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WY. DEPT. OF AGRICULTURE
NATURAL RESOURCES

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March 14, 2011

Mr. Justin Williams
Wyoming Department of Agriculture
2219 Carey Avenue
Cheyenne, WY 82002

Dear Mr. Williams:

The Washakie County Conservation District asks: "What is the definition of a donation?" As the message you received gives examples of expenditures made in the past, I will answer the specific question and provide a reference for Conservation Districts to consider regarding expenditures which may have traditionally been thought of as donations.

A donation is a gift, especially to a charity. BLACK'S LAW DICTIONARY 526 (8th ed. 2004). A gift is a "voluntary transfer of property to another without compensation." *Id.* at 709. That definition is similar to the definition found in the Wyoming Ethics and Disclosure Act at WYO. STAT. ANN. § 9-13-103(a)(vi) which, as it applies to donations, is "anything of value to the extent that consideration of equal or greater value is not received . . ."

Conservation District expenditures are subject to Article 16, Section 6 of the Wyoming Constitution, which provides in part:

> Neither the state nor any county, city, township, town, school district, or any other political subdivision, shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor . . .

In addition, the Wyoming Conservation Districts Law limits the manner in which district funds may be utilized. WYO. STAT. ANN. § 11-16-133 provides as follows:

> (a) Subject to W.S. 11-16-134, the county commissioners may annually levy a tax to carry out this act. The tax shall be levied upon all property in the district and shall not exceed one (1) mill on each one dollar ($1.00) of assessed valuation. The tax is not part of the general county or city mill levies. The tax shall be levied and collected as other county taxes and the county treasurer shall remit the taxes collected to the district to a separate fund to be known as the conservation district fund, <u>which shall be used only to carry out the purposes of this act.</u>
>
> (b) Whether or not a tax levy is authorized under W.S. 11-16-134, each board of county commissioners may make appropriations from the county general fund to districts established under this act <u>for the purpose of providing soil and water conservation programs.</u> (Emphasis added).

The statute is clear that the taxes levied and collected for a conservation district shall be used only to carry out the purposes of the act. In addition, if a conservation district receives an appropriation of funds from the county commissioners, those funds are to be used for the purpose of providing soil and water conservation programs.

The purpose of the Wyoming Conservation Districts Law is set forth in WYO. STAT. ANN. § 11-16-103(b) which provides as follows:

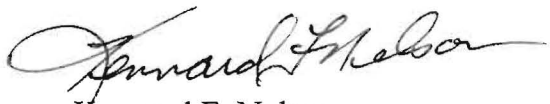
> It is hereby declared to be the policy of the legislature to provide for the conservation of the soil, and soil and water resources of this state, and for the control and prevention of soil erosion and for flood prevention or the conservation, development, utilization, and disposal of water, and thereby to stabilize ranching and farming operations, to preserve natural resources, protect the tax base, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.

A conservation district must receive a benefit which assists it in carrying out the policy and purposes stated above in order to expend its funds. If a district will receive benefits which are equal to or greater than the expenditure, it may pay. If it will not

receive such benefits, the payment should not be made. A conservation district must consider the benefits, if any, it will receive in deciding whether or not to expend funds for things which may have traditionally been considered donations.

If there are further questions or if I may provide further information, please let me know.

Very truly yours,



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