



Wyoming  
Department  
of Agriculture

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M E M O R A N D U M

DATE: May 7, 1992  
TO: Mary Guthrie  
Assistant Attorney General  
FROM: Jim Schwartz  
Natural Resource Program Coordinator

The Casper-Alcova Conservation District was formed on May 2, 1946. At that time, there were select areas which were not included in the district. The main area of concern is the Town of Casper, south of the North Platte River. Originally, this area was not included in the Conservation District. For several years, district supervisors were not aware that this area was not included in the district.

In 1971, Conservation District Law was amended, in particular section 17, paragraph (page 151, Session Laws of Wyoming 1971) which reads:

"All cities, towns, villages or other urban and suburban areas lying wholly or partly within the exterior boundaries of the conservation district shall, from the date of the passage of this act, be included in and deemed a part of the district. In doubtful cases, the commission shall determine the district which shall be deemed to include any such urban or suburban area by virtue of this provision."

Since that time, Conservation District Law has been further revised and this statute is covered in 11-16-118(d).

The Casper-Alcova Conservation District has requested to be placed on the ballot to receive a "mill levy" with the County Commissioners. County Attorney Eric Easton has asked the question if this area within the Town of Casper would be included in the election. I would appreciate your opinion as to whether this area is within the district boundaries according to the statutes.

JS/lms

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may be removed by the state conservation commission upon notice and hearing, for neglect of duty of [or] malfeasance in office.

(c) A majority of the supervisors shall constitute a quorum and the concurrence of three (3) supervisors in any matter within their duties shall be required for its determination.

(d) The supervisors shall provide for bond of two (2) persons who shall be property owners within the district, which properties shall be free and unencumbered, and equal in value to the obligation undertaken or, for the execution of surety bonds by a company authorized to do business in the State of Wyoming, by all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings, and of all resolutions, regulations, and orders issued or adopted, and the accounts, receipts, and disbursements of the district shall be subject to an annual audit by the state commission.

(e) All cities, towns, villages or other urban and suburban areas lying wholly or partly within the exterior boundaries of a conservation district shall, from the date of the passage of this act, be included in and deemed a part of the district. In doubtful cases, the commission shall determine the district which shall be deemed to include any such urban or suburban area by virtue of this provision.

(f) By cooperative agreement with the city concerned, a district may perform within the boundaries of the city any work required or authorized under this act, through such administrative and financial arrangements as the city and the district may agree upon.

**Nomination of District Supervisors; Nomination by Agent of Corporate Landowners; Extension of Nomination Time; Election of Supervisors; Term**

Section 18. That Section 11-243, Wyoming Statutes 1957, as amended and re-enacted by Section 1, Chapter 46, Session Laws of Wyoming 1967, is amended and re-enacted to read as follows:

Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a conservation district, nominating petitions may be filed with the state conservation commission to nominate candidates for supervisors of such districts, who must be owners of land within the district. In the event of ownership of land within the district by a corporation, that corporation's officer or agent designated pursuant to Section 17-36.42, Wyoming Statutes 1957, compiled 1965 shall, for the purposes of this act, be considered an owner of land within the district. The commission shall have the authority to extend for not to exceed thirty (30) days the time within which nominating petitions may be filed. No such nominating petitions shall be accepted by the commission, unless it shall be subscribed by ten (10) or more owners and/or occupiers of lands lying within boundaries of such districts. Owners and occupiers of land may sign more than one such nominating petition to nominate more than one candidate for supervisor. The commission shall give due notice of an election to be held for the election of three (3) supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall appear, arranged in the alphabetical order



THE STATE

OF WYOMING

# Attorney General

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May 19, 1992

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Jim Schwartz  
Natural Resource Program Coordinator  
Wyoming Department of Agriculture  
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Cheyenne, WY 82002

Re: Casper-Alcova Conservation District

Dear Jim:

You have asked whether a portion of the City of Casper, which is south of the Platte River, could be included in the Casper-Alcova Conservation District, even though it was not part of the original conservation district. After reviewing all of the Wyoming statutes which deal with conservation districts, it is my view that the area in question cannot be made a part of the district unless the landowners in the area approve being included in the district.

Your question is based on the statute which seems to give the State Conservation Commission (which was terminated on July 1, 1987 and its powers transferred to the State Board of Agriculture, pursuant to Ch 15, §2, 1987 Session Laws of Wyoming) the ability to change district boundaries:

All cities, towns, villages or other urban and suburban areas lying wholly or partly within the exterior boundaries of the conservation district shall, from the date of the passage of this act, be included in and deemed a part of the district. In doubtful cases, the commission shall determine the district which shall be deemed to include any such urban or suburban area by virtue of this provision.

W.S. 11-16-118(d)

At first glance, it appears that the Commission (now the Board of Agriculture) could unilaterally change the

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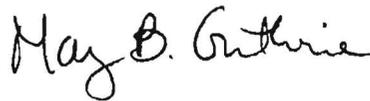
Jim Schwartz  
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district's boundaries by including urban areas. However, an examination of several other statutes which govern district organization leads me to conclude that such an action is not permissible. A district can only be formed if several steps are undertaken:

1. A petition must be filed describing the property to be included in the district. (W.S. 11-16-108)
2. A public hearing must be held concerning formation of the district and the lands within the district (W.S. 11-16-109)
3. Landowners whose property would be included in the proposed district must approve district formation in a referendum vote. (W.S. 11-16-110).

A review of all of these statutory provisions concerning the rights of affected property owners had led me to conclude that W.S. 11-16-118(d) cannot authorize the Commission to significantly enlarge or alter the boundaries of existing districts. Therefore, it will not be appropriate to include the area south of the Platte River in the Conservation District election.

Sincerely,



Mary B. Guthrie  
Senior Assistant  
Attorney General

MBG:ba