

Navigable Streams. Yellowstone River Navigable.

The Yellowstone river is navigable.

March 26th, 1913.

Hon. F. H. Ray,
State Register Land Office,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 19th instant, making inquiry as to whether the Yellowstone River is a navigable stream, and what definition of a "navigable stream" carries with it.

The Yellowstone River is navigable within the meaning of both the state and federal authorities.

Sec. 1326, R. C. 1907, Mont.

Sec. 2476, R. S. U. S.

6 Fed. Stat. Anno. p. 787.

29 Cyc. 288.

It is presumed, however, that said river would not be regarded as navigable through its entire course, but at just what point of the stream it should cease to be regarded as navigable, is under the authorities somewhat a question of fact, and can only be determined when a specific question relating thereto arises. The rights and privileges of the state or the public which arise from the fact of a stream being navigable are defined by the statute under various headings:

Sec. 1326, relating to the public ways.

Sec. 4432, declaring the right of property in the state.

Sec. 4573, et seq., declaring the rights of property in and along navigable streams and to holdings therein.

Very truly yours,

D. M. KELLY,
Attorney General.