

## **Opinion No. 19-2415**

October 27, 1919

**BY:** N. D. MEYER, Assistant Attorney General

**TO:** Mr. Lawrence A. Tamme, Las Vegas, New Mexico.

Power of State Game Warden to Issue Permits to Kill Elk.

### **OPINION**

Referring to your letter of October 24, in which you refer to Mr. Gable having granted permission to A. A. Sena and others to kill elk, we beg to advise that we have looked into the proposition and find as follows:

The game warden's office informs us that they investigated the case some time ago and found that Mr. T. C. DeBaca, who used to be game warden, gave to Mr. Sena the elk in question. That these elk have done damage to farmers in the vicinity where they are and the said farmers have claimed damages against the state but that because of the reason that they were privately owned and not owned by the state, the game warden refused to pay any damages. That thereafter Mr. Sena liquidated the damages and asked permission to remove the said elk, which permission was granted. Those are the facts as given to us by the game warden's office.

In regard to the game warden having the right to give a permit to remove or kill the elk, we beg to refer you to Section 9 of Chapter 133 of the Session Laws of 1919, which adds another section to Chapter 47 of the New Mexico Statutes, Annotated, which is designated as Section 84, and reads as follows:

"The State Game and Fish Warden may grant permits to owners or lessees of land and for the capture or destruction on their lands of any protected game doing damage to their cultivated crops or property; Provided, that on said permit or permits so issued aforesaid, the State Game and Fish Warden shall fix the numerical limit of any protected game so to be captured or destroyed and shall also therein fix the time limit within which any such protected game shall be so captured."

This section appears to give the game warden power to issue permits to kill elk or any other protected animal in such cases as specified in the section.