

## Opinion No. 39-3165

June 6, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. E. J. Isaacks, Chairman, Dona Ana County Livestock Bureau, Las Cruces, New Mexico.

{\*59} In your letter of June 2nd you inquire "shall the fifty per cent refund of Taylor Grazing Act fees which is being returned to counties, be spent county-wide for the general public, or on range improvements to the individual ranches?"

The Taylor Grazing Act, Act of Congress, June 28, 1934, Public No. 482, Section 10, provides that 50 per cent of the income from leased land shall be turned over to the state "to be expended as the State Legislature may prescribe for the benefit of the county or counties in which the grazing district is situated." As pointed out by Assistant Attorney General Lougee in Opinion No. 3011, the Congress in making this provision probably had in mind the fact that the government-owned lands in the various counties do not contribute to the expenses of the county government, and after dedicating one-half of such moneys to the range improvement it saw fit to turn the other half over to the counties for "the benefit of the county or counties in which the grazing district is situated."

The Legislature by Chapter 125, Section 2, 1939 Laws, provided that such moneys "be expended **by the county**. . . for the benefit **of the county** in the conservation of soil and water, the control of rodents and predatory animals and the extermination of poisonous and noxious weeds and {\*60} for the construction and maintenance of secondary roads."

I am satisfied that it was not the intent of either the Congress or the Legislature that the use of these moneys for the above purposes should be limited to the range lands of the government being leased and from which the revenues are derived, or to the individual ranches, but that it should be used for the benefit of the whole county wherever needed in the county, even to the exclusion of the federal ranges if the use of the funds should be deemed more necessary elsewhere, which could easily turn out to be the case if the Federal Government uses the other 50 per cent in the improvement of those same ranges. Likewise, secondary roads means roads other than state highways anywhere in the county. Such expenditures should be budgeted and taken into consideration in determining the needs of the counties and in fixing the counties levies.

By: A. M. FERNANDEZ,

Asst. Atty. Gen.