

THE STATE



OF WYOMING

ED HERSCHLER
GOVERNOR

In reply refer to:

Attorney General

CHEYENNE, WYOMING 82002
PHONE 307 777-7841

STEVEN F. FREUDENTHAL
ATTORNEY GENERAL

November 4, 1981

NOV 06 1981

Mr. John Niland, Chairman
State Conservation Commission
2219 Carey Avenue
Cheyenne, Wyoming 82002

RE: Limitation on Water Development Project Loans

Dear Mr. Niland:

You have asked whether the Farm Loan Board (the Board) can limit the amount of money to be loaned to an established water shed improvement district. It is our opinion that the maximum which can be loaned to a water shed improvement district is \$150,000.00.

While this limitation cannot be directly ascertained from the statutes or rules of the Farm Loan Board, it reflects a sound policy of the Board to require adequate security for loans made from the permanent funds of the State of Wyoming.

The Board is authorized pursuant to W.S. 11-34-101 to 11-34-102 to make loans which will aid in the construction of water development projects. One aspect of the loan program relates to loans for small water development projects. The Board can lend up to \$150,000.00 to an "individual" who qualifies for such a loan. W.S. 11-34-101 and Rules and Regulations of the Wyoming Farm Loan Board, Chapter V, Water Development Loans, Section 10. Individual is defined in the Rules to include:

Any person, corporation, joint venture, association, partnership or any group, family, or association of persons or other legal entities engaged in the business of agriculture or a single farming or ranching operation in this state.
Section 2, a.

Mr. John Niland,
November 4, 1981
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A water shed improvement district fits the definition of "individual" within the meaning of the Rules and Regulations. A mortgage on the borrower's realty is taken as security for a small water development loan. W.S. 11-34-302(b); Rules & Regulations, Section 7,a.

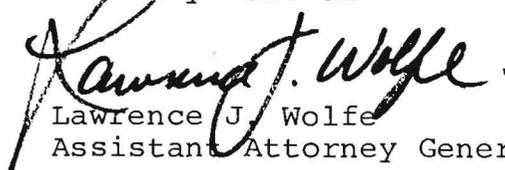
The Board is further authorized to make loans greater than \$150,000.00 for large water development projects. Rules and Regulations, Section 2,f. These large loans cannot be made to "individuals". W.S. 11-34-301 provides that "[N]o single loan to an individual under a small water development project shall exceed One Hundred, Fifty Thousand Dollars (\$150,000.00)." The statutes do not define "small water project", but the Board has consistently interpreted this phrase to mean that no loans in excess of \$150,000.00 will be made to an individual. Therefore, in order to qualify for a large water development loan, an entity, such as a court-approved district, must be formed. The rationale for this approach is that the Board can "require such security it deems advisable." W.S. 11-34-302(b). The funds that the Board lends are permanent trust funds of the State of Wyoming, and the Board has a trust obligation to ensure that these funds are adequately secured and repaid. The Board policy to limit loans to individuals to \$150,000.00, which is based on controlling statutes and rules, reflects a concern that large loans be properly secured. Obviously, court-approved water districts have the ability to assess benefits to their members which provides a greater degree of security.

In conclusion, the Farm Loan Board cannot by law lend more than \$150,000.00 to "individuals". A water shed district fits the Board's definition of "individual". Therefore, unless the water shed district formed a court approved district with the power to assess benefits, the Farm Loan Board would limit any loan request to \$150,000.00.

Sincerely,



Steven F. Freudenthal
Attorney General



Lawrence J. Wolfe
Assistant Attorney General



Mary B. Guthrie
Senior Assistant
Attorney General

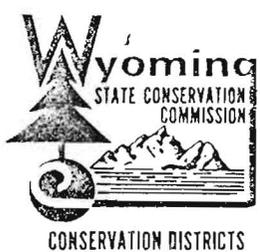
This letter of advice shall not be considered a formal Attorney General opinion and shall not be copied, reprinted or disseminated as such.

