

Opinion No. 47-5111

December 8, 1947

BY: C. C. McCULLOH, Attorney General

TO: Elliott S. Barker State Game Warden Department of Game and Fish Santa Fe, New Mexico

{*116} This will acknowledge receipt of your letter of December 5, 1947, in which you request the opinion of this office as to whether or not Section 43-412 of the 1941 Compilation applies to all reservoirs, lakes and other bodies of water of the state into which public waters flow, or whether it applies only to lakes licensed under Chapter 43, Laws of 1941. Section 43-412 provides as follows:

"No person owning or controlling **any** reservoir, lake or body of water into which public waters flow and which furnishes the water supply in whole or in part to any stream containing game fish shall divert or lessen such water in flow or supply to an extent detrimental to the fish in such stream, reservoir, lake or body of water."

The wording of the statute is general and does not appear to be restricted in any manner. It is my opinion that the above section applies to all reservoirs, lakes or bodies of water into which public water flows.

By WILLIAM R. FEDERICI,

Asst. Atty. General