August 8, 1941

Mr. W. R. Hutchins
State Engineer
Arizona Highway Department
Phoenix, Arizona

Att: B. H. McAhren, Superintendent
Motor Vehicle Division

Dear Sir:

This is to reply to your request for an interpretation of Section 10 of the amendment to the Federal Aid Highway Act approved June 16, 1936.

The section provides that gasoline tax shall be paid on all gasoline sold at the stores, service stations and other similiar establishments located on military reservations when such fuels so sold are not for the exclusive use of the United States. It further provides that the officer in charge of the reservation shall report to the taxing authorities the amount of fuel sold which was not for the exclusive use of the United States.

The question you have in mind is as to what is meant by the term "exclusive use." We think this term means that the fuel must be used wholly by the United States by duly constituted agents or officers engaged, while using such gasoline, wholly in the service of the government. In other words if the fuel is used on a mission partly for the government and partly for some personal purpose of the user it is not in the exclusive use of the government and is, therefore, taxable. The mere fact that the gasoline is sold or distributed by an agency located on the reservation does not exempt such gasoline from taxation. An officer of the government buying gasoline for his own personal use - or partly for his own personal use - pays the same tax as do s the individual citizen. This, of course, is subj ct to the law which requires that the fuel to be taxable must be used in the propelling of motor vehicles upon the highways.

We believe that if the officers of the various governmental reservations or military camps, aviation fields and the like are advised as to the existence of this Section 10 of the amendment to the Federal Aid Highway Act there will be no reason for any difference of opinion as between the state and the government.

Very truly yours,

JOE CONRAY
Attorney General

A. R. LYNCH
Assistant Attorney General

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