



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Game, Fish and Oyster Commission of Texas
Austin, Texas

Attention: H. D. Dodgen

Dear Sir:

Opinion No. O-5976
Re: May the Game, Fish and
Oyster Commission make
an expenditure out of
the Sand, Shell and
Gravel Fund, for the
purpose of repairing a
county road adjacent to
the State-owned fish
hatchery situated at
Olmito, Texas, in Camer-
on County?

We acknowledge receipt of your letter of April
18th, which reads, in part, as follows:

"The Game, Fish and Oyster Commission re-
spectfully requests your opinion as to whether
or not we may make an expenditure out of the
Sand, Shell and Gravel Fund, which is appro-
priated to the use of this Department, for the
purpose of repairing a road adjacent to the
State-owned fish hatchery situated at Olmito,
Texas, in Cameron County.

"The condition is such that the fish hatch-
ery in question is situated approximately one
and one-tenth miles from an improved road which
causes it to be practically impossible to carry
loads of fish from the hatchery site to the im-
proved road during wet weather.

"The road in question is a county road which
the County is financially unable to improve. A
proposal has been made by citizens living adja-
cent to the one and one-tenth miles of road in

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question to share the cost of improvements. It is estimated that the State's share of this cost would be approximately \$600.00, which from a practical standpoint would, in the opinion of this Department, be a valuable investment.

". . . ."

The rider attached to the Appropriation Bill 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 and shall be paid out of either the Special Game Fund, the Fish and Oyster Fund, or the Sand, Shell and Gravel Fund, and 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 and Oyster Commission in preserving, protecting and increasing the supply of wild birds, wild animals, fish and other edible aquatic animals of this State. Any amount herein specifically appropriated that is not used for the purpose for which it is appropriated, or which is in excess of the amount required for the purpose for which it is appropriated that is placed to the credit of these funds during the biennium ending August 31, 1945, may be used to supplement the performance of purposes for which money is herein appropriated. No salary for which an appropriation is herein made shall be supplemented. 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."

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We have carefully studied the Appropriation Bill but failed to find an authorization for the expenditure you propose, although the road is in such condition in wet weather that it is practically impossible to carry loads of fish from the hatchery.

You will observe the rider, supra, will not permit an expenditure of anything other than the purposes set forth and enumerated in the Appropriation Bill. No provision is made therein for the purpose of your contemplated expenditure.

We therefore advise that in the opinion of this department you cannot legally expend money from the Sand, Shell and Gravel Fund to improve a county road adjacent to the State-owned fish hatchery.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Fred C. Chandler*
Fred C. Chandler
Assistant

By *Elton M. Hyder, Jr.*
Elton M. Hyder, Jr.



EMH:db

George S. Bell