

May 12, 1971

Answer by letter-Wood

OPINION LETTER NO. 10



Mr. Joseph Jaeger, Jr.  
Director of Parks  
Missouri State Park Board  
P. O. Box 176  
Jefferson City, Missouri 65101

Honorable Hardin C. Cox  
State Representative  
District No. 78  
State Capitol Building  
Jefferson City, Missouri 65101

Gentlemen:

Mr. Jaeger has inquired if the Missouri State Park Board may legally loan a dredge and related equipment, procured by the Board with appropriated funds, to a political subdivision or non-profit organization for dredging ox-bow lakes in Missouri. The particular appropriation used by the Board to obtain the equipment was as follows:

"To the State Park Board

"For the purpose of removing mud from the  
lake at Big Lake State Park, Holt County,  
Missouri.

"From General Revenue. . . . \$110,000.00"  
(Section 75, House Bill No. 15, 73rd General  
Assembly, L. 1965, p. 75; for the period end-  
ing June 30, 1966)

The Park Board is generally authorized to hold "lands, sites, objects or facilities" which are purchased, condemned, leased or donated for state park purposes, and to ". . . improve, maintain,

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operate and regulate . . . such lands, sites, objects or facilities . . . [to] promote the park program . . ." (Section 253.040, RSMo).

In our Opinion No. 420 to Mr. Jaeger on October 28, 1969 (copy enclosed), we stated the view that this statute only permits the Park Board to expend public monies on lands owned or leased by the State of Missouri for park purposes. Assuming that the State of Missouri does have title to Big Lake, we believe use of the dredge thereon is proper. However, for the same reasons expressed in Opinion No. 420, we believe that use of the dredge on a lake not owned by the State of Missouri would be improper.

Representative Cox has raised the following separate but related questions:

In view of the specific appropriation in 1965 for dredging Big Lake, may the Park Board without additional legislation move the dredge procured through this appropriation.

If the legislature each year since 1965 makes "line item" appropriations to the Park Board for the specific purpose of dredging the lake in Big Lake State Park, and if in 1970 the legislature makes a blanket reduction in the Park Board's total budget, does the Park Board have the right to entirely discontinue the dredging operation at Big Lake State Park, or must the Park Board only reduce the dredging operation proportionate to the overall budget reduction?

We interpret Representative Cox's first question to ask if the dredge at Big Lake State Park can be moved to a different state park in the discretion of the Park Board for the purpose of dredging another state owned lake therein. Under the rule that an appropriation measure may not amend a substantive statute (Article III, Section 23, Constitution of Missouri, 1945; State ex rel. Gaines v. Canada, 113 S.W.2d 783, 790 (Mo. banc 1938)), we do not believe that Section 75, House Bill No. 15, *supra*, can either broaden or restrict the general powers conferred upon the Missouri State Board by Section 253.040, RSMo, and we are accordingly of the opinion that the Park Board may utilize property procured through the appropriation within the general purposes expressed in Section 253.040, RSMo. Therefore, we believe that the Park Board may move the dredge and related equipment to a different state park for use on an oxbow lake owned or leased by the State of Missouri and held by the Board for state park purposes.

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With regard to the second question of Representative Cox, our examination of the appropriation laws from 1965 to the present reveals that Section 75, House Bill No. 15, 73rd General Assembly (L. 1965, p. 75) is the only specific appropriation to the Park Board for dredging at Big Lake State Park. In view of this fact, it appears that the question is moot.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 420  
10-28-69, Jaeger