

90-904



THE STATE

OF WYOMING

Attorney General

MIKE SULLIVAN
GOVERNOR

JOSEPH B. MEYER
ATTORNEY GENERAL

123 CAPITOL BUILDING
CHEYENNE, WYOMING 82002
TELECOPIER: 307-777-6869

ADMINISTRATION 307-777-7841
CONSUMER AFFAIRS 777-6286
WORKERS' COMPENSATION 777-5934
NATURAL RESOURCES 777-7824, 777-7825
CRIMINAL DIVISION 777-6743, 777-7874
CIVIL DIVISION 777-7886, 777-7876, 777-6397
TORT LITIGATION 777-6886
CRIME VICTIMS COMPENSATION 777-5984

June 5, 1990

Honorable Kathy Karpan
Secretary of State
State of Wyoming
Capitol Building
Cheyenne, Wyoming 82002



Re: Conservation district tax levy election

Dear Kathy:

The Beaver Skull Conservation District is planning to conduct its first election concerning a proposed tax levy. Because many property owners within the district chose to have their property excluded from the district pursuant to W.S. 11-16-109 at the time of formation, there is some concern about who is eligible to vote in this election.

W.S. 11-16-134 is even a little confusing, for in subsection (a) it states the proposition must be submitted to a vote of "the qualified electors of the district" and then in subsection (b) says the proposition is submitted to "the electors of the county." Because the language of (a) is more specific and more like the rest of the language in these statutes, it should control. Town of Worland v. Odell & Johnson, 329 P.2d 797, 79 Wyo. 1 (1958). Although candidates for district supervisor and petitioners and voters in an election to form or dissolve a district must be qualified electors who own real property in the proposed district, W.S. 11-16-108, 110, 117, 119, "all qualified electors within the district" are eligible to vote for supervisors and on the mill levy proposal according to the language of the statute.

As I understand the situation, the district proposes to simply require an affidavit from each voter at the polls attesting to his or her right to participate in the vote on the tax levy proposal. This procedure is provided in W.S. 11-16-110(c) for the election concerning creation of a district, and upon creation of a district, the property of landowners not opting out pursuant to W.S. 11-16-109 but voting against creation of the district is still included in the district if that is the election result.



Honorable Kathy Karpan
June 5, 1990
Page 2

The statutes are silent about using the affidavit procedure in any election but the first concerning formation of the district. W.S. 11-16-110(c).

It would be preferable to determine precisely which properties within the district were excluded under W.S. 11-16-109, a necessary step before the tax can be levied on them, and then determine who all the voters are who live on property included in the district. Ironically, owners of land included within the district who reside elsewhere are not eligible to vote on the tax proposal.

The affidavit procedure, though not authorized, may be useful to the assessor and it may not cause the election to be invalidated, but the records of excluded properties must exist and should be consulted and compared with voters home addresses.

Sincerely,



Rowena L. Heckert
Senior Assistant Attorney General

RLH:am