

Lands, State Selection of. State Lands, Selection of Indemnity. Lieu Lands, Selection of.

Where sections 16 and 36 have been lost, through some action or lack of action on the part of the state, lieu or indemnity selections cannot be made, but if lost by reason of some Act of Congress indemnity selections may be made, except when embraced in a reservation not yet open to the public, as provided in section 10 of the Enabling Act.

Helena, Montana, September 9, 1909.

Hon. F. H. Ray,
Register, State Land Office,
Helena, Montana.

Dear Sir:

I am in receipt of your letter. submitting the question as to whether

or not the state of Montana has a right to make lieu selection of land to take the place of sections 16 and 36, which are lost to the state for any cause at all.

If these sections are lost to the state through some action or lack of action on the part of the state, then it is probable no lieu selections could be made. But under section 10 of the Enabling Act, if they are lost to the state by reason of some Act of Congress lieu selections may be made, except that where these sections are embraced in permanent reservations for national purposes no lieu selections can be made until the reservation shall have been extinguished and such lands be restored to, and become part, of the public domain.

Rules for the selection of state lands may be found in volume 35, Land Decisions, page 537.

Very truly yours,

ALBERT J. GALEN,

Attorney General.