



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

March 3, 1976

FILE NO. S-1052

**AGRICULTURE:**  
Authority of County Board  
to Appropriate Funds to  
County Soil and Water  
Conservation District

Honorable Scott K. Wilzbach  
State's Attorney  
Marion County  
Salem, Illinois 62801

Dear Mr. Wilzbach:

I have received your predecessor's letter in which he  
stated in part:

"\* \* \* There is some question as to whether  
or not Marion County had the authority to  
appropriate money for the soil conservation  
work of the Marion County Soil and Water  
Conservation District."

He enclosed a copy of a prior Attorney General's opinion issued  
on May 14, 1954, to the Honorable Stillman J. Stanard, Director  
of the Department of Agriculture, and requested my comments

Honorable Scott K. Wilzbach - 2.

on whether it is still the prevailing law on the question.

The holding of the prior opinion is simply a paraphrase of a statute still in existence and is, therefore, still prevailing law, but the opinion did not address the specific question his letter raised. The opinion, relying on section 1 of "AN ACT to enable the county boards to appropriate funds for the use of soil and crop improvement and home improvement associations of their several counties" [hereinafter the Soil and Crop Improvement Fund Act] (Ill. Rev. Stat. 1975, ch. 34, pars. 2421 and 2422), held that a county board may appropriate funds to county soil and crop improvement associations, home improvement associations, or other like associations organized for the improvement of general agricultural or home conditions. The question your predecessor raised is whether a county board may appropriate to a county soil and water conservation district.

Since no other statute appears to authorize county boards to appropriate funds to county soil and water conservation districts, the answer to your predecessor's question depends on whether a county soil and water conservation district is a county soil and crop improvement association or any other like association organized for the improvement of general agricultural conditions within the meaning of section 1 of the Soil and Crop Improvement

Honorable Scott K. Wilzbach - 3.

Fund Act. Section 1 of that Act provides in part:

"That the county boards of the several counties of this State are hereby authorized and empowered to appropriate to and for the use of county soil and crop improvement associations and home improvement associations, or any other like associations organized for the improvement of general agricultural or home conditions, a sum not to exceed five thousand dollars (\$5,000) per annum, which is hereby declared to be for county purposes, and to be paid to the treasurer of such association as soon as the annual taxes shall have been collected in like manner as all other expenditures are authorized and expended by said boards."

The Soil and Water Conservation Districts Law (Ill. Rev. Stat. 1975, ch. 5, pars. 106 et seq.) clearly shows that soil and water conservation districts are organized for soil and crop improvement or for improvement of general agricultural conditions. Section 2 of that Act declares it to be the policy of the legislature "to provide for the conservation of the soil, soil resources, water and water resources of this State, and for the control and prevention of soil erosion \* \* \* ". The powers to carry out programs for soil conservation and prevention of soil erosion granted to soil and water conservation districts (Ill. Rev. Stat. 1975, ch. 5, pars. 127.1 - 127.7a) also demonstrate that among the purposes of those districts is improvement of the soil and of general agricultural conditions. Thus, soil and water conservation districts clearly have as one of their purposes improvement of the soil and thereby

Honorable Scott K. Wilzbach - 4.

improvement of general agricultural conditions.

While a soil and water conservation district unquestionably numbers among its purposes the improvement of the soil and of general agricultural conditions, it remains to be considered whether such a district is an "association" within the meaning of section 1 of the Soil and Crop Improvement Fund Act. The Illinois Supreme Court has held that generally an "association" is a body of persons acting together without a charter for the prosecution of some common enterprise. (Chicago Grain Trimmers Ass'n. v. Murphy, 389 Ill. 102; W. R. Roach & Co. v. Harding, 348 Ill. 454; People v. Brander, 244 Ill. 26.)

In Harding the court said at page 464:

"\* \* \* The term does not have, in law, a fixed meaning such as is accorded to partnerships or corporations but is used to indicate a collection of persons who have joined together for a certain object. \* \* \*"

An "association" has as its object the prosecution of some common enterprise. The court in Brander said of this object at page 31:

"\* \* \* That object may be the benefit of the members, or the improvement, welfare or advantage of the public, or some scientific, charitable or similar purpose. \* \* \*"

A soil and water conservation district is clearly an "association" as defined by the Supreme Court. Such a district is a "public body, corporate and politic, exercising public

Honorable Scott K. Wilzbach - 5.

powers" (Ill. Rev. Stat. 1975, ch. 5, par. 127) and may be formed upon the vote of a majority of the landowners in the district. (Ill. Rev. Stat. 1975, ch. 5, par. 118.) All landowners and occupiers in the district may vote in the election of the five directors, who govern the district (Ill. Rev. Stat. 1975, ch. 5, par. 125) and thus act as a body through the directors they elect. In addition, although it does receive a certificate of organization from the Secretary of State (Ill. Rev. Stat. 1975, ch. 5, par. 120) a soil and water conservation district acts without a charter. Finally, a soil and water conservation district is engaged in a common enterprise for the purpose of improvement of the soil and of general agricultural conditions.

The status of a soil and water conservation district as a corporate body with a certificate of organization does not preclude it from being an "association". As the court said in Brander at page 31:

"\* \* \* It [the term "association"] is applied sometimes to large partnerships or unincorporated companies, and sometimes to corporations formed not for profit but for the advancement of some object in which the members are interested. \* \* \* "

Again in Murphy, the court stated that some associations may be incorporated under applicable statutes. Nor is the possession by a soil and water conservation district of certain statutory

Honorable Scott K. Wilzbach - 6.

powers not generally exercised by associations, an obstacle to designating the district an "association", for as the court said in Murphy at page 107:

"Some associations may be incorporated under applicable statutes, in which event they are legal entities having such attributes as the statute may give them."

In summary, I conclude that a soil and water conservation district is an "association" within the meaning of that term as used in the Soil and Crop Improvement Fund Act, and has as one of its purposes improvement of the soil and improvement of general agricultural conditions. It is, therefore, my opinion that a soil and water conservation district is a soil and crop improvement association or a "like association organized for the improvement of general agricultural or home conditions" within the meaning of section 1 of the Soil and Crop Improvement Fund Act. It follows that pursuant to section 1 of that Act, the Marion County Board has authority to appropriate a sum not to exceed \$5,000 per year for the soil conservation work of the Marion County Soil and Water Conservation District.

Very truly yours,

A T T O R N E Y   G E N E R A L