August 21, 1934

Mr. T. S. O'Connell, State Highway Engineer
Arizona State Highway Department
Phoenix, Arizona

Dear Mr. O'Connell:

You have requested me to advise you whether or not the action taken by the Board of Supervisors of Maricopa County, in directing that $70,000.00 of the anticipated gasoline tax receipts be placed in the Highway Bond Interest Fund, is in fact a diversion of the gasoline tax as that term is used in Section 12 of what is known as the Hayden-Cartwright bill of Congress.

In response to your inquiry, I advise you as follows: It is my understanding that the Maricopa County Board of Supervisors merely directed that $70,000.00 of the anticipated gasoline tax receipts be placed in what is known as their Highway Bond Interest Fund, for the purpose of paying the interest on outstanding highway bonds. Under the provisions of Chapter 87, Session Laws of Arizona, 1933, the payment of interest on highway bonds with moneys received from gasoline taxes is authorized. Section 12 of the Hayden-Cartwright bill reads as follows:

> "Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts now provided by law for such purposes in each State from State motor-vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Agriculture shall promulgate from time to time: PROVIDED, That in no

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case shall the provisions of this section operate to deprive any State of more than one-third of the amount to which that State would be entitled under any apportionment hereafter made, for the fiscal year for which the apportionment is made."

Taking into consideration the nature of the action taken by Maricopa County Board of Supervisors and provisions of Chapter 27, supra, and the provisions of the Hayden-Cartwright bill, I am of the opinion that no diversion of the gasoline tax has been effectuated by Maricopa County Board of Supervisors so as to in any way affect the allotment of Federal funds provided for in the Hayden-Cartwright bill.

Very truly yours,

Attorney General

JAMsB

Assistant Attorney General

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