

**Opinion No. 48-5134**

March 5, 1948

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. Elliott S. Barker, State Game Warden, Santa Fe, New Mexico.

{\*135} We are in receipt of your letter of February 20th in which you ask whether the Game Commission would have authority to prohibit the carrying of firearms on Elephant Butte Lake, except during migratory waterfowl hunting season, without making the lake a game refuge.

The purpose of such regulation would not be so much to protect game birds as to protect the public from indiscriminate use of firearms on or near the lake.

I have examined the statutes with care and find no provision by which the Game Commission would be authorized to make such a regulation.

Although it might be highly desirable, it is my opinion that the Game Commission does not have the authority to prohibit the carrying of firearms on places other than game refuges.

I would suggest that you take the matter up with the Reclamation Service and see if they will not promulgate such a regulation.

By ROBERT W. WARD,

Asst. Atty. General