

October 2, 1947

Mr. Thomas L. Kimball,
Assistant Game and Fish Director,
Arizona State Building,
Phoenix, Arizona.

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Mr. Kimball:

We have your inquiry as follows:

"The final notice of Federal Aid funds for Arizona for the fiscal year 1948 relative to wildlife restoration work has been set at \$174,148.30. The Arizona Game and Fish Commission's matching funds to obtain this apportionment totals \$58,049.44. The legislature has appropriated from the general fund \$22,000.00 per year to match the Federal funds.

Due, however, to a back-log of money attained during the war, this year's apportionment was so great that the appropriation from the general fund does not match the Federal apportionment. It will therefore be necessary for the Game and Fish Commission to place an additional \$36,049.44 to match the total Federal apportionment.

We would appreciate an opinion as to whether or not the Game Commission has the authority to make this money available from the Game and Fish Protection Fund."

The statutes applying to this matter are the following:

Section 57-307, supplement to A.C.A. 1939, reads as follows:

"Continuing appropriation.- For the thirtieth fiscal year, and for each fiscal year thereafter, there is appropriated out of the general fund of the state to the Arizona game and fish commission, to be used in carrying out the provisions of this article, a sum equal to one-third of the amount apportioned to this state during any such year pursuant to the wildlife-restoration act of Congress, but not to exceed twenty-two thousand dollars (\$22,000) in any one (1) year."

Section 57-303, A. C. A. 1939, reads in part as follows:

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"Wildlife-restoration projects. - The commission shall have power to cooperate and enter into agreements with the secretary for the establishment, maintenance, and completion of wildlife-restoration projects, pursuant to the wildlife-restoration act of Congress. * * * *".

Section 57-305, A. C. A. 1939, reads as follows:

"License fees.- All moneys received from hunting licenses shall be deposited in the state game and fish protection fund, and no part thereof shall be diverted or appropriated for any purpose other than the uses of the commission."

Section 57-306, A.C.A. 1939, provides for matching of any Federal funds by state monies, however, while 57-307 above does not specifically repeal this section, it probably does constitute a limitation on the amount to be withdrawn from the general funds of the state, inasmuch as it was enacted subsequent to 57-306.

It is our opinion that under the general powers given the Commission in Section 57-103, 1945 Supplement to A.C.A. 1939, and the specific powers given in 57-303, supra, monies used by the Commission in matching Federal funds and expended for wildlife-restoration under Chapter 57, Art. 3, A.C.A. 1939, would be a legal use under Section 57-305, supra.

Very truly yours,

JOHN L. SULLIVAN,
Attorney General

PERRY M. LING,
Assistant Attorney General

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