

N.D.A.G. Letter to Pelton (May 7, 1986)

May 7, 1986

Mr. Clive Pelton, Chairman
Dunn County Water Resource District
Halliday, North Dakota 58636

Dear Mr. Pelton:

Thank you for your letter of April 22, 1986, concerning the fiscal rights and responsibilities of the Dunn County Water Resource District.

You asked whether the water district may accumulate funds for future projects. Attorney General's Opinion 86-2 dealt with this question and concluded such practice is lawful. A copy of Opinion 86-2 is attached for your review.

I have learned it has been the long practice of your water district to set aside money from each appropriation for future projects, a practice consented to by the County Commission. The Commission's consent to such use of its levies confirms my view that the conclusion of Attorney General's Opinion 86-2 correctly answers your question.

You also asked if the water district may loan money. The contemplated loan is to the Dunn County Soil Conservation District for the purchase of a grass drill.

The purpose of a water district is to manage waters. Its specific powers are set forth in N.D.C.C. §16-16.1-09, all of which relate to water management. A water district may only engage in activities the Legislature has authorized it to perform. Making loans is not authorized and I doubt the soil district intends to use the drill for anything related to water management. Therefore, the water district may not loan money to the soil district for the purchase of a grass drill.

Finally, you asked whether N.D.C.C. §57-15-27 places restrictions on your accumulated fund. This law says an interim fund carried over to the ensuing fiscal year may not exceed three-fourths of the current annual appropriation. This limit on the use of interim funds applies to the "governing body of any county, city, school district, park district, or other municipality authorized to levy taxes. . ." A county water district is not a "governing body" "authorized to levy taxes." Therefore, a water district is not subject to the restrictions of N.D.C.C. 57-15-27.

I trust this adequately answers your questions. If you have further questions, I shall be happy to respond to them.

Sincerely,

Nicholas J. Spaeth

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Enclosure