

1975 WL 29291 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1975

*1 The Jasper County Council may enter into an agreement with the United States Department of Agriculture and the Beaufort-Jasper Soil and Water Conservation District for the building of channel works and land treatment in Jasper County.

Chief

Division of Land Management and Resource Development
South Carolina Land Resources Conservation Commission.

QUESTION PRESENTED:

Does the Jasper County Council have the authority to sponsor and carry out the program known as the Upper New River Watershed Work Plan?

AUTHORITIES:

The Watershed Protection and Flood Prevention Act, P.L. 83-566, 68 Stat. 666. Act No. 982 of 1968, p. 2370 as codified at Section 14-2411, 1962 Code of Laws, as amended.

DISCUSSION:

The Upper New River Watershed Work Plan is a proposal whereby the United States Department of Agriculture, the Jasper County Council, and the Beaufort-Jasper Soil and Water Conservation District contemplate the improvement of the area known as the Upper New River watershed. The plan when fully implemented will encompass an area of some 134,000 acres. The vast majority of this acreage is in Jasper County with approximately six percent being in Beaufort County.

According to the plan, the major problems which have given rise to the proposal are the flood damage and poor drainage which are common to the area. These in turn create a permanent wet condition that hampers crop and forestry production, not to mention causing damage to property and wildlife habitat.

The plan proposes approximately twenty-eight miles of channel work to provide better drainage for agricultural and forestry production while reducing flood and health hazards. Accompanying the channel work would be various modes of land treatment to augment timber and wildlife growth.

The plan would be implemented over a period of five years with the total costs to be borne by the Department of Agriculture, the County, and some landowners. The proportion would be based on the particular form of expenditure. The federal funding would be provided under the provisions of the Watershed Protection and Flood Prevention Act, Public Law 83-566, 68 Stat. 666, as amended.

The objectives of the overall plan are summarized thusly:

1. Install land treatment measures to realize crop, pasture, and forest land drainage benefits.

2. Provide drainage outlets where feasible to improve drainage and reduce flooding.
3. Reduce flooding and resulting damages around houses, yards, and living areas where feasible.
4. Protect and enhance fish and wildlife resources.
5. Improve the economic and social environment.

The Jasper County Council was created by Act No. 982 of 1968, p. 2370 which is codified at Section 14-2411, 1962 Code of Laws of South Carolina, as amended. Section 6 of the Act provides for the powers and duties of the Council among which are the following:

(2) (a) To acquire by purchase or gift real property in the name of Jasper County.

*2 (7) To provide within the county special services which are considered necessary to public health and welfare.

(10) To enter into agreements on matters of local concern with agencies and instrumentalities of the Federal Government, the State Government, political subdivisions of the State, and educational, charitable and eleemosynary institutions.

(11) To provide for the construction, maintenance, operation and use of public streets, roads, bridges, sidewalks, drains, courthouses, jails, buildings, prison farms and other public improvements and facilities.

Under these statutory powers it seems that the Legislature has granted the authority to the Council to enter into agreements such as the one contemplated. The plan is one that anticipates expenditures by the county for property and physical construction, the purpose being the health and welfare of the citizens of the county. As such, the proposal falls within the ambit of authority granted to the Council by the Legislature and the Council may legally enter into the plan with the Department and the District.

CONCLUSION:

The Jasper County Council has the authority to enter into the Upper New River Watershed Work Plan Agreement.

Richard P. Wilson
Assistant Attorney General

1975 WL 29291 (S.C.A.G.)