

Opinion No. 46-4960

October 25, 1946

BY: C. C. McCULLOH, Attorney General

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

{*280} We wish to acknowledge receipt of your letter in which you request an opinion from this office as to whether or not Indians that hold title to land lying within the boundary or territory proposed to be organized into a soil conservation district are eligible to vote in the referendum.

Sub-section C, Sec. 5, Chap. 219, Laws of 1937 provides, in part, that:

"All owners of land lying within the boundaries of the territory, as determined by the state soil conservation committee, shall be eligible to vote in such referendum."

In accordance with the foregoing provision, I am of the opinion that this question must receive an affirmative answer.

I am herewith enclosing Attorney General Opinion No. 3747, written March 25, 1941, making a similar holding, although the specific question of Indians voting in the referendum for proposed soil conservation districts was not involved.

You also requested advice as to whether or not an Indian Reservation is entitled to a vote on the proposition to create a soil conservation district, when all or part of the reservation lies within the boundardies of the proposed districts and if so who may exercise the right to vote for the reservation.

The title to "Indian Lands" rests in the United States, and thus there would be no "owner of land" to exercise the franchise. Such lands are held in trust for the Indians.

However, at various places in the act provisions are made whereby the Soil Conservation Committee, [Illegible Words] districts and the district supervisors may, and no doubt are expected, to cooperate and work with the Federal Government in any way possible in the carrying out of any soil conservation measures. For instance, Sec. 48-508, Sub-sec. (9) of the 1941 Compilation, entitled "Powers of Districts and Supervisors," provides, in part,:

"Upon the request of the federal government to take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion control, or erosion prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-

conservation, erosion control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or erosion-prevention project within its boundaries. * * *"

No doubt, the federal government is just as interested in seeing the objectives of the soil conservation districts and their supervisors carried out as anyone, and would unquestionably make the necessary request as provided for in the above statute if contacted by the proper authorities.

It thus appears to me that part or all of an Indian Reservation within the limits of a conservation district would not constitute an unsurmountable obstacle.

{*281} Trusting this satisfies your inquiry, I am

By ROBERT V. WOLLARD,

Asst. Atty. General