

18 December 1945

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ARIZONA ATTORNEY GENERAL

Mr. C. F. Dierking, Regional Grazier
U. S. Department of the Interior
Grazing Service
504 Heard Building
Phoenix, Arizona

Dear Sir:

We have your letter of 11 August 1945 wherein you state:

"The Grazing Service is confronted with a question relative to range improvements under the Taylor Grazing Act in the Safford Grazing District upon which we would appreciate an opinion from your office.

"Within the Safford Grazing District, there is an area of Indian Ceded (trust) lands, grazing fees therefrom being distributed under Section 11 of the Taylor Grazing Act. Senate Bill No. 28, Arizona Legislature, Chapter 11, approved February 25, 1937, Relating to Moneys Received from Fees in Grazing Districts and Leased Public Lands and Providing for the Distribution Thereof, is silent relative to grazing fees collected under the provisions of Section 11 of the Taylor Grazing Act. Disposition of funds collected under Section 11 of the Taylor Grazing Act is not a question.

"In addition to the Indian Ceded lands mentioned above, there is considerable acreage of Federal range within the Safford Grazing District and Graham County from which distribution of the grazing fees is made under the provisions of Section 10 of the Taylor Grazing Act. These monies are returned to the Grazing District Advisory Board for range improvement work in accordance with Senate Bill No. 28. It is the desire of the Safford Grazing District Advisory Board to use a portion

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"of the 50% monies collected from non-Indian Ceded (trust) lands, and distributed under Section 10 of the Taylor Grazing Act and Senate Bill No. 28, for range improvement work on Indian Ceded (trust) lands within the Safford Grazing District and Graham County. Our question is can the 50% monies made available to the Safford District Advisory Board for Graham County be used for any portion of Graham County within the Safford Grazing District irrespective of whether the lands upon which the improvements are located and would benefit are Indian Ceded (trust) lands?"

Section 11 of the Taylor Grazing Act provides that twenty-five (25%) percent of the money received from grazing during each fiscal year shall be paid at the end thereof to the state in which said lands are situated, to be expended as the state legislature may prescribe for the benefit of public schools and public roads of the county or counties in which such grazing land is situated.

Chapter 11 of the Session Laws of 1937, Regular Session, provides that all moneys received by the State of Arizona, as its distributive share of the amounts collected by the United States government under the provisions of the Act of Congress, June 28, 1934, known as the Taylor Grazing Act, shall be deposited with the State Treasurer, and upon warrants of the State Auditor, the Treasurer shall distribute such moneys to the several counties of the state in which such public lands are located.

Section 2 of said chapter, revised, provides that all moneys received from the lease of public lands within any county shall be placed to the credit of the school district within said county in which the land lies. If the lands do not lie within a school district, it shall be placed to the credit of the general school fund of the county.

Section 3 of the same chapter provides that all moneys received from the grazing fees of a grazing district regularly established and including public lands within the county shall be placed to the credit of a special fund to be designated the "Range Improvement Fund" of the grazing district.

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Section 4 of said chapter provides that moneys received from the grazing fees shall be expended as the Board of District Advisors may direct for range improvement and the maintenance thereof, predatory animal control, rodent control, poisonous or obnoxious weed extermination, or for the purchase or rental of facilities of land within the said county which will benefit such grazing district or the part thereof within said county.

Therefore, it is our opinion that under the limitations placed upon the expenditure of fees received from grazing during a year, these fees shall be expended as the state legislature may prescribe for the benefit of public schools and public roads of the county in which the lands are situated; that the provisions of said Chapter 11 of the Arizona legislature authorizing the expenditure of grazing fees received under the Taylor Grazing Act is contrary to the express provisions of the grant made in the Taylor Grazing Act, and therefore the funds received may not be diverted from the purpose for which it was appropriated by the Act of Congress.

Very truly yours,

JOHN L. SULLIVAN
Attorney General

HARRY O. JULIANI
Chief Assistant
Attorney General

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