

MINUTES

North Dakota State Water Commission
Meeting Held In
State Highway Department Auditorium
Bismarck, North Dakota

July 8, 1977

The North Dakota State Water Commission held a meeting on July 8, 1977, in the State Highway Department Auditorium, Bismarck, North Dakota. Vice Chairman, Richard Gallagher, called the meeting to order at 9:30 a.m., and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

Richard Gallagher, Vice Chairman, Mandan
Alvin Kramer, Member from Minot
Gordon Gray, Member from Valley City
Arthur Lanz, Member from Devils Lake
Arlene Wilhelm, Member from Dickinson
Vernon Fahy, Secretary and State Engineer, North Dakota
State Water Commission, Bismarck

MEMBERS ABSENT:

Arthur A. Link, Governor-Chairman
Myron Just, Commissioner, Department of Agriculture, Bismarck

OTHERS PRESENT:

Approximately 120 citizens interested in acreage limitation discussion
Don Ohnstad, Assistant Study Director for Yellowstone Level "B" Study
State Water Commission Staff Members
Representatives from McLean County Water Management District

Attendance Register is on file in the State Water Commission offices for the July 8, 1977 meeting (filed with official copy of Minutes)

Proceedings of this meeting were tape recorded to assist in compilation of the minutes.

CONSIDERATION OF MINUTES OF
MAY 27, 1977 MEETING -
APPROVED

Secretary Fahy reviewed and commented on items that were considered at the May 27, 1977 meeting held in Bismarck, North Dakota.

Secretary Fahy recalled at this meeting that the Commission considered a request for increased participation for the City of Devils Lake storm drain because of cost escalation of their project. The Commission approved additional participation based on the State Engineer's judgement provided there were carryover funds in the Contract Fund.

Secretary Fahy reported that the original approval was to participate in the amount of \$112,000 for the City of Devils Lake's request and the State Engineer's final decision was to increase that amount to \$193,000, which is 40 percent of the qualified construction costs.

Regarding Bruce Hagen's appearance to discuss the possibility of the adoption of joint regulations by the Public Service Commission and the State Water Commission to require irrigation to be performed upon reclaimed lands from mining operations, it was the consensus of the Commission at this meeting to refer this matter to the Mined-Lands Committee, a group appointed by the Governor sometime ago.

Secretary Fahy reported that the matter has been referred to this Committee and a meeting will be scheduled with the Committee, the Public Service Commission and the State Water Commission in the very near future.

It was moved by Commissioner Kramer, seconded by Commissioner Wilhelm, and carried, that the minutes of May 27, 1977, be approved as presented and distributed.

FINAL APPROVAL OF PLANS
AND SPECIFICATIONS FOR
DEVILS LAKE CHANNEL "A"
PROJECT
(SWC Project No. 842)

plans and specifications.

Secretary Fahy stated that at the May 27, 1977 meeting, the Commission gave their tentative approval to the plans and specifications for the Devils Lake Channel "A" Project. At that time, the State Water Commission staff had not seen the final

He noted that Devils Lake cannot proceed with their project until a resolution has been adopted by the State Water Commission indicating final approval of the project.

Secretary Fahy read a draft resolution indicating that the State Water Commission staff has reviewed the final plans. It was recommended by the State Engineer that such a resolution be adopted.

It was moved by Commissioner Lanz, seconded by Commissioner Gray, and carried, that Resolution No. 77-7-399, Order Approving Plans and Specifications for Channel "A" Project - Route B and Alternate No. 1 to Route B of Channel "A" Project, be adopted and transmitted to proper parties. (SEE APPENDIX "A")

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**CONSIDERATION OF REQUEST FROM
CITY OF MAYVILLE FOR PARTICIPATION
IN RAISING THE HEIGHT OF THE
MUNICIPAL WATER SUPPLY DAM
(SWC Project No. 625)**

Secretary Fahy presented a request from the City of Mayville, North Dakota, for cost participation in raising the elevation of the present water supply dam approximately 20 to 30 inches. The State Water Commission staff has developed a cost

estimate for this work in the amount of \$13,000. He indicated that it has been the policy of the Commission in the past to participate with local units of government in water supply projects, and recommended that the Commission participate up to 40 percent of the qualified construction costs, or \$5,200.

It was moved by Commissioner Gray and seconded by Commissioner Lanz that the Commission participate with the City of Mayville for the construction of the addition to the City's water supply dam up to 40 percent of the qualified construction costs, not to exceed \$5,200, subject to the availability of funds. All members voted aye; the motion was carried.

