



OFFICES OF THE

ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

March 13, 1973

OPINION LETTER NO. 28

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

Dear Mr. Jaeger:

You have requested my legal opinion on the following questions:

"Under Article III, Section 38A of the Missouri Constitution is the Missouri State Park Board required to exact a charge from a private corporation taking sight seeing tours across portions of public land under the control of the State Park Board?

"Assuming the Park Board must exact such a charge, does the activity of the private corporation constitute the construction, establishment, or operation of public services, privileges, conveniences, or facilities on land under the control of the State Park Board within the meaning of Section 253.080?"

We are advised that Ozark Scenic Tours, Inc. has received a Certificate of Convenience and Necessity from the Missouri Public Service Commission to operate as a passenger carrying motor carrier, using amphibious vehicles only, transporting sight-seeing parties on scheduled regular route tours originating and terminating in Branson, Missouri. The route approved by the Public Service Commission includes use of designated state highways, Table Rock Lake, and egress from the lake at the State Park Launching Ramp south of Table Rock Dam. The concrete boat ramp at Table Rock State Park

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is located approximately 1,000 feet south of State Highway 165, with which it is connected by a park road. The Park Board does not charge the general public for the use of the ramp and the road. It is the use of this ramp and park road by Ozark Scenic Tours, Inc. as a route connection to the state highway that gives rise to your questions.

Section 253.080(1), RSMo, provides in part:

"The park board may construct, establish and operate suitable public services, privileges, conveniences and facilities on any land, site or object under its jurisdiction and control, and may charge and collect reasonable fees for the use of the same. . . ."

This statute would not in our opinion authorize the State Park Board to impose a fee solely upon Ozark Scenic Tours, Inc. for the corporation's use of the ramp and road at Table Rock State Park in connection with their amphibious sight-seeing tours. We believe that this statutory provision refers to something other than the construction of public roads and facilities that are open without charge to all citizens who wish to use them. It seems to us that the building of a road or facility which is open to the public generally without charge would also be required to be available to a scenic tour corporation without charge. It is our view that the provisions of Section 253.080(1) are applicable to facilities for which there is ordinarily a charge such as cabins, food, swimming, and other facilities for which a charge is made whether it be for corporate use or for use by private individuals.

Yours very truly,



JOHN C. DANFORTH
Attorney General