

# The State of South Carolina



## Office of the Attorney General

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January 16, 1984

Paul S. League, Esquire  
S.C. Water Resources Commission  
1001 Harden Street, Suite 250  
Columbia, South Carolina 29205

Dear Mr. League:

You have requested an opinion as to whether the State Water Resources Commission and the State Aquatic Plant Management Council may distribute federal funds for aquatic weed management to private individuals and companies.

The Aquatic Plant Management Council was created by Executive Order No. 82-36, as amended by Executive Order No. 82-40. The Council includes one representative from each of nine state agencies. Its duties include the development of an aquatic plant management plan for the State of South Carolina. The same executive orders designate the Water Resources Commission as the State agency to apply for and receive grants and loans from the federal government or other sources for aquatic plant management programs.

In practice, the federal government through the Corps of Engineers has since 1958 made available grants to states to assist states with control of nuisance aquatic plants in public waters. Under the program, the federal government provides 70% of the funding and the State arranges for the remaining 30%. The 30% share has in the past generally been supplied by local political subdivisions of the state. In the situation at hand, however, it has been suggested that possibly private individuals and entities could provide the 30% matching funds. For instance, where aquatic weeds inhibit the flow of water to an electric generating facility, an electric company might be interested in providing the matching funds.

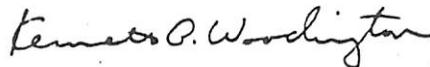
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You have concluded that the contract between the Commission and the Army Corps of Engineers contains no language which is clearly pertinent to this opinion request, and have further been informed by the legal office of the Corps in Charleston that the federal contract contains no restriction as to public versus private benefits so long as the Commission remains the local contractor.

The act which creates the program is P.L. 85-500, 92 Stat. 297 (1958). Section 104 of that act provides that the 30% share "shall be borne ... by local interests..." This language is not by its nature limited to local governmental interests. In addition, other sections of the federal Rivers and Harbors Act; 33 U.S.C. § 450 et seq., tend to equate the term "local interests" with either private or public entities. Thus, for instance, 33 U.S.C. § 560 speaks in one sentence of receiving contributions from private parties and in the second sentence prefers to contributions "made by local interests..." The same equation of meaning is made in the following section, which speaks in its heading of advances by private parties and in its text of advances by local interests.

It thus appears that in programs administered by the Corps of Engineers, a contribution by "local interests" need not be by a public entity, and it is the opinion of this office that it is appropriate for private parties to advance the 30% share for aquatic weed management programs when the Commission so approves.

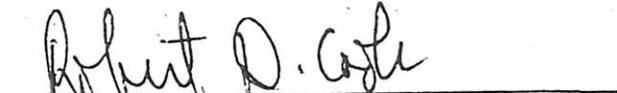
Sincerely yours,



Kenneth P. Woodington  
Senior Assistant Attorney General

KPW:rnr

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions