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B-117137 September 25, 1953

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The Chairman Federal Goal Mine Safety Board of Review

My dear Mr. Chairman:

Reference is made to letter of September 22, 1953, from Troy L. Back, Executive Secretary and Certifying Officer, requesting a decision as to whether the current appropriation for your Board may be used to pay the travel and subsistence expenses of the General Counsel of your agency in attending committee meetings of coal mine operators held during the National First Aid and Mine Rescue Contest, which it is stated, is to be held at Fort Wayne, Indiana, September 29 through October 1, 1953.

It is stated in the letter that, at the said committee meetings, the General Counsel would explain the sections of the Federal Coal Mine Safety Act which pertain to the operations of the Board, and that the Board considers such actions to be in line with its functional duties.

While the Executive Secretary and Certifying Officer is not entitled to an advance decision by the Comptroller General on the question presented under the provisions of 31 U.S.C. 32d--see 21 Comp. Gen. 1128; 31 id. 139, 140--his letter of September 22, will be considered as a request by you for a decision upon the matter presented therein. See 31 U.S.C. 74 (third paragraph).

The appropriation for the Federal Coal Mine Safety Board of Review, contained in Title 111 of the Interior Department Appropriation Act, 1954, Public Law 172, approved July 31, 1953, 67 Stat. 277, provides:

"For necessary expenses of the Federal Coal Mine Safety Board of Review, including services of authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a), $80,000."

And section 102 of the General Provisions of that same act, 67 Stat. 277, reads as follows:

"Appropriations in this Act available for travel expenses shall be available, for expenses of attendance of officers and employees at meetings or conventions of members of societies or associations concerned with the work of the bureau or office for which the appropriation concerned is made."

The latter quoted provision appears to have been included in the appropriation act for the purpose of overcoming the prohibitions contained in section 8 of the

act of June 26, 1912, 37 Stat. 184, 5 U.S.C. 83, and the Joint Resolution dated February 2, 1935, 49 Stat. 19, 31 U.S.C. 551. The first of these prohibitions is against the expenditure, without specific authorization, of appropriated money for membership fees or dues of any officer or employee of the United States or the District of Columbia in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association; the second is against the use, unless specifically provided by law, of moneys from funds appropriated for any purpose for the purpose of lodging, feeding, conveying, or furnishing transportation to any convention or other form of assemblage or gathering to be held in the District of Columbia or elsewhere, provided that the prohibition shall not be construed to prevent the payment of expenses of any officer or employee of the Government in the discharge of his official duties.

From the information furnished, it appears that it has been administratively determined that attendance of the General Counsel at the committee meetings of coal mine operators is in the discharge of official duties. Hence, the prohibition of 49 Stat. 19, U.S.C. 551, would not be for application. However, in the light of the provisions of section 102, supra, if such meetings be considered to be meetings of the members of a society or association within the meaning of 37 Stat. 184, 5 U.S.C. 83, and meetings of an organization concerned with the work of the Federal Coal Mine Safety Board or Review, this Office perceives no objection to charging otherwise proper traveling expenses of your General Counsel, in connection with attendance at the said committee meetings of coal mine operators, against the cited appropriation.

Sincerely yours,

E. L. Fisher Acting Comptroller General of the United States