

No. 365

FISH AND GAME—PITTMAN-ROBERTSON ACT—
LEASES

Held: Under the provisions of Chapter 167 of the Laws of 1941, the Montana Fish and Game Commission—in the name of the State and with the approval of the Governor—has the power to lease either federal or private lands upon which to develop wild life restoration projects created and established under the provisions of the Pittman-Robertson Bill of the Congress of the United States.

February 26, 1942.

Dr. J. S. McFarland
State Game Warden
Fish and Game Commission
The Capitol
Helena, Montana

Dear Doctor McFarland:

You have submitted the following:

"The Montana Fish and Game Commission wishes to obtain a specific official opinion from the Attorney General as to whether, under the terms of the Pittman-Robertson Assent legislation, the Commission is empowered to lease private or Federal lands upon which to develop a wild life restoration project or projects, provided the lease sets forth that title to the project remains wholly and permanently in the State of Montana during the life of the project, and provided further that the State retains the right to remove any and all its improvements at the termination of the lease."

Section 3, Chapter 167, Laws of 1941, provides, among other things, the Montana State Fish and Game Commission—in the name of the state and with the approval of the Governor—shall have the power to acquire by lease such land or other property or interest therein as may be necessary for the purpose of carrying on any wild life restoration project created and established under the provisions of the Pittman-Robertson Bill of the Congress of the United States.

It is my opinion the Montana Fish and Game Commission—in the name of the state and with the approval of the Governor—has the power to lease either federal or private land upon which to develop a wild life restoration project provided the lease contains, among other necessary provisions, the following covenants:

It is mutually understood and agreed by and between the parties herein:

1. That the project created or established on said leased premises shall wholly and permanently belong to the State of Montana during the life of said project;
2. That the project created or established on said leased premises shall be under the supervision of the Montana Fish and Game Commission;
3. That the laws of the State of Montana or the rules promulgated by the Montana State Fish and Game Commission shall govern the game or fur-bearing animals or the taking or capturing the same on the project created or established on said leased premises;
4. That the State of Montana reserves to itself, acting through its legislature, the right to direct the Montana Fish and Game Commission to abandon the wild life restoration project created or established on said leased premises;

5. That upon the termination of this lease at any time, the lessee shall have the right and privilege to remove from said leased premises any and all improvements and other property of whatever kind which have been placed thereon by the lessee.

Therefore, it is my opinion that, under the provisions of Chapter 167 of the Laws of 1941, the Montana Fish and Game Commission—in the name of the State and with the approval of the Governor—has the power to lease either federal or private lands upon which to develop wild life restoration projects created and established under the provisions of the Pittman-Robertson Bill of the Congress of the United States.

Sincerely yours,

JOHN W. BONNER
Attorney General