

N.D.A.G. Letter to Wold (Aug. 15, 1988)

August 15, 1988

Mr. James W. Wold
Griggs County State's Attorney
P.O. Box 541
Cooperstown, ND 58425

Dear Mr. Wold:

Thank you for your letter of August 2, 1988, concerning the legality of proposed contract between Griggs County and a private landowner. According to your letter, a landowner in Griggs County is proposing to sell some 577 acres of land to the U.S. Fish and Wildlife Service for wildlife production purposes.

Pursuant to N.D.C.C. § 20.1-02-18.1, the board of county commissioners for Griggs County now has the proposal before it for purposes of making a recommendation concerning its approval. Apparently, the county's primary concern is the loss of tax revenues as a result of the sale of the land from a private citizen to the United States government.

The private landowner, however, is willing to contract with the county to pay annually to the county the amount of tax loss the county would suffer should the sale be completed. The legality of this proposed contract is what is in question.

A county has explicit authority to contract and to be contracted with as a body corporate. N.D.C.C. § 11-10-01. Furthermore, the board of county commissioners are authorized to supervise the fiscal affairs of the county. N.D.C.C. § 11-11-11(1). These two statutes would authorize the board of county commissioners to contract with a private landowner wishing to sell land to the federal government to establish a procedure whereby the private landowner would pay to the county an amount equal to the tax revenue loss that would result from such a sale. I assume that as part of this contract the county would agree to make a favorable recommendation concerning the proposed wildlife area acquisition.

However, I caution that the recommendation of the county commissioners required by N.D.C.C. § 20.1-02-18.1 is simply that: a recommendation. There is no provision of state or federal law regarding federal wildlife area acquisitions whereby a board of county commissioners may veto a proposed acquisition as a result of a failure to be reimbursed for any loss of tax revenues.

In summary, it is my opinion that North Dakota law does provide authority to a board of county commissioners to contract with a private landowner to arrange for the reimbursement to the county for loss of tax revenues as a result of a sale of land to the

United States government.

Sincerely,

Nicholas J. Spaeth

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