

OPINION
53-45

June 10, 1953 (OPINION)

GAME AND FISH

RE: Property Rights Along Non-navigable Streams

Yours of June 9, 1953, asking for an opinion upon two specific questions has been received. We will answer them in the order given in your letter.

Answer to No. 2: Where a landowner owns land on both sides of a nonnavigable stream and bordering it, he may lawfully prohibit any person from operating boats of any kind on his property for fishing or for any other purpose. Since he owns both banks of the river he may prohibit anyone from standing on the bank, which is his property, for the purpose of fishing.

We assume that the Pipestem River in Stutsman County is a nonnavigable stream.

Where one owns land on one side of the river, he owns the bed to the thread of the stream, and the above rules hold to his side of the river.

You will find the rules for determining whether a river is navigable or nonnavigable stated in the case of Bissel v. Olson, 26 N.D. 60, 143 N.W. 340. Under these rules, it is doubtful if the court would find more than possibly three navigable rivers in North Dakota, namely, the Missouri River to be nonnavigable.

ELMO T. CHRISTIANSON

Attorney General