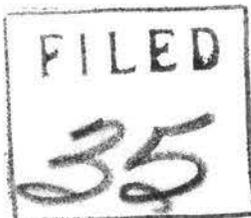


STATE PARK BOARD:
STATE LANDS:

State Park Board may convey land for
right-of-way purposes for the use of
State Highway Commission.



March 26, 1953

Honorable Abner Gwinn
Chief of Parks
State Park Board
1206 Jefferson Building
Jefferson City, Missouri

Dear Sir:

Reference is made to your recent request for an official
opinion of this office which request reads in part as follows:

"Attached to this letter is the original
and copy of the deed describing right-of-
way which the State Highway Department has
requested. This highway skirts near the
edge of Mark Twain State Park, and the
right-of-way requested by the Highway
Department will not be, in any way, in-
jurious to the state park.

"The question which was raised at the
Park Board meeting was whether or not the
Board should take such action, and I am,
therefore, referring this matter to you
for your opinion."

From a subsequent conversation with you we understand the
question to be whether or not the State Park Board may make such
a conveyance.

The State Park Board composed of the governor, attorney
general and director of conservation was created by an act now
found as Section 253.010, RSMo 1949. Section 253.020, gives to

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said board the power to obtain property for park purposes, promulgate rules and regulations relative to state parks, etc., and provides as follows:

"1. 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. In the event the right of eminent domain be 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.

"2. Said park board shall have the power to make and promulgate all rules and regulations as it may deem necessary for the proper maintenance, improvement, acquisition and preservation of all the state parks.

"3. Said park board is hereby authorized to employ such persons or assistants as may be necessary and may fix the compensation of persons thus employed within the amount appropriated therefor by the legislature. All vouchers for the payment of bills or for compensation shall be drawn and approved by the director of state parks and when presented to the state auditor shall be paid out of the funds appropriated for such purposes."

In the case of State v. Anderson, 242 S.W. (2d) 66, 1. c. 70, the court said:

"The State Park Board is the state agency created and authorized to manage and control the state parks. * * *"

Section 227.130, RSMo 1949, provides that a board holding title to or having an interest in real estate, or having administrative jurisdiction and control thereof, may grant and convey for the use of the State Highway Commission, such right-of-ways or

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easements for the construction of the state highways and roads and reads as follows:

"The state of Missouri, and all departments, boards, commissions, bureaus institutions, public agencies and political subdivisions thereof, holding title to or having an interest in real estate, or having administrative jurisdiction and control of real estate or other property, are hereby authorized and empowered to give, grant and convey to or for the use of the state highway commission of Missouri such right of ways or other easements and appurtenances in said real estate or property as may be necessary for the proper and economical construction or maintenance of state highways."

Under the above noted section we believe that it is clear that the State Park Board, having charge and control of state park lands, may convey for the use of the State Highway Commission, lands for the construction and maintenance of state highways.

CONCLUSION

Therefore it is the opinion of this office that the State Park Board may convey for the use of the Highway Commission of Missouri, right-of-ways or other easements and appurtenances in real estate as may be necessary for the proper and economical construction or maintenance of state highways.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. D. D. Guffey.

Very truly yours,

JOHN M. DALTON
Attorney General

DDG:hr