

CRIMINAL JURISDICTION OVER
WELDON SPRINGS ORDNANCE
PLANT AND SYNTHETIC FUELS
DEMONSTRATION PLANT:

(1) That exclusive criminal jurisdiction of crimes committed on the 2,085 acre tract which comprises the U. S. Ordnance Plant area, is vested in the United States. (2) That exclusive criminal jurisdiction of crimes committed on the area which comprises the Synthetic Fuels Demonstration Plant, located in Pike County, at Louisiana, Missouri, is vested in the United States.

JOHN M. DALTON
XXXXXXXXXX

February 20, 1953



J. C. JOHNSON
XXXXXXXXXX

Honorable Phil M. Donnelly
Governor of Missouri
Capitol Building
Jefferson City, Missouri

Dear Governor:

This department is in receipt of a request for an official opinion from your immediate predecessor in office. That request is as follows:

"The Federal Bureau of Investigation has asked for information concerning the question of who has jurisdiction over violations of law occurring on the land occupied by the Bureau of Mines at Louisiana, Missouri and the property known as the Weldon Springs Ordnance Works, Weldon Springs, Missouri. I am attaching a copy of part of the memorandum which was delivered to me at the time of the request."

The above letter concerns two separate areas, to wit, an area located in Pike County, Missouri, near the town of Louisiana, which originally was designated as an Ammonia Plant; and another area known as the Weldon Springs Ordnance Plant, located in St. Charles County, Missouri. We shall consider the latter first.

In a letter dated February 6, 1953, from the General Services Administration, Washington, D. C., we have received a great deal of factual information regarding the Weldon Springs situation. Because of the, to us, somewhat complicated nature of this situation we quote in detail from the aforesaid letter as follows:

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"In answer to your first question as it pertains to the Weldon Springs Ordnance Plant and based on informal information provided by the Office of the Chief of Engineers, which originally acquired the property for the United States, you are advised that the property was acquired pursuant to authority of the following laws: (1) Act of February 26, 1931, 46 Stat. 1421, 40 U.S.C., Section 258(a), (2) Act of June 2, 1917, 40 Stat. 241, amended by Act of April 11, 1918, 40 Stat. 518, U.S.C. 171, (3) Appropriation Act June 26, 1940, Public Law 667, 76th Congress.

"The Weldon Springs Ordnance Plant area encompassed 17,239 acres of land, comprised of 333 individual tracts of which 164 were acquired by condemnation and 169 by direct purchase. Nine thousand nine hundred and ten acres of the total area was acquired by condemnation. It is not known whether this general information will be adequate to serve your purposes, but to provide specific information as to which of the individual tracts were acquired by condemnation, and which were acquired by direct purchase would entail the copying of individual tract descriptions which cover 190 pages of single space typing. If information is required by you with respect to the actual location of individual tracts acquired by condemnation, as opposed to those acquired by direct purchase, it is suggested that you might make arrangements with the Regional Director of this Administration at Room 1800, Federal Office Building, Kansas City 6, Missouri for examination of the records pertaining to this installation which are available in his office.

"This Administration was not provided with copies of the condemnation proceedings pursuant to which the land was acquired, and we are therefor unable to comply with your request for a copy thereof. We have been informally advised by the Office of Chief of Engineers, however, that the declarations,

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signed by the Secretary of War, contained the following statement concerning the purpose for which the lands were acquired:

"The said lands are necessary adequately to provide for the site of an ordnance munitions plant and for such other uses incident thereto. The said lands have been selected by me for acquisition by the United States for use in connection with the establishment of the Weldon Springs Ordnance Plant, St. Charles County, Missouri and for such other uses as may be authorized by Congress or by executive order and are required for immediate use."

"Although the original Weldon Springs Ordnance Plant area comprised 17,239 acres, all of the property has been disposed of with the exception of 2,085 acres, being the site of the main industrial facilities which now comprise a part of the stand-by National Industrial Reserve under the jurisdiction of this Administration.

