PRIVATE PROPERTY RIGHTS SQUASHED IN N.D.

By Curt Wells

Imagine your 87 year old mother is in poor health. To pay for her care you must sell the family property, a 600 acre patch of ground in North Dakota. With a measure of pain, you put the land up for sale but over three years there are no buyers. Then, finally, someone offers you $560 per acre, a fair price, and things are looking up.

Then, the county commission gets involved and they oppose the sale - between a willing seller and a willing buyer. But why? Was the land to be used as a nuclear waste dump? A prison for child molesters? An Al Qaeda training camp?

Nope. The buyer was Ducks Unlimited who just wanted to restore the wetlands then donate the grasslands to the U.S. Fish and Wildlife Service as a perpetual easement before reselling it. Seems not only harmless but beneficial to the public, right?

Not so fast say the Kidder County Commissioners. They claim any perpetual easements would make the land less marketable in the future.

What? Since when is the marketability, present or future, of private property the concern of anyone other than the property owner/buyer? That should not be the commissioner’s concern. What gives them to the right to make that judgment?

The proposed sale was then referred to something called the Natural Areas Acquisition Advisory Committee. This group of representatives from agriculture, Game and Fish Department and others ultimately voted 6 to 2 to oppose the sale. Committee chairman, State Agriculture Commissioner Roger Johnson, said the committee almost always goes with the recommendation of the county commissions and in this case there was nothing unique about this property or unusual flora or fauna to warrant protection.

What? Since when does private property have to be unique or unusual before a willing seller and willing buyer can exchange cash for land? What qualifies Johnson or any committee member to judge whether someone can sell their own property?

But wait, consider this most egregious example of hypocrisy you’ve heard in awhile. Members of the Natural Areas Acquisition Advisory Committee include representatives from N.D. Farm Bureau, N.D. Farmers Union and the N.D. Stockmen’s Association. You won’t find any organizations more concerned with private property rights. To the more radical members of these groups having their name on a deed entitles them to complete control of all things property related. If they carried a shield the words “Property Rights Shall Not Be Infringed” would be engraved on the front.

Yet these people have the audacity to tell 87 year old Judith Hetleved she cannot sell her land to the first buyer to come along in three years! I can’t help but wonder how those committee members would vote if Mrs. Hetleved was their mother. The smell of hypocrisy is as strong as a fresh cowpie.

This is not the first or the twentieth land sale that has been denied because a conservation group is involved in the transaction. A no vote is virtually automatic regardless of the circumstances. North Dakota’s anti-corporate farming law requires non-profit organizations such as Ducks Unlimited to go through this charade-like process which predictably ended last week when Governor John Hoeven denied the sale.

“The governor should not be denying this type of request,” said Steve Adair, director of DU’s Great Plains Regional Office in a news release. “The state law that requires the governor’s approval is unfair to private property owners and non-profits. The landowner, Mrs. Hetleved, should be allowed to sell this land to whomever she wants. No harm to the state would be caused by DU owning this property. We pay taxes on our land, manage it well and keep it in grass-based agriculture by renting it out to local ranchers.”

Certainly, the Constitution is getting roughed up here. If there’s no compelling hazard to society, proven by the state, then Gov. Hoeven, Roger Johnson, Farm Bureau, et al, shouldn’t have a say in the matter. Mrs. Hetleved’s business is none of their business.

It’s time this dictatorial process is challenged in federal court.
Executive Director’s Update by Chris Hesla

South Dakota’s 84th Legislative Session will be over by the time you receive your March Out-Of-Doors. There is one day set aside to work on Governor vetoes.

There were 23 pieces of legislation that SDWF monitored this year. I want to thank all of you who took time out of your daily lives to help protect our hunting and fishing heritage! I also would like to thank those that invested in financial contributions making it possible for SDWF to hire the best lobbyist, Dave Nauman. Without you, SDWF would not be what it is today.

The first week of June is always a very special time for SDWF. It has been 45 years since Dr. McClellan had the idea and started the very first Conservation Camp. In June 1964, Doc took the first group of young adults to the hills to teach them about conservation. Doc spent approximately the next 25 years running the annual camp and donating countless hours of his time to assure that the camp ran smoothly and would carry on after he retired and ultimately, after his death. Doc had the great fortune to have one very dedicated individual donate time with him, Tom Putzier. Together, they experienced how special camp is and how important it is to young adults.

