

OPINION
66-116

June 1, 1966 (OPINION)

Mr. John A. Alphson

State's Attorney

Grand Forks County

RE: Highways - Stop Signs - Access Roads

The following opinion is given in response to the inquiry addressed to you from Lieutenant Col. Roger W. Stinchcomb, Jr., wherein he submitted the following question: "At the present time we are in need of information concerning the required placement of stop signs. Are stop signs required by state law or policy on missile site access roads at their junction with state, county or township roads?"

Section 24-01-15 of the North Dakota Century Code, as amended, provides for the designation of through highways on the state system by the Highway Commissioner. Therein it is provided:

24-01-15. COMMISSIONER TO DESIGNATE THROUGH HIGHWAYS. The highway commissioner with reference to highways under his jurisdiction, may designate as through highways any state highway or part thereof by proclamation and erecting stop or yield right-of-way signs at the entrances thereto where vehicles are not otherwise required by law to stop or yield right-of-way."

In section 39-01-01, subsection 21 of the North Dakota Century Code, as amended, we find the definition of highway.

'Highway' shall mean the entire width between the boundary lines of every way, publicly maintained when any part thereof is opened to the use of the public for purposes of vehicular travel;"

As Colonel Stinchcomb's question indicates, the roads that he is concerned with are military in nature, providing access to various missile sites. Although it is not specific in his letter, I would assume that these roads are under the control of the military and are not open to public travel, and therefore, I would conclude they would not meet the test of a highway as provided for by the statutory definition. This being so, it would be my opinion that by virtue of section 39-10-25 of the North Dakota Century Code, as amended, that state law would not require the erection of stop signs at these access points, since the law requires the vehicle entering the highway from such a road to stop before entering the highway.

39-10-25. VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY OR TURNING LEFT TO ENTER A PRIVATE ROAD OR DRIVEWAY. A driver of a vehicle about to enter or cross a highway from a

private road or driveway shall yield the right-of-way to all the vehicles approaching on said highway and a vehicle turning left to enter a private road or driveway shall yield the right-of-way to all vehicles approaching on said highway and to any vehicle which is in the left hand lane overtaking or is about to overtake the left turning vehicle."

The access road to the missile site would fall within the exception provided for in section 24-01-15, supra, as being "otherwise required by law to stop or yield right-of-way" and for that reason the highway department would not be required to post a stop or yield right-of-way sign at such access points.

The same reasoning would apply to county or township roads, inasmuch as Title 39 makes no distinction in its definition of a highway between a state, county or township road. The requirement of stopping before entering a highway would have application on the local road systems as well as the state system. If the Air Force is desirous of erecting stop signs at these access points, I would also suggest that they contact the local authorities having jurisdiction over the county or township roads relative to the erection of these signs.

HELGI JOHANNESON

Attorney General