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The Honorable, The Secretary of Agriculture.

My dear Mr. Secretary:

I have your letter of October 3, 1946, as follows:

"Section 2(e) of the Farmers' Home Administration Act of 1943 (Public Law 731, 79th Congress), hereinafter referred to as the Act, provides as follows:

"The funds appropriated, authorized to be borrowed, and made available under the items "Farmers' Crop production and harvesting loans" (under the heading "Farm Credit Administration"), "Loans, Grants, and Rural Rehabilitation" and "Farm Tenancy", in the Department of Agriculture Appropriation Act, 1947, shall be available for the making and servicing of loans under this Act, for servicing and collecting loans made under prior authority, liquidation of rural rehabilitation projects, and for administration expenses in connection therewith, and to the extent that such funds are validly obligated and committed on June 30, 1947, shall be available for use by the Secretary in fulfilling such obligations and commitments subject to the limitations set forth in the Acts appropriating or authorizing such funds.'

"It is our belief that Congress intended that the funds in question should be expended to the limitations set forth in the Acts appropriating or authorizing the funds with respect to all obligations and commitments incurred prior to the end of the interim period provided for in section 2(g) of the Act, and that with respect to commitments made thereafter the funds should be expended in accordance with the provisions and limitations of the Act and the general provisions of the Department of Agriculture Appropriation Act, 1947, as distinguished from the limitations contained in the specific appropriation items. However, in view of the complex nature of the sentence comprising the section and the fact that there are some technical bases for other constructions, we would appreciate an expression from you as to whether you concur in our interpretation and, if not, advice as to the limitations which would apply to the expenditure of funds which may be obligated after the expiration of the interim period.

The conclusion we have reached on this matter has been based on the following considerations. Section 2(e) of the Act originally appeared as section 2(c) of H.R. 5991, as reported by the House Committee on Agriculture. At that time the section read as follows:

"The funds appropriated, authorized to be borrowed, and made available under the items "Farmers' crop production and harvesting loans" (under the heading "Farm Credit Administration"), "Loans, grants and rural rehabilitation", and "Farm tenancy", in the Department of Agriculture Appropriation Act, 1946, to the extent that such funds are validly obligated or committed by the Secretary of Agriculture, the Governor of the Farm Credit Administration, or their delegatees, shall not lapse on June 30, 1946, but shall be continued available for use by the Corporation in fulfilling such obligations or commitments, subject to the limitations set forth in the Acts appropriating or authorizing such funds.'

In its report (No. 1873, 79the Congress, 2d Sess.) the Committee explained the purposes of the section as follows:

"Section 2(c) makes it clear that funds in prior appropriations for farm-security and crop-loan programs which had been properly committed or obligated would be available to the Corporation to fulfill such obligations and commitments. These commitments ordinarily consist of loans approved for farmers such as for the building of houses and for the completion of crops, which have not been fully disbursed to the farmers because of the unavailability of building materials or the fact that a certain crop may not have advanced to the stage where the funds were necessary.'

The section was stricken on a point of order on the floor of the House (Cong. Rec., 79th Congress, 2d Sess., page 3443).

"As reported by the House Committee, H.R. 5991 was to take effect on June 30, 1946. In the Senate, H.R. 5991 was amended in its entirety including the elimination of the use of a corporate agency. The Committee of Conference agreed to recommend passage of the bill in its present form. Thus, the present section 2(c) was inserted by the Committee of Conference apparently for the purpose of giving recognition to the fact that the bill would become effective after June 30, 1946, and that the Department of Agriculture Appropriation Act, 1947, had been approved on June 22, 1946. With respect to section 2(c), the Committee of Conference in its report (No. 2683, 79th congress, 2d Sess.) had this to say:

"'The conferees agreed upon an amendment to H.R. 5991 which would make available to the Secretary of Agriculture for carrying out the provisions of Title II of the conference subsitute, the appropriations made in the Department of Agriculture Appropriation Act, 1947, for farmers' crop production and harvesting (Emergency Crop and Feed) loans, and for loans, grants and rural rehabilitation. These latter funds would also be available for liquidation of the resettlement projects. This amendment also makes available for liquidation of the resettlement projects. This amendment also makes available for direct tenant purchase loans the appropriations made in the Department of Agriculture Appropriation Act, 1947, for "Farm Tenancy."'

