



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

B-9240

MAY 2 - 1940

The Honorable,

The Secretary of the Interior.

Sir:

Reference is made to your letter of March 21, 1940, as follows:

"The Interior Department Appropriation Act of May 10, 1939, (53 Stat. 685), contains the following item:

WATER CONSERVATION AND UTILITY PROJECTS

"For construction, in addition to labor and materials to be supplied by the Works Progress Administration, of water conservation and utilization projects, including acquisition of water rights, rights-of-way, and other interests in land, in the Great Plains and arid and semiarid areas of the United States, to be immediately available \$5,000,000, to be allocated by the President, in such amounts as he deems necessary, to such Federal Departments, establishments, and other agencies as he may designate, and to be reimbursed to the United States by the water users on such projects in not to exceed forty annual installments: Provided, That expenditures from Works Progress Administration funds shall be subject to such provisions with respect to reimburseability as the President may determine."

"Several projects have already received allocations under the above authorization. The data upon which these projects were submitted to the President had been obtained by the Reclamation Bureau in the course of surveys for projects which were heretofore being studied for possible construction under the provisions of the Reclamation Act. Said investigations were paid for from appropriations from the Reclamation fund.

"In addition to these projects, existing reconnaissance surveys indicate that there are many other projects which might be built under the appropriation item in question, if investigations and surveys of them could be completed. Reclamation fund appropriations for investigations are all required in connection with regular reclamation investigations in progress, and are not, therefore, available for investigations of water conservation and utilization projects. Some question, however, has been raised as to whether any part of this \$5,000,000 appropriation for the water conservation and utilization projects is available for investigational work.

"In accordance with sound engineering practice and conforming to the required practice in connection with regular Reclamation projects, the President, by letter of June 14, 1939, of which a copy is enclosed, required that every recommendation for an allocation of funds under the appropriation be accompanied by estimates of total costs and of reimbursable costs of the individual project for which allocations are recommended. These estimates and satisfactory recommendations for the projects can be made only after thorough investigations and surveys. The cost of such investigations and surveys would, of course, when a particular project was authorized, be included as part of the reimbursable costs of the project. While no money was made available expressly for investigations and surveys, it is our belief that the moneys are available for such expenditures since these are necessarily related to construction, and since such expenditures are absolutely essential to the accomplishment of the specific object for which the appropriation was made. Without such expenditures it is not possible to carry out the program that Congress intended should be undertaken.

"The plan under consideration is to ask the President to make an allocation of about \$150,000 for the investigational work. Prior to making the request for such an allocation, I wish to have your decision as to the availability of the appropriation for such an allocation. Your early consideration of this question will be appreciated."

The appropriation quoted in your letter provides for construction of water conservation and utilization projects, including certain specific items therein enumerated, the amount appropriated to be allocated by the President in such amounts as he deems necessary for such projects. The said appropriation does not include specific authority to incur expenses for any preliminary investigational work pertaining to such projects, and such investigational work does not appear to be so clearly a part of the contemplated construction work as to be properly considered as incidental thereto. In fact, it is probable that the preliminary investigational work would result in the postponement or complete discarding of some of the projects, in which event the cost of the investigational work could not be

included as part of the cost of construction of the project, as suggested in your letter, and clearly could not properly be paid from the involved appropriation.

Moreover, the fact that the involved appropriation specifically states several purposes--other than construction--for which the moneys are authorized to be expended, may be considered as negating expenditures for other purposes not specified therein, such as the investigational work referred to in your letter, there being for application the well-known rule of statutory construction expressio unius est exclusio alterius. However desirable the object may seem administratively, this office may not by decision supply supposed deficiencies in the language of appropriation acts in order to make public moneys available for an expenditure which the Congress has not authorized.

But even if it properly could be held that the said appropriation, considered alone, would be available for such investigational work, there is for consideration the following provision of the same act, 53 Stat. 717:

"General investigations: To enable the Secretary of the Interior, through the Bureau of Reclamation, to carry on engineering and economic investigations of proposed Federal reclamation projects, surveys for reconstruction, rehabilitation, or extensions of existing projects, and studies of water conservation and development plans, including Colorado River Basin investigations, such investigations, surveys, and studies to be carried on by said Bureau either independently, or, if deemed advisable by the Secretary of the Interior, in cooperation with State agencies and other Federal agencies, including the Corps of Engineers, National Resources Committee, and the Federal Power Commission, \$900,000;"

It is a well-settled rule that a specific appropriation for a particular object or class of supplies precludes the use of a more general appropriation therefor, even though the general appropriation would have been available for such use in the absence of the specific appropriation. 19 Comp. Gen. 167; id. 633; 18 Comp. Gen. 197; id. 1013; 7 Comp. Gen. 400. Moreover, the fact that the appropriation properly chargeable is inadequate for the purpose specified does not authorize the use therefor of another appropriation. 18 Comp. Gen. 1013; 12 Comp. Gen. 488; 4 Comp. Gen. 642. Hence, in addition to the fact that the appropriation quoted in your letter (53 Stat. 685, 719) is not made available in specific terms for the contemplated investigational work in connection with the projects referred to therein, its availability for such purpose is precluded, also, by the existence of the more specific appropriation hereinabove quoted, 53 Stat. 717, which appropriation, it is understood, has been used heretofore for investigational work in connection with several projects which have received allocations under the construction appropriation. In this connection it is noted that the comparable appropriation for investigations by the Bureau of Reclamation contained in the Department of the Interior Appropriation Act for 1939, 52 Stat. 324, is in the amount of only \$200,000, whereas the 1940 act quoted above contains an appropriation of \$900,000 for similar purposes--an increase of \$700,000. As to the reason for such increase, see House Reports Nos. 161 and 497, 76th Congress, at pages 15 and 6, respectively.

Accordingly, in specific answer to the question you submit I have to advise that the appropriation for the construction of water conservation and utility projects, quoted in your letter, 53 Stat. 719, not being available for investigations, surveys or studies in connection with projects contemplated thereunder, allocations by the President for such purposes without reference to the particular project or projects proposed to be constructed would not be authorized.

Respectfully,

(Signed) R. N. Elliott  
Acting Comptroller General  
of the United States.