Tom ran the camp for years after Doc retired and he shared his experience with Mike McKernan. During the past few years, Tom passed the reins over to Mike, who is currently the Camp Director and shares many duties along with Dan Opp.

SDWF is fortunate to have such dedicated and special people involved in the running of the camp. We are also very fortunate and THANKFUL that so many other people are willing to dedicate their time and are willing to share and teach our young adults the importance of conservation in every day life.

If anyone knows a young adult between 15-17 years old and they would like to attend, contact your local affiliate or me at SDWF.

If you have any questions or comments, please call me at 605-224-7524 or send to SDWF OUT OF DOORS, PO Box 7075, Pierre, South Dakota 57501. All communications regarding membership in the SDWF or direct contact with the SDWF, including advertising, editorial, circulation and SDWF matters may be sent to SDWF OUT OF DOORS, PO Box 7075, Pierre, SD 57501. All communications regarding membership in the SDWF or direct contact with the SDWF, including advertising, editorial, circulation and SDWF matters may be sent to SDWF OUT OF DOORS, PO Box 7075, Pierre, SD 57501.
There is something about land ownership that brings out the most primordial feelings in us, or at least those of us who delight in touching the land and nourishing crops from the soil. For some, those crops are grain to take to market and grass for the livestock. For others, the crop is the wild animals which are housed and nourished by the plants and wetlands on the land. The harvest of these crops, whether they are plants or flesh-and-blood, is steeped in tradition.

Only a very few of us are blessed with the capability to make a living off the land. Most of us have been forced from the land, willingly or not. There are not enough jobs in cornfields to pay the bills for everyone, but someone needs to build the machinery and supply the fuel to grow and harvest the grain, and we need workers to transport and process and package and advertise and sell the final products, and finally someone to haul away the trash when the cereal box is empty. Corn can be sold at the local grain elevator to pay for expenses. Ducks and cottontails and sunrises over an awakening lawn is a poor excuse for habitat for anything but scud missiles.

There are very few options for those of us without land, and no way to make a living from the land if we did own some. I am eternally grateful for my landowner friends who allow me nearly unfettered access to their fields. Yet there are days I want to go hunting or simply walk the fields without the obligatory phone call to get permission and without feeling like I’m perhaps taking something of value from the landowner, even if I leave the land with an empty game bag. There are days I want to say, “This is my land, and I shall come and go as I please.” The freedom to hunt might not be guaranteed by the constitution, but it is a right in the Dakotas, established by time and tradition.

Most of us don’t own land other than perhaps a tiny parcel of earth upon which our home sits. The lawn is a poor excuse for habitat for anything but robins and the kids’ bicycles and toys. Yet, we all have ownership in our public lands. I have said this before, and I’ll say it again: all public lands have value, but not all are equal. When it comes to the quality of the outdoor experience, heavily grazed, farmed or mined lands are no match for game or waterfowl production areas. Every single one of us can claim ownership in a Game Production Area, and go there at will to hunt, fish, trap, bird watch, or just sit and contemplate the beauty of the land. We don’t need permission or even pay a fee to enter. The land is open to all. Yes, we must follow a few rules so we don’t interfere with the management of the area, but even a farmer or rancher or homeowner must follow rules. Yes, we are only part-owners, but we are equal owners. None of my fellow landowners can tell me I can’t hunt there, or require that I hunt only antlerless deer on my any deer tag, or demand a daily access fee. Yes, we do pay fees for hunting, fishing and trapping licenses, but we do so willingly, knowing some of those fees pay to buy more land, pay to keep the weeds sprayed and the taxes paid, and pay to enforce the laws and regulations needed to protect and preserve the land for all.

South Dakota has 77,121 square miles, of which roughly 530 square miles are state-owned Game Production Areas. This includes the thousands of acres along the Missouri river turned over to the GF&P by the US Army Corp of Engineers. 

Copyright March 2009

By Bill Antonides

“A Little Piece of Land”
Myths are stories and opinions shared by a group that are part of their cultural identity, with or without a basis of fact or a natural explanation. I bet you can recite a hunting or angling myth like, “Wind from the North, do not go forth. Wind from the South blows the bait in the fish’s mouth.”

