

Opinion No. 57-145

June 20, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Fred M. Calkins, Jr.,
Assistant Attorney General

TO: Mr. R. L. Guice, Administrative Officer, State Soil Conservation Committee of New Mexico, P. O. Box 786, State College, New Mexico

QUESTIONS

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The Luna Soil Conservation District wishes to disannex all territory within its boundaries and add it to the San Francisco Soil Conservation District.

1. What disposition should be made of any assets held in the name of the Luna Soil Conservation District?
2. What will be the status of the Luna Soil Conservation District without lands or funds?

CONCLUSION

1. Assets, records, and obligations of the Luna Soil Conservation District should be transferred to the San Francisco District.
2. For all practical purposes the Luna District will cease to exist and a verified application of dissolution should be filed with the Secretary of State by the State Soil Conservation Committee.

OPINION

ANALYSIS

It is our understanding that pursuant to Section 45-5-6, N.M.S.A., 1953 Compilation, Pocket Supplement, that a petition has been signed by 38 land owners in the Luna Soil Conservation District requesting that the entire territory within the said District be disannexed therefrom and added to the San Francisco Soil Conservation District. Further, that the District of Luna is so small that it is no longer economical to operate it as a separate district, and that the land owners are desirous of annexing themselves to the San Francisco District; that the proposal if consummated, would provide a better administrative unit by placing the lands in both Soil Conservation Districts under one governing body.

Subsection (j) of Section 45-5-6, supra, provides that territory of an existing district may be disannexed therefrom and added to another existing district. The procedure for adding such territory to such other district shall be done by the filing of a petition by the land owners wishing to disannex and the holding of a referendum. If the referendum upon the petition for disannexation is favorable, then the territory may be merged.

Section 45-5-6, supra, is silent as to what disposition should be made of any assets and does not make any provision for the dissolutionment of the disannexing district. In order to dispose of any assets and obligations held by the Luna Soil Conservation District, it is our suggestion that the referendum be held as provided by subsection (h) of Section 45-5-6. If the referendum results are favorable a joint meeting of the Luna and San Francisco Board of Supervisors should then be called for the purpose of closing out any unfinished business which the Luna District might have. All assets, records and obligations of the Luna District could then be transferred to the San Francisco District by resolution of the Luna Board of Supervisors. This, we believe, would satisfactorily dispose of the assets and obligations held by the Luna District.

The above would, for all practical purposes, result in the discontinuance of the Luna District. The Luna District, however, should be legally terminated and again the procedure is not outlined in the statute. Inasmuch as the District Supervisors of the Luna District become disqualified from acting after reorganization, the State Soil Conservation Committee should proceed with final dissolutionment. This can be done, we believe, by the filing of a verified petition of dissolutionment direct to the Secretary of State. Such petition should recite that all lands within the Luna District have been merged with the San Francisco District; that all assets and obligations of the Luna District have been assumed by the San Francisco District or otherwise been disposed of and that the merger was affected in accordance with Section 45-5-6, N.M.S.A., 1953 Compilation.