

Permits—Register of State Lands—State Lands—State Forester.

Permits to use state lands may be granted without further consideration than the consideration for the sale and removal of timber where such permit is to be used in connection with timber sales.

H. V. Bailey, Esq.,
Register of State Lands,
Helena, Montana.

My dear Mr. Bailey:

You have submitted to this office the question whether either the State Forester or Register of State Lands may approve permits for the use of state land where no consideration is had.

The particular question which you ask has arisen over a permit to build and use log chutes across state land.

You do not state whether these permits to build chutes were granted in connection with the sale of state timber. Undoubtedly such a permit could be granted without additional consideration to that contained in the contract to cut and remove timber, as this would necessarily imply that the purchaser would be entitled to the use of any other state land necessary to be used in order to permit him to cut and remove the timber, and no additional consideration will be necessary.

I find no provision, however, authorizing either the Register of State Lands or the State Forester to grant a right-of-way or right to use state land, where the use is not connected with any sale or lease or right to use other state land.

Section 1874, Revised Codes of 1921, authorizes the State Forester to issue permits to cut and take away down timber, without price, under such rules and regulations as may be prescribed by the Board.

It is, therefore, my opinion that a permit may be granted without other consideration than the consideration for the sale and removal of timber where the permit is to be used in connection with timber sales.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.