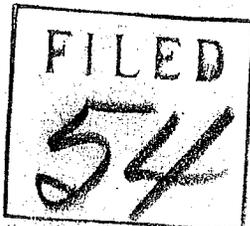


SOIL CONSERVATION DISTRICT:  
SMALL WATERSHED:

Supervisors of a soil conservation district may administer the business of that portion of a small watershed which lies within the soil conservation district of which they are supervisors.



January 13, 1955

Honorable J. H. Longwell, Director  
Division of Agricultural Science  
University of Missouri  
Columbia, Missouri

Dear Sir:

Your recent request for an official opinion of this office is as follows:

"The enactment of Public Law 566 by the 83rd Congress, providing for the development of small watershed programs, raises a question of the administration of these programs.

"The size of a small watershed is limited by the law to 250,000 acres. Such an area may lie entirely or in part within the boundaries of a soil conservation district. Soil conservation districts are established under the provisions of Senate Bill Number 80, 62nd General Assembly.

"The question on which the State Soil Districts Commission requests an opinion from you is, do the provisions of the State Soil Districts Law (Senate Bill No. 80) permit the supervisors of a soil conservation district to administer the business of a small watershed, organized under the provisions of Public Law 566, that may lie entirely or in part within the boundaries of that soil conservation district?"

In order to determine whether the supervisors of a soil conservation district may administer the business of a small watershed,

Honorable J. H. Longwell, Director

as such watershed is set forth and described in your above letter, we must, of course, examine the law governing soil conservation districts, and particularly the authority vested in the district supervisors. The soil district law is embodied in Chapter 278, RSMo 1949. The duties and powers of the soil district and its supervisors are set forth in Section 278.120 RSMo 1949, which reads:

"1. Any soil district organized under the provisions of this law shall be a body corporate and shall possess only such powers as herein provided, but any such powers possessed by said body corporate shall be particularly limited by the following provisos; provided, that the private property of any land representative or owner of property in such soil district shall be exempt from execution for the debts of the body corporate or soil district and no land representative or owner of property within said soil district shall be liable or responsible for any debts of the body corporate or soil district, and provided further, that no property of any character, title to which is not vested in said soil district, or a soil district as the case may be, shall ever be subject to any lien for any claim or judgment of or against said district, or a soil district, as the case may be. Any soil district so organized shall be officially known and titled 'The Soil District of ..... County,' and shall be so designated by the county court by order of record, and in that name shall be capable of suing and being sued and of contracting and being contracted with.

"2. A soil district through the board of soil district supervisors thereof shall have the following authority and duty in addition to other authority and duty granted in other sections of this law;

"(1) To promote all reasonable measures for the saving of the soil within that soil district; and all such measures shall be in general

Honorable J. H. Longwell, Director

agreement with those currently advocated by the college of agriculture of the University of Missouri for saving the productive power of Missouri farm land;

"(2) To cooperate or enter into agreements with, and to aid within the limits of appropriations duly made available to it by law, any agency, governmental or otherwise, or any land representative within that soil district, in the saving of the soil within that district; and all such cooperations or agreements shall be in accord with the policies of the state soil districts commission; and any land representative of farm land within that soil district shall be eligible to enter into such cooperations or agreements with the soil supervisors; and no program or procedure of soil conservation shall be ordered or executed by the soil supervisors on any farm without the full consent and agreement of the land representative of that farm;

"(3) To make available to any land representative within that soil district, through existing agencies if agreements with them seem feasible, or by such other feasible means as the supervisors shall prescribe, such services, materials, and equipment as will assist such land representatives to carry on operations for the saving of the soil;

"(4) To accept grants, gifts, and contributions in money, services, or materials from the United States or any of its agencies, and to use or expend such grants, gifts or contributions in carrying on the soil district operations; and such use or expenditure shall be in accord with the policies of the state soil districts commission;

"(5) To make and execute contracts and other legal instruments, necessary for the saving of the soil in that district, subject to approval by the state soil districts commission;

Honorable J. H. Longwell, Director

"(6) To accept for the purpose of saving soil in that district, contributions in money, services or materials from any source not otherwise provided for herein, and to enter into such agreements with land representatives as will tend to prevent future wastage of the soil presently benefited by these contributions."

We believe that under paragraph (2) above, the supervisors would be authorized to administer the business of such part of a small watershed as lies within their soil conservation district. Paragraph (2) authorizes them to "aid \* \* \* any agency, governmental or otherwise \* \* \* in the saving of the soil within that district. \* \* \*" To administer the business of that part of a watershed lying within the said conservation district would be "aiding a governmental agency in the saving of the soil;" manifestly the administration of the supervisors would be limited to that part of the watershed lying within their soil conservation district, since, in their capacity as supervisors they could not have any authority outside of the district.

We note that Public Law 566, enacted by the 83rd Congress, providing for the development of small watershed programs, which you refer to in your letter, which law was approved August 4, 1954, defines "local organization" as follows on page 1 of such act:

"\* \* \* 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."

#### CONCLUSION

It is the opinion of this department that supervisors of a soil conservation district may administer the business of that portion of a small watershed which lies within the soil conservation district of which they are supervisors.

Honorable J. H. Longwell, Director

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

Very truly yours,

John M. Dalton  
Attorney General

HPW:ld;sm