COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

OCT 2 1937

A-88947

The Honorable,

The Secretary of the Interior.

Sir:

Your letter of September 11, 1937, is as follows:

"Reference is made to the Act of Congress approved March 31, 1933 (48 Stat. 22) entitled 'An act for the relief of unemployment through the performance of useful public work, and for other purposes.' Section 2 of said act provides--

"'For the purpose of carrying out the provisions of this act, the President is authorized to enter into such contracts or agreements with the States as may be necessary, including provisions for utilization of existing state administrative agencies, and the President, or the head of any department or agency authorized by him to construct any project or to carry on any such public works, shall be authorized to acquire real property by purchase, donation, condemnation, or otherwise * * *.'

"By Executive Order (No. 6542) of December 28, 1933, copy enclosed, the President allocated $2,325,000 from the appropriation made by the Fourth Deficiency Act, fiscal year 1933, approved June 16, 1933, for the acquisition of lands within the Shenandoah National Park and other national park and national monument projects for Emergency Conservation Work purposes. The Executive Order directed that these funds shall be withdrawn on requisition by the Director of the National Park Service and may be expended either directly by him, under the direction of the Secretary of the Interior, or through such other agencies, Federal or otherwise, as the Secretary of the Interior may designate, such expenditures to be made under his direction.

"By letter of March 30, 1935, copy enclosed, the Secretary of the Interior designated the Virginia State Commission on Conservation and Development as the agency to acquire, on behalf of the United States, certain lands for the proposed Shenandoah National Park, Virginia, under authority of the above-mentioned Executive Order. The tracts of land which the Commission was authorized to acquire and the purchase price to be paid for each tract are listed in the Secretary's letter. A Government check, payable to the order of the Treasurer of Virginia, in the amount of $47,154, representing the total purchase price for the land, accompanied the Secretary's letter.

"The Commission has succeeded in acquiring, at the purchase prices placed at its disposal, all but two of the tracts of land listed in the Secretary's letter. The prices at which these two tracts can be acquired, either through purchase or by condemnation, greatly exceed the amounts made available therefor to the Commission, namely:

Tract No.	Z	Warren County, Virginia		$7,500
" "	101	" " "		1,076
			Total	$8,576

"In view of the above it is desired that the Commission be authorized by this Department to apply this unexpended balance of $8,576 toward the acquisition of other lands within the Shenandoah National Park area for the same general purposes of the Executive Order and for the acquisition of which the Commission has been acting as a representative or agent of this Department.

"Your opinion is requested, therefore, as to the propriety of the use of this money by Virginia State Commission on Conservation and Development for the acquisition of lands within the Shenandoah National Park area for Emergency Conservation Work purposes other than those specifically set forth in this Department's letter of March 30, 1935."

Voucher No. 1,257,178 of the April 1935 accounts of G. F. Allen, under his symbol 62-303, shows that the payment of $47,154 to the Treasurer of Virginia was made under the appropriation "14-21-463/50815--Emergency Conservation Fund (Transfer from War to Interior, Act March 31, 1933), 1933 - March 31, 1935," for the purpose of acquiring 20 specified tracts of land in Madison, Page, Rock and Warren Counties, Virginia, for the Shenandoah National Park.

The action suggested in your letter proposes in effect to cancel or rescind the obligations against these funds heretofore incurred for the acquisition of tracts Nos. Z and 101 in Warren County, Virginia, in the total amount of $8,576, and to now reobligate these same funds for the acquisition of other tracts of land within the Shenandoah National Park area.

There appears no legal objection to directing the Virginia State Commission on Conservation and Development to forego the acquisition of the two tracts in question if in fact such tracts can not be acquired within the price originally contemplated, but there is no authority of law for now making the funds not used for such purpose available for the acquisition of other lands, or in other words obligating said funds at this time for purposes other than originally obligated as set forth in your letter of March 30, 1935, to the Commission. The funds in question were taken from an appropriation account limited as to availability for the incurring of obligations to March 31, 1935, and any balance at this time in the hands of the Commission which can not be used for the specific purposes for which advanced to it must be repaid to the Government, the period during which said funds could be obligated for other purposes having expired long ago.

In this connection it may be stated that voucher No. 1,257,178, supra, is carried by this office in a suspended status for a proper accounting for the advance it covered, that is to say, for a satisfactory showing of the amounts expended for the acquisition of lands as authorized by you, and the repayment to the United States of unused balances.

Respectfully,

(Signed) R. N. Elliott

Acting Comptroller General
of the United States.