

Opinion No. 65-209

October 21, 1965

BY: OPINION OF BOSTON E. WITT, Attorney General Roy G. Hill, Assistant Attorney General

TO: John A. Elliott, Director, State Park and Recreation Commission, 141 E. De Vargas, Santa Fe, New Mexico

QUESTION

QUESTION

Does the New Mexico State Park and Recreation Commission have the legal authority to participate financially with the Federal Aviation Agency in the building of airstrips or airports?

CONCLUSION

Yes.

OPINION

{*341} ANALYSIS

The State Park and Recreation Commission is charged with the duty of developing, maintaining, managing and supervising all state parks and recreation areas. Section 4-9-1, N.M.S.A., 1953 Compilation. The only statute we have found that guides the commission in the control of state parks and recreation areas is Section 4-9-7, N.M.S.A., 1953 Compilation. This Section decrees that the rules and regulations established by the Commission should be toward ". . . the end that each state park may be made as nearly self-supporting as possible." We cannot say that construction of an airstrip or airport within a state park or recreational area would violate the purpose of the statutes covering the State Park and Recreation Commission. In our opinion the need for an airstrip or airport at a given facility would be a matter for the determination of {*342} the Commission.

Section 4-9-17, N.M.S.A., 1953 Compilation (P.S.) provides as follows:

* * *

"B. The state park and recreation commission shall be authorized to enter into agreements and contracts and to cooperate with the federal government in obtaining funds or other assistance for the acquisition, erection, maintenance and operation of state parks and recreation areas."

It must therefore follow that the State Park and Recreation Commission has legal authority to participate financially with the Federal Aviation Agency in the building of airstrips or airports within the confines of a state park or recreational area.

Because of some prior matters that have passed through this office regarding the Federal Aviation Agency we feel we must point out the manner in which the State Park and Recreation Commission may take title to real property, Section 4-9-12, N.M.S.A., 1953 Compilation (P.S.) provides:

"Title to park and recreational lands -- Acceptance. -- Title to or right in property to be used for state park or state recreational purposes may be taken in the name of the "State of New Mexico" or in the name of the "Governor of the State of New Mexico and the people thereof." But no such property or rights therein shall be acquired by the state of New Mexico for state park or state recreational purposes until the same shall have been duly accepted by resolution of the state park and recreation commission or by act of the appropriate name designated for such park or state recreational area."

The Commission also has the right to authorize the Commissioner of Public Lands to quitclaim to any state educational institution, or other state agency, department or public body, having authority to hold and to use therefor any lands acquired for state park or recreational purposes which are in excess of the reasonable needs of the commission for public parks and recreational purposes. Section 4-9-14, N.M.S.A., 1953 Compilation (P.S.).