

Opinion No. 45-4738

June 28, 1945

BY: C. C. McCULLOH, Attorney General

TO: Frank Young, Chief New Mexico State Police P. O. Box 919 Santa Fe, New Mexico

{*91} We have your letter of June 26, 1945, wherein you request an official opinion of this office concerning the power of state or county police officers to pick up slot machines at Elephant Butte Dam Lodge. You further state that this inquiry is prompted by the uncertainty regarding the status of this land as a government reservation.

{*92} There is considerable confusion as a result of the manner in which the United States may obtain exclusive jurisdiction of land whether certain property, the title to which is in the United States, is within the exclusive jurisdiction of the United States or not. Lands within the exclusive jurisdiction of the United States are considered outside of the particular state in which they are situated insofar as the jurisdiction of such state is concerned. See cases cited in Tenorio v. Tenorio, 44 N.M. 89, 98 Pac. 2d 839.

The Supreme Court of the State of New Mexico considered the identical question which you present in the case of State v. Mimms, 43 N.M. 318, 92 Pac. 2d 993, which case was decided in 1939. Our Supreme Court held that the defendant who was engaged in the liquor business at Elephant Butte Dam under a four-year exclusive contract with the Federal Bureau of Reclamation, which authorized him to sell beer and wine, was also subject to the state liquor licensing laws, and it was further held that the United States had not obtained exclusive jurisdiction over such land.

In view of this specific holding and in further view of the fact that there has been no showing made to this office that the United States Government has obtained exclusive jurisdiction of this particular tract of land subsequent to 1939, it is my opinion that any state or county police official has full power to confiscate and pick up any illegal gambling equipment operated at Elephant Butte Dam Lodge.

By HARRY L. BIGBEE,

Asst. Atty. General