



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Game, Fish & Oyster Commission
Austin, Texas

Gentlemen:

Attention - Mr. Wm. J. Tucker,
Executive Secretary

Opinion No. 0-5609

Re: Under the Appropriation Bill
can the Game, Fish & Oyster Com-
mission use the surplus funds col-
lected for the purpose of conduct-
ing a shellfish hatchery for the
production of oysters?

We have carefully considered your letter of September 9th, written by your Executive Secretary, Mr. Tucker, requesting our opinion on the question: "Whether there is anything to prevent the Game, Fish & Oyster Commission from using such portion of the Sand, Shell and Gravel Fund as it may decide is available for such purpose for conducting a shellfish hatchery for the production of oysters in suitable tide-water areas of this State, and after the same manner as such expenditures have been made for the production of fish for the fresh-water areas of this State by expenditures of portions of said Fund."

The Appropriation Bill, to which you refer, as passed in 1943, makes specific appropriations for the Game, Fish & Oyster Commission. The Appropriation Bill has divided same under Game Provision, Fish Propagation and Protection Division, Medina Lake Division, Coastal Division, Maintenance, Miscellaneous & Improvements Division, Fish, Hatchery and Sand, Shell and Gravel Division, Maintenance, Miscellaneous and Improvements Division, all of which embrace 246 different items.

The rider attached to said appropriation reads in part as follows:

"The foregoing specific amounts, or so much thereof as may be used, are hereby appropriated for the purposes above enumerated. * * *. All money to the credit of these special funds on hand in the State Treasury on September 1, 1943, together with the current revenues to be derived and placed to the credit of these special funds during the next ensuing two years ending August 31, 1945, are hereby appropriated and may be used for the performance of the duties and functions of the Game, Fish & Oyster Commission in preserving, protecting and increasing the supply of wild birds, wild animals, fish and other edible aquatic animals of this State. * * *. No additional employees, except temporary employees, may be paid from any fund herein appropriated. Any salary paid a temporary employee shall not exceed the rate of salaries herein appropriated for employees with similar duties."

It is our opinion that the conducting of a shellfish hatchery for the production of oysters would come within the "preserving, protecting and increasing the supply of wild birds, wild animals, fish and other edible aquatic animals of this State." You can, therefore, use any of the surplus funds ever and above those specifically appropriated for said purpose.

You cannot, however, employ any additional help or employees except those that would be termed and are "temporary employees", and pay same from any of said funds.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Geo. W. Barcus

Geo. W. Barcus
Assistant

GWB-MR

APPROVED SEP 22, 1943
Gravel C. Mann

ATTORNEY GENERAL OF TEXAS

