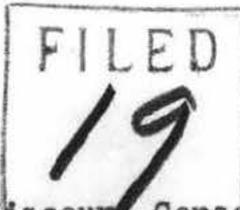


CONSERVATION COMMISSION)
FISH AND GAME)

Validity of license by the Department
of the Army for wildlife management
purposes at Bull Shoals Reservoir Area.



February 13, 1952

2-13-52

Missouri Conservation Commission
Jefferson City, Missouri

Attention: Mr. Paul Q. Tulenko
Chief, Game Section

Gentlemen:

This will acknowledge receipt of your request to examine the attached license by the Department of the Army for wildlife management purposes at Bull Shoals Reservoir Area in the State of Missouri and render an opinion as to the validity of said license and also if it makes you legally liable in any manner.

Under Section 4 of the Flood Control Act, 1946, 60 Stat. 641, 642, the chief engineers under the supervision of the Secretary of War were authorized to construct, maintain and operate public parks and recreational facilities in reservoir areas under the control of the War Department and to permit construction, maintenance and operation of such facilities. Furthermore, the Secretary of War under said act was specifically authorized to grant leases of lands, structures and facilities thereon, for such periods and terms that he deemed reasonable. It further provided that preference shall be given to the Federal, State and local governmental agencies. However, all such leases were granted under such rules and regulations as the Secretary of War deemed necessary. Subsequent thereto, the Act was amended which merely changed the title of the Secretary of War to the Secretary of the Army. (See 460d, Title 16, U.S.C.A.)

Under the foregoing acts of Congress, the Secretary of the Army now has supervision of the lands, structures and facilities in the State of Missouri. We find nothing in the aforesaid act and amendments thereto which in any manner will prevent the issuance of such a license or permit and the Commission entering into such an agreement. Certainly the Secretary of the Army has specific authority to execute such an instrument, subject to all rules and regulations promulgated by him for any period and on whatever terms he deems reasonable.

Missouri Conservation Commission

You mention the fact that you have made certain corrections shown in red pencil on the attached form of license, and we believe that these corrections are well taken. However, the instrument as originally drawn is valid and likewise it would be valid if the corrections indicated or included as a part of said instrument.

You further inquire if you decide to execute this instrument if it will in any manner make you liable. Under the instrument, the only liability the Commission would incur would be damages to property on said area and for the violation of any rules and regulations promulgated by the Secretary of the Army covering said area.

CONCLUSION

Therefore, it is the opinion of this department that the attached license for wildlife management purposes at Bull Shoals Reservoir Area in the State of Missouri is in proper legal form and valid and that the only liability that the Commission may incur under such a license is for damages to property on said area and for violation of rules and regulations promulgated by the Secretary of the Army covering said area.

Respectfully submitted,

AUBREY R. HAMMETT, JR.
Assistant Attorney General

APPROVED:



J. E. TAYLOR
Attorney General

ARH:VLM