

N.D.A.G. Letter to Larson (July 22, 1987)

July 22, 1987

Mr. Stuart A. Larson
Office of State's Attorney
Traill County
Box 188
Hillsboro. ND 58045

Dear Mr. Larson:

Thank you for your letter of July 2, 1987, concerning North Dakota's noxious weed laws.

I concur with your opinion that N.D.C.C. § 63-01.1-12(2) is not meant to apply to the temporary storing of seed that may contain noxious weed seeds or propagating parts of noxious weed seeds on the ground for the purpose of later processing that seed.

I do not find any case law or previous opinions in regard to this matter. However, N.D.C.C. 63-01.1-15(2) proscribes the "scattering and dumping" of "weed seeds or propagating parts." Since the conjunctive is used, the mere scattering on a temporary basis is not sufficient. The seeds must have also been dumped. The ordinary meaning of the word "dump" connotes an action with some finality to it -- "to get rid of," "dispose of," "to discharge or reject." See The American Heritage Dictionary of the English Language (New College ed. 1981); N.D.C.C. 1-02-09.

To some extent, however, this type of situation is a question of fact. Indeed, one can well imagine that such a situation could become "scattering and dumping" within the meaning of the statute. However, based on the facts as set forth in your letter, it is my opinion that this sort of temporary locating of seed would not be in violation of N.D.C.C. 63-01.1-12(2).

Sincerely,

Nicholas J. Spaeth

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