



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

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OPINION 14-0218

Scott H. Nettles, Esq.
Boyer, Hebert, Abels & Angelle
1280 Del Este Avenue
Denham Springs, LA 70726

90-B-1	PUBLIC LANDS
90-B-2	PUBLIC LANDS
90-B-3	PUBLIC LANDS
90-B-3(a)	PUBLIC LANDS
97	SCHOOLS & SCHOOL DISTRICTS
112	STATE

La. R.S. 17:87.8; 41:131 *et seq.*; 41:711 *et seq.*; 41:1211 *et seq.*; 41:1212

Pursuant to La. R.S. 41:1212(C), only agricultural leases of sixteenth section lands in St. Martin Parish may be leased without the need for public bid. Hunting leases for sixteenth section land must follow the public bid process mandated by La. R.S. 17:87.8. All other leases of such lands must follow the public bid process in La. R.S. 41:1211 *et seq.* Further, all school boards seeking to lease sixteenth section lands for any purposes other than hunting must first follow the procedures set forth in La. R.S. 41:711 *et seq.*

Dear Mr. Nettles:

On behalf of the St. Martin Parish School Board ("School Board"), you have asked us to opine on questions related to a hunting lease of sixteenth section property managed by the School Board. The background that you provide for your questions relates a history of an agricultural lease by the School Board of the subject sixteenth section property to a private citizen in 1994. This lease was renewed pursuant to La. R.S. 41:1212(A)(2) in 1999, with said lease to expire on September 28, 2014. The lease renewal in 1999 contained, in addition to the agricultural lease, a provision that authorized the lessee to exercise exclusive hunting rights on the leased property. As you relate the facts of this situation, that additional hunting lease was granted without public bid. According to your request, the School Board is now concerned about the propriety of granting such a hunting lease without having put the lease out for public bid. In this regard, you have specifically presented the following two questions for our consideration:

1. Does the term "other leases" in La. R.S. 41:1212(C) specifically mean leases for other purposes on land that is being leased for agricultural purposes in St. Martin Parish, or does it generally refer to other leases provided for in other parts of the statute?
2. Is the St. Martin Parish School Board required to advertise for public bidding for leases of hunting privileges on lands that are already leased for agricultural purposes?

As an initial matter, we note that your request for an opinion is dated November 11, 2014, approximately a month and a half after the lapse of the 1999 lease extension. With this in mind, we presume that the School Board has been asked to renew the agricultural lease for a further term on the same 1999 conditions and now seeks guidance regarding the appropriateness of such a further renewal. Following a general

discussion of the unique nature of sixteenth section lands, we respond to each of your questions, in turn, below.

In your request letter, you mention that the subject sixteenth section is “owned” by the School Board. Although the School Board is the statutory manager of the subject sixteenth section and is authorized to receive any benefits deriving from that property, it is not the owner of the property.¹ The State of Louisiana is the title owner of all sixteenth section lands designated as school trust lands. *Id.* Thus, although the school boards have management authority over these lands and are often the beneficiaries of rentals, royalties, and other monies generated from such lands, the State is, in fact, the owner. Because sixteenth sections are a unique type of property—federal trust lands owned by the State for the benefit of schools—they are also subject to an often unique series of laws. As we have noted in past opinions, these laws sometimes operate contrary to standard Louisiana public land law.² The special nature of these lands is also confirmed by the provisions of La. R.S. 41:891 *et seq.*, governing the disposal of unused school lands, which specifically exempts sixteenth section lands from its coverage. Thus, the relevant law for the lease of sixteenth section lands (and, therefore, the subject property) is found La. R.S. 41:711 *et seq.* In addition, for the purposes of your request, there is an additionally-relevant law: La. R.S. 17:87.8.

1. Does the term “other leases” in La. R.S. 41:1212(C) specifically mean leases for other purposes on land that is being leased for agricultural purposes in St. Martin Parish, or does it generally refer to other leases provided for in other parts of the statute?

In your request letter, you note that the School Board in this instance issued a lease in 1994 following the provisions of La. R.S. 41:1212. Although this law contains an exemption for St. Martin Parish School Board leases when renewing sixteenth section leases,³ it does not set forth the baseline law for the original lease of that property. As noted above, the law that controls the leasing of sixteenth section property is found at La. R.S. 41:711 *et seq.* There are significant differences between this law and the law related to non-sixteenth section land leases in Louisiana.

