



UPPER ARKANSAS
WATER CONSERVANCY
 DISTRICT

339 EAST HWY 50 ~ P.O. BOX 1090 ~ Salida, CO 81201~P:719-539-5425

MEMORANDUM

Date: January 24, 2009

To: Ken Baker

From: Ralph "Terry" Scanga
 General Manager

Subject: Election of Conservancy District Directors -- CRS 37-45-114(2) & ©

In 2001 UAWCD received a petition to hold an election for the director in the Division 3, in one of the smallest divisions of the District. A lot of staff time and effort was consumed for approximately a 6 month period in preparation for this election, as well as the expenditure of a significant amount of taxpayer funds. Nothing substantive resulted from the election other than the remarkably high cost to the taxpayers and the diversion of district resources from important water activities. Following is copied a memorandum which was prepared after the election listing the dollars expended on this effort. Note that the cost in staff time and petitioner's time and expense are not included.

August 8, 2001

Re: Upper Arkansas Water Conservancy District Director Election for
 Division 2, Director Seat; Costs Incurred

January 1, 2001 to August 8, 2001 Expenditures: **\$17,802.29**

(To validate petitions including gathering registration lists, qualifying candidates; Preparation of election resolution and other documents. Legal counsel's conferring with County Clerk's Office, District Officials, petitioner's legal counsel. Representation for challenge from petitioner's group against a mail-in ballot.)

April 2, 2001 to April 6, 2001 Expenditures: **\$6,500.00**

(Challenge petition signatures & hearing approximately 120 ruled invalid)

July 10, 2001 Expenditures: **\$4,388.57**

(Chaffee County Clerk's Charges to Conduct Election Balloting)

TOTAL EXPENDITURES: \$28,690.86

The \$28,690.86 figure represented 22 percent of the District's 2001 budget. At current costs, the figure could double. An election petition in larger divisions, or for the at large directorship could easily exceed \$100,000.

The UAWCD's divisions are determined by school district boundaries or by county boundaries. Since these are legally existing political subdivisions, county clerks can determine the number of registered electors. Thus the administrative costs associated with determining the number of elector signatures required on a petition to trigger an election is less costly than for districts whose boundaries do not follow already existing political subdivisions. As is the case for conservancy districts that were formed for the purposes of administering diversion projects, such as the SECWCD or NCWCD to name a few. The costs associated with this determination in these conservancy districts could be significant.

Most conservancy districts receive taxpayer revenue based upon the costs associated with water development activities. The tax rate charged the taxpayers of the respective districts never accounted for the cost of funding director elections. Typically these tax rates are very conservative in order not to be a burden upon taxpayers. Therefore, election costs would be a diversion of funds away from the goals and purposes upon which the district was formed. (The tax rate in the UAWCD is less than one half (1/2) mil.)

Directors are presently required to be knowledgeable in water matters as explicated in the State's Conservancy Statutes. Conservancy District Elections do not necessarily attract candidates from the general population who meet this requirement. Most qualified citizens and sitting directors would not be motivated to seek a director seat if they were required to "run for election".

Water conservancy districts do not make rules or regulations. They are similar to land use planning boards. As such, selection of directors should be based more on knowledge and experience not upon political attractiveness. Selection of directors by an election is intended to be the fall-back option when the taxpayers believe the appointment method is not providing fair representation. Thus, the percentage of electors required to sign a petition forcing an election should be representative of the degree of dissatisfaction and thereby not be an easily attainable number. In rural areas, where most conservancy districts exist, divisions are sparsely populated, thus the present 10% requirement is not an unrealistic goal for determined taxpayers. The current requirements of CRS 37-45-114(2) are burdensome and costly to a conservancy district.

Most eligible electors do not participate in water conservancy director elections. In the case of UAWCD's 2001 division 3 election, less than 18 percent of eligible electors voted. It can reasonably be assumed that 10 percent of these voters were the original petition signers. This means that the successful candidate did not truly represent the majority of eligible electors. The amendments requested in HB1142 would reduce electoral participation even more.

Directors, who are elected to a seat, typically do not seek election on the following term(s); overwhelmingly they seek appointment instead of re-election.

Without question, the major impediment to election of water conservancy directors is cost. If funding could be achieved by a method other than through the conservancy district's taxpayer funds and resources, then that process would be more acceptable. The second greatest impediment is the lack of motivation qualified individuals may exhibit knowing that serving as a director required running for election. And, the third is the historic lack of voter participation, even with an active petition process as was the case in UAWCD's election experience.