

Section 3389.2, R. C. M., 1935, does not become effective until thirty days after the order, and publication of notice has been duly given as provided by said section.

2. There being no statutory provision as to when the notice must be published, such notice may be published at any time after the order has been made.

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August 9, 1939.

Mr. John M. Comfort  
County Attorney  
Virginia City, Montana

My Dear Mr. Comfort:

You have submitted the following matter for my opinion:

"On September 6, 1932, a hearing was had before the Board of County Commissioners on a petition to establish a horse herd district. The signatures on the petition were adjudged to be genuine, it was found the petition was subscribed by residence owners or possessors of fifty-five per cent (55%), of the land lying within the proposed district, the boundaries of the herd district were described, the time in which said district was to be effective was set at twelve (12) months of each year and it was finally ordered that the due and legal notice be given of the order and the time when the district was to be in effect. This last act of giving a legal notice in the newspaper was not done."

The question involved is whether or not the board of county commissioners may after the lapse of nearly seven years from the time of order so made creating and establishing the horse herd district give the statutory notice stating the period when the district will be in effect and when it will not be in effect.

Section 3389.2 requires after the order has been made establishing the district that the board of county commissioners "must give notice by two weekly publications in some newspaper in the county, nearest the district, stating the period when said horse herd district will be in effect and when such district shall not be in effect." The district was created and established when

**Opinion No. 113**

**Herd Districts—Livestock.**

**HELD:** An order creating and establishing a horse herd district, under

the order was made. It was in complete existence with its effective period of operation contingent upon proper and sufficient notice being published and after thirty days had elapsed from the date of the order creating the district.

Inasmuch as the proposed notice of publication was required to be given **after** the order was made creating and establishing the district, and no specified time being fixed therefor, it follows that a notice now made stating the period when the district will be in effect and when it will not be in effect, more than thirty days having already elapsed after making the order creating the district, will, assuming other proceedings are valid, result in making effective and place in operation a legal horse herd district.