunters have in turn turned over pelts and skins from animals destroyed, then the money realized from the sale thereof should be returned to the special grazing fund, the particular fund from which the animal hunters were originally paid.

Section 315 h, Chapter 8A, Title 43 U. S. C. A., provides as follows:

"The Secretary of the Interior shall provide, by suitable rules and regulations, for cooperation with local associations of stockmen, State land officials, and official State agencies engaged in conservation or propagation of wild life interested in the use of the grazing districts. The Secretary of the Interior shall provide by appropriate rules and regulations for local hearings on appeals from the decisions of the administrative officer in charge in a manner similar to the procedure in the Land Department. The Secretary of the Interior shall also be empowered to accept contributions toward the administration, protection, and improvement of the district, money so received to be covered into the Treasury as a special fund, which is hereby appropriated and made available until expended, as the Secretary of the Interior may direct, for payment of expenses incident to said administration, protection, and improvement, and for refunds to depositors of amounts contributed by them in excess of their share of the cost."

Thus it can be seen money turned over to the Fish & Wildlife Service of the government would not, strictly speaking, be used exclusively for range improvements contemplated under Chapter 102, Laws of 1939, but would be used in part for the payment of expenses incident to the administration, protection and improvement of the **wildlife service** and for refunds to depositors of amounts contributed by them in excess of their share of the cost.

Therefore, it is my opinion the money derived from the sale of pelts and skins of predatory animals should be placed back in the district advisory board's "special grazing fund," thereafter to be used to continue its program against predatory animals as a range improvement and/or for other range improvements as the advisory board may approve in accord with the provisions of Chapter 102, Revised Codes of Montana, 1939.

Sincerely yours,

JOHN W. BONNER
Attorney General