**CONSIDERATION OF RELEASE
OF OLD RIGHT-OF-WAY
EASEMENT TO ABANDONED DAM SITE**

Legislation was passed at the last session of the Legislature to allow for release of easements for old dam sites no longer useable or functionable.

Secretary Fahy presented a right-of-way easement for release of an abandoned dam site in Dunn County in the southeast quarter of Section 23, Township 141, on land owned by Mr. Arnold Jirges.

It was the recommendation of the State Engineer that the Commission initiate actions for the release of this easement.

It was moved by Commissioner Wilhelm and seconded by Commissioner Lanz that the Commission release the right-of-way easement on the land described above. All members voted aye and the motion carried.

**CONSIDERATION OF REQUEST
FOR SWC PARTICIPATION IN
GROUND-WATER STUDY FOR
BOTTINEAU AND ROLETTE COUNTIES
(SWC Project No. 864)**

Secretary Fahy presented a request from Bottineau and Rolette Counties for State Water Commission participation in a four-year joint ground-water study for the two counties. The estimated share for the State Water Commission is \$86,000.

Secretary Fahy noted that of the 53 counties in the State of North Dakota, only two counties remain that do not have a county ground-water study in progress or completed.

It was the recommendation of the State Engineer that the Commission participate in such a ground-water study.

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It was moved by Commissioner Kramer and seconded by Commissioner Wilhelm that the Commission participate in a joint ground-water study for the counties of Bottineau and Rolette, in an amount not to exceed \$86,000, subject to the availability of funds.

In discussion of the motion, Milton Lindvig explained the aims and purposes of a county ground-water study.

On the call of the question, all members voted aye and the motion carried.

**CONSIDERATION OF PARTICIPATION
IN A GROUND-WATER STUDY FOR SOUTH
BISMARCK AND SOUTH MANDAN
(SWC Project No. 1577)**

Secretary Fahy presented a request for the Commission's consideration to participate in ground-water studies for areas in south Bismarck and south Mandan. Under State Water Commission criteria

for such a study, it is necessary for a local unit of government to participate in one-half of the costs of such a study.

At a recent meeting, the Burleigh County Water Management District indicated a willingness to cover the local unit of government costs for the City of Bismarck. Copies of this correspondence from the Burleigh County Water Management District were forwarded to the City of Mandan suggesting that a similar study for the City of Mandan be made at the same time.

Secretary Fahy stated that on this date, a request was received from the City of Mandan for the State Water Commission to undertake a study in Mandan, but asked the Commission to arrange for some other units of government to help them pay for their costs of the study. Since the City of Mandan will be the primary local entity involved, it will be up to city officials to make arrangements for securing participation from other governmental entities.

No cost estimates have been developed at this time, but it was recommended by the State Engineer that the Commission give their approval for the State Water Commission to become involved in such a ground-water study, and at a later date a cost estimate will be presented to the Commission.

It was moved by Commissioner Kramer that authorization be given to the State Water Commission and its staff to participate in the ground-water studies in the flood-plains of Bismarck and Mandan, and that a cost estimate will be developed and presented to the Commission and local units of government

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in the near future. Commissioner Gray seconded the motion. On the call of the question, all members voted aye and the motion carried.

CONTINUED DISCUSSION OF
FEASIBILITY OF A REGULATION
LIMITING ACREAGE FOR
IRRIGATION WATER PERMITS
(SWC Project No. 1400)

This portion of the meeting was tape recorded and has been typed verbatim so that those Commission members who were not present for the testimony may have access to this information.

The following testified at the meeting:

R. C. Crockett, Greater North Dakota Association; Guy Larson, Missouri Slope Irrigation Development Association; Milo W. Hoisveen, Tri-County Water Resources Development Association; Robert E. Sanders, North Dakota Farmers Union; Thomas Heimbeck, Oakes, ND; John Leininger, Bald Hill Irrigation Association, Binford; Gerald Presser, Turtle Lake, ND; Harry Cline, Oakes, ND; Charles Linderman, Carrington, ND; Ervin Bourgois, Bismarck, ND; Herb Grenz, Emmons County Irrigation; Larry Hansen, Oakes, ND; Allen Hansen, Ludden, ND; Lynnard K. Spiry, Sr., Straubville, ND; Bernard Vculek, Crete, ND; and Walter Hufnagel, Tappen, ND. (SEE APPENDIX "B")

APPEARANCE OF DON OHNSTAD TO
PRESENT PROGRESS REPORT ON
YELLOWSTONE LEVEL "B" STUDY
(SWC Project No. 1507)

Don Ohnstad, Assistant Study Director of the Yellowstone Level "B" Study, stated that on August 19, 1977, the Bismarck office will close as the Yellowstone Level "B" Study nears completion.

