



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

DEC -3 1946

B-62187

The Honorable,

The Secretary of Agriculture.

My dear Mr. Secretary:

I have your letter of November 29, 1946, as follows:

"Pursuant to your decision of May 5, 1943 (B-33911), it has been the practice of the Forest Service of this Department to include in its permits issued for the occupancy and use of national forest land for the construction, operation, and maintenance of electric power transmission and distribution lines the following provision:

"To the extent that it has not already been accomplished, the permittee shall make provision, or shall bear the reasonable cost (as determined by the Forest Service) of making provision, for avoiding inductive interference between any project transmission line or other project work constructed, operated, or maintained under this permit, and any radio installation, telephone line, or other communication facility installed or constructed before construction of such project transmission line or other project work and owned, operated or used by the Forest Service in administering the national forests and land under its jurisdiction. The foregoing provisions of this article shall also relate to any radio installation, telephone line, or other communication facility installed or constructed by the United States after construction of such project transmission line or other project work. None of the provisions of this article are intended to relieve the permittee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference."

"Applications have been received from the Black Hills Electric Association, Inc., of Custer, South Dakota, an RRA-financed cooperative, for permits for the occupancy and use of national forest land for the construction, operation, and maintenance of electric transmission lines across portions of the Harney National Forest in South Dakota.

"The Forest Service is now operating and maintaining a system of telephone lines for fire protection and other purposes in the administration of the Harney National Forest. The lines which have

heretofore been maintained and operated in that portion of the national forest wherein the applicant proposes to establish transmission lines were in part single wire ground-return circuits and the remainder metallicized circuits. Because of existing local physical conditions, separate and apart from the existence of electric transmission lines, the Forest Service has determined that it is necessary to metallicize its ground-return telephone lines in this area in order to obtain a satisfactory standard of telephone communication. The metallicizing of these lines is now in progress but not yet completed.

"In connection with the loan to the Black Hills Electric Association, Inc., under the Rural Electrification Act of 1936, as amended, the Administrator of REA, in determining the economic feasibility of the loan as required by the Act, found that the loan would be feasible only on the basis that the cooperative would not be liable for the cost of metallicizing these telephone lines. The Administrator therefore has requested that the permits now under consideration contain an appropriate provision recognizing the non-liability of the cooperative for metallicizing these lines.

"In view of the fact that the decision has already been made by the Forest Service to metallicize its telephone lines in this area for other reasons, and not because of any present or prospective inductive interference from electric transmission lines, it is believed that a provision may be inserted in the permits to this cooperative which would recognize that there is no liability on the part of the cooperative for avoiding inductive interference with the Forest Service telephone lines whenever such interference may be avoided by metallicizing such lines.

"Your decision is therefore requested as to whether the Forest Service is authorized in this case to add to the above-quoted paragraph of the permit the following sentence:

"The foregoing provisions shall not require the permittee to make provision or bear the reasonable cost of making provision for avoiding inductive interference between any project transmission line or other project work constructed, operated, or maintained under this permit and any telephone line owned, operated, or used by the Forest Service whenever such interference may be avoided by metallicizing such telephone lines."

In the cited decision of May 5, 1943 (B-33911), it was held, insofar as here material, that there is no authority to use appropriated funds to prevent or correct inductive interference with Government facilities caused by the construction, operation, or

maintenance of electric power transmission lines covered by permits issued by the Forest Service, regardless of the means adopted to accomplish such result and regardless of whether the Government facilities were erected prior or subsequent to the granting of the permit--the basis for the decision being that there is no authority in the Forest Service to issue a permit which will impose a burden on the appropriations made for the authorized activities of such Service.

However, it is understood that in the present case the determination of the Forest Service to metallicize its telephone lines in the area here involved was prompted by reasons of expediency wholly unconnected with the prevention or correction of inductive interference from electric power transmission lines. In that situation, the said decision of May 5, 1943, would appear not for application, and there is perceived no objection to the inclusion in the proposed permit of a sentence along the line indicated in your letter.

Respectfully,

(Signed) Lindsay C. Warren

Comptroller General  
of the United States.