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FOREST SERVICE APPROPRIATIONS ARE AVAILABLE TO PAY COSTS OF TOWING AND STORING PRIVATELY-OWNED VEHICLE WHERE SUCH COSTS RELATE TO PERFORMANCE BY FOREST SERVICE OFFICERS OF INVESTIGATIVE AND LAW ENFORCEMENT FUNCTIONS CONCERNING VIOLATIONS OF LAW ON NATIONAL FOREST LANDS. WHILE FOREST SERVICE LAW-ENFORCEMENT OFFICERS LACKED PROCUREMENT AUTHORITY TO REQUISITION TOWING AND STORAGE SERVICES, THEIR ACTION MAY BE RATIFIED BY AGENCY OFFICIAL HAVING PROCUREMENT AUTHORITY.

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE-- STORAGE AND TOWING CHARGES FOR PRIVATELY-OWNED VEHICLE:

THIS IS IN RESPONSE TO A REQUEST BY AN AUTHORIZED CERTIFYING OFFICER, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, FOR OUR DECISION ON WHETHER FOREST SERVICE APPROPRIATIONS ARE AVAILABLE FOR PAYMENT OF TOWING AND STORAGE CHARGES INCURRED FOR A PRIVATELY-OWNED MOTOR VEHICLE. THE FOREST SERVICE LAW ENFORCEMENT OFFICERS WHO REQUISITIONED THE TOWING AND STORAGE SERVICES HAD NO PROCUREMENT AUTHORITY, BUT THE REGIONAL FOREST SERVICE DIRECTOR OF ADMINISTRATIVE SERVICES, WHO GRANTS SUCH AUTHORITY, HAS AGREED TO RATIFY THIS PROCUREMENT ACTION IF PAYMENT IS OTHERWISE PROPER.

ON DECEMBER 6, 1975, MR. EDWARD LUCERO, A FOREST SERVICE EMPLOYEE AT THE SANDIA RANGER DISTRICT, A LOCATION WITHIN THE CIBOLA NATIONAL FOREST, WAS ASSAULTED WHEN HE CAUGHT SOMEONE STEALING GAS FROM A FOREST SERVICE VEHICLE PARKED ON THE DISTRICT'S PARKING LOT. MR. LUCERO CALLED DENNIS MURPHY, A FOREST SERVICE LAW ENFORCEMENT OFFICER, WHO REQUESTED ASSISTANCE FROM SPECIAL AGENT EDDIE P. CHAVEZ, OF THE FOREST SERVICE. WORKING IN COOPERATION WITH THE BERNALILLO COUNTY SHERIFF'S DEPUTIES, MURPHY AND CHAVEZ LOCATED THE SUSPECT AND HIS VEHICLE AT DON WOODWARD'S TRUCKING COMPANY IN TIJERAS, NEW MEXICO. THE SUSPECT ADMITTED BEING RESPONSIBLE FOR THE THEFT OF GASOLINE AND ASSAULTING (BUMPING) MR. LUCERO WITH HIS PRIVATE VEHICLE, A PICKUP TRUCK, AT THE SANDIA RANGER STATION. THE ASSISTANT UNITED STATES ATTORNEY WAS CONTACTED ABOUT INCARCERATING THE SUSPECT AND APPROVING PROSECUTION. BOTH REQUESTS WERE GRANTED. (THE SUSPECT WAS SUBSEQUENTLY PROSECUTED AND CONVICTED ON FEDERAL CHARGES.)

SPECIAL AGENT CHAVEZ ORDERED THE SUSPECT'S PICKUP TRUCK TOWED BY MUNOS' WRECKER SERVICE TO A LOCATION APPARENTLY OWNED BY MUNOS'. BEFORE THE PICKUP TRUCK WAS "IMPOUNDED," AS THE INVESTIGATIVE REPOYT PUTS IT, THE VEHICLE'S CONTENTS WERE INVENTORIED. THE VEHICLE WAS STORED FOR 14 DAYS BY MUNOS'. WHILE THE RECORD IS NOT ENTIRELY CLEAR, IT APPEARS THAT THE VEHICLE WAS THEN RELEASED TO THE SUSPECT. MUNOS' WRECKER SERVICE SUBMITTED A BILL TO THE FOREST SERVICE SEEKING PAYMENT OF $71.24 FOR THE TOWING AND STORAGE CHARGES. THE QUESTION IS WHETHER FOREST SERVICE APPROPRIATIONS ARE AVAILABLE FOR THIS PAYMENT.

IT IS CLEAR THAT THE PICKUP TRUCK WAS IMPOUNDED, TOWED, AND STORED FOR THE PURPOSE OF PRESERVING EVIDENCE IN CONNECTION WITH THE THEFT OF GASOLINE AND ASSAULT UPON THE FOREST SERVICE EMPLOYEE WHICH HAD OCCURRED AT THE SANDIA RANGER STATION. WE HAVE NO REASON TO DOUBT THAT THE TOWING AND STORAGE SERVICES THUS OBTAINED WERE IN FURTHERANCE OF THE INVESTIGATIVE AND LAW-ENFORCEMENT FUNCTIONS OF THE FOREST SERVICE WITH RESPECT TO VIOLATION OF LAW OCCURRING WITHIN A NATIONAL FOREST. SEE GENERALLY, 16 U.S.C. 551, 553, AND 559 (1970). THE PERFORMANCE OF SUCH FUNCTIONS ARE FUNDED UNDER THE FOREST SERVICE APPROPRIATION FOR "FOREST PROTECTION AND UTILIZATION." SEE PUB. L. NO. 94-165 (DECEMBER 23, 1975), 89 STAT. 977, 990.

ACCORDINGLY, PAYMENT MAY BE MADE TO MUNOS' WRECKER SERVICE, IF OTHERWISE CORRECT, UPON RATIFICATION OF THE PROCUREMENT. SEE, E.G., B-183289, DECEMBER 3, 1975.