

**Opinion No. 41-3753**

March 31, 1941

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. J. V. Taylor State Coordinator Soil Conservation Service State College, New Mexico

{\*52} This will acknowledge receipt of your letter dated March 28, 1941.

My recent opinion in which I stated that all land-owners within a soil conservation district had a right to vote in a soil conservation district election was rendered after a complete consideration of subsections (a), (b) and (c) of Section 2, Chapter 219, Laws of 1937.

It is clear that only agricultural lands should be included in soil conservation districts, and I call your attention to subsection (b) of Section 5, Chapter 219, Laws of 1937.

It is stated therein that the State Soil Conservation Committee shall define the boundaries of the district giving due weight and consideration to the topography of the area, the composition of the soils therein, erosion, land-use practices, "the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries", the relation of the area to watersheds and agricultural regions to other districts and other factors which are relevant under the provisions set forth in Section 2. "The territory to be included within such boundaries need not be contiguous."

Under these provisions, I believe that it is the duty of the Soil Conservation Committee to exclude business and residence property. These business and residence properties having been excluded from the boundaries of the soil conservation district, the owners thereof cannot be permitted to vote in the soil conservation district election.

Trusting that the foregoing sufficiently answers your inquiry, I remain,

By GEO. H. HUNKER, Jr.

Asst. Atty. General