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B-123498 April 11, 1955

Number: B-123498

Date: 1955-04-11

B-123498 April 11, 1995

The Honorable Carl Hayden, Chairman Committee on Appropriations United States Senate

Dear Mr. Chairman:

Reference is made to your letter of April 4, 1955, with enclosure, requesting an opinion whether, under the circumstances reported therein, section 702(b) of the Department of Agriculture Organic Act of 1944, 58 Stat. 741, 742, 5 U.S.C. 572, authorizes the transfer of funds between certain appropriations provided for the Forest Service in the Department of Agriculture and Farm Credit Administration Appropriation Act, 1955, 6B Stat. 304.

There accompained your letter a copy of a letter to you dated April 1, 1955, from the Administrative Assistant Secretary of the Forest Services, to the Secretary of Agriculture dated march 18, 1955, relative to the matter. It is stated therein that an exceptionally open winter in the West, together with an unexpectedly strong national demand for lumber and other forest products, made it desireable to ascelerate the out of national forest timber during the currents fiscal year. The view is expressed that it is possible to increase the out to 6 billion board feet compared with the previously estimated goal of estimated goal of 5.4 billion board feet on which the 1955 appropriation for "Salaries and Expenses, Forest Service, National Forest Protection and Management" was based.

To continue such program during the remainder of the fiscal year, it is said, would require an additional $400, 00 for use in connection with timber sales administration. It is explained that the expenditure of such sum on timber sale administration before June 30 is considered essential to keep industry production schedules and employment levels in step with present economics trends, and supply urgently required forest products needs. Since it is not believed feasible to obtain a supplemental appropriation for 1955 in sufficient time to carry out that objective, it is therefore proposed to increase such appropriation by transfer of not to exceed $400,000 from the appropriation for "Forest Roads and Trails" under authority of section 702(b) of the cited Organic Act which provides:

"Not to exceed 7 per centum of the amounts appropriated for any fiscal year for the miscellaneous expenses of the work of any bureau, division, or office of the Department of Agriculture shall be available interchangeably for expenditures on the objects include within the general expenses of such bureau, division, or office, but no more that 7 per centum shall be added to any one item of

appropriation except in cases of extra-ordinary emergency."

The language of the quoted statute clearly is designed to give a measure of elasticity to the appropriations provided the Department of Agriculture to enable the most effective use thereof. As such, to the general rule that when an appropriation to which an expense properly is chargeable has been exhausted, another appropriation cannot be used for the purpose. 1 Comp. Dec. 492, 10 Comp. Gen. 440; 17 id. 664, 669.

In a decision to the Secretary of Agriculture reported at 33 Comp. Gen. 214, which considered the property of a transfer of funds between certain appropriations, under authority of the statute in question, it was stated that "The transfer authority clearly is for use in unexpected or unforeseen situations which develop during the course of fiscal year in the administration of the affairs of a bureau or office in the department and which were not foreseen a the time the appropriation law for such bureau or office was enacted." The reported dasts and circumstances giving rise to the desirability or need for the proposed transfer squarely come within the uses contemplated by the statutory appropriation transfer authority.

In such latter connection it is noted that the proposed transfer is not dissimilar from the type of transfers between appropriations affected by the Department over a period of many years, detailed information concerning which was furnished the Senate and House Appropriations Committees and without apparent objections thereto by the Committees. See the Senate Hearings on the Agricultural Appropriation Bill for 1939 (75th Congress), pages 36-46; House Hearings on the Agriculture Department appropriation Bill for 1943 (77th Congress), pages 475-477. Also, see the statement of Representative Whitten concerning the use of the appropriation transfer authority appearing at page 585 of the House Hearings (Part 2) on the Department of Agriculture Appropriations for 1956.

Accordingly, it is concluded that if it be determined by the Department of Agriculture to be necessary or desirable in the performance of its responsibilities to effect the transfer in question under authority of the quoted statute the General Accounting Office would not object thereto.

Sincerely yours,

JOSEPH CAMPBELL Comptroller General of the United States