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Sterling Case
June 9, 1973

The Tolttec Watershed Improvement District was organized in the month of July. Some of its Director's terms of office expire next month.

Can the Board of Directors of the Watershed Improvement District appoint individuals to fill the term from July till January with the approval of the Board of Supervisors of the Conservation District?

If not, must this be resolved by an official election to elect an individual for the short six-month term?

I would appreciate your assistance to resolve this problem.

Sincerely,

Don Hood
Executive Secretary

DH/mc



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CLARENCE A. BRIMMER
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June 22, 1973

TO: Mr. Sterling A. Case
Deputy Attorney General

FROM: Mike Wass, Law Clerk

RE: Question from Mr. Don Hood, Executive Secretary of the State Conservation Commission concerning the terms of office of the Board of Directors of the Toltec Watershed Improvement District.

QUESTION: Can the Board of Directors of the Watershed Improvement District appoint individuals to fill an expired term of a Director until the January General Elections?

D I S C U S S I O N

There is nothing specifically allowing such action by the Board of Directors. It is obvious from the language of 41-354.12(a) that the State Legislature only contemplated the necessity of filling vacancies on the board before expiration of a term. Here, the problem relates to an expired term with no statutory provisions for filling the vacant seat.

Because of the fact that the Legislature obviously contemplated vacancies in the Board membership, it could not now be argued that elsewhere in the statutes there is, by implication, authority for filling the vacancy caused by the expired term.

The problem is one that must be approached with care in light of previous litigation over the Toltec Watershed Improvement District and the most viable approach is special enabling legislation.

I would suggest that a representative of the State Conservation Commission should attend the meeting with the Elections Committee of the Legislature and the Secretary of State as was suggested by Fred Reed, Assistant Attorney General, in a letter to Don Hood dated June 20, 1973.

Respectfully submitted,

Mike

Mike Wass, Law Clerk

MW:ees