



*Attorney General*

CHEYENNE, WYOMING 82002

V. FRANK MENDICINO  
ATTORNEY GENERAL

August 2, 1976

Mr. Larry J. Bourret  
Wyoming Department of Agriculture  
Cheyenne, Wyoming 82002

Re: Subdivisions - Conservation District Review  
(Niobrara Conservation District)

Dear Larry:

The questions posed by Pete Hansen, Chairman of the Niobrara Conservation District, in his letter to you of July 16, 1976 and his attachment, being a letter from the Niobrara Conservation District Board of Supervisors to the Chairman of the Niobrara County Commissioners of similar date, are, to some degree, the same questions that were considered in my letter to you of April 28, 1976, concerning the Pinedale Conservation District.

Specifically, Mr. Hansen presents two questions as follows: (1) Does a conservation district have responsibility concerning water problems such as quantity, quality and potential pollution from septic fields in reviewing and making recommendations with respect to applications for proposed subdivisions; and (2) can the conservation district Board also make a recommendation that no buildings or structures be placed on certain areas within the subdivision application, where soil limitations would restrict such use.

Wyoming Statute 18-289.15(b) mandates that the Board of County Commissioners shall require a subdivision applicant "to obtain review and recommendations from the local conservation district regarding soil suitability, erosion control, sedimentation, and flooding problems..." The statutory language gives wide latitude to the Conservation District Board with respect to any recommendations that it may make with respect to water and soil problems

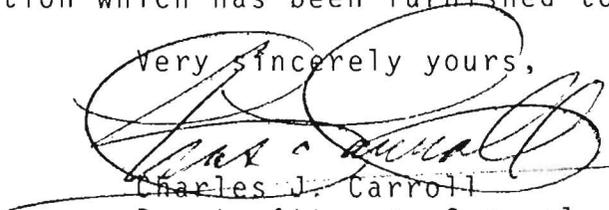
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that may be encountered in the proposed subdivision area. This latitude or power of the Conservation District Board likewise appears in Sec. 11-245 of the Wyoming Conservation District's law as amended. As I stated in my April 28 letter to you, each subdivision applicant's case must be reviewed in the light of his proposed plans, the location of the development and the soil and terrain features peculiar to that development. Consequently, the Conservation Commission must have sufficient information available as to the development concerning streets, sewers, location of structures and other technical data in order to make an expert review and recommendation to the Board of Commissioners.

With the foregoing in mind, the above questions must be answered in the affirmative.

Mr. Hansen has likewise asked that comment be made as to the letter that his Board has proposed sending to the Niobrara Board of County Commissioners. In the light of the matters discussed in this letter, I think the review and comments of the Board as expressed in such letter are proper. It must be borne in mind that the conservation district merely makes recommendations to the Board of County Commissioners, who must take the final action with respect to approval of any subdivision application based upon all the available information which has been furnished to it.

Very sincerely yours,



Charles J. Carroll  
Deputy Attorney General  
Civil Division

CJC:rb