

OFFICIAL OPINION NO. 71

December 17, 1954

Mr. R. O. Cole, Secretary  
State Soil Conservation Committee  
Agricultural Experiment Station  
Purdue University  
Lafayette, Indiana

Dear Mr. Cole:

This is in reply to your letter of November 12, 1954, in which you request an Official Opinion as to the following:

Please give the State Soil Conservation Committee an official opinion covering (1) the authority of Soil Conservation Districts organized under the Indiana law to carry out, operate, and maintain works of improvement under the Watershed Protection and Flood Prevention Act, and (2) the authority of these districts to expend their own funds or to use the funds that are made available from any other source for such purposes.

The Acts of 1937, Ch. 232, Sec. 8, as found in Burns' Indiana Statutes (1950 Repl.), Section 15-1808, Subsection 7 authorizes soil conservation districts:

"(7) To take over, with the consent of the United States or any of its agencies, or of this state or any of its agencies, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the above agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or other-

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wise, from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations.”

Public Law 566 of the 83rd Congress, Chapter 656, 2nd Session, Section 2 provides:

“Sec. 2. For the purposes of this Act, the following terms shall mean:

“The ‘Secretary’—the Secretary of Agriculture of the United States.

“‘Works of improvement’—any undertaking for—

(1) flood prevention (including structural and land-treatment measures) or

(2) agricultural phases of the conservation, development, utilization, and disposal of water

in watershed or subwatershed areas not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than five thousand acre-feet of total capacity. No appropriation shall be made for any plan for works of improvement which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

“‘Local organization’—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement.”

Statutes creating districts such as irrigation districts, soil

conservation or conservancy districts, should be liberally construed. *Tulane Irrigation District v. Sheppard* (1902), 185 U. S. 1, 22 S. Ct. 531, 46 L. Ed. 773.

The powers of a district of this kind are measured by the terms of the statute creating districts and the authorities are in accord that the district may exercise no authority that has not been granted the district by the Legislature. *Elmore v. Drainage Commissions* (1890), 135 Ill. 269, 25 N. E. 1010, 17 Am. Jur., *Drains and Sewers*, § 18.

The express description and definition set out in Public Law 566, *supra*, of a "local organization" is clear legislative authority for a soil conservation district as established by Acts of 1937, Ch. 232, *supra*, and conversely the soil conservation district thus established has by the terms of the Acts of 1937, Ch. 232, *supra*, which created it, express authority to cooperate with the Federal Government regarding soil conservation and erosion control measures.

It is, therefore, my opinion that soil conservation districts are qualified to act as a local organization under Public Law 566 and that they are authorized to carry out, operate and maintain works of improvement under the Watershed Protection and Flood Prevention Act, which was enacted as Public Law 566, *supra*. They are further expressly authorized by the Acts of 1937, Ch. 232, Sec. 8, subsection 7, *supra*, to accept donations, gifts, and contributions in money, services, materials, or otherwise from the United States or any of its agencies, or from this state or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations.