

N.D.A.G. Letter to Wold (Sep. 28, 1988)

September 28, 1988

Mr. James W. Wold
Griggs County State's Attorney
Griggs County Courthouse
Cooperstown, ND 58425

Dear Mr. Wold:

Thank you for your letter of September 13, 1988, concerning the proposed sale of land to the U.S. Fish and Wildlife Service.

Your letter notes that the materials supplied by the Fish and Wildlife Service state that a tract of land proposed to be sold to the United States would be considered an addition to the National Wildlife Refuge System as authorized by Public Law No. 87-383. This reference is apparently causing some confusion as N.D.C.C. § 11-27-09.1, which discusses payments made by the federal government to counties following such land sales, references Public Law No. 88-523.

Public Law No. 87-383 is found at 16 U.S.C.A. §§ 715K-3, 715K-4, 715K-5 (West 1985). Copies of these codified statutes are enclosed for your review. According to the United States Supreme Court, the purpose behind Public Law No. 87-383 was to add federal moneys to the migratory bird conservation fund for use in acquiring land for water fowl production areas. The Supreme Court noted that this additional appropriation was needed as duck stamp sales proved insufficient to maintain an adequate fund for water fowl land acquirement purposes. North Dakota v. United States, 46 U.S. 300, 303 (1983). Although we cannot be certain, it appears that the reference to Public Law No. 87-383 within these materials is to indicate the availability of the federal funds appropriated to the migratory bird conservation fund to be used to buy the land in question.

The reference on page 2 of the materials does indicate that the proposed sale will be included within the National Wildlife Refuge System. Public Law No. 88-523, 16 U.S.C.A. § 715s (West 1985), provides for the distribution of revenue to local governments by the Fish and Wildlife Service. It is this federal act that is referenced by N.D.C.C. § 11-27-09.1.

Thus, it would appear from the materials available that payments made by the federal government to Griggs County with respect to the tract of land in question would occur pursuant to Public Law No. 88-523. As such, the distribution by the county of the moneys received will occur pursuant to N.D.C.C. § 11-27-09.1.

We hope this information is helpful to you.

Sincerely,

Nicholas J. Spaeth

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