"Rather than becoming effective prospectively, as did H.R. 5991, the Act became effective upon approval subject to the provisions of section 2(g), which are as follows:

"With the approval of the Secretary of Agriculture, the consummation of the transfer of any function, power, duty, asset, or liability transferred by this Act may be delayed not in excess of ninety days after the effective date of this Act, during which time such function, power, or duty, and any function, power,

or duty abolished by this Act, may be administered by such agency as the Secretary may designate and in accordance with such rules and regulations as the Secretary may prescribe. Such rules and regulations as the Secretary may designate and in accordance with such rules and regulations as the Secretary may prescribe. Such rules and regulations shall, however, conform as nearly as may be practicable to the provisions of this Act, the several appropriation Acts which are involved, or the Bankhead-Jones Farm Tenant Act, as amended, whichever is appropriate.'

"Section 2(g) appeared in H.R. 5991, as reported by the House Committee on Agriculture, as section 2(j). With respect to this section, the Committee in its report gave the following explanation.

"Section 2(j) authorizes the Corporation, with the approval of the Secretary of Agriculture, to delay the transfer of any functions, powers, duties, assets, or liabilities, for not in excess of 90 days after the effective date of the act. During this interim, such functions, powers, duties, as well as those abolished by the act, could be administered by such agency as the Secretary designated and in accordance with such rules and regulations as he might prescribe. This section is designed to meet the practical problems incident to the physical transfer of the assets and the transition from lending under the old authorities to administration of the programs under the new authorities with a minimum of inconvenience to the low-income farmers who must obtain their loans from the credit agencies involved. Under this section, it would be possible for borrowers to continue to receive their loans substantially as applied for, if the applications had been made prior to the effective date of the act or were made during the transition period and before instructions based upon the new powers had been issued to personnel in the field. It is provided, however, that the rules and regulations under which the functions would be carried on during the 90-day period should conform as nearly as may be practicable to the provisions of the various acts of Congress involved.'

"Subject, of course, to the application of section 2(g), section 2(a) of the Act provides that the Farm Security Administration and all its functions, powers, and duties are abolished, as well as all functions, powers, and duties of the Governor of the Farm Credit Administration which relate to the administration or liquidation of emergency crop and feed loans. The Emergency Crop and Feed Loan Act (U.S. C. 1940 ed., Title 12, sections 1020(i)-1020(o)) was also specifically repealed.

"On August 14, 1946, the date of the approval of the Act, section 2(g) was implemented with and Order delaying transfers contemplated by the Act for a period of 90 days unless otherwise ordered, and providing for the administration of functions, powers, and duties abolished by the Act during such period in the same manner as they were administered immediately prior to the effective date of the Act (11 F.R. 9007, 9183).

"Apart from section 2(c) and in light of the foregoing circumstances, it seems clear to us that Congress intended that at the end of the interim period the rural rehabilitation program, administered by the Farm Security Administration, and the Emergency Crop and Feed Loan program, administered by the Farm Credit Administration, should come to an end save for fulfilling prior commitments, and the program under Title I of the Bankhead-Jones Farm Tenant Act should be continued only under the authority contained in the Farmers' Home Administration Act. Accordingly, it would appear that an interpretation of section 2(c) to the

effect that after the effective date of the Act old limitations should be applied to operations under old programs and new limitations should be applied to operations under new programs is in harmony with the Act as a whole, and at the same time gives effect to all parts of the section.

