

Opinion No. 46-4937

August 7, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. Leonard R. Appleton Administrative Officer State Soil Conservation Committee
State College, New Mexico

{*262} In your letter of August 3, 1946 you request the opinion of this office as to whether a Soil Conservation District is liable for personal injury or property damage resulting from an accident involving equipment of the district, when the equipment was rented to a cooperator and the cooperator was operating the equipment for himself and **not as an employee of the district.**

Whether or not a Soil Conservation District might be liable for personal injuries and property damage depends upon the **relationship** between the Soil Conservation District and the person who operated the equipment; in other words, was there a relationship of employer-employee?

In the absence of other facts, and since you have stated in your letter that the cooperator was operating the equipment for himself and not as an employee of the district, I must necessarily assume that the Soil Conservation District did not in any way have the right to control or supervise the services being performed by the cooperator or its employee.

Considering what has been stated above, I am of the opinion that a Soil Conservation District is not liable for personal injury or property damage resulting from an accident involving equipment of the district, when the equipment was rented to a cooperator and the cooperator was operating the equipment for himself and not as an employee of the district.

I wish to make it clear that this opinion is limited to the facts presented and does not extend to a determination of the question of liability of a Soil Conservation District for personal injury or property damage where one of its own employees is concerned.

I am enclosing a copy of Opinion No. 4167 which concerns the general liability of a Soil Conservation District when one of its own employees is involved.

By WM. R. FEDERICI,

Asst. Atty. General