"The grant to the University of Missouri, to which you referred in your letter, was accomplished by deed dated November 30, 1948. The deed conveyed to the Curators of the University of Missouri 7,900 acres of land together with certain improvements located thereon, having a total value of \$253,250, without requiring the payment of any cash consideration by the University, but subjecting the transfer to a condition requiring: 'that for a period of twenty (20) years from the date of this deed said premises shall be continuously utilized by the grantee for the purposes set forth in the program included in the application for the acquisition thereof and in the report of the United States Office of Education'. The deed contained other conditions providing for free use of the land by the United States in time of national emergency, and reverter of title to the United States in the event

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of breach of any of the conditions by the University. The Federal Security Agency is now responsible for enforcement of the conditions of this deed under the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(k)(2)). If specific information with respect to the use being made of the property by the University is desired it is suggested you communicate with the Regional Director, Federal Security Agency, Kansas City, Missouri.

"The records pertaining to the transfer of land to the Missouri Conservation Commission are not available in this office, since the original transfer was made by the Farm Credit Administration which at that time was the disposal agency for the particular land transferred to the Conservation Commission. The disposal records of the Farm Credit Administration were supposed to have been transferred to the Regional Office of this Administration and should be available for inspection at that place. From information which is available in the files of this office, it appears that 6,935 acres of land were conveyed to the Commission by deed in October 1947. This transfer was for a monetary consideration and without restrictive covenants.

"An additional 106 acres of land was transferred to the Missouri State Highway Department without monetary consideration pursuant to authority of the Federal Highway Act (23 U.S.C. 13), by deed dated November 17, 1949. This land was acquired for the purpose of improving and widening State Highway No. 40.

"The records of this Administration reflect no information or data with respect to the action which was taken by the United States to obtain jurisdiction over the Weldon Springs Ordnance area at the

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time of the acquisition thereof. However, we have been informally advised by the Office of Chief of Engineers that jurisdiction was acquired pursuant to authority of the general statutory provision of the State of Missouri pertaining to cession of jurisdiction as it existed under the Act of 1943, and that the Secretary of War formally accepted such jurisdiction on behalf of the United States by letter to the Governor of Missouri dated September 2, 1943."

It will be noted that a discrepancy exists in the above letter in this respect, to wit, that the letter states that the Weldon Springs Ordnance Plant area originally encompassed 17,239 acres of land; that of this original acreage all has been disposed of except 2,085 acres; the dispositions consisting of 7,900 acres conveyed to the University of Missouri at Columbia, Missouri; 6,935 acres to the Missouri Conservation Commission; and 106 acres to the Missouri State Highway Department. The total acreage thus conveyed would total 14,941, which, subtracted from the original 17,239 acres, would leave a total of 2,298 acres, and not 2,085 acres, as is stated in the above letter. Thus on the basis of the figures quoted to us there is a discrepancy of 213 acres. We assume that there was a transfer of this 213 acres not noted in the above letter, and we will, perforce, accept the statement of the General Services Administration that the total acreage remaining in the Weldon Springs tract is now 2,085 acres.

We have no information relative to the location of this 2,085 acres with respect to the original 17,293 acres, nor as to whether the acreage disposed of is in contiguous tracts. We do not feel that it is incumbent upon us to locate this 2,085 tract which now comprises the Weldon Springs Ordnance Plant. Our further discussion of this matter will relate to this 2,085 acre tract, wherever it may be located.

We now direct attention to House Bill No. 397, Laws of Missouri, 1943, pages 627 and 628, which reads:

"Section 1. Authorizing acquisition by the United States of lands in this state as sites for customhouses, courthouses, post offices, arsenals, forts, etc.--
The consent of the State of Missouri is

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hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States by purchase, condemnation, or otherwise, of any land in this State which has been acquired, prior to the effective date of this Act, as sites for customhouses, court-houses, post offices, arsenals, forts and other needful buildings required for military purposes.

"Section 2. Ceding exclusive jurisdiction over land and reserving right of taxation and right to serve processes.-- Exclusive jurisdiction in and over any land so acquired, prior to the effective date of this Act, by the United States shall be, and the same is hereby, ceded to the United States for all purposes, saving and reserving, however, to the State of Missouri the right of taxation to the same extent and in the same manner as if this cession had not been made; and further saving and reserving to the State of Missouri the right to serve thereon any civil or criminal process issued under the authority of the State, in any action on account of rights acquired, obligations incurred, or crimes committed in said State, but outside the boundaries of such land, but the jurisdiction so ceded to the United States shall continue no longer than the said United States shall own such lands and use the same for the purposes for which they were acquired.

