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Yoder  
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September 10, 1952

Opinion No. 52-255

Mr. A. W. Yoder  
Acting Director  
Arizona Game and Fish Commission  
Arizona State Building  
Phoenix, Arizona

Dear Mr. Yoder:

This is in reply to your letter of August 29, 1952, wherein you request our opinion on the following matter:

"I would like your opinion regarding the disposition of surplus crops raised on our Pima game farm.

For example, after our need for food for game birds, etc., if there is a surplus could it be used in exchange for improvements on the place, or could it be sold and the money used for any purpose?"

Section 57-103, ACA 1939, Supplement, sets forth the powers and duties of the Arizona Game and Fish Commission. We quote pertinent portions thereof:

" \* \* \* It shall have charge of and be responsible for the conduct and control of all hatching stations, rearing ponds, game farms and all other facilities owned, operated or hereafter acquired by the state, \* \* \*

It may purchase animals, birds and fish and fish spawn or eggs for the purpose of stocking public lands and waters of the state, and sell fish fry and fingerlings to stock private waters, \* \* \*"

It is our opinion that the Commission has the power to sell surplus crops raised on its game farms. We believe this power

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is necessarily implied from the power to create and manage such game farms.

Section 57-103, supra, also provides:

"Any funds received by the commission from the sale of any capital asset originally purchased with license funds shall be paid into the game and fish protection fund."

and 57-144, ACA 1939, Supplement further provides that:

"The commission shall on or before the last Tuesday of each month pay to the state treasurer, all the money received by it from licenses or from any other sources under this act, and the state treasurer shall deposit such money in a special fund to be known as the state game and fish protection fund, \* \* \*" (Emphasis supplied)

It is our further opinion, therefore, that any funds received from the sale of these surplus crops must be turned over to the State Treasurer and deposited in the Game and Fish Protection Fund and may not be expended by the Commission directly after their receipt for any purpose. We are also of the opinion that the surplus crops may not be exchanged for improvements on the game farm.

Trusting this answers your inquiry, we remain

Very truly yours,

FRED O. WILSON  
Attorney General

ROBERT K. PARK  
Assistant Attorney General

RKP:d