Mr. Ohnstad distributed and discussed "Status Report to the State Water Commission" and "Conclusions and Recommendations" of the Study. He indicated that the North Dakota portion of the study has been completed by the State Study Team and a draft report is being prepared that will be completed by mid-August, 1977. Montana and Wyoming are also approaching this point of the study and will have their reports completed about the same time as North Dakota's. The combined report of the three states is due to be submitted to the Missouri River Basin Commission at the November, 1977 Commission meeting. There will then be an official 90-day formal review period of that report.

CONSIDERATION OF WATER
PERMIT REQUESTS
(SWC Project No. 1400)

At this time, Secretary Fahy read the following memorandum to the Commission received from Governor Arthur A. Link:

"TO: Members of the Water Commission Dated: July 6, 1977
FROM: Governor Arthur A. Link
RE: Water Allocation Policy

The Water Commission is currently considering the adoption of a policy of controlling the amount of water allocated to applicants for water permits.

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Because the policy is not yet formulated and adopted, I believe the Commission should proceed conservatively in issuing permits at this time.

When the policy is adopted consideration can then be given to applications pending and not granted as well as new applications. This procedure will minimize the possibility of granting disproportionate water permits to some at the possible expense of others not yet in a position to apply."

Secretary Fahy presented APPENDIX "C" representing the water permit requests agenda for the Commission's consideration.

Secretary Fahy indicated that No. 2696, Husky Industries, Inc., is being recommended for approval at this time. This request had been previously deferred pending receipt of some assurances from the State Health Department and the Industry applying for the permit to control odor emissions. Correspondence has been received from the Health Department with respect to this application, and the last paragraph of Mr. Gene Christianson's letter states:

"In summary, the Department of Health is satisfied with the performance of Husky Industries in its efforts to comply with the State's Air Pollution Control Laws and Regulations. We feel that the schedules Husky has submitted for controlling odor emissions from the Lurgi carbonizers and emissions from the new multi-hearth carbonizers are reasonable and will bring the Husky plant into full compliance with the State's Air Pollution Control Regulations when completed. The manager and staff of Husky Industries, in our opinion, have recently demonstrated a good faith effort and a commitment to bring the plant into compliance."

Secretary Fahy introduced Mr. Thomas Harris, Manager of the Husky Industries, who discussed in detail with the Commission, Husky's operational and pollution control plans.

After discussion, it was moved by Commissioner Wilhelm and seconded by Commissioner Lanz that Husky Industries, Inc., water permit request No. 2696, be granted a conditional water permit for 245.0 acre-feet of water for industrial purposes. All members voted aye on the motion; the motion carried.

After discussion, it was moved by Commissioner Gray that the balance of the water permit requests presented for approval by the State Engineer be granted, subject to conditions

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indicated on each individual permit. The motion received a second from Commissioner Kramer.

In discussion of the motion, Secretary Fahy explained that water permit request No. 2825 filed by North Valley Water Association is being recommended to be deferred at this time. When this permit request was applied for, the point of diversion was listed as being out of the existing pipeline that furnishes water to the ABM Missile Site at Nekoma, ND, which is already covered by a water permit. The aquifer is some miles away at Fordville.

The State Engineer has been working with the Corps of Engineers on this, and the Corps is developing a contract arrangement with the North Valley Water Association for a one-year period in which they can use up to 65.0 acre-feet of water annually provided they pay such costs that might accrue to the military establishment, and provided they make their own tap on the line and install a meter.

The State Engineer stated that his procedure on this matter is to sanction, more or less, the agreement between the Corps of Engineers and the North Valley Water Association rather than trying to grant a permit out of the pipeline.

He indicated that he will advise the North Valley Water Association to proceed to file an application for a water permit out of the Fordville Aquifer.

On the call of the question, all members voted aye; the motion carried. (SEE APPENDIX "C")

The following water permit requests were approved, subject to conditions listed on each respective permit:

No. 2789 - Orville Oster, Hazen; No. 2792 - David Vander Wal, Pollock, S.D.; No. 2545 - James Pesek, Alexander; No. 2820 - William Clairmont, Bismarck; No. 2821 - Garrison Golf Club, Garrison; No. 2681 - City of Woodworth (this permit was approved by the State Engineer on June 3, 1977); No. 2824 - Jacobson Memorial Hospital Care Center, Elgin; No. 1968 - North Valley Water Association, Inc., Cavalier (this is a request for a change in the points of diversion); No. 2757 - Larry Ueber, Pollock, S.D.; No. 2752 - Ed Langeller, Pollock, S.D.; No. 2845 - City of Harvey; No. 2847 - Basin Electric Power Cooperative, Bismarck; No. 2657 - Richard H. Huether, Lisbon; No. 2413 - Andy Anderson, Lisbon (this was a request for a change from

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one quarter section to another quarter section of land which had been previously granted); No. 2718 - City of Oriska; and No. 2696 - Husky Industries, Inc., Dickinson.

