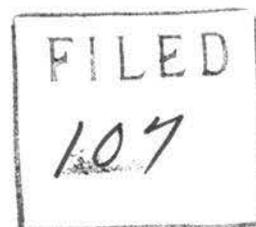


April 20, 1972

OPINION LETTER NO. 107  
Answer by letter-Wood

Honorable Floyd E. Lawson  
Prosecuting Attorney  
Monroe County  
109 East Monroe  
Paris, Missouri 65275



Dear Mr. Lawson:

You have requested my opinion on the following questions relating to distribution of funds received by the state for the benefit of the counties from the federal government pursuant to the Flood Control Act (33 U.S.C.A. §701c-3):

"Is the allocation of flood control lease funds solely within the discretion of the County Court, or must the Court make an allocation of funds only to those districts within the County which have lost land to the flood control project?"

"Must the money be applied to completely re-imburse the school district and roads the exact amount of lost tax revenues before any funds are diverted for other county purposes?"

"What percentage of the lease funds must go to the school districts, and what percentage may be diverted by the Court for other County purposes?"

We are enclosing copies of four prior opinions of this office which we think substantially answer your questions.

Opinion No. 93 of March 1, 1956, to J. S. Wallace construed Sections 12.080 and 12.100, RSMo 1969, to require the county courts

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to distribute Federal Flood Control Act funds by first allocating to the schools and for roads an amount computed as provided in the second sentence of Section 12.100, RSMo, and to use any remaining balance for other county purposes.

Opinion No. 179 of August 16, 1965, to Kenneth R. Babbit, similarly concluded that these statutes required the county courts to evaluate all property acquired by the federal government under the Flood Control Act as if it were still privately owned, to compute the revenue the property would have produced for school and road purposes had there been no federal acquisition, and to allocate to the school districts and for roads the amount based upon their respective levies equal to that which would be ordinarily allowed to the school districts and for roads out of taxes on the property.

Opinion No. 77 of February 4, 1969, to Urban C. Bergbauer recognized the different treatment to be accorded Federal Flood Control Act funds (Section 12.080, RSMo) and National Forest Reserve Act funds (Section 12.070, RSMo 1969) by the county courts. Flood Control funds must be allowed to the school districts and for roads in an amount equal to that ordinarily allowed them from taxes on the United States owned property before any of such funds are used for other county expenses. National Forest Reserve funds must be used by the county courts entirely for the benefit of schools and roads in school districts wholly or partly within or adjacent to a national forest with the manner of apportionment otherwise within the discretion of the county court.

Opinion No. 182 of May 5, 1971, to Edna Eads was essentially concerned with the distribution of National Forest Reserve funds; but the opinion also concludes that a major purpose of the Flood Control legislation was to restore a measure of funds to those taxing units whose property was removed from the tax rolls by the federal government's acquisition of the property.

Therefore, in specific response to your questions, we are of the opinion that the Monroe County Court must allocate Flood Control Act funds to the school districts and roads wherein the federal property is situated in an amount which will equal the amount that would otherwise be available to the school districts and for roads through taxation of the property. Any remaining balance may be used by the county court for other county purposes. If the Federal Flood Control funds available to the county are insufficient in any year to equal all lost tax revenues attributable to the

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federal acquisition of the property, the county court should make an equitable apportionment of such funds among the affected school districts and for roads.

Yours very truly,

JOHN C. DANFORTH  
Attorney General

Enclosures: Op. No. 93  
3-1-56, Wallace

Op. No. 179  
8-16-65, Babbit

Op. No. 77  
2-4-69, Bergbauer

Op. No. 182  
5-5-71, Eads