

CONSERVATION COMMISSION - Authorized to spend purchase money
on Big Oak Tree State Park.

June 21, 1938.

Honorable I. T. Bode, Director
State Park Board
Jefferson City, Missouri



Dear Sir :

We acknowledge your letter of June 16th, which reads as follows:

"Reference is made to the purchase of Big Oak Tree State Park in Mississippi County.

"The question has arisen concerning the authority of the Conservation Commission to disburse money for land for the benefit of the State Park Board. I am asked to obtain an opinion on this precise condition.

"I have a letter of April 7 from Mr. Sawyers to Mr. Bode, in which it is stated that the Conservation Commission has the power to pay for a part of this land, however, I am asked to obtain this additional opinion.

"There appears to be no doubt that the Conservation Commission has authority to pay for land for the benefit of the Commission, but a doubt concerning the authority of the Conservation Commission to pay for land for the benefit of the State Park Board."

I am informed that this land, identified as Big Oak Tree State Park, was contracted for an \$8,000.00

consideration, one-third to be paid by Mr. Babler, one-third to be paid out of the Missouri State Park Board appropriation, and one-third to be paid by the Missouri Conservation Commission. The 1937 Laws, page 169, shows \$10,350.00 appropriated for the purchase of lands for park purposes, said money appropriated to the State Park Board.

Missouri Laws 1937, page 520, creates the State Park Board and provides in part:

"The State Park Board shall have the power to acquire by purchase, eminent domain or otherwise, all property necessary, useful or convenient for the use of said Park Board or the exercise of its powers hereunder necessary for the recreation of the people of the State of Missouri. ** "

Missouri Laws 1937, page 115, shows that \$750,000 was appropriated to the Conservation Commission to carry out the provisions of constitutional amendment #4.

Missouri Laws 1937, page 614, sets out the constitutional amendment #4 creating the Conservation Commission and reads in part:

"The control, management, restoration, conservation and regulation of the bird, fish, game, forestry, and all wild life resources of the State, including hatcheries, sanctuaries, refuges, reservations and all other property now owned or used for said purposes or hereafter acquired for said purposes and the acquisition and establishment of the same, and the administration of the laws now or hereafter pertaining thereto, shall be vested in a commission to be known as the Conservation Commission, ****

"Said Commission shall have the power to acquire by purchase, gift, eminent domain, or otherwise, all property necessary, useful or convenient for the use of the Commission, or the exercise of any of its powers hereunder, and in the event the right of eminent domain is exercised, it shall be exercised in the same manner as now or hereafter provided for the exercise of eminent domain by the State Highway Commission. ****

"The fees, monies, or funds arising from the operation and transactions of said Commission and from the application and the administration of the laws and regulations pertaining to the bird, fish, game, forestry and wild life resources of the State and from the sale of property used for said purposes, shall be expended and used by said Commission for the control, management, restoration, conservation and regulation of the bird, fish, game, forestry and wild life resources of the State, including the purchase or other acquisition of property for said purposes, and for the administration of the laws pertaining thereto and for no other purpose."

CONCLUSION

The Big Oak Tree State Park deed, as tendered, will place the title in the "State of Missouri, for the use and benefit of the State Park Board."

In our opinion, this deed complies with the appropriation and the law, supra, as far as the State Park Board is concerned. The State Park Board is authorized to

purchase said property, after a finding of record on their minutes that said property is necessary, useful or convenient for the use of the State Park Board.

Not one word of the constitutional amendment restrains the Conservation Commission to spend money only on the purchase of land in its own name. The appropriation act, supra, appropriates money to the Conservation Commission to carry out provisions of the constitutional amendment. The constitutional amendment gives the Conservation Commission control over all State property in this State which is acquired for the purpose of conservation of fish, game, forestry and wild life resources of the State.

The Big Oak Tree State Park in Mississippi County, with title in the "State of Missouri, for the use and benefit of the State Park Board," is acquired for the purpose of conservation of fish, game, forestry and wild life resources of the State. That being true, we are of the opinion that the Conservation Commission is authorized to acquire by purchase or gift said property after a finding of record on their minutes that said acquisition is necessary, useful or convenient for the use of the Commission.

In an official opinion from this department dated July 9, 1937 to Honorable Wilbur C. Buford, this department held: "in state parks containing both wild life resources and recreational areas the wild life resources contained in said parks, including game, fish, birds, hatcheries, sanctuaries, refuges and reservations, are under the control and management of the Conservation Commission, and the recreational areas contained in said parks, including cabins, picnic grounds, swimming pools and beaches, concessions, etc. are under the control and management of the State Park Board."

In our opinion, this tendered deed complies with the appropriation and Constitution, supra, so far as the

Honorable I. T. Bode

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Conservation Commission is concerned, and said Conservation Commission has full constitutional authority to spend its funds pursuant to the deed as tendered.

Respectfully submitted

WM. ORR SAWYERS
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General

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