

Opinion No. 15-1609

August 5, 1915

BY: H. S. CLANCY, Assistant Attorney General

TO: Hon. Trinidad C. de Baca, Game and Fish Warden, Santa Fe, New Mexico.

Elk confined in a fenced pasture.

OPINION

{*182} I am in receipt of your letter of the 31st ultimo in which you state that a bunch of elk, belonging to the state, are now under the care of Mr. George Webster, Jr., of Cimarron, and that he informs you that it will be impossible for him to continue taking care of these animals unless you will allow him one-half of the increase in the herd, and also contribute \$ 500.00 of the state's money for the purpose of building an inclosure within which to confine the elk. You ask for the opinion of this office as to whether you can legally enter into such an agreement with Mr. Webster.

This office is of opinion that you would not be authorized to enter into such an agreement in regard to the increase, nor to expend \$ 500.00, or any other sum, for the purpose of building an inclosure for the elk in question. I understand that Mr. Webster has had these elk in his possession for a considerable length of time, and that they have been confined by him within an inclosure. Such a proceeding as this does not appear to me as carrying into effect the idea of importing elk into New Mexico, the object of which, as I understand it, having been to turn these animals loose in the mountains so that they might increase in a wild state. That they should be held in confinement by an individual, seems to me to be not only contrary to law, but to defeat the object for which the animals were brought here; that object being that when there should be sufficient number at large, there might be an open season declared so far as they were concerned, for the benefit of the sportsmen of the state. In any event, this office does not believe that you are justified in entering into the proposed agreement with Mr. Webster.