The lease of sixteenth section lands is permitted, but it must meet the statutory requirements of La. R.S. 41:711 *et seq.* Under this law, a school board may only lease these lands if a majority of the registered legal voters are against the sale of the land.⁴ For the purposes of this opinion, and because we have been presented with no information to the contrary, we assume that the School Board followed these proper leasing procedures for sixteenth section land in 1994 when the subject property was originally let.

¹ La. Atty. Gen. Op. No. 05-0068.

² See *e.g.*, La. Atty. Gen. Op. No. 06-0214 (noting a unique variation on land exchanges for sixteenth section property).

³ La. R.S. 41:1212(C).

⁴ See La. R.S. 41:716; La. Atty. Gen. Op. No. 06-0214.

Thus, in order to reach your first question, we move directly to the specific provisions for St. Martin Parish School Board agricultural leases in La. R.S. 41:1212(C). That law states:

Whenever the school board in St. Martin Parish leases any sixteenth section lands of which it has title, custody or possession on a share basis for the agricultural purpose of planting, cultivating, growing and harvesting any agricultural crop, it shall not be required to advertise for and receive bids as hereinafter provided for in this part for other leases.⁵

It is our opinion that the "as hereinafter provided for in this part for other leases" is merely a recognition that the Legislature has seen fit to carve out the requirement for compliance with the public bid process in scenarios in which the School Board desires to lease its lands for agricultural purposes. The fact that the School Board has leased for agricultural purposes without bid certain sixteenth section land does not exempt it, under the provisions of La. R.S. 41:1212(C), from having to submit to the public bid process for any lease that is not agricultural in nature. Thus, in answer to your first question, the "other leases" language in La. R.S. 41:1212(C) simply refers to the reality that, though agricultural leases of St. Martin Parish School Board sixteenth section property are exempted from public bid law requirements, there are no other such exemptions for non-agricultural leases in this law.

2. Is the St. Martin Parish School Board required to advertise for public bidding for leases of hunting privileges on lands that are already leased for agricultural purposes?

In several portions of the Louisiana Revised Statutes, hunting leases and agricultural leases are listed or considered separately.⁶ From this distinction, as well as the clear exemption of only agricultural leases in La. R.S. 41:1212(C) and the specific hunting lease law in La. R.S. 17:87.8, it is clear that these types of leases are not considered to be the same under the law. Thus, it is our opinion that hunting leases of School Board lands cannot be let pursuant to the exempt agricultural leasing requirements of La. R.S. 41:1212(C). Instead, La. R.S. 17:87.8 specifically provides for a unique public bid process for the leasing of sixteenth section lands for hunting purposes that is akin to, but not exactly the same as the general public bid laws.⁷ Because of this specific provision related to hunting leases for sixteenth section lands, it is our opinion that it is of no moment that these lands are already under lease for agricultural purposes when a hunting lease is sought. The public bid process for such hunting leases as set forth in La. R.S. 17:87.8 must be followed.

⁵ La. R.S. 41:1212(C).

⁶ See La. R.S. 41:1212(A) (importantly, though this is the same statute as the one that authorizes the School Board to grant agricultural leases without the need for public bid (in subpart (C)), the statute also specifically distinguishes between hunting and agricultural leases in subpart (A) with respect to the Livingston, Tangipahoa, St. Helena, St. Tammany, and Washington Parish School Boards).

⁷ La. R.S. 41:131 *et seq.*

We note, from your opinion request, that the subject lands appear to have been let for hunting purposes in the past (apparently from 1999-2014). Assuming that this lease was entered into without compliance with La. R.S. 17:87.8, such a lease would have been invalid. However, as you have also noted in your request, that lease has terminated by its own terms. There is no indication that the School Board received anything less than it was due as the lessor of this property. Pursuant to the jurisprudence, having received such benefit and the contract having terminated by its own terms, there is no retroactive means or purpose to invalidate the lease.⁸ Thus, there is no need to take any action with regard to that now-ended lease. Should the School Board seek to lease the subject property now for hunting purposes, it must comply with La. R.S. 17:87.8 in order to do so.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance please do not hesitate to contact our office.

Sincerely yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: _____


RYAN M. SEIDEMANN
Assistant Attorney General

JDC/RMS/tp

⁸ *State ex rel. Shell Oil Co. v. Register of State Land Office*, 192 So. 519 (La. 1939).