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January 8, 1990

M E M O R A N D U M

TO: Don Rolston, Commissioner  
Wyoming Department of Agriculture  
2219 Carey Avenue  
Cheyenne, Wyoming 82002

FOR: Grant Stumbough  
Water Quality Soil  
Conservation Consultant

FROM Donna L. Rice *D.L.R.*  
Assistant Attorney General

QUESTION: Is property owned by Wyoming Soil Conservation  
Districts subject to taxation by the state?

RESPONSE: Yes, except for mobile machinery.

DISCUSSION

By statute W.S. 11-16-102(a)(v) a district or conservation district is a governmental subdivision of this state, and a public body corporate and politic organized in accordance with the act, W.S. 11-16-101 through 134, entitled the Wyoming Conservation Districts Law. "Conservation" means development, improvement, maintenance, preservation, protection, and use of natural resources, and the control and prevention of floodwater and sediment damages and the disposal of excess waters. W.S. 11-16-102(a)(iv).

In your inquiry, you have correctly cited Attorney General Opinion 83, July 18, 1956, which concluded that district property is subject to taxation. The 1945 Wyoming Conservation District Law (W.C.S. 34-1401, 34-1417) contained a paragraph which specifically exempted district property from taxation. W.C.S. 1945 34-1409, paragraph (N). In 1955,

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W.C.S. 34-1409 was amended and reenacted without paragraph (N). A presumption exists that the Legislature in adopting an amendment to a statute intends to make some change in the existing law. . . . Lindsay v. Collins, 96 F. Supp. 994 (U.S.D.C., Wy, 1951). Generally, when the legislature, by amendments has deleted an express provision of a statute, the presumption is that a change was intended. Jordan v. Delta Drilling, Co., 541 P. 2d 39,78 (Wyo. 1975).

The present act, W.S. 11-16-102 through 134, does not contain an exemption for district property.

Article 15§12 of the Wyoming Constitution entitled "Exemption from taxation" states:

The property of the United States, the state, counties, cities, towns, school districts and municipal corporations, when used primarily for a governmental purpose, and public libraries, lots with the buildings thereon used exclusively for religious worship, church parsonages, church schools and public cemeteries, shall be exempt from taxation, and such other property as the legislature may by general law provide. (As amended by Laws 1955, House Joint Resolution No. 2, p. 390.)

Conservation districts do not fit the categories or definitions of any exemptions listed in Article 15§12. When a law enumerates the subject or things on which it is to operate, it is to be construed as excluding from its effect all those not expressly mentioned under the rule of "expressio unius est exclusio alterius". Town of Pine Bluffs v. State Board of Equalization, 333 P.2d 700 (Wyo. 1959).

W.S. 39-1-201 entitled "Exemptions" within the Taxation and Revenue statutes does not list an exemption for conservation district property. There are specific exemptions for water and sewer districts (W.S. 39-1-201(a)(xxii)), water conservancy districts (W.S. 39-1-201(a)(xxiii)), and irrigation districts (W.S. 39-1-201(a)(xxxiii)). The irrigation district exemption was effective June 9, 1988.

One exemption in W.S. 39-1-201 which may apply to conservation districts which own machinery is an exemption for "mobile machinery" found at (a)(xxxiv) which became effective July 1, 1989. Mobile machinery is exempt from taxation and is defined at W.S. 31-2-601 (a)(i) as:

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. . . . heavy equipment, except shop or hand tools or attachments, which is self-propelled, towed or hauled and used primarily in construction and maintenance of roads, bridges, ditches, buildings or land reclamation; (Emphasis added).

#### CONCLUSION

Conservation districts may wish to seek legislation to include district property in the W.S. 39-1-201 exemptions since similar districts have recently been exempted by the legislature.