



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

**December 28, 1990**

Honorable Terral Smith  
Chairman  
Natural Resources Committee  
Texas House of Representatives  
P. O. Box 2910  
Austin, Texas 78768-2910

LO-90-110

Dear Representative Smith:

You have asked for clarification about a provision of the statute validating the Barton Springs-Edwards Aquifer Conservation District. The district, an underground water conservation district, was created by order of the Texas Water Commission pursuant to article XVI, section 59, of the Texas Constitution and chapter 52 of the Water Code. The district was validated by the enactment of Senate Bill 988. Acts 1987, 70th Leg., ch. 429 at 1993.

The district as established by order of the commission is composed of portions of Travis, Hays, Bastrop, and Caldwell Counties. You ask specifically about section 10 of the bill which provides for an exclusion election as follows:

(a) The residents of any county area of the district may, on petition of 15 percent of the registered voters within the county area of the district, request that the board of directors hold a referendum, in conjunction with the next regularly scheduled directors' election, to determine whether or not that county area will remain within the district. . . .

(b) A county area may not petition for exclusion from the district before the third anniversary of the confirmation election at which the creation of the district was confirmed. (Emphasis added.)

ID. at 1995.

The statute took effect on June 17, 1987, and the election confirming the creation of the district was held on May 21, 1988. The district was confirmed by a majority vote of those voting as required by section 4 of the bill.

You request our interpretation of the term "county area" as used in section 10 above. First, we note that the term is not defined in the section or used elsewhere in the bill. We see two possible interpretations of the term. Because the territory of the district is composed of only a part of each of the four counties within its boundaries, "county area" may mean that portion of each county included within the district.

A less plausible interpretation would be that "county area" refers to a sub-part of an affected county. This interpretation is difficult to support in the context of section 10, however, because there is no defined minimum voting unit for purposes of determining the percentage requirement for a petition or for conducting the election. This reading of the statute, provides no guidance about the territory to be covered by the election. As we understand it, the district's boundaries do not conform to existing precinct lines within the affected counties.

Therefore, we believe the legislature intended "county area" to mean the entire portion of a county that lies with the boundaries of the district. The territory encompassing the county area of each affected county is clearly identified in the legal descriptions set forth in the orders of the Texas Water Commission. In our opinion, any election held pursuant to section 10 must be triggered by a petition of 15 percent of the registered voters residing in the part of a county that lies within the district boundaries.

Yours very truly,



Karen C. Gladney  
Assistant Attorney General  
Opinion Committee

KG/lcd

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