

Opinion No. 54-5954

May 26, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. George Ledbetter Secretary Cattle Sanitary Board of New Mexico P. O. Box 1296 Albuquerque, New Mexico

{*411} On March 15, 1954, you requested a supplemental opinion to Opinion No. 5864 dated December 7, 1953, in which you want to know whether or not the Cattle Sanitary Board can sell impounded livestock which have a legally recorded brand, and whose owners are known, and have been notified of impoundment as specified in the statutes, but whose owners refuse to claim such impounded animals within the specified time.

Chapter 122 of the Laws of 1951 which appears as Section 49-1502, N.M.S.A., 1941 Compilation, Pocket Supplement, provides the procedure and steps to be taken after an estray animal or livestock is impounded. The last part of this section provides that after the impounding of livestock, that the person who has done the impounding with the prior approval of or acting in cooperation with an authorized agent of the New Mexico Cattle Sanitary Board, can retain said impounded livestock in an enclosure or roundup for a period not to exceed seventy-two (72) hours for the purpose of ascertaining ownership by brand and trespass statutes of said estray animal. The owner or owners of such estray animal found to be in trespass shall be allowed forty-eight (48) hours from receipt of notice of impoundment within which to claim said animal or animals and make settlement for trespass damages. If said owner or owners shall fail to claim such animal or animals and effect a settlement for trespass damages within the time allowed, the estray animals detained shall be turned over to a duly authorized inspector or agent of the Cattle Sanitary Board for disposition in the same manner as provided for other estray animals under this section.

It is therefore the opinion of this office that the Cattle Sanitary Board of New Mexico can sell impounded livestock which have a legally recorded brand and whose owners are known, and have been notified of impoundment as specified in the statutes, but whose owners refuse to claim such impounded animals within the specified time, if the procedure and steps specified in Section 49-1502, N.M.S.A., 1941 Compilation, Pocket Supplement are followed.

Trusting that this fully answers your inquiry, I remain

By: Hilario Rubio

Assist. Attorney General