

**LETTER OPINION
93-L-200**

June 25, 1993

Wade G. Enget
Mountrail County State's Attorney
P.O. Box 369
Stanley, ND 58784

Dear Mr. Enget:

Thank you for your June 8, 1993 letter asking if a county weather modification authority may be renewed for a period of less than five years. For the reasons set forth below, it is my opinion that a weather modification authority must be renewed for an entire five year period under N.D.C.C. ? 61-04.1-27.

Mountrail County currently has a weather modification authority, which was established by petition pursuant to N.D.C.C. ? 61-04.1-23.

North Dakota Century Code ? 61-04.1-27 provides, in part, as follows:

61-04.1-27. Creation of weather modification authority and its powers by resolution. When a weather modification authority is about to expire, the board of county commissioners of any such county may by resolution authorize the creation of such weather modification authority and all its powers, including the power to certify a tax levy as provided by section 61-04.1-26, for additional five-year periods; provided, the resolution authorizing the creation of such weather modification authority is adopted by the board of county commissioners before the expiration date prescribed in the preceding resolution for its termination. Upon passing such resolution for the creation of the authority, the board of county commissioners shall appoint five weather modification authority commissioners to five-year terms of office, subsequently filling vacancies in the manner

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prescribed by section 61-04.1-23.

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This statute specifically authorizes the renewal of a weather modification authority for additional five-year periods. Furthermore, the county commissioners are mandated to appoint five weather modification authority commissioners to five-year terms of office.

It is my opinion that the language of this statute is mandatory. Therefore, any weather modification authority which is renewed must be renewed for five years.

However, N.D.C.C. ch. 61-04.1 does provide for the abolishment of weather modification authorities. See N.D.C.C. ?? 61-04.1-28 and 61-04.1-30. Furthermore, under N.D.C.C. ? 61-04.1-22, the weather modification authority in any county may suspend the county and state weather modification operation within that county at any time.

You might also be interested in Senate Bill 2305, which was passed by the 1993 Legislature Assembly. This bill provides for the creation of a temporary weather modification authority in conjunction with a designated water resource district. Such a temporary weather modification authority may only conduct weather modification operations for a period of up to four years. I have enclosed a copy of Senate Bill 2305 for your review.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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Enclosures

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