But, public understanding of science is often muddied by our beliefs, personal opinions, and myths. There is no room for superstitions, phases of the moon, horoscopes, psychic readings, astrology and mythology in the science classroom. These beliefs are fun as long as we understand that their value is entertainment, not their validity.

Some fishing myths are entertaining, whereas others can interfere with progress in fish and wildlife management. The purpose of this article is to describe how science busts two fishing myths.

Growing up as a fisherman and working at a bait shop for 5 years near Lake of the Woods, I heard a few fishing myths. I heard that lake sturgeon eat all the walleye eggs and will cause a crash in the walleye population. First, sturgeon diet analysis studies found very low consumption of walleye eggs. After all, these species have co-existed in the system for over 7000 years. No, the walleye population won’t crash because of sturgeon preference for walleye caviar.

Another myth was that walleye in Lake of the Woods are a sub-species that don’t feed at night. Sure, most feeding takes place during the day, that part is true. However, Lake of the Woods waters are stained with tannin from peat bogs. The dark water reduces visibility to levels with or without light. Northern pike are a sub-species that don’t feed at night.

Northern pike loose their teeth?
Northern pike loose their teeth in the summer, which is why they don’t feed during the summer months.

Wow! This came as a surprise to me because I used to catch northern pike off the dock at my parent’s home all summer long. In fact, the bite really picked up around July. So, where did this idea come from? Well, most likely it comes from the fact that during the summer months in eastern South Dakota water temperatures in many of our shallow lakes are above preferred temperatures for northern pike. The high water temperatures cause the pike to become lethargic or go to deeper waters if possible.

It is said that “one good measurement is worth a thousand expert opinions.” My SDSU student colleagues and I tested the myth by examining all the pike captured in the Game, Fish and Parks summer gill net surveys. All the pike still had their teeth - myth busted.

The Common Carp Myth

Another myth I heard after moving to South Dakota involved the common carp which were introduced widely throughout the US during the late 1800s by the US Fish Commission as a protein source for immigrants. The poem goes:

The ubiquitous carp and brown trout
Came from Europe with sponsors devout.
Salmo trutta won fame, but who is to blame
For the cyprinid we should’a kept out?

A belief held by many South Dakota anglers is that to get rid of carp they must remove every carp they catch and never release a carp back into the lake. Two of my colleagues studying carp routinely have a conversation like:

Fisherman: Why are you studying carp?
Researcher: We want to learn more about them so we can understand how to manage systems that have carp in them.

Fisherman: Why are you putting that carp back into the lake?
Researcher: I implanted a transmitter into the carp so I can track its movements and see where it spends most of its time.

Fisherman: You know if you put that carp back in the lake you are just contributing to messing up the lake and increasing the carp numbers.

Is this true?

Removing large adult fish from a population will reduce the total number of adults, no doubt. However, the problem with applying this idea is that many species of fish exhibit density dependent recruitment, growth, and mortality, meaning that the number of juveniles depends on the density of adults. However, a plot of this hypothetical relationship is a “bell-shaped curve” not a straight line.

Fisheries scientists call the bell-shaped curve the stock-recruitment model, which shows that the number of young fish is not directly a straight-line relationship to the number of adults (Figure 1).

As the number of adult carp increases (left side of the graph), the number of juvenile carp also increases until a certain point (e.g., 2000 adult carp in the example). Lots of adult fish (right side of the graph) will actually produce fewer offspring that survive to adulthood.

The stock-recruitment curve also shows that reducing the number of adults in a huge population can actually cause high recruitment (move along curve from right to left).
“A Little Piece of Land” . . .

There are many ways to take away the right of sportsmen and other conservationists to own and manage land as a group. Most have been tried in South Dakota, and will be tried again in one form or another. Please take the time to read Private Property Rights Squashed in N.D. by Curt Wells in this publication. North Dakota has a system which requires corporations, even a non-profit corporation like Ducks Unlimited, to go through a process of obtaining approval by the county commissioners, an advisory board, and the governor before they can purchase property. As you can tell from the article, the process is not always in the best interests of the public, nor in the interest of property owners who want to sell their land to the buyer of their choice. We are always only one law away from having similar problems in South Dakota. This year a bill was introduced which would have required almost all land purchases by the GF&P to have the approval of the legislature. This meant the process from beginning to end to buy a parcel of land would take maybe a year and half, minimum. The bill didn’t say the GF&P couldn’t buy land; it just made it nearly impossible.

