

November 12, 1942

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Hon. J.L.E. Lauderdale  
State Entomologist  
Arizona Commission of Agriculture & Horticulture  
Phoenix, Arizona

Dear Sir:

Reference is made to your letter of October 30, 1942, requesting an opinion covering the following matters:

1. Does the Arizona Commission of Agriculture and Horticulture, through its agents, have the authority to open and inspect any car, box, bundle, or vehicle transported within or entering the State of Arizona, containing fruit or other agricultural products when the same are consigned to, or is the property of the United States, for the purpose of inspecting the same to determine whether or not it is infected or infested with insect pests and/or plant diseases?
2. Does the Commission, through its agents, have the authority to condemn any such fruit or other agricultural products found to be infected or infested with insect pests and/or plant diseases, and require that the same be immediately shipped out of the state, or destroyed, at the option and expense of the owner?

Answering your first inquiry, it is our opinion that until the United States has satisfactorily shown that it has caused inspection to be made of such fruit or agricultural products, that it is within the police power of the State of Arizona to make the inspection through the Commission of Agriculture and Horticulture and its agents.

With respect to your second question it is our opinion that the power of condemnation exists in your Commission, together with powers incident thereto.

Respectfully,

JOE CONWAY  
Attorney General

EARL ANDERSON  
Special Assistant  
Attorney General

C.A. EDWARDS  
Assistant Attorney General.