

26 August 1947

H. L. Anderson, Assistant
Soil Conservation Commissioner,
State Land Department,
Capitol Annex
Phoenix, Arizona.

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ARIZONA ATTORNEY GENERAL

Dear Mr. Anderson:

In your letter of June 23, 1947, you request our opinion on the aspects of the handling of soil conservation equipment.

As we understand, the equipment has been conditionally granted by the Soil Conservation Service of the Federal Government to our state for use by soil conservation districts. The program you have created consists of allotting light equipment to the individual districts, and the heavy equipment to zone committees, each of which circulates the equipment among the various users. The latter are made up of groups of districts, which in turn, lease the heavy equipment to users in the zone. The zone committees actually consist of soil conservation district supervisors, assembled for the purpose of administering the use of this heavy equipment in the respective zones. Since the Federal Government neither replaces nor repairs worn equipment, your Association, the representative state-wide group, has set a schedule of fees to provide funds for repairs and replacements so that the program may continue unhampered. This entire procedure, you indicate, has been followed in agreement with the Federal agency.

Under this state of facts you submit two questions for opinion, which we quote:

- "1) Are such committees empowered to handle funds and conduct such operations?
- 2) Who holds title to the equipment which is purchased with the replacement fund collected from rentals of the equipment?"

1) We believe the first question is answered by Section 75-1710, A.C.A. 1939, supplement, which provides:

"Cooperation between districts.- The supervisors of any two (2) or more districts or-

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ganized under the provisions of this act may cooperate with one another in the exercise of any power conferred in this act".

A further grant of the power to cooperate is found as follows in paragraph 4 of Section 75-1709, A.C.A. 1939, supplement, which we set out:

"In addition to all other powers, a soil conservation district shall have power to:
* * * * *

4. Cooperate or enter into agreements with, and, within the limits of available appropriations, furnish financial or other aid to any agency, governmental or otherwise, or any owner of lands within the district, in carrying on erosion control and prevention operations, subject to such conditions as the supervisors may deem necessary".

And the original power to handle funds and engage in district fiscal ventures is found in paragraph 5 of Section 75-1709, supra:

"In addition to all other powers, a soil conservation district shall have power to:
* * * * *

5. Obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interests therein; maintain, administer, and improve any properties acquired; receive income therefrom and expend the same in carrying out the purpose of this act; and sell, lease or otherwise dispose of any property or interest therein in furtherance of the purpose of this act".

The zone committees are nothing but an exercise of these grants of power. The districts may do by association what they may do of themselves. This they are doing in providing for the effective use of the machinery which includes the handling of funds arising therefrom.

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2) As a second question you ask who owns the title to the equipment purchased with replacement funds.

The owner of the title would be that person or group agreed upon. It is our suggestion that all parties concerned enter into an agreement for this purpose. For example, with respect to light equipment, the State and Federal Governments and local districts could agree that the title to replacement items be vested in the district for its statutory uses. In the case of heavy equipment, the State and Federal Governments, the local districts and the zone committees could agree that the title to replacement machinery be vested in the zone committees in trust for the local districts.

If you have any further questions, we will be glad to answer.

Very truly yours,

JOHN L. SULLIVAN,
Attorney General

WILLIAM P. MAHONEY, Jr.,
Assistant Attorney General

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