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B-71583 February 20, 1943

Number: B-71583

Date: 1943-02-20

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The Honorable, The Secretary of the Interior

My dear Mr. Secretary:

Consideration has been given to your letter of November 26, 1947, in which reference is made to the appropriations provided by the Interior Department Appropriation Act, 1948, Public Law 247, approved July 25, 1947, 61 Stat. 473, 476, under the Bureau of Reclamation, for "Salaries and expenses (other than project offices)" and for construction of the Missouri River Basin Project which read, in relevant part, as follows:

"Salaries and expenses (other than project offices): For expenses necessary during the fiscal year 1948, including personal services in the District of Columbia, in the administration and performance by other than project offices of Bureau of Reclamation functions, $3,130,000 * * *: Provided, That in addition to the foregoing amount there may be transferred to this appropriation from other appropriations made to the Bureau of Reclamation not to exceed $7,800,000 for work to be performed for the benefit of specific projects * * *.

* * *

"Missouri River Basin (reimbursable except as provided in the Act of December 22, 1944 (Public Law 534), Seventy-eighth Congress, and the Act of August 14, 1946 (Public Law 732), Seventy-ninth Congress): For the partial accomplishment of the works to be undertaken by the Secretary of the Interior, pursuant to section 9 of the Act of December 22, 1944 (Public Law 534) and section 18 of the Flood Control Act of 1946 (Public Law 526) (Including the construction of transmission lines and the purchase of power) and for continuing investigations on the general plan of development, $17,000,000, to remain available until expended: Provided, That this appropriation shall be expended, either independently or through or in cooperation with existing Federal and State agencies."

Your letter states that the funds specifically provided by the appropriation for salaries and expenses above referred to are used to pay the operating expenses of the Office of the Commissioner of Reclamation in Washington and of the seven regional offices of the Bureau; that these offices are engaged in the general administration of Bureau activities and technical supervision of operations and work carried on by project and other field offices; and that the funds transferred to the appropriation for salaries and expenses from the several project appropriations under the aforesaid authority are used to pay the

expenses of the Denver office which is engaged in performing direct service for the benefit of specific projects and undertakings such as plan preparation, designing, laboratory testing, procurement of major machinery and equipment, the execution and administration of construction contracts, and facilitating services. It is further stated that the transfers made for this purpose from each project appropriation are in direct relation to the value of services which the Denver office performs for the benefit of the particular project and, therefore, that the amount necessary to defray the expenses of the Denver office is directly related to the amount of work which it is required to perform for the several projects.

Also, your letter states that, from the $17,000,000 appropriated for the Missouri River Basin under Public Law 247, supra, there will be transferred to the Denver office, subject to the aggregate limitation of $7,8000,000, so much thereof as may be required to compensate the Denver office for the services it will perform for the benefit of the works for which the $17,000,000 were appropriated. It is stated, however, that work in excess of that contemplated with the funds them available must be performed for the benefit of the Missouri River Basin by reason of the subsequent enactment of the Second Supplemental Appropriation Act, 1948, Public Law 299, approved July 31, 1947, 61 Stat. 699, appropriating an additional $6,400,000 for the Missouri River Basin in the following terms:

"Missouri River Basin (reimbursable except as provided in the Act of December 22, 1944 (Public Law 534), Seventy-eighth Congress, and the Act of August 14, 1946 (Public Law 732), Seventy-ninth Congress): For an additional amount for "Missouri River Basin', $6,400,000, to remain available until expended, and to include the following projects: * * *"

You point out that no mention is made in the supplemental act of general expenses and salaries but that the justification submitted to the Congress did, however, state (page 112, part 2, House Hearings) that "a supplemental appropriation is required so that expansion of the present engineering and construction organization can proceed, and contracts let for dams and reservoirs and appurtenant works on the seale contemplated"; that it also stated that the said supplemental appropriation "is to accelerate the investigations, design and construction;" and that the amount would be expended on preparations work and placing under contract of a selected list of reservoirs. Your letter states also that a very substantial portion of these activities for which the supplemental appropriation was requested and made are within the type of functions performed by the Denver office.

You urge that, although Congress did not, in the supplemental act, make a specific appropriation for salaries and expenses, it would seem to follow by necessary implication that, in view of the purposes for which the appropriation was requested and made, and, in particular, the accelerated construction desired, such portion of the additional funds as may be needed to effect those purposes may be transferred from the supplemental appropriation to the Denver office, and that the limitation on the earlier appropriation is not applicable to the later appropriation.

In the light of the foregoing circumstances, you request a decision as to whether the Bureau of Reclamation properly may transfer to the salaries and expenses appropriation for the fiscal year 1948, such portion of the appropriation provided by the Second Supplemental Appropriation Act, 1948, for

the Missouri River Basin as may be required to defray the cost of such work as the Denver office may perform for the benefit of the several units for which said supplemental appropriation was made, without regard to the $7,800,000 limitation in Public Law 247.

Standing against such a transfer of funds without regard to the said $7,800,000 limitation, as proposed by your letter, is the unbroken rule established by the decisions of the accounting officers that a supplemental or additional appropriation in augmentation of a prior appropriation is for use and expenditure in the same manner, for the same objects, on the same basis, and subject to the same limitations as the funds under the original appropriation, unless otherwise provided.

In 19 Comp. Gen. 324, it was held (quoting syllabus):

"The amount to be expended for stationery during the fiscal year 1940 by the Interior Department having been specifically limited by the appropriation act of May 10, 1939, 53 Stat. 687, may not be supplemented by the use, for the purchase of stationery, of the later but more general appropriation made in the Third Deficiency Act of August 9, 1939, Public, No. 361, 53 Stat. 1317, for work in connection with a new program of strategic mineral investigations, the general rule being that a specific appropriation for a particular class of expenditures is available therefor to the exclusion of a more general appropriation."

In 4 Comp. Gen. 642, it was held (quoting syllabus):

"Where Congress has specifically limited the amount to be expended for stationery by a department during a fiscal year, a later appropriation providing for additional work to be carried on by that department during the same fiscal year does not of itself authorize the exceeding of such limitation."

Also, in decision of May 9, 1947, B-66030, to the Director, Office of Defense Transportation, it was held that notwithstanding additional funds were provided in a supplemental appropriation for salaries and expenses, a specific limitation placed upon the amount available for traveling expenses in a basic appropriation act could not be exceeded in the absence of an indication that the attention of the Congress was directed to the question whether the additional funds would be needed for traveling expenses or that the Congress would have approved such additional expenditures if specifically brought to its attention.

I have given careful consideration to the matter delineated in your letter but no reason is perecived why the rationale of the decisions above referred to is not applicable to the present matter. Moreover, nothing is contained in Public Law 299, nor has there been brought to attention anything in the legislative history thereof, or elsewhere, which would justify the conclusion that the Congress intended to suspend or diminish the effect of the limitation here involved.

While an exception to the rule established by the cited decisions was allowed in the case considered in 19 Comp. Gen. 832, referred to in your letter, I think that decision is readily distinguishable from the present matter since the supplemental appropriation there involved was made available specifically and expressly in an unlimited amount for an object limited in the basic prior appropriation, whereas the supplemental appropriation here involved does not provide for any increase in the limitation contained in the basic appropriation

act on the total amount which could be transferred to the salaries and expenses fund (other than project offices) from other appropriations. In such connection it is significant to note that specific language increasing a personal service, District of Columbia, limitation of the Bureau of Mines appropriation for coal mine inspections and investigations is contained in said Public Law 299, directly following the appropriation for the Missouri River Basin. I refer to this circumstance as strongly indicative of the intent of the Congress that additional funds appropriated by it are subject to limitations placed on moneys originally made available unless otherwise provided.

In view of the foregoing, I can find no alternative to holding that the additional funds provided by Public Law 299 are subject to the limitation specified in Public Law 247 upon the amounts to be transferred to the salaries and expenses appropriation here involved.

Respectfully,

Acting Comptroller General of the United States