OFFICE OF THE
ATTORNEY GENERAL
STATE OF WYOMING
STATE CAPITOL BUILDING
CHEYENNE, WYOMING 82001

CLARENCE A. BRIMMER
ATTORNEY GENERAL

November 1, 1972

MEMORANDUM OPINION

Mr. Kenneth R. Sturman
State Conservation Commission
303 State Capitol Building
Cheyenne, Wyoming 82001

SUBJECT: Proposed amendments to Water Shed Improvement Districts' Law; State Conservation Commission "Special Project Fund"

Dear Mr. Sturman:

At your request in memorandum of October 19, 1972 we have reviewed your draft of proposed changes and issues to the existing Water Shed Improvement District Law; or to the legality of such amendments, it is our view that such changes and additions if enacted by the 47th Legislature would not be in conflict with any laws now effective, nor with the Constitution of Wyoming as far as existing applicable statutes are concerned.

You inquire whether we would suggest that another section be added to the act providing for withdrawal of lands within the boundaries of a district. We would advise against such amendment for the reason that relief in this respect already appears in the law, if sufficient reason be given by the owner for such withdrawal.

We point out here that there are now certain safety valves and safeguards built into the act to which a aggrieved landowner may resort; (a) such as Section 41-354.19 providing for an appeal to the District Court from any order of assessment proposed to be levied; (b) If it should appear at the hearing on the establishment of a district that any land included in the Petition will not be benefited by its inclusion, then the board of supervisors shall exclude such land from the District (Sec. 41-354.7a) and Sec. 41-354b which directly authorizes "The owner or owners of land which has not been, is not and cannot be benefitted by its inclusion in the Watershed Improvement District may petition the board of supervisors to have such land withdrawn" (see our Memorandum of July 13, 1972).

As stated in our July 13, 1972 Memorandum such Petitions for change of boundaries may also be submitted to the Supervisors under the provisions of subsection C of the above cited statute.

Considering your second question relating to the Commission's "Special Project Fund" and whether it may be used to financially assist the director of the Toltec Watershed Improvement District, which district has been subjected to unconscionable litigation with its attendant costs and expenses, we can think of no more deserving cause for such assistance; however, we fail to find any lawful authority within the powers of the State Conservation Commission to lend its financial aid in this dilemma. Perhaps, there should be considered further enabling legislation to do so.

We are returning your department file herewith.

Respectfully submitted,

Sterling A. Crane
Deputy Attorney General

SAC:ees

Enclosure

SUCCESSIVE REVISIONS

WYOMING WATERSHED IMPROVEMENT DISTRICT LAW

Page 1 - Add Section E after D and insert the following wording:

"PROXY" means the power to vote for another legally qualified voter of a Watershed Improvement District when authorized on a document as noted in § 41-354.9 (a)

Page 1 - Change the wording of § 41-354.2 (Purposes of Act) as follows:

After the words "conservation development" insert, "industrial development, domestic supply" then combine with "utilization," etc.

Page 1 - § 41-354.3 - (FORMATION)

At the end of the sentence, following the words "in section 2", add, following sentence. "The conservation district in which such sub-districts are formed shall cooperate, advise and consult with the State Conservation Commission in matters pertaining to the organization, operation and maintenance of the watershed improvement district."

Page 3 § 41-354.8 (REFERENDUM PROCEDURE FOR ESTABLISHMENT - GENERALLY):

In the second to the last sentence, after the words "one or more places within the", delete the words, "proposed district" and insert instead, "responsible conservation district".

Page 5 - § 41-354.12 (BOARD OF DIRECTORS - ELECTION; NOMINATING PETITION; ELECTION; TERMS; OFFICERS.) Add to title, REPORTS; MEETINGS-

Sub-section A.

First sentence, after "supervisors shall, delete word "cause" and insert word "conduct".

Page 5 - (Same section, same sub-section) Second paragraph:

At the end of the first sentence ("three years") and ahead of the second sentence ("Vacancies occuring") insert the following sentences:

"The board of supervisors of the conservation district shall conduct these election annually on the (second Tuesday of January) to fill the unexpired terms. These elections shall be in accordance with the election rules and regulations for Watershed Improvement Districts as outlined in the Election Handbook issued by the Wyoming State Conservation Commission".

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Page 6 - (Same section) Sub-section B -

After the last sentence of the paragraph, add the following sentence - "The board of directors shall file an annual report with the board of supervisors before the first day of [illegible] containing a financial statement, operation and maintenance activities for the preceeding year and their proposed developments for the current year. A copy of the annual report shall be filed in the State Conservation Commission by the board of supervisors."

Page 6 - (Same Section) Sub-section C -

At the end of the paragraph, at the end of the final sentence, after the words, "he seeks election" eliminate the period and add the words "or who is a supervisor on the conservation district board".

Page 6 - (Same Section) -

Add sub-section "D" and the wording as follows: "The board of directors shall hold joint quarterly meetings with the governing board of supervisors to consult and advise upon the activities of the Watershed Improvement District, one of such quarterly meetings shall consist of an inspection tour of the district by the boards jointly."

Page 6 - § 41-354.13 (SAME - POWERS GENERALLY)

Sub-section "D"

After the words "operate and", insert the words "contract for the maintenance of" and then continue with "such structures, etc.)

Page 9 - § 41-354.21 (ASSESSMENTS GENERALLY)

Strike and delete the entire last phrase, beginning with the words "and provided further".

OTHER CHANGES

Delete the wording "soil and water" on the following pages:

Page	Paragraph	No. of times it appears
Index (1st page)	--	1
Index (2nd page)	--	1
1	2, 6 & 7	4
2	1, 2, 3&4	9
3	4	1
4	2	1
5	1, 2 & 3	6
10	3	1
11	1 & 2	4

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Change the word "committee" [illegible]

Page	[illegible]	No of times it [illegible]
Index (2nd page)	[illegible]	1
2	1, 3 & 4	4
3	4	1
4	1 & 2	2
5	1, 2 & 3	3
10	3	1
11	1 & 2	3

Another thing that was mentioned was a cut-off date for receiving petitions for board member elections. I believe this should be properly included in the "election regulation handbook".

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