

N.D.A.G. Letter to Wold (Nov. 4, 1987)

November 4 1987

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

Dear Mr. Wold:

Thank you for your letter of October 21, 1987, wherein you inquire whether a mineral deed transferring previously severed minerals may be recorded even if the real estate taxes against the surface are delinquent.

N.D.C.C. § 11-18-02 provides as follows:

11-18-02. Register of deeds not to record certain instruments unless they bear auditor's certificate of transfer. Except as otherwise provided in section 11-18-03, the register of deeds shall refuse to receive or record any deed, contract for deed, plat, replat, patent, auditor's lot, or any other instrument that changes the current property description unless there is entered thereon a certificate of the county auditor showing that a transfer of the lands described therein has been entered and that the delinquent taxes and special assessments or installments of special assessments against the land described in such instrument have been paid, or if the land has been sold for taxes, that the delinquent taxes and special assessments or installments of special assessments have been paid by sale of the land, or that the instrument is entitled to record with regard to taxes. (Emphasis supplied.)

N.D.C.C. § 11-18-03(2) provides as follows:

11-18-03. Instruments entitled to record without regard to taxes. The following instruments may be recorded by the register of deeds without the auditor's certificate referred to in section 11-18-02:

...

A mineral deed conveying oil, gas, and other minerals in or under the surface of lands.

Thus, it is my opinion that a mineral deed previously severed minerals may be recorded even if the real estate taxes against the surface are delinquent.

Sincerely,

Nicholas J. Spaeth

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