

PARKS;

STATE PARK BOARD:

State Park Board unauthorized to dispose of present transmission system in Cuivre River State Park.

May 6, 1947

FILED

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5-14

State Park Board  
Jefferson City, Missouri

Attention: Mr. Abner Gwinn  
Chief of Parks

Gentlemen:

We are in receipt of your request for an opinion as to the validity of a transfer of the present transmission system located in Cuivre River State Park to the Missouri Edison Company as part consideration for the State Park Board entering into an agreement with said electric company to furnish electric service at said park.

An examination of the bill of sale transferring personal property at Cuivre River State Park to the State of Missouri discloses that no part of the transmission line was included in said bill of sale. However, in all probability, such transmission line constitutes real property and is a part of the real estate. (See Vol. 50 C.J., page 750, Section 21.)

The quit claim deed conveying Cuivre River Recreational Demonstration Area to the State of Missouri, after describing the various tracts contained in said area, contains in part the following:

"\* \* \* together with the equipment situated on the lands hereby conveyed and more particularly set forth and described in a bill of sale of even date, to be filed for recordation in Lincoln County, Missouri. \* \* \* Provided always, that this deed is made upon the express condition that the State of Missouri shall use the said property exclusively for public park, recreational, and conservation purposes, and a further express condition that the United States of America assumes no obligation for the maintenance or operation of said property after the acceptance of this deed. \* \* \* Provided further, that the title and right to possession of said lands, together

with the improvements and equipment thereon, shall revert to the United States of America upon a finding by the Secretary of the Interior, after notice to the State of Missouri and after an opportunity for a hearing, that the said state has not complied with the aforesaid conditions during a period of more than three years, which finding shall be final and conclusive."

In view of the foregoing quotation from the quit claim deed conveying said Recreational Demonstration Area, we seriously doubt if the State Park Board would be fully complying with the provisions of said deed in transferring said transmission line to the Missouri Edison Company. Technically speaking, such a transfer would not be considered as using said property exclusively for public park, recreational and conservation purposes.

It might be possible that the State Park Board could obtain a waiver from the Secretary of the Interior and the President of the United States, who, under the act authorizing the transfer of said recreational area, is required to approve said transfer, and thereby the state would be fully authorized to dispose of said transmission line as contemplated.

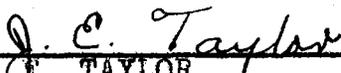
#### CONCLUSION

Therefore, it is the opinion of this department that in the absence of a waiver from the Secretary of the Interior and President of the United States of America granting the State Park Board authority to dispose of the present transmission line now located in Cuiivre River Recreational Demonstration Area, said Park Board is unauthorized to enter into an agreement with the Missouri Edison Company and, under said agreement, transfer the present transmission line to said company.

Respectfully submitted,

AUBREY R. HAMMETT, Jr.  
Assistant Attorney General

APPROVED:

  
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J. C. TAYLOR  
Attorney General

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