We have a great deal to be thankful for in South Dakota. By my count, there were at least four attempts in the legislature in 2009 to take away the rights of sportsmen, acting through the GF&P, to buy land from willing sellers. Some attempts were so veiled or oblique they almost escaped detection. However, even the most indirect of attempts raised alarm bells by watchful observers, and sportsmen responded loud and clear. The majority of our legislators agreed the protection of property rights and personal freedoms are paramount to South Dakota values.

Bill Antonides is a retired wildlife conservation officer, a certified wildlife biologist, and a vice president in the SDWF.

Game Production Areas offer a little something for almost everything and everyone. Photos by the author.

North Dakota has a system which requires corporations, even a non-profit corporation like Ducks Unlimited, to go through a process of obtaining approval by the county commissioners, an advisory board, and the governor before they can purchase property.

PIERRE, S.D. – A proposal to lengthen the South Dakota pheasant season one week will be considered at the April Game, Fish and Parks Commission meeting in Sioux Falls.

The recommendation brought forward by the GFP Division of Wildlife would extend the season from the first Sunday in January to the second Sunday of the month.

“We heard from several hunters that they wished the season would have lasted a little longer this year,” said Division Director Tony Leif. “By extending the season a week, we are hoping to provide hunters a little more opportunity during a time when opportunities are abundant.”

Proposals to extend the grouse and quail seasons to the second Sunday in January will be taken under consideration as well. Under a similar proposal the partridge season would be extended to the second Sunday in January and would close Lacreek National Wildlife Refuge to partridge hunting.

The Commission voted “no change” to the youth pheasant, resident only pheasant, snipe, cottontail rabbit, tree squirrel, crow, dove and sandhill crane seasons. A no change vote means the season structures will be the same as the 2008 seasons.

The Commission will take final action on the pheasant season proposals at their April meeting, which will take place at the Sioux Falls Downtown Holiday Inn, April 1-2.

Information on season proposals is available at the GFP Web site at www.sdgfp.info under the headings “About Game, Fish and Parks” and “GFP Commission.”

SDWF Annual Commemorative Gun Giveaway

Your chance to win a Savage .17 Caliber rifle
Model # 9317fxp

Buy a chance to buy one of the hottest new calibers to plink with, Synthetic Stock, 3-9 X 40 scope mounted and boreighted, 5 round clip. Drawing at the 64th Annual Convention in August 09.

Void where prohibited by law. Your presence or contribution not necessary to win. SDWF reserves the right to offer a cash settlement in lieu of the shotgun.

SDWF, P.O. Box 7075, Pierre, SD 57501 • 605-224-7524
At the recent Winter Board Meeting the SDWF Board created the SDWF Wildlife Legacy Council. The Council was created to allow recognition of the people who support SDWF above and beyond their membership and raffle donations. Thank you to the following donors for their contributions to the SDWF. Please consider becoming a member of the Wildlife Legacy Council. SDWF is a 501(c)3 non-profit, all donations are tax deductible.

Level I Pheasant- $50-$99

Bob Kiesecoms, IL
Roman Jungers II, WI
Dave Jacobson, SD
Mike Huss, IN
Jerry Hickenbottom, MO
Virgil Hansen, SD
Myron Hagelstrom, MN
John Griffin, OK
Brian Gatzke, SD
Forrest Flint, IA
Virgil Johnson, SD
Thomas Flesher III, OK
David Hixson, SD
Alene Hix, MO
Robert Foxworthy, KY
Bill Meyers, MO
Bob Lepak, KY
John Koutsky, IL

Level II Deer $100-$249

Thomas Eaney, KS
Dennis Eckert, KY
Kenton Eisenbeisz, LA
Robert Ebel, WI
Robert Foxworthy, KY
Fred Gauland, WI
Jim Gilbert, CA
Robert Goggin, MI
Dean Fisher, MO
Mark Finnegan, MO
Forest Flint, WI
John D Foster, KY
Robert Foxworthy, KY
Carl Hart, KY
Howard Hanson, MN
Roger Heedme, NM
Jim Heldebusch, MA
Allie Hox, MO
Ron Island, SD
F. Lee Jackson, AL
Darrell Johnson, SD
Larry Klett, MI
James LaMacka, CA
Rick Larken, IA