"Nevertheless, if the last clause of section 2(c), viz., 'and to the extent that such funds are validly obligated and committed on June 30, 1947, shall be available for use by the Secretary in fulfilling such obligations and commitments subject to the limitations set forth in the Acts appropriating or authorizing such funds' is given a literal meaning apart from the wohle context in which it appears, it would result in a requirement that funds obligated or committed on June 30, 2947, but not disbursed, could be available only for use under the limitations of the authorities existing prior to the approval of the Act, whereas, by giving consideration to the first part of section 2(c), funds could be disbursed prior to June 30, 1947, subject only to the limitations of the Farmers' Home Adminstration Act of 1946. This produces an obviously absurb result.

"Likewise, if section 2(c) should be construeddf to mean that the funds in question are to be expended subject only to the limitations of the appropriation Acts and the authorizing legislation which has been repealed, it would seem that the intent of Congress to set up new programs as soon as practicable after the effective date of the Act would be defeated.

"Furthermore, it would be wholly impracticable to attempt to apply the limitations of the appropriation or authorizing Acts and the Farmers' Home Adminstration Act, with respect to funds obligated after the interim period and prior to June 30, 1947. The difficulties which would be encountered under such and interpretation are illustrated by the following examples: (a) The item of loans, grants and rural rehabilitation in the Department of Agriculture Appropriation Act, 1947, provides that no part of the appropriation shall be available to pay the compensation of any person appointed in accordance with civil-service laws, whereas, the Act provides in section 41(a) for the appointment of civil-service employees under certain conditions; (b) the appropriation item for farm tenancy in the Department of Agriculture Appropriation Act, 1947, contains a restriction with respect to the value of a farm on which a loan may be made to non-veterans but none in the case of a loan to a veteran, whereas, the Act contains the same restriction that appears in the appropriation Act with respect to non-veterans but makes it applicable to veterans as well; (c) the Emergency Crop and Feed Loan Act contains a prohibition against a loan in excess of $400 to any borrower, with certain exceptions, whereas, the Act makes no provision for Emergency Crop and Feed loans as such but only for production and subsistence loans pursuant to Title II, under which the initial loan to any borrower may be as much as $3500. It does not seem reasonable that Congress intended that after the programs comtemplated by the Act became active it would be necessary to segregate the funds for emergency crop and feed loans and use them only for production and subsistence laons which would not exceed $400 in amount.

"Some other troublesome inconsistences are (a) the requirement of the tenant purchase items in the appropriation Act which provides that $25,000,000 of the $50,000,000 made available may be distributed without regard to section 4 of the Bankhead-Jones Farm Tenant Act among the States and Territories for the purpose of making loans to veterans, as contrasted with the provision of the Act which provides that all funds available may be distributed so as to meet the needs for

loans to veterans, in addition to providing for a minimum distribution to each State and Territory of an amount not in excess of $100,000; (b) the size of the initial production and subsistence loan which may be made under the Act, as contrasted with the maximum loan which may be made under the rural rehabilitation item of the appropriation Act; and (c) the limitation in the appropriation Act of $57,000 for the employment of experts, as contrasted with the lack of such a limitation in the Farmers' Home Administration Act.

"Inasmuch as your ruling on the question presented will vitally affect the formulation of our plans for the administration of the Farmers' Home Administration Act, your early consideration of this matter is respectfully requested."

The essential facts set forth in your letter may be summarized as follows: The Department of Agriculture Appropriation Act, 1947, Public Law 422, approved June 22, 1946, appropriated funds for carrying out certain farm loan and grant programs authorized by the appropriation act and by prior legislation, subject, however, to specific limitations contained in the appropriation act. Subsequently, on August 14, 1946, the President approved the Farmers' Home Administration Act of 1946, Public Law 731 (hereinafter referred to as the Act), which specifically defined the lending powers of the Secretary of Agriculture and repealed the prior authorizing legislation referred to above. Section 2(g) of the Act, quoted in your letter, authorizes the Secretary of Agriculture, in effect, to prescribe rules and regulations to continue, for a period not in excess of 90 days after the effective date of the Act, the functions and powers abolished by the repeal of such prior legislation, such rules and regulations to conform as nearly as practicable to the Act and the various prior authorization and appropriation acts involved. Section 2(c) of the Act, also quoted in your letter, contemplates the use of the above- mentioned funds (provided by the 1947 Agriculture Department Appropriation Act) for carrying out obligations and commitments under both the loan provisions of the Act and, during the 90-day period described in section 2(g), the prior authorization acts. Section 2(c) contains a further provision that such funds shall be available in fulfilling such obligations and commitments, subject to the limitations set forth in the acts appropriating or authorizing such funds, to the extent that such funds are validly obligated and committed on June 30, 1947.

