

N.D.A.G. Letter to Winkelman (Sep. 24, 1986)

September 24, 1986

Honorable Brent Winkelman
House of Representatives
633 North 35 Street
Bismarck, ND 58501

Dear Mr. Winkelman:

Thank you for your letter of August 29, 1986, providing me with your observations regarding the Game and Fish Habitat Restoration Stamp program. You also asked two questions concerning funds received from the sale of habitat stamps.

Your first question is whether the revenue received from the sale of print and collectible stamps must be placed in the habitat restoration fund provided for in N.D.C.C. § 20.1-03-12.1. According to this statute, money within this fund is intended to be used to lease privately owned lands for wildlife habitat.

Your letter mentions a relevant letter written by my predecessor, and I have enclosed a copy of a 1983 letter written by Attorney General Wefald on this particular subject. In that letter, this office concluded that the particular habitat fund provided for in N.D.C.C. §20.1-03-12.1 applies with respect to revenues received from the sale of the habitat stamp. There is no language in this statute, according to the 1983 letter, requiring moneys received from the sale of art prints taken from the design used on the habitat restoration stamp to be placed in this fund. Instead, revenue received from the art prints would be credited to the game and fish fund pursuant to N.D.C.C. §20.1-02-16.1.

I assume your inquiry concerning the sale of prints refers to the sale of art prints taken from the design used on the habitat restorations stamp. If my assumption is correct, then my conclusion would be the same as that provided for by this office in 1983; namely, the moneys received from the sale of such prints are not required to be placed in the habitat restoration fund. However, where the sale of habitat stamps used for collection purposes as opposed to being placed upon the small game hunting license occurs, the moneys received must be placed in the habitat restoration fund pursuant to N.D.C.C. § 20.1-03-12.1.

Finally, you question where the interest earned from the habitat fund should be credited. Currently, the statutes are silent as to which fund must receive the interest from the habitat restoration fund. Given the fact that these interest moneys are earned upon moneys located within the habitat restoration fund, which has a statutorily required purpose, the logical conclusion and the one which I do adopt is that the interest from the habitat restoration fund should remain with the habitat restoration fund.

Sincerely,

Nicholas J. Spaeth

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cc: Dale Henegar
Representative Orville Schindler