

Office of the
Attorney General
State of Wyoming
Cheyenne

October 10, 1961

(4) 10/10/61 - Haight

Mr. Kenneth R. Sturman
Coordinator-Secretary
State Soil and Water Conservation Committee
308 Capitol Building

Dear Mr. Sturman:

This will acknowledge receipt of your inquiry of October 6, 1961 wherein you posed three questions in regard to the matter of withdrawal of lands from an organized soil and water conservation district, particularly as follows:

(1) If one or more landowners request withdrawal of their lands from an organized soil and water conservation district, when must they file notice by petition with the State Committee?

(2) If a group of farmers and ranchers has filed a notice by petition to the State Committee to have their lands withdrawn from a district, what is the earliest date these petitions could be filed with the State Committee?

(3) Attached is a list of persons who have requested their land to be withdrawn from the Beaver Skull Soil and Water Conservation District in Weston County. Will these persons who have submitted a request for withdrawal since last April need to do anything further to have their lands withdrawn?

This matter was considered prior to furnishing our opinion of June 7, 1961, in which, among other things, I stated:

"You must bear in mind, however, that when we speak of withdrawal, in accordance with the provisions of Section 11-240, Wyoming Statutes, 1957, as amended, the landowner may have his said lands withdrawn from the district at any time after one year after its organization, and consequently, you are faced with the proposition that after the one year has expired there is always the possibility that the landowner can eliminate himself from the provisions of Section 11-246, Wyoming Statutes, 1957, as amended, so that he could not be compelled to comply with these provisions if he has followed the requirements of the statute with regard to notice, etc." The answer to the three questions which you submitted is very simple and is very succinctly stated at page 36 of the 1959 Supplement to the 1957 Wyoming Statutes as follows:

"Any owner of lands within a proposed district may have his owned and leased lands excluded from such proposed district upon presentation of a petition and description of said lands to the state committee not less than seven (7) days prior to the holding of the referendum for the organization of the said district, and may have his said lands withdrawn

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from such district at any time after one year after its organization, subject to any existing contracts with the soil and water conservation district, upon sixty (60) days notice by petition filed with the state committee. In either of said cases, the state committee shall exclude such lands of said petitioner from said district upon proof by the petitioner of his said interest therein." § 11-240, 1959 Supplement to Wyoming Statutes. (Emphasis ours.)

While we have been furnished with a list of landowners and the date on which they had requested withdrawal of the lands from the Beaver Skull Soil and Water Conservation District, you have not indicated when this district was organized. Consequently, the only matter involved is whether or not this district was organized over a year from the date that the withdrawal application was made. If this district was organized more than one year prior to the date on which these withdrawal applications were made, in my opinion, it would be incumbent upon the State Committee to exclude these lands without further action on the part of the landowners. You will note that 60 days notice is required by the landowners to the State Committee and the information which has been furnished indicates that most of these withdrawal applications were made in April this year which would be beyond the 60 day period.

Briefly summarizing, it is my opinion that if the Beaver Skull Soil and Water Conservation District was organized prior to March 31, 1961, which seems to be the earliest date that an application was filed for withdrawal, then these parties having at this time given more than 60 days notice to the State Soil and Water Conservation District to withdraw, the State Committee must exclude the lands of these petitioners from said district upon proof that the petitioners and each of them has such interest as is described in Chapter 17 of the Wyoming Statutes, 1957, as amended.

Yours truly,

S/

W. M. Haight

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W. M. Haight
Deputy Attorney General

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