

## Opinion No. 59-145

September 18, 1959

**BY:** HILTON A. DICKSON, JR., Attorney General

**TO:** Mr. Joe M. Clark Superintendent State Park Commission P. O. Box 958 Santa Fe, New Mexico

{\*221} This is in response to your recent letter asking whether the State Park Commission has the authority to convey a parcel of land now included within Kit Carson State Park to the Town of Taos for construction of a new town hall.

It is the opinion of this office that the State Park Commission does not at the present time have the authority to convey any portion of Kit Carson State Park to the Town of Taos for such purpose.

The establishment of Kit Carson Memorial State Park was authorized by Chapter 127, Laws of 1949, which Act authorized the appropriation of \$ 5,000 for the purchase and improvement of a cemetery located near Taos in Taos County, where Kit Carson is buried, such land so purchased to be known as "Kit Carson Memorial State Park". The Act further specified that the land was to be used for state park purposes. Chapter 213, Laws of 1951, appropriated the sum of \$ 40,000 for the purchase of certain lands within the private claims within the Taos Pueblo Grant, such lands to be used for state park purposes as a part of Kit Carson Memorial State Park. You state that the lands now included in the park were purchased with these funds. Therefore, it can readily be seen that the lands included within the park were purchased by funds appropriated by the Legislature to be used for state park purposes.

We have carefully reviewed the New Mexico statutes relating to the authorities of the State Park Commission, being Sections 4-9-1 through 4-9-21, N.M.S.A., 1953 Compilation, including the latest supplement. Nowhere in these sections do we find any authority for the Commission to convey property generally. The only sections allowing a transfer of lands under the jurisdiction of the Commission are Sections 4-9-14 and 4-9-15, supra. These sections authorize the transfer, in accordance with the provisions and limitations spelled out therein, of lands under the Commission's jurisdiction to educational institutions. The proposed conveyance in the instant case does not fall within the authorization contained in these sections. Therefore, there exists, at the present time, no authority in the State Park Commission to convey a portion of Kit Carson Memorial State Park to the Town of Taos for the purpose of constructing a new town hall.

However, we see no objection to the Commission obtaining legislation authorizing such a conveyance. We have reviewed abstracts of title containing the several deeds by which the Commission obtained the property and nowhere in these deeds are there contained any restrictions regarding the future use of the property or language whereby

the lands so conveyed would revert to former owners should the lands be used for purposes other than park or recreational purposes. Therefore, should the legislature in the future authorize the Commission to convey a portion of the Park to the Town of Taos, such a conveyance could legally be consummated without the property reverting to prior owners.

Philip R. Ashby

Assistant Attorney General