

Fish and Game—Sunfish—Trapping—Seining.

Sunfish are game fish and may not be trapped or seined either by the commission or by others with its permission.

Mr. Kenneth F. MacDonald,
Superintendent of State Fisheries,
Helena, Montana.

August 9, 1932.

My dear Mr. MacDonald:

You have requested an opinion relative to the following:

“1. Our right to trap or seine sunfish at Lake Ronan and to dispose of same.

“2. Our right to permit seining or trapping of these sunfish

under proper supervision, the parties to use or sell the sunfish taken as their compensation.”

It would appear that you may not trap or seine sunfish or dispose of same yourself or permit others to do so under your supervision.

Under code section 3681 game fish include, among others, “common sunfish, pumpkinseed,” etc., and code section 3714 makes it unlawful to catch fish except with pole, line and hook, and prohibits the use of traps, nets or seines, and concludes “provided, however, that the Montana fish and game commission shall have the power, authority and jurisdiction to designate such waters * * * wherein in the judgment of the members of said commission, traps, seines, or nets may be used for the taking of non-game fish and Dolly Varden trout, * * * and to permit the taking of black bass in Flathead Lake, the taking of all fish by said means in said waters when so designated to be done under such rules and regulations as said commission may prescribe, * * * and all such fish so taken may be possessed and sold in such manner and under such restrictions as said commission may direct (referring to Dolly Varden trout, non-game fish and black bass in Flathead Lake) * * * all fish other than those herein designated so taken under said rules and regulations * * * shall be returned uninjured to the waters from which they were taken.”

It is the opinion of this department that however desirable it might be to rid Lake Ronan of sunfish, that the commission is expressly prohibited by law from so doing.

Very truly yours,

L. A. FOOT,

Attorney General.