

N.D.A.G. Letter to Thompson (June 30, 1987)

June 30, 1987

Mr. Alfred Thompson
Burleigh County Water Resource District
City-County Building
221 North Fifth Street
Bismarck, ND 58501

Dear Mr. Thompson:

Thank you for your May 14, 1987, inquiry concerning the limitations regarding use of Water Resource District funds to assist political subdivisions.

Essentially your inquiry is threefold. First you ask whether a Water Resource District must distribute a specified percentage of money raised from the general tax levy to a political subdivision. The remaining questions are interrelated and pertain to the criteria which may be required by rule for funding procedures.

The limits placed upon the Board's use of its funds are broad, allowing the Board considerable discretion. However, all expenditures of the general levy must be set forth in the Board's budget. N.D.C.C. § 61-16.1-06. These expenditures may include everything relating to the Board's functions ranging from land acquisition to per diem payments to Board members. The only apparent limit upon the Board's allocation of the funds raised is that the money be spent on items related to the Board's powers. Those are set forth in several statutes including N.D.C.C. §§ 61-16.1-09, 61-16.1-15, and 61-02-24.1.

N.D.C.C. § 61-02-24.1, which authorizes a Board to cooperate with other political subdivisions, is of particular significance in this situation. Under that section a Water Resource District may decide to allocate a specific portion of its available budget for a city's water related projects. However, we can find no authority by which a Water Resource District may be required to grant a specified portion of the general levy to a city. There may be agreements between the city and the Board of which we have not been informed, however, and we do not presume to decide what impact those would have upon the Board's obligation of funds.

The final two questions pertain to the requirements which a Board may place upon applications for funding. In the first instance, the Board would be remiss by simply paying a bill submitted to it without some explanation or written documentation concerning the purpose of the expenditure. Thus, it would be a legitimate requirement that proper documentation be submitted to the Board with all bills. Furthermore, the Board can place other legitimate conditions upon fund recipients. However, the requirements should be

reasonable, relate to the Board's function and the particular project, and not differ from applicant to applicant based solely upon who the applicant is.

If we can be of further assistance in this matter, please let us know.

Sincerely,

Nicholas J. Spaeth

vkk