

N.D.A.G. Letter to Tollefson (Jan. 3, 1986)

January 3, 1986

Mr. Douglas Tollefson
Director
Noxious Weed Division
North Dakota Department of Agriculture
State Capitol
Bismarck, ND 58505

RE: Leafy Spurge Control Appropriation

Dear Mr. Tollefson:

Thank you for your letter of December 17, 1985, concerning the use of leafy spurge control appropriation funds for research.

N.D.C.C. Ch. 63-01.1, North Dakota's noxious weed law, contains certain sections relating to the leafy spurge control program. The powers and duties of the commissioner of agriculture in regard to this chapter are set forth in N.D.C.C. §63-01.1-03. N.D.C.C. §63-01.1-03(4), (6) appear to give the commissioner of agriculture broad authority to cooperate with the federal government, other states, and certain state entities in such areas as research to control noxious weeds. However, N.D.C.C. §§63-01.1-06 through 63-01.1-06.3, set the parameters of the leafy spurge control program. There is nothing in these sections which would indicate that the appropriation for leafy spurge control, which for the 1985-87 biennium is \$300,000 (see 1985 N.D. Sess. Laws 684) is to be used for anything other than actual control measures with private landowners, county weed boards, or cities.

N.D.C.C. §63-01.1-02 defines "control" as "to prevent the spread of any noxious weed, designated by the commissioner or other control authority, by seed or any other propagating part."

N.D.C.C. §63-01.1-06.2(4) states as follows:

63-01.1-06.2. LEAFY SPURGE CONTROL PROGRAM FUNDING.

* * *

4. Any legislative appropriation for the leafy spurge control program of sections 63-01.1-06.1 through 63-01.1-06.3 shall be expended only for reimbursement of the cost of leafy spurge control according to this section to private landowners, including lessees, tenants, renters, or operators of private land, county weed boards, or cities. (Emphasis supplied).

N.D.C.C. §63-01.1-06.2(4), specifically along with N.D.C.C. §§63-01.1-06 through 63-01.1-06.3, as a whole, indicate that the monies of any legislative appropriation for leafy spurge control are to be applied to a leafy spurge treatment program for reimbursement costs of the program to the private landowners, county weed boards, or cities participating in the program, and not for research.

Notwithstanding the fact that the commissioner seems to have some broad authority to undertake research efforts as is contemplated in your letter, the monies for such efforts cannot come from the appropriation for the leafy spurge control program.

Sincerely,

Nicholas J. Spaeth

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