

1982 WL 189229 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 31, 1982

\*1 Honorable David S. Taylor  
South Carolina State Senate  
Gressette Senate Office Building  
Suite 613  
Columbia, South Carolina 29201

Dear Senator Taylor:

You have requested an opinion of this office as to whether property owners along Lake Greenwood may prohibit uninvited persons from anchoring and fishing near private piers on the lake.

Lake Greenwood is made up of the impounded waters of the Saluda River. The lakebed is privately owned, presumably by the power company or other utility which constructed the dam; the state of title of the original riverbed is uncertain, but a similar title question between the State and a riparian owner is presently pending before the South Carolina Supreme Court.

Regardless of who owns the original riverbed, however, it is beyond question that there was a public right to navigate the waters of the Saluda in its original state. This right is guaranteed by [Art. XIV, Sec. 4, of the South Carolina Constitution](#), which provides that '[a]ll navigable waters shall forever remain public highways free to the citizens of the State . . . ' [§ 49-1-10 of the South Carolina Code of 1976](#) extends this right of free public navigation to '[a]ll streams which have been rendered or can be rendered capable of being navigated . . . ' Thus there is no doubt that Lake Greenwood may be considered a public navigable waterway.

The public right to navigate, however, does not necessarily entail a right to tie to a privately-owned pier in order to fish. Nor does it include the right to drop anchor for fishing when the owner of the lake bottom objects (this owner, however, may be the power company rather than the owner of the nearby lakefront property). These conclusions are derived from an understanding of the present enforcement practices of the S.C. Wildlife Department as well as from the relatively few legal authorities which exist on the subject.

In conclusion, it is the opinion of this office that:

1. Lake Greenwood is a public navigable waterway and that a public right exists to fish in its waters.
2. There is no public right to tie to private lakefront docks for fishing purposes.
3. There is no public right to anchor for fishing where the owner of the lake bottom objects to such anchoring.

Please let me know if I can be of further assistance.

Sincerely yours,

Kenneth P. Woodington  
Senior Assistant Attorney General

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