

M e m o r a n d u m**550.0022**

To: Santa Barbara - Subdistrict
Administrator (HD)

September 10, 1970

From: Tax Counsel (LAA) - Headquarters

Subject: R--- E. M---, R. D--- L. M---
L--- C--- Store
XX --- Street
--- ---, California XXXXX

SR --- XX XXXXXXX

G--- L. T---
C--- L--- Store
C--- L--- Str. Rurl. Sta.
--- ---, California XXXXX

SR - XX XXXXXXX

Based on the information previously submitted, and on our recent telephone conversation, it is my conclusion that entrance to L--- C--- Recreation Area is not subject to an admission charge.

The fee for the use of facilities is charged to persons in automobiles, but not to pedestrians. There is considerable parking outside the area to allow persons easy free access by parking outside and walking into the area.

Fish and Game Code section 5943 requires the owner of a dam to allow the public free access for fishing during the fishing seasons, subject to regulations of the Fish and Game Commission.

Since this lake is stocked by the California Department of Fish and Game, the operator of the recreation area, the V--- R--- M--- Water District, must allow free access to the public for fishing under the regulations of the Commission. The Department of Fish and Game does not consider the charge for vehicles or for use of camping facilities to violate their free access policy, but would consider a charge to all persons to be a violation. Consequently, the vehicle use charge or the camping charge cannot be considered strictly an admission charge.

There is apparently some confusion over the status of L--- C--- caused by my memo of August 28, 1970, to Tom Putnam. That memo was a discussion of possible grounds for justifying the exclusion of L--- C--- from the "admission charge" rule, and was not intended to

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imply that we were changing the ruling made by Phil Dougherty on August 10, 1970. Neither L--- C--- nor L--- C--- has an "admission charge".

There seems to be some interest in our laying down broad guidelines for judging the application of tax in similar areas. We prefer not to do this, but wish to proceed on a "case by case" approach, that is, if you encounter a similar area you should gather all available information and forward it to us for a decision.

LAA:lt

cc: --- --- Dist. – Dist. Admin.
Mr. B. D. Doyle
Mr. R. Nunes
Mr. T. P. Putnam