"Section 3. Emergency. -- Whereas, there now exist within the boundaries of this State large areas of land occupied for military purposes, among which are those occupied by Lake City Ordnance Plant, Weldon Spring Ordnance Works, St. Louis Ordnance Plant, St. Louis Powder Farm, St. Louis Medical Depot, Fort Leonard Wood, Camp Crowder, Missouri Ordnance

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Works, Vichy Airport, and Kansas City Quartermaster Depot, and there exists in the said areas uncertainty as to complete jurisdiction, which is resulting in duplication and misunderstandings between the State and Federal law enforcement agencies, and an emergency exists within the meaning of Article IV of the Constitution of this State, this act shall be in force from and after its passage and approval by the Governor.

"Approved July 30, 1943."

We now direct attention to Sections 12.030 and 12.040, RSMo 1949, which sections read:

"The consent of the state of Missouri is hereby given, in accordance with the seventeenth clause, eighth section, of the first article of the Constitution of the United States, to the acquisition by the United States by purchase, condemnation, or otherwise, of any land in this state which has been acquired, prior to the effective date of sections 12.030 and 12.040, as sites for custom-houses, courthouses, post offices, arsenals, forts, and other needful buildings required for military purposes."

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"Exclusive jurisdiction in and over any land so acquired, prior to the effective date of sections 12.030 and 12.040, by the United States shall be, and the same is hereby, ceded to the United States for all purposes, saving and reserving, however, to the state of Missouri the right of taxation to the same extent and in the same manner as if this cession had not been made; and further saving and reserving to the state of Missouri the right to serve thereon any civil or criminal process issued under the authority

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of the state, in any action on account of rights acquired, obligations incurred, or crimes committed in said state, but outside the boundaries of such land, but the jurisdiction so ceded to the United States shall continue no longer than the said United States shall own such lands and use the same for the purposes for which they were acquired."

These sections were enacted by the Missouri legislature in 1947, and are to be found as enacted in Laws of Missouri, 1947, Vol. I, p. 366, paragraphs 1 and 2 respectively. They became effective on July 1, 1947.

We here note that the Weldon Springs area was acquired as a site for "needful buildings required for military purposes," which brings it within the compass of Section 12.030, supra.

We further note that the Weldon Springs area was acquired by the United States, by purchase and condemnation, prior to July 1, 1947, which, as we noted above, was the effective date of Sections 12.030 and 12.040, supra.

Our construction of Sections 12.030 and 12.040, supra, is that together they constitute an act of consent, to all acquisitions of land by the United States prior to July 1, 1947, for the purposes specified in Section 12.030, supra, and a grant of exclusive jurisdiction over such lands with the exception of certain rights of taxation and the service of civil and criminal process, which matters are not here in issue, the issue here being criminal jurisdiction over crimes committed on such area.

We further construe Sections 12.030 and 12.040, supra, to be specific acts of consent by the State of Missouri to the acquisition by the United States of the Weldon Springs area, since this acquisition was prior to July 1, 1947, the effective date of the aforesaid sections.

We now direct particular attention to the last portion of Section 12.040, supra, which reads:

" * * * * but the jurisdiction (exclusive jurisdiction with the exceptions noted above) so ceded to the United States shall continue no longer than the said United States shall own such lands and use the

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same for the purposes for which they were acquired."

(Emphasis ours.)

We have stated above that the original Weldon Springs tract comprised 17,239 acres. As indicated in the letter quoted from the General Services Administration, certain dispositions have been made of certain parts of the original tract. This matter we will now consider from the viewpoint of whether such tracts as have been disposed of are now being used for "* * * * the purposes for which they were acquired." (Section 12.040, supra.)

The aforesaid letter from the General Services Administration states that on November 30, 1948, the United States transferred by deed to the Curators of the University of Missouri at Columbia, 7,900 acres of the original tract "without requiring the payment of any cash consideration by the University, but subjecting the transfer to a condition requiring: 'That for a period of twenty years from the date of this deed said premises shall be continuously utilized by the grantee for the purposes set forth in the program included in the application for the acquisition thereof and in the report of the United States Office of Education.' The deed contained other conditions providing for free use of the land by the United States in time of national emergency, and reverter of title to the United States in event of breach of any of the conditions by the University."

It seems apparent, without detailed discussion, that this act constituted a discontinuance by the United States of the use for which the tract was acquired.

It would seem that this would be even more true of the 6,935 acres transferred in October, 1947, to the Missouri Conservation Commission, which transfer was for a monetary consideration and which appears to have been final; and the 106 acre tract conveyed to the Missouri State Highway Department on November 17, 1949, which latter tract is now being used for state highway purposes. As to the 213 acres which represents the difference between the acreage which the General Services Administration states comprised the original area, and the total acreage which the General Services Administration states has been disposed of, we can only assume that it also is no longer used for the purpose for which it was acquired.

