

Opinion No. 172.

Weed Control District.

Held: Farmers who reside outside a weed control district may not receive any benefits from the funds, equipment and supplies as provided in the weed control act.

June 21, 1946.

Mr. Fred C. Gabriel
County Attorney
Phillips County
Malta, Montana

Dear Mr. Gabriel:

You have requested my opinion whether a farmer who resides outside a weed control district may receive any benefits from the county and purchase chemicals for weed control at cost.

Section 10 of Chapter 195, Laws of 1939, as amended by Chapter 90, Laws of 1941, provides:

"Where complaint has been made and the supervisors have reason to believe that noxious weeds described in this act are present upon lands **within the district**, in violation of the law, they shall forthwith inspect the premises, and if such weeds are found, they shall cause written notice to be served on the person permitting the same, directing him to comply with the provisions of this act, within a period of time specified in said notice." (Emphasis mine.)

It is to be observed the supervisors give notice to persons permitting noxious weeds to grow "upon the lands **within the district**." This would preclude notice being given for weeds on land outside the district.

Section 14 of Chapter 195, Laws of 1939, provides in part:

"If any landowner desires to control the weeds and exterminate the weed seed on his own lands, in accordance with **the notice of the supervisors**, he may make application to the supervisors for the necessary chemicals, equipment and material necessary to enable him to control the weeds and exterminate the weed seed."

The use of the phrase "in accordance with the notice of the supervisors" makes such notice a condition precedent before benefits may be derived by a farmer under the act. As was indicated before, notice may be given by the supervisors only to occupants of land **within the district**.

It is therefore my opinion that farmers who reside outside a weed control district may not receive any ben-

efits from the funds, equipment and supplies as provided in the weed control act. It may be that this act should be amended, but that falls within the province of the legislature.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General