*Attorney General
Opinion
file*



THE STATE OF WYOMING

ED HERSCHLER
GOVERNOR



State Conservation Commission

2219 CAREY AVENUE

PHONE (307) 777-7321

CHEYENNE, WYOMING 82002

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EUGENE HARDY
(LIVESTOCK BOARD)

JOHN NILAND
(DEPAD)

August 13, 1981

Mr. Steve Freudenthal
Attorney General
Capitol Building
Cheyenne, Wyoming 82002

Dear Mr. Freudenthal:

Enclosed is a letter from Jonathan Davis, the Chairman of the South Big Horn Conservation District, in which he has requested your opinion on the limitations placed on the Farm Loan Board when they loan to watershed improvement districts.

Myron Goodson informed us that perhaps the loan limit to "non-court approved" districts is \$150,000.

Our question is, "Does the Farm Loan Board have a legal limit on how much can be loaned to a legally established watershed improvement district, and if so, what is that limit?"

Sincerely yours,

John Niland
Chairman
State Conservation Commission

JN/BG/jh

Enc.; 1



South Big Horn Conservation District
 P.O. Box 791 - Greybull, Wyoming 82426
 Phone (307) 765-2483

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AUG 10 1981

August 7, 1981

TO: Bill Gentle, State Executive
 Wyoming State Conservation Commission
 2219 Carey Avenue
 Cheyenne Wyoming 82002

SUBJECT: Borrowing limit for Watershed Improvement Districts; Attorney General's opinion.

Dear Bill:

The Shell Valley Watershed Improvement District has requested that the South Big Horn Conservation District request an Attorney General's Opinion on the question of: Are Watershed Improvement Districts, which are non-court approved, limited to a borrowing limit of \$150,000?

This limitation, if applicable, could be quite detrimental to the Shell Valley Watershed Improvement District since they are considering projects far in excess of this dollar amount.

Please see the copy of the attached letter.

The South Big Horn Conservation District would like to request a formal Attorney General's opinion on this matter. Please forward this request as soon as possible.

Sincerely,

Jonathan Davis

 Jonathan Davis, Chairman
 South Big Horn Conservation District

SHELL VALLEY WATERSHED IMPROVEMENT DISTRICT
c/o Marvin L. Hankins
Shell Route
Greybull, WY 82426

August 4, 1981

South Big Horn Conservation District
P.O. Box 791
Greybull, WY 82426

Attn: Maxson Ewen, Secretary

Gentlemen:

At our regular Board Meeting held on the eve of Monday, August 3rd, we were taken aback by the contents of a letter we received from Bill Long of the Wyoming Conservation Commission, a copy of which is herewith enclosed. Mr. Long states in his letter that Myron Goodson had recently advised the commission of his belief that entities such as Watershed Improvement Districts not approved by the court are limited to a borrowing limit of \$150,000.00. This limit, of course, severely restricts our Watershed Improvement District in its efforts to develop additional water for agricultural use in Shell Valley.

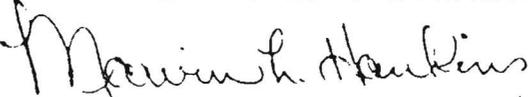
In view of the above written, and as suggested by Mr. Long in his letter to our district, the Board of Directors of Shell Valley Watershed Improvement District hereby respectfully requests that your Conservation District seek the opinion of the Attorney General in the matter of the borrowing limit.

We are, of course, hopeful that the Attorney General's opinion is not in agreement with Mr. Goodson's, otherwise our district may have been formed for naught.

An early reply in this matter will be greatly appreciated since we have committed ourselves to an informational meeting of landowners within our newly formed district in September.

Respectfully Submitted,

SHELL VALLEY WATERSHED IMPROVEMENT DISTRICT



Marvin L. Hankins
Secretary-Treasurer



MLH:p

cc: Charles Bratsky
Jack Clucas
Dolan Scharen
James Whaley