



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

B-9460

June 11, 1940.

The Honorable,

The Secretary of the Interior.

Sir:

I have your letter of May 11, 1940, as follows:

"Your communication of April 23, 1940 (B-9460) is at hand, relating to an item contained in the Second Deficiency Act approved May 2, 1939 (Public No. 61, 76th Congress), providing an additional sum for The Alaska Railroad as follows: '* * * including \$45,000 for replacement of a warehouse destroyed by fire, \$200,000 to continue available until expended.'

"Upon further consideration of the letter from this Department to your office, dated April 3, 1940, relating to expenditure of railroad funds in addition to the above mentioned sum of \$45,000 appropriated, in the construction of a warehouse, I am doubtful that this letter contained a statement of conditions sufficient to afford the clear and complete view which it was desired to bring to the notice of your office at that time. Your attention is therefore now invited to the following review of circumstances affecting the case.

"It is of course well understood that in making necessary expenditures for The Alaska Railroad from time to time, payments have been made principally from funds derived from the Railroad's operations (such as freight, passenger and express services, etc.), which funds have been appropriated yearly 'for every expenditure requisite for and incident to the authorized work of The Alaska Railroad * * * to continue available until expended.'

"Since the estimated revenues and other receipts of the Railroad have not been adequate to cover all necessary expenditures, the estimates presented annually to Congress for appropriations have contemplated that the amount requested to be appropriated from the Treasury are sums required in excess of the revenues, etc., collected from time to time by the Railroad.

"In the case in question, due to heavy loss through the partial destruction of its main warehouse, located at Anchorage, Alaska, with most of its contents, and the urgent need for immediate construction of a building, and replenishment of the store of supplies, an estimate

was forwarded to Congress asking appropriation of the additional amounts required. This was followed by the Deficiency Appropriation of May 2, 1939, mentioned in the recent correspondence with your office.

"It is the purpose of this letter to bring to the attention of your office at this time, circumstances which may affect your consideration of the case. In addition to the conditions hereinbefore mentioned, indicating that Treasury funds have been made available to The Alaska Railroad only as additional or supplemental to the funds derived from its revenues, etc., and usually for similar purposes, it is suggested that the appropriation made specifically 'to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1939 and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1939 and June 30, 1940, and for other purposes', as set forth in the title of the Second Deficiency Appropriation Act of 1939, approved May 2, 1939, did not exclude the use of other funds of the Alaska Railroad before or after the date of such appropriation.

"The sum of \$45,000 was found to be inadequate to cover the entire cost of construction of the building considered to be necessary; therefore additional amounts were drawn from the funds derived from revenues, etc.

"I am advised that the entire sum of \$200,000 provided for The Alaska Railroad by the Second Deficiency Act, approved May 2, 1939, was transferred to The Alaska Railroad Special Fund (Symbol 14X6700) for disbursement, in accordance with procedure presented by your office's letter A-35,435 of March 11, 1931. The payments for construction of a warehouse made from The Alaska Railroad Special Fund, exceeded \$45,000, the additional amount being regarded as available in that fund, derived from other sources, mainly receipts of operations; this being in accordance with the customary practice in the utilization of the railroad's funds for authorized purposes.

"With regard to the entire amount of \$200,000, provided by the deficiency appropriation, the record shows the utilization of \$45,000 thereof for the warehouse construction and \$1,000 for printing and binding. The balance of \$154,000 was used for repair of the steamer 'Alice' and for replenishing the stock of supplies destroyed by fire as shown by the following figures which represent the total amounts expended for these purposes, the amounts over and above \$154,000 being charged to revenues available for such purposes in the Alaska Railroad

Special Fund.

"Amounts expended to replenish stock destroyed by fire:

Groceries and cold storage supplies	\$41,500
Clothing and trade goods	6,500
Material for repairs to railroad equipment	5,000
Hardware supplies, tools, etc	7,500
Bolts, nuts, washers, rivets, etc.	4,200
Rope, bare wire, blocks, pulleys, etc.	5,700
Lubricating oils, greases, etc.	2,800
Utensils and equipment for boarding houses and dining cars	4,300
Material for repairs to roadway equipment	42,500
Electrical supplies	11,000
Telegraph and telephone supplies	1,200
Material for repairs to steamshovel equipment, cranes, etc	12,750
Material for repairs to floating equipment	1,280
Stationery	<u>1,000</u>
 Total	 \$147,230

The cost of repairs to Steamer ALICE amounted to \$14,159.61

"It is requested that further consideration be given by your office to the request in my letter of April 3, 1940, for advice as to whether payments for the warehouse made by disbursing agents of The Alaska Railroad, above the amount of \$45,000 will be approved by your office."

As stated in the letter of April 23, 1940, to you, the established rule is that an appropriation for a specific object is available for that object to the exclusion of a more general appropriation and that the exhaustion of a specific appropriation does not authorize charging the excess payment to a more general appropriation. 1 Comp. Gen. 312; 4 id. 476; 5 id. 399; 7 id. 400. For that reason it was stated in the said letter that credit would not be allowed for any payments for the construction of the warehouse in excess of \$45,000 since the Congress

had specifically included an appropriation of that sum in the Second Deficiency Appropriation Act, fiscal year 1939.

Operating Revenues of the Alaska Railroad generally are appropriated yearly, as for the fiscal year 1939, "For every expenditure requisite for and incident to the authorized work of the Alaska Railroad, including maintenance, operation, and improvements of railroads in Alaska * * * for the purpose of providing additional facilities for the transportation of freight, passengers, or mail, when deemed necessary * * * to continue available until expended." The appropriation from the general fund of the Treasury, as contained in the Second Deficiency Appropriation Act, fiscal year 1939, was necessitated by reason of the destruction by fire of the warehouse and its contents, and the fact that revenues of the Alaska Railroad were not considered sufficient to meet the extraordinary expenditure involved in the replacement thereof.

As you point out in your letter, the Second Deficiency Appropriation Act, fiscal year 1939, was an act "Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1939, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1939, and June 30, 1940, and for other purposes," and the sum of \$200,000 appropriated therein

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to the Alaska Railroad was stated to be "an additional amount * * * for every expenditure requisite for and incident to the authorized work of the Alaska Railroad * * * including \$45,000 for replacement of a warehouse destroyed by fire." Viewed in the light that the sum of \$200,000 was for expenditures additional to or in excess of those for which revenues were available, there is, of course, some basis for the view that the specific earmarking of \$45,000 was a limitation not on the completed cost of the warehouse but rather on the purposes for which the \$200,000 could be used.

The matter is not entirely free from doubt, but in view of the statements contained in your letter, having regard for the broad authority of the Alaska Railroad in the expenditure of operating revenues, and considering that the work involved apparently has been completed, this office will not further object to otherwise proper expenditures made in connection with the construction of the warehouse from funds derived from revenues in addition to the \$45,000 appropriated from the general fund of the Treasury for that purpose. It is suggested, however, that in similar cases arising hereafter more clear and specific legislative authority be sought in order to avoid any question as to the legality of payments.

Respectfully,

(Signed) R. N. Elliott

Acting Comptroller General
of the United States