



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Hon. Pat R. Bobo
County Attorney
Bailey County
Muleshoe, Texas

Dear Sir:

Opinion No. 0-7307

Re: Purchase of chemicals for
eradication of Johnson grass
and other obnoxious weeds in
barrow-pits of county roads.

We are in receipt of your letter of recent date request-
ing the opinion of this department on the above stated matter. We
quote from your letter as follows:

"Bailey County desires to purchase large quantities
of poison chemicals for the purpose of poisoning Johnson
grass and other obnoxious weeds along the borrow-pit of
the county roads. I will appreciate it if you will ad-
vise me if the county commissioners have the authority
to purchase such poison, and from which fund or funds
they may purchase same."

We assume from your letter that it is contemplated that
the proposed purchase of chemicals for eradicating Johnson grass
and other obnoxious weeds is to be used exclusively within the boun-
daries of the county road right-of-way.

We call your attention to the following statutory provis-
ions:

"Article 2351* * * *

"Each commissioners court shall:

* * * *

"6. Exercise general control over all roads,
highways, ferries and bridges in their counties."

"Article 6736. Road and bridge funds.

"All moneys appropriated by law, or by order
of the commissioners court, for working public
roads or building bridges, shall be expended under

the order of the commissioners court, except when otherwise herein provided, and said court shall from time to time make the necessary orders for utilizing such money and for utilizing convict labor for such purposes. (Const., art. 16, sec. 24)."

"Article 6741. Powers of court.

"The commissioners court may make and enforce all reasonable and necessary rules and orders for the working and repairing of public roads, and to utilize the labor to be used and money expended thereon, not in conflict with the laws of this State. Said court may purchase or hire all necessary road machinery, tools or teams, and hire such labor as may be needed in addition to the labor required of citizens to build or repair the roads."

Under the foregoing provisions, the commissioners court is given broad discretion with respect to the manner of working, repairing or maintaining public roads. It has been generally held that the commissioners court has the implied power to use such means as may be necessary and reasonable to carry out the powers delegated to said court by law. (Cottle County v. McClintock & Robertson, Civ. App., 150 S.W. (2d) 134, error dismissed; Galveston County v. Gresham 220 S.W. 560, writ refused; Hidalgo County Improvement District No. 2 v. Feick, Tex. Civ. App., 111 S.W. (2d) 742, writ dismissed; Cherokee County v. Odom, Tax Coll., 118 Tex. 288, 15 S.W. (2d) 533; Von Rosenberg v. Lovatt, 173 S.W. 508; Roper v. Hall, 280 S.W. 289; and Federal Royalty Co. v. State, 42 S.W. (2d) 670).

In view of the above and foregoing, it is our opinion that it is within the sound discretion of the commissioners court to determine the most feasible method for working, repairing or maintaining public roads. If the commissioners court, in its sound discretion, determines that it is necessary for the proper working and maintenance of public roads to eradicate Johnson grass and other obnoxious weeds in the barrow-pits and that the use of chemicals is the most feasible or practical method of eradicating same, it is our opinion that the commissioners court is authorized to purchase such chemicals out of the road and bridge funds of the county. You are further advised that before any funds may be expended for the above mentioned purposes, such expenditures must have been legally authorized in the county budget.

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We trust that the above and foregoing will satisfactorily answer your inquiry.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *J. A. Ellis*
J. A. Ellis
Assistant

JAE:djm

APPROVED BY [unclear]

(Acting) *W. G. Gappert*
[unclear]

APPROVED
OPINION
COMMITTEE
BY *Bl*