



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 30, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1982-45

Ann M. Dumenil
Jennings, Strouss & Salmon
111 West Monroe
Phoenix, Arizona 85003

Dear Ms. Dumenil:

This responds to your letter of June 15, 1982, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a number of questions concerning the potential affiliation between the Salt River Project Agricultural Improvement & Power District (the "District") and the Salt River Valley Water Users' Association (the "Association").

In your request, submitted on behalf of the District, you indicate that the District and the Association came into existence as a result of the Salt River Project (the "Project"). The Project, a Federal reclamation project originated by the Reclamation Act of 1902, began operations in 1903 for the purpose of irrigating farm land in the Salt River Valley. The Association was organized as an Arizona corporation in 1903 to serve as the representative of the landowners, for whose benefit the irrigation system was being constructed, in any dealings with the Project. The Association and the United States government cooperated in the financing and construction of the Project with the Association agreeing to repay the United States all construction costs. The Government then required membership in the Association as a condition for receipt of stored and developed water from the reclamation project. From 1904 until 1937, first with the U.S. Government then alone, the Association operated and maintained the Project. In 1937, the Association, with the cooperation of the Arizona legislature, formed the District in order to reduce the expense of operating the Project. The District was organized as a special district denominated a political subdivision of the State of Arizona. This quasi-governmental status allowed the District to issue bonds at a much lower rate of interest than those issued by the Association thus enabling the shareholders of the Association, who would ultimately purchase the District bonds, to save a substantial sum of money. The District is essentially, and has been recognized as such by the courts, a business enterprise created by and chiefly benefiting a specific group of landowners, and has been allowed to become a nominal public entity in order to obtain inexpensive bond financing. Ball v. James, 101 S.Ct. 1811, 1819 (1981).

In 1937, the Association transferred, subject to paramount interest of the United States, all of its property to the District and agreed to perform all of its obligations in connection with the care, operation and maintenance of the Project on behalf of the District. The District agreed to provide capital and operating funds to the Association to support operation of the Project by the Association. Since 1949 the District has operated the power generating function of the Project while the Association operates the water delivery system as an agent for the District. In addition, the management staff of the District and the Association have been the same since 1949.

In your request you ask several questions:

- (1) Whether the District and the Association are affiliates under the Commission regulations thus enabling District executive and administrative personnel (and their families) to be solicited by the Association's political action committee, the Project Political Involvement Committee ("PPIC")?
- (2) Whether the regulations permit twice yearly solicitations by PPIC of non-executive employees of both the District and the Association?
- (3) Whether the local union of the Salt River Project is entitled to payroll deductions to facilitate voluntary contributions to its political fund from those of its members who are employed by the District and the Association?

The Commission answers all of the questions presented in the affirmative. In response to the first question, the Commission concludes that as a result of the close financial and managerial interrelationships, outlined above, between the District and the Association the two entities are affiliated organizations. The Project is the joint responsibility of the District and the Association; the District is comprised entirely of Association members; the same individuals have managed both organizations since 1949; and the District was created solely by and for the members of the Association. As affiliated entities the Association or its political action committee, PPIC, can solicit the executive and administrative personnel (and their families) of the District. 11 CFR 114.5(g)(1). See Advisory Opinion 1977-71, copy enclosed.

As a result of affiliation, and in response to the second question presented, the Association or PPIC may make a total of two written solicitations each calendar year for contributions to PPIC from the non-executive employees of the District or the Association. 2 U.S.C. 441b(b)(4)(A). 11 CFR 114.6.

In response to the third question, the Commission's regulations, at 11 CFR 114.5(k), provide that any corporation, including its affiliates, that uses a method of soliciting voluntary contributions, or facilitating the making of voluntary contributions, from its stockholders or executive or administrative personnel shall make that method available to a labor organization representing any members working for the corporation or its affiliates. You attached to your request a letter from Local 266 of the International Brotherhood of Electrical Workers ("IBEW") which indicated that it would like to initiate a payroll deduction plan for political contributions from its members who work for the Association and the District. Presently, payroll deduction exists only

for IBEW members employed by the Association. Under the Commission's regulations since the Association and the District are affiliates of each other, if either uses payroll deductions as a means of facilitating voluntary contributions to PPIC, then payroll deduction for union members employed by either the Association, or the District, must be made available to Local 266 and its separate segregated political fund. 11 CFR 114.5(k)(1). See also Matter Under Review 994/947 where the Commission found that when a corporation utilizes payroll deduction for its executive and administrative personnel to facilitate voluntary contributions in one of the corporation's affiliates or subsidiaries, the corporation must make that plan available to the union members employed by any of the corporation's affiliates and subsidiaries.

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth by your request. See 2 U.S.C. 437f.

Sincerely,

(signed)

Frank P. Reiche
Chairman for the Federal Election Commission

Enclosure (AO 1977-71)