

Conservation Commission: Proposed form of easement for flood rights is in proper legal form and, when duly executed, will protect the Conservation Commission from claims for all damages resulting from the construction and maintenance of a dam on Big Lake in Holt County, Mo.

Damages:



September 19, 1953

Mr. I. T. Bode, Director  
Missouri Conservation Commission  
Monroe Building  
Jefferson City, Missouri

Dear Mr. Bode:

This will acknowledge receipt of your recent request to examine the enclosed form denoted "Easement for Flood Rights" and render an opinion as to whether the Conservation Commission is protected thereunder against any claims for damages arising from the construction and maintenance of a dam at Big Lake, Holt County, Missouri, which will, in effect, tend to raise the water level of said lake approximately two feet and may possibly flood some of the land described in said proposed easement.

The owners of said land may waive any and all rights to any damages that may accrue to them by reason of said construction. See *Lucas Hunt Village Co. v. Klein*, 358 Mo. 1054, 218 S. W. (2d) 595, 599 and *Sartin v. Hudson*, (Texas) 143 S. W. (2d) 817, 1.c. 823. We believe that when the owners of said land and the commission duly execute this agreement, that said owners waive any claims to damages caused by the construction of said dam.

#### CONCLUSION

Therefore, it is the opinion of this department that this proposed form of easement for flood rights is in proper legal form and, when duly executed, will protect the Conservation Commission from claims for all damages resulting from the construction and maintenance of a dam on Big Lake in Holt County, Missouri.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Aubrey R. Hammett, Jr.

Very truly yours,

JOHN M. DALTON  
Attorney General