

FILE



Subject Agriculture
Corporate Farming
Copy to Corporations
Dept. of Labor

STATE OF KANSAS

Office of the Attorney General

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Attorney General

May 16, 1974

Opinion No. 74- 154

Honorable Elwill M. Shanahan
Secretary of State
2nd Floor--The Statehouse
Topeka, Kansas 66612

Att: Sherman A. Parks

Dear Secretary Shanahan:

K.S.A. 17-5901(a) provides in pertinent part thus:

"[N]othing herein contained shall prevent a domestic corporation from engaging in any agricultural or horticultural business of producing, planting, raising, harvesting or gathering of wheat, corn, grain sorghums, barley, oats, rye or potatoes or the milking of cows for dairy purposes if . . .
(4) such corporation does not own, control, manage or supervise, either directly or indirectly, a total of more than five thousand (5,000) acres of land"

You question whether the acreage subject to the 5,000 acre limitation includes grassland. You also inquire whether the total acreage subject to the 5,000 acre limit owned, controlled, managed or supervised, directly or indirectly, by a domestic corporation engaged in one of the enumerated agricultural or horticultural businesses should be computed to include such land of the corporation which is not used for the enumerated agricultural or horticultural activities, but which is used, e.g., for cattle raising.

The acreage limitation set out above contains no exception regarding the purpose for which the land of the corporation is to be used. The essence of the quoted language is that a domestic corporation may engage in certain agricultural or horticultural business, i.e., the raising of wheat, corn, grain sorghums, barley, oats, rye or potatoes or the milking of cows for dairy

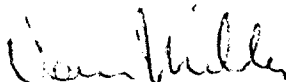
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purposes, if certain conditions are met, one of which is that the corporation not, either directly or indirectly, own, control, manage or supervise more than 5,000 acres, and this limitation is stated without regard to the purpose for which any of the land so owned, managed, controlled or supervised, is used.

K.S.A. 17-5902(a) requires that all corporations which own or lease land within this state which is "used or usable" for farming, agricultural or horticultural purposes furnish certain information in their annual reports. You question what definition, if any, may be given to the words "used or usable." It is difficult to formulate a more specific definition or clarification of these terms for general application, other than the conventional dictionary definitions. Thus, "usable" means that which may be conveniently or practicably so used.

Lastly, you inquire what responsibility, if any, has the Secretary of State when an annual report reveals that the total acreage of a corporation subject to K.S.A. 17-5901 exceeds that permitted by law. There appears to be no express statutory duty or responsibility of the Secretary to act in such instances. However, when such reports come to your attention, we would appreciate being notified, in order that appropriate action be initiated by this office and the appropriate local authorities.

Yours very truly,



VERN MILLER
Attorney General

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