Level III Elk $250-$499

29-90 Sportsmen’s Club, SD
Dave Allender, CO
Thomas Flasher III, OK
Kenneth Halstrom, SD
Eric Johansen, MI
Virginia Johansen, SD

Level IV Buffalo $500-$999

Black Hills Sportsmen Club
Ken Greenwood, SD

Level V Eagle - $1000 and above

Black Hills Sportsmen Club
John W. Chapman, PA

Mythbustes. . .

left toward the peak.

More juveniles survive because there is more food and habitat space. So, should we add more adults to the population to reduce recruitment of juveniles? Absolutely not, this would only compound the problem. Nature often takes care of things much better than we can by winterkill for example.

Our objective in the carp control battle is to greatly reduce the number of carp by commercial seining (Figure 2, 1966 carp removal from Lake Poinset) or chemical control. Then we can actually start to control the number of offspring in a population that is already full of carp, it will essentially be a drop in the old bait bucket! The Year of Science should stimulate scientists to take a closer look at our science procedures, and stimulate them to improve their understanding of science. There is also a lot of scientific data on the Game, Fish and Parks website http://www.sdgfp.info/, or contact your local wildlife or fisheries biologist. The next time someone tries to feed you a fish tale, ask them to show you the data.

Year of Science Note

This month’s Year of Science theme is Physics and Technology. Lake Oahe anglers may recall the recent SDSL studies to use sound waves and strobe lights to frighten fishes from the Oahe Dam intakes.4 The Year of Science web site lets us see sound waves, not in water but in fire. You’ve got to see this physics demonstration of the Ruben’s Tube at http://www.yearofscience2009.org/home/.

Footnotes
1. South Dakota, Department of Wildlife and Fisheries Science, South Dakota State University, Brookings.
2. Details of the carp stocking story can be found in several chapters of “A History of Fisheries and Fishing in South Dakota” available from the SD WF web site bookstore; http://www.sdgfp.info/shop.htm
3. Chapter 15 of the above book covers commercial fisheries and how they are used in South Dakota to assist wildlife management.
Teen Hunter was Truly a Dear to Another in Need

She stood alone in the pine barrens, a blaze orange vision of despair. He was a young man on a scouting mission, open to possibility but never expecting this. She cradled her head in one hand, a cell phone in the other. She was sobbing. “Oh, no,” thought Nick Owens, fearing the worst. He eased his pickup truck to a stop along the remote road in the Burnett County Forest.

“She was similar to the hunt, sitting for the fourth day in severe cold on a spot cherished by her grandfather and father before. As Nick approached, she wiped her face. She was in her early 20s, he guessed, her petite frame swallowed by an insulated orange suit. She carried a well-worn 30-30 lever-action rifle. Hunting can elicit a wide range of emotions. Many hunters feel a complex mix of remorse, relief and satisfaction when they make a kill. Nick had taken deer with gun and bow in previous seasons and he understood. But what he saw before him was something different. “I shot a deer,” she said. “And my boyfriend doesn’t believe me.” Nick exhaled as the story poured out. “He’s at the tavern,” she said, gesturing to the cell phone. “He won’t come help me.” Anger. Hurt. Betrayal. Helplessness. A stew of emotions boiled forth. She shook her head, biting off a curse. “Doesn’t sound like a very nice boyfriend,” Nick opined. “Got that right,” she said. The buck stepped into a boggy clearing about an hour before, she said. She took careful aim with the iron sights on the trusty rifle and fired one shot from 75 yards. The buck jumped and crashed into the oak scrub, disappearing from view. “I think I hit it,” she said. “I think it’s a big one.” “Let’s go find it,” Nick said. “You’d do that?” she said, a flush of gratitude numbing the pain. The two set out on a narrow path through charred pine and oak scrub. After about 200 yards, they reached a leatherleaf bog, about the size of a football field; she pointed to the spot the deer was last seen. Nick hiked over and quickly found a blood circle in a most pleasing manner: recognition earned through kindness, happiness that money didn’t buy.

