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City of San Luis

August 22, 2002

TO: City and Town Attorneys

FROM: Catherine F. Connolly, Executive Director

SUBJECT: **NEW ATTORNEY GENERAL OPINION ON LAW ENFORCEMENT
JURISDICTION ON STATE TRUST LANDS**

The Attorney General's office issued an opinion this week on law enforcement jurisdiction on state trust lands. A copy is enclosed for your perusal.

As always, call if we can be of assistance.

cc: City/Town Managers or Clerks and Police Chiefs



REC'D AUG 19 2002

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by JANET NAPOLITANO ATTORNEY GENERAL August 14, 2002	No. I02-007 (R02-030) Re: Law Enforcement Jurisdiction on State Trust Lands
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TO: Michael E. Anable
Arizona State Land Commissioner

Question Presented

Do State, county and local law enforcement agencies have the authority and obligation to enforce criminal laws on State Trust land?

Summary Answer

State, county and local law enforcement agencies have the authority and obligation to enforce criminal laws on State Trust land. This authority does not conflict with the Arizona State Land Department's responsibility for the use, management and disposition of State Trust land and the State's obligation to manage State Trust land in the best interest of the trust.

Background

The State of Arizona owns approximately 9.5 million acres of State trust lands that the United States granted to Arizona when it became a State. Arizona-New Mexico Enabling Act, Act

of June 20, 1910, Pub. L. No. 219 (ch. 310) 36 Stat. 557, 568-579 ("the Enabling Act"). The United States granted these lands to Arizona in trust for the benefit of the State's common schools and certain other public institutions. *Kadish v. Ariz. State Land Dep't*, 155 Ariz. 484, 486, 747 P.2d 1183, 1185 (1987). The State must manage these lands in the best interests of the trust so that they produce revenues for the trust beneficiaries. *Princess Plaza Partners v. State*, 187 Ariz. 214, 219 928 P.2d 638, 643 (App. 1995). *See also Deer Valley Unified Sch. Dist. v. Superior Court*, 157 Ariz. 537, 540, 760 P.2d 537, 540 (1988) (Article X of Arizona Constitution establishes independent fiduciary obligation to manage state trust lands in the best interest of the trust).

In 1915, the Arizona Legislature adopted the State Land Code, which established the system for managing State Trust lands and created the State Land Department and the position of State Land Commissioner ("Commissioner"). The State Land Code vests the State Land Department with the authority of control, management, and disposition of all State Trust lands and the natural products thereon, subject only to the Enabling Act and the Constitution. *See Arizona Revised Statutes ("A.R.S.") §§ 37-102 to -1156*. The Commissioner is obligated to manage State Trust lands for the benefit of the trust and its beneficiaries, in part, by maximizing revenue to the trust. *Campana v. Ariz. State Land Dep't*, 176 Ariz. 288, 291 860 P.2d 1341, 1344 (App. 1993).

You have asked whether law enforcement agencies have the authority to enforce criminal laws on State trust lands. According to your opinion request, many law enforcement officers believe they lack such authority.

Analysis

Generally, law enforcement agencies have jurisdiction to enforce laws within certain geographic areas. As this Office has noted in previous Opinions, Department of Public Safety

officers have the primary duty for law enforcement on the public highways, sheriffs have the primary duty for law enforcement in unincorporated areas of the state, and municipal police have the primary duty for law enforcement in cities and towns. *See* Ariz. Att'y Gen. Op. I84-167; Ariz. Att'y Gen. Op. No. 66-4. *See also* A.R.S. §§ 9-240(B)(12) (authority of municipalities to establish police force); 11-441 (duties of county sheriff); 41-1743 (duties of Highway Patrol).

The Legislature has not provided the State Land Department with authority to enforce criminal laws on State Trust land. In contrast, it has specifically granted law enforcement authority to other state and local agencies.¹ The State Land Department also has no inherent authority to enforce criminal laws on State Trust land. "As an agency, the state land department and the commissioner have only those powers granted by the legislature. The department has no common law or inherent powers." *Havasu Heights Ranch and Dev. Corp. v. State Land Dep't*, 158 Ariz. 552, 556, 764 P.2d 37, 41 (App. 1988) (internal citations omitted).

The Legislature has, however, specified that certain activities on State Trust land are crimes. *See e.g.*, A.R.S. §§ 37-246 (sale of natural product on state land); -501 (criminal trespass). In addition, the Legislature has specified that the State criminal code (A.R.S. Title 13) applies throughout the State. *See State v. Verdugo*, 183 Ariz. 135, 137, 901 P.2d 1165, 1167 (App. 1995). Pursuant to A.R.S. § 13-108(A), "This state has jurisdiction over an offense that a person commits by his own conduct or the conduct of another for which such person is legally accountable, if . . . [c]onduct constituting any element of the offense or a result of such conduct occurs within this state."

¹ *See, e.g., Goode v. Alfred*, 171 Ariz. 94, 95-96, 828 P.2d 1235, 1236-37 (App. 1991) (Board of Regents); A.R.S. §§ 11-935(B)(6) (County Parks Commissions); 15-1444(A)(9) (Community College Districts); 17-211(D) (Game and Fish Department); 41-511.09 (Department of Administration); 41-794 (State Parks).

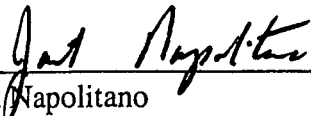
These statutes support the conclusion that law enforcement agencies have the authority to enforce state criminal laws on State Trust land within their jurisdiction. The State has an interest in enforcing criminal laws to protect the safety and welfare of the general public. *State v. Greenlee County Superior Ct.*, 153 Ariz. 119, 122, 735 P.2d 149, 152 (App. 1987). The State also has a mandate to protect the Trust assets. Having not provided the State Land Department with the authority to enforce criminal laws on State Trust land, the Legislature could not have intended that these lands would be exempt from the jurisdiction of other law enforcement agencies. Such an interpretation would lead to the absurd result of creating law enforcement-free zones within the more than nine million acres of State Trust land in Arizona. Statutory interpretations that lead to absurd results which could not have been contemplated by the Legislature are to be avoided. *State v. Altamirano*, 166 Ariz. 432, 437, 803 P.2d 425, 430 (App. 1990).

The conclusion that law enforcement agencies have jurisdiction to enforce criminal laws on State Trust lands does not infringe on responsibilities of the State Land Department and the Commissioner. A.R.S. §§ 37-102 to -1156. Laws that encroach on the authority of the Commissioner and that conflict with the provisions of the Enabling Act and the Constitution related to State Trust lands may not be enforced on State Trust land. *Gladden Farms, Inc. v. State*, 129 Ariz. 516, 518, 633 P.2d 325, 327 (1981). Enforcing criminal laws does not conflict with and, indeed, may complement the Commissioner's authority and responsibilities.²

²Theoretically, there could be law enforcement issues arising on State trust lands that have an impact on the responsibilities and authority of the State Land Department and the Commissioner, but this possibility does not undermine the general principle that law enforcement agencies enforce criminal laws on State trust lands.

Conclusion

State, county and local law enforcement agencies have authority to enforce criminal laws on State Trust land within their jurisdiction.



Janet Napolitano
Attorney General