



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

September 14, 1954

Honorable M. T. Harrington
Chancellor
Texas A. & M. College
College Station, Texas

Letter Opinion No. MS-153

Re: Application of the
trespassing statutes
to employees of land-
owners assisting the
Texas Forest Service
in suppression of
forest fires.

Dear Dr. Harrington:

In your request of May 12, 1954, for an opinion of this office, you asked whether or not employees of private forest or woodland owners when engaged in fire control or suppression duties in assisting the employees of the Texas Forest Service are immune from trespass charges when so engaged in such activities on lands not owned by their employer.

Article 2613b-1, Vernon's Civil Statutes, provides:

"Texas Forest Service employees and others authorized to enter privately owned lands.

"Authority is hereby granted to all employees of the Texas Forest Service and such outside labor or assistance as the employee deems necessary to enter upon any privately owned lands in the performance of their fire suppression duties which are by State law under the direction of the State Forester. Said entries on privately owned lands to be made whenever it is necessary to investigate forest and grass fires and ascertain whether they are burning uncontrolled or not, and whenever it is necessary to suppress forest and grass fires that are known to be burning uncontrolled. Acts 1941, 47th Leg., p. 856, ch. 531, § 1."

The law specifically authorizes employees of the Texas Forest Service and such outside labor or assistance as the employee deems necessary to enter upon any privately owned land in the performance of fire suppression duties which are by State law under the direction of the State Forester.

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Therefore, you are advised that an employee of a private forest or landowner may enter upon any privately owned lands whenever it is necessary to investigate forest and grass fires and ascertain whether they are burning uncontrolled or not, and whenever it is necessary to suppress forest and grass fires that are burning uncontrolled, so long as the services of the private employee are deemed necessary by an employee of the Texas Forest Service. Under such circumstances, the private employee would be immune from charges of trespassing upon the private lands of another.

Yours very truly,

JOHN BEN SHEPPERD
ATTORNEY GENERAL OF TEXAS

By

Rudy G. Rice
Assistant

RGR/rt