In time two other hunters came along and helped hoist the buck into the truck; it took all their strength. Two hours had passed, one very good deed had been done and no names were exchanged. Nick wiped his bloody hands on a towel and prepared to leave. She started shaking, hyperventilating. Perhaps she was overwhelmed by the acts of this good Samaritan, perhaps by the realization that she had taken a trophy in a spot hunted by her family for generations. When she could speak, she offered Nick money. He accepted her profuse thank-you’s but nothing else. They drove off, nameless acquaintances brought together by good will and a great Wisconsin tradition. She likely made a stop at a certain tavern. He went home and shared the story with family. As often happens, word travels. When it reached Dave Swanson, DNR conservation warden in Minong, he decided to check it out. Not only did he find it credible, he nominated Nick for the Wisconsin Hunter Ethics Award. The award was originated in 1997 by the La Crosse Tribune and the DNR to recognize exemplary behavior among the state’s hunters. Something about the story resonated with the judges. Nick will be honored as the 2008 recipient of the award at the Natural Resources Board meeting in Hayward in August. News of the award is spreading. For Nick and a certain female hunter, it helps complete an emotional circle in a most pleasing manner: recognition earned through kindness, happiness that money didn’t buy.
State high court upholds ruling governing wildlife officers

State wildlife officers may enter private property as part of their normal enforcement of hunting laws even when they don’t have “good cause” that a crime has been committed, the Ohio Supreme Court unanimously ruled Thursday.

The ruling in an Erie County case upholds a decision from the Toledo-based 6th District Court of Appeals that reinstated charges against the property’s owner and one other accused of illegally baiting mourning doves with wheat seed for hunting purposes. William R. Coburn was hunting on his Erie County property with his father, Marvin, and a friend, Catawba police officer Todd R. Parkison, on Sept. 1, 2006 when they were approached by Erie County Wildlife Officer Jared R. Abele. Mr. Abele, who lived on nearby property, Mr. Abele said he noticed scattered and piled seed on the ground. Fourth-degree misdemeanor baiting charges, carrying the potential for up to 30 days in jail, were filed several weeks later against the three hunters. The hunters argued that the charges violated the U.S. Constitution’s Fourth Amendment protections against unreasonable search and seizure. An Erie County Common Pleas Court judge threw out the charges, citing a provision of state law requiring a wildlife officer to have “good cause” that a violation of wildlife or fish law has been committed before entering private property. On appeal, the 6th District overturned that decision, citing another provision of state law giving such officers authority to enter private property in the course of the “normal, lawful, and peaceful pursuit” of their duties. “Although Coburn was not required to have a license because he was hunting on his own land, the other two appellants were required to have licenses, and the officer was entitled to approach them to inspect their licenses,” wrote Chief Justice Thomas Moyer. He noted that the officer observed the seed only after legally entering the land.

2008/2009 South Dakota Wildlife Federation’s Custer State Park Buffalo Shoot

$10 each or 3 for $25

Winner’s Choice Of:
♦ A guided buffalo shoot during the 2009 Fall Season. Rifle or bow allowed for the shoot.
♦ A cash prize of $1,500.
• This is a guided shoot in Custer State Park located in southwestern South Dakota.
• These bulls average two years old.
• Drawing to be held at Annual Convention, August 2009.

2009 South Dakota Wildlife Federation’s 21 Gun Giveaway

$20 each

2. Remington Super Mag .12 ga.
4. Remington 597 Scoped .22 combo .22.
5. Ruger 77R 25.06.
6. Remington 870 Express 12 ga.
7. Ruger 77R 25.06.
8. Savage 9317-DXP 17 cal.
11. Ruger 77R 25.06.
12. Savage 9317-DXP 17 cal.
15. Remington 870 Exp. 20 ga.
17. Savage 9317-DXP 17 cal.
20. Savage 9317-DXP 17 cal.

♦ One gun will be awarded for each 100 tickets sold.
♦ 21 guns will be awarded if 2,100 or more tickets are sold.
♦ SDWF reserves the right to offer a cash settlement or substitute a gun of equal or greater value.

*Drawing to be held at Spring Board Meeting, May 4, 2009.

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