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February 4, 1942

Mr. Edgar A. Reeves, Secretary
Soil Conservation Committee
Laramie, Wyoming

Dear Mr. Reeves:

We have your letter of February 2, 1942, in which you request an interpretation concerning Section 6, subsection E, Ch. 134, Session Laws of Wyoming, 1941. The particular question concerning which you desire an opinion has to do with the authority of a lessee to exclude from a proposed soil conservation district lands leased by him, where the owner fails to join in a petition to exclude said lands.

The above section of the Soil Conservation District Act to which we have referred, contains the following language:

"Any owner of lands within a proposed soil conservation district may have his owned and leased lands excluded therefrom ***".

The right to exclude land owned by another is not accorded a lessee of these lands, but is extended to the owner thereof. It is true that the phrase above cited, "leased lands," is not clear, but taken in conjunction with the whole section and the purpose for which it was enacted, it is our opinion that the petition to exclude lands from the district must be executed by the owner of the lands or by someone on his behalf having authority to execute the petition. It may be that as between the owner and the lessee, the latter is invested with this authority, but it can not be presumed from the mere fact of the relationship itself.

You also asked the question as to what this office would consider proof that one assuming to exclude lands has an interest therein. We are unable to lay down any general rule, but we believe that if you apply the ordinary rules of business and the common tests of ownership which are well known, that you will have no difficulty in ascertaining whether the petition is filed by one who has an interest therein and if so, the extent thereof. A lessee does not have such an interest as would enable him without further authority from the owner to exclude lands from the district.

Very truly yours,,

Harold I. Bacheller,
Deputy Attorney General