As indicated in your letter, the provisions of section 2(c) of the Act can be harmonized and made effective only if it be considered that obligations incurred during the 90-day extension of the old programs are subject to the limitations of the prior authorization acts and the 1947 Appropriation Act, and that obligations incurred subsequent to that period are authorized under the new programs established by the Act and are subject to the provisions thereof. In view of certain conflicts between the provisions of the Act and the specific limitations of the 1947 Appropriation Act with respect to obligations incurred under the type of programs here involved, it is suggested in your letter that--as to obligations incurred after the 90-day extension period and before the end of the current fiscal year--the funds should be regarded as available under the provisions of the Act and the general provisions of the Department of Agriculture Appropriation Act, 1947, without regard to the specific limitations imposed by the appropriation act on the use of funds for programs of this character.

In view of the matters set forth in your letter, I have no doubt that the Congress intended the provisions of the Act should govern the expenditure of

funds authorized thereunder, and that such provisions--being later in point of time-- must be regarded as superseding the specific limitations of the appropriation act where there is a conflict between the two. It does not follow, however, that such specific limitations are no longer effective where they are not in conflict with the Act. Nothing is contained in the Act, nor has there been brought to attention anything in the legislative history or elsewhere, which would denote that Congress intended to suspend or to diminish the effect of such limitations, except as indicated otherwise by the subsequent enactment of conflicting provisions of the Act. Where there is no conflict between the specific limitations of the appropriation act and the terms of the Act, there would appear to be no valid reason why such specific limitations should not remain in full force and effect.

One of the examples referred to in your letter is the specific limitation in the appropriation act upon the amount ($57,000) which may be expended thereunder for the employment of experts, whereas the Act authorizes the employment of such experts as may be necessary, and places no limitation upon the amount which may be expended therefor. There is no conflict between these provisions. The Act grants authority to employ experts and the appropriation act places a limitation upon the amount which may be expended pursuant to that authority. This is a legislative practice followed so often that an example of it can be found in almost every major appropriation act and the situation here differs fromt the usual case only in that the appropriation act was enacted before the authorization act--a circumstance which is without significance in the absence of any indication that the later act was intended to alter the provisions of the prior appropriation act.

In substance, section 2(c) of the Act makes funds available in connection with both the old and the new programs, subject to the limitations set forth in certain authorization and appropriation acts. However, the section does not clearly indicate the extent to which the funds shall be available under the old or the new programs, or the extent to which the limitations thereon should be construed to give effect to all of its provisions, and it follows that the limitations in the authorization and appropriation acts referred to in section 2(c) are required to be applied in the expenditure of funds made available by those acts, except as it may be necessary to restrict the application of such limitations in order to achieve a harmonious construction of all the provisions of the section. As shown above, the only indication that such limitations were not intended to be given full force and effect is that which arises from the inclusion in the Act of certain provisions directly in conflict with such limitations, as where the appropriation act placed a limitation on loans for a particular purpose and a different limitation later was imposed on such loans by the provisions of the Act.

Accordingly, you are informed that the funds referred to in section 2(c) of the Act are available, during the 90-day period for which the old programs were extended pursuant to section 2(g), for obligation under the old programs, subject to all of the limitations and restrictions of the appropriation and authorization acts involved; and that such funds are available, subsequent to the 90-day extension period, for obligation under the new programs authorized by the Act, subject to all of the limitations and restrictions of the appropriation act involved, except that where a directly conflicting provision appears in the Act, such latter provision will control.

Respectfully,

Lindsay C. Warren Comptroller General of the United States