We now approach the question of whether the 2,085 acre tract which now comprises the Weldon Springs area is now being used for

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the same purpose for which it was acquired.

The fact situation in this regard is, we are authoritatively informed, that the major portion of this tract was acquired in 1941; that as soon as possible thereafter the United States entered upon the manufacture of ordnance upon this area; that such manufacture continued until sometime in the year 1945; that thereafter no manufacturing process of any kind has been conducted on this area, and that, for all practical purposes, it has not been "used" for anything whatever. It has, however, and now is, being held by the United States for use for military purposes if and when necessary. We do not believe that temporary nonuse constitutes such an abandonment of original purpose as to effect a reverter of jurisdiction such as is provided for by Section 12.040, supra. We believe, on the contrary, that it is but good public policy in such parlous times as these for our government to maintain itself in a position to proceed forthwith in matters of national defense if the necessity for so doing arises. We hold, therefore, that Section 12.040, supra, does not apply to the instant situation of the 2,085 acres which now constitute the Weldon Springs Area.

In the letter from the General Services Administration, frequently referred to above, we are informed that the original 17,239 acre tract which comprised the original Weldon Springs area, represented an aggregate of 333 individual tracts, of which 164 were acquired by condemnation, and 169 by direct purchase. Obviously it would be an endless task to attempt to segregate and locate these tracts in the remaining 2,085 acre tract which now comprises the Weldon Springs area, with the view of determining whether tracts acquired by purchase were in a different legal status, with respect to criminal jurisdiction, than those tracts acquired by condemnation. Nor do we feel that it is necessary to do so. All of these 333 tracts, whether acquired by purchase or condemnation, were acquired by the United States for the same purpose, to wit, to secure an area for the site of buildings required for military purposes; all of these 333 tracts were acquired by the United States under its general power to acquire land for the purpose stated above, and we believe that the manner of acquisition is immaterial. To the acquisition of all of these tracts, irrespective of the manner of acquisition, the State of Missouri has given its consent by Sections 12.030 and 12.040, supra. It will be noted that Section 12.030, supra, specifically consents to all acquisitions by the United States prior to its effective date, July 1, 1947, whether by "purchase, condemnation, or otherwise."

We therefore hold that exclusive criminal jurisdiction of

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crimes committed on the 2,085 tract, wherever it may be located, which comprises the Weldon Springs area, is vested in the United States.

We now direct attention to the matter of the area located in Pike County, near the town of Louisiana.

So far as appears from information furnished us, this area is well defined and is not a matter of question.

It further appears that this area was acquired by the United States in or near the year 1941; that it was acquired by the United States as a site for buildings "required for military purposes;" that it was originally designated as "Missouri Ordnance Works," and was operated as an Ammonia Plant. Whether this land was acquired by "purchase, condemnation, or otherwise" does not appear, and we do not believe it to be material for the reasons given in our discussion of the same situation in regard to the Weldon Springs area.

It appears that in the case of the Louisiana plant use by the United States has been continuous, but that at this time the plant is no longer used to manufacture ammonia, but is now used as a pilot plant in the manufacture of gasoline from coal, and is officially known as a Synthetic Fuels Demonstration Plant. Here, as in the case of the Weldon Springs area, we do not believe that it can be said that this plant is no longer being used for the purpose for which it was acquired, to wit, for military purposes. It is a matter of common knowledge that gasoline is a vital ingredient in modern warfare and that, without it, in enormous quantities, military operations cannot be conducted.

We therefore hold that exclusive criminal jurisdiction of crimes committed on the tract of land which comprises the Synthetic Fuels Demonstration Plant in Pike County, at Louisiana, Missouri, is vested in the United States.

CONCLUSION

It is the opinion of this department:

1. That exclusive criminal jurisdiction of crimes committed on the 2,085 acre tract which comprises the Weldon Springs Ordnance Plant area, is vested in the United States.
2. That exclusive criminal jurisdiction of crimes committed

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on the area which comprises the Synthetic Fuels Demonstration Plant, located in Pike County, at Louisiana, Missouri, is vested in the United States.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mr. Hugh P. Williamson.

Very truly yours,

JOHN M. DALTON
Attorney General

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