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OPINION LETTER NO. 67

Honorable Al Nilges
State Representative, District 126
Room 413, Capitol Building
Jefferson City, Missouri 65101

Dear Representative Nilges:

This letter is in response to your question asking:

"What are the legal responsibilities for fire protection a Fire District has with regards to Corps of Engineers property. Must fire protection without compensation from the federal government be provided or can the Fire District require them to provide compensation at the same rate as the other taxpayers in the district?"

It is clear that Section 43 of Article III of the Missouri Constitution excepts lands which are the property of the United States from taxation.

A fire district is obviously not an insurer of the property within its district. However, we believe that such a district must respond to calls for protection from agencies of the federal government relating to United States property within its district and must furnish fire protection services such as are within the fire district's practical capabilities.

We note however, that fire protection districts have authority under Section 321.220, V.A.M.S., to enter into contracts with the United States of America and its agencies for common services re-

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lating to the control or prevention of fires, including the installation, operation and maintenance of water supply distribution, fire hydrant and fire alarm systems. Similarly, we note that Sections 42 USCA §1856, et seq., provide that heads of federal agencies charged with the duty of providing fire protection for any property of the United States are authorized to enter into reciprocal agreements with any fire organization maintaining fire protection facilities in the vicinity of such property.

Therefore, it is our view that since the fire protection district has authority to enter into an agreement for common services with the United States government and since the agency of the United States Government having the duty to protect the property has authority to enter into an agreement with the fire protection district, it seems appropriate that the possibility of entering into such an agreement should be explored. We assume that the "agency head" of the United States government department involved will give appropriate consideration to exploring the possibility of such an agreement pursuant to the congressional intent indicated by the enactment of the provisions contained in 42 USCA §1856, et seq.

For your information we enclose a copy of pages 1948, et seq., of the 1955 U.S. Code Congressional and Administrative News relative to the legislative history and purpose of the federal law.

Very truly yours,



JOHN ASHCROFT
Attorney General

Enclosure