The following water permit requests were deferred at this time:

No. 2772 - Lester, Leonell and Ronald Friese and Connie Mann, Leonard; No. 2773 - Walter W. Wiese, Oakes; No. 2768 - Miller Gravel & Ready Mix, Inc., Cando; No. 2769 - Mrs. Jerome Heitkamp, Mooreton; No. 2770 - Jerome Heitkamp, Mooreton; No. 2771 - Lester and Florence L. Friese, Leonard; No. 2776 - Adrian S. Mongeon, Rolette; No. 2777 - Oakes Country Club, Oakes; No. 2780 - Clarence Steffes, LaMoure; No. 2782 - Douglas Strander, Fort Ransom; No. 2787 - Velma McAllister, Huron, S.D.; No. 2788 - Duane P. Hutchinson, Killdeer; No. 2791 - Elroy Schlenker, Adrian; No. 2793 - Eugene Gleason, Hamar; No. 2795 - Winter Sports Limited, Fort Ransom; No. 2725 - City of Hankinson; No. 2200 - Vincent Sauer, Tappen; No. 2797 - Riskedahl Bros., Steele; No. 2798 - Lester Schwab, Englevale; No. 2570 - Vernon Brossart, Balta; No. 2783 - T-T Ranch, Grace City; No. 2778 - Harry W. Renken, Shields; No. 2801 - New Rockford Golf Club, New Rockford; No. 2803 - Patrick Obrigewitch, Belfield; No. 2804 - Morrison Farm, Robinson; No. 2807 - Leonard Vasvick, Ellendale; No. 2808 - Fey Brothers, Sheldon; No. 2813 - Lazy S Ranch, Bismarck; No. 2785 - Julius Ferch, LaMoure; No. 2818 - Ronald Ophaug, Kloten; No. 2575 - Dakota Adventist Academy, Jamestown; No. 2630 - Ernest C. Carter, Lisbon; No. 2822 - City of New Salem; No. 2825 - North Valley Water Association, Inc., Cavalier; No. 2826 - Thomas G. Gilbertson, Binford; No. 2831 - Gary and Lavern Gutzmer, Mantador; No. 2832 - Gaylen Schmidt, Minot; No. 2834 - Dorothy Schiffner, Englevale; No. 2835 - Henry D. Klindt, Walhalla; No. 2753 - Middle Lane Farm, New Rockford; Nos. 2840, 2841, 2842, 2843, 2844 - Richard H. Huether, Lisbon; No. 2676 - Duane Fluge, Egeland; No. 2677 - Ethel Fluge, Egeland; No. 2846 - Drees Farming Association, Grand Forks; No. 2744 - Ronald Berg, Englevale; No. 2747 - John J. Wise, Golva; No. 2745 - John Mrachek, Alexander; No. 2805 - Lynn A. Bring, Galesburg; No. 2799 -

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Lloyd Weinreis, Golva; No. 2800 - Lloyd
Weinreis, Golva; and No. 2790 - Robert
Moellenkamp, Lisbon.

DISCUSSION OF PAINTED
WOODS LAKE DIKING PROBLEMS
(SWC Project No. 160)

Secretary Fahy discussed with the
Commission members, a problem which
is occurring downstream from Washburn,
North Dakota, in the Painted Woods Lake

area. The land surrounding this lake is entirely in private ownership.

He stated that in years past, the State
Water Commission had been active in promoting irrigation in that area, working
with the Bureau of Reclamation. The maps and the quantities of water are
complete, and the State Water Commission has approved irrigation of the areas
that lie west of and south of Painted Woods Lake.

The problem that exists to date is that
the present owner is now farming that land and intends to irrigate. The lake
outlet is eroding at a rather rapid rate and if this erosion continues, the
lake will be lost. The only way the lake can be maintained is by building
an outlet structure that is erosion-proof.

The State Outdoor Recreation Agency was
approached with the matter to see if any state agency would be interested in
investing money to install this outlet to maintain the lake, and no agency
showed any interest in investing funds that would be for private development.

The private owner is agreeable to
maintaining the dike at the height agreed on for many years, but is not
agreeable to investing any money in an outlet structure because he feels that
if it is to be publicly used, the public should invest the funds.

Under the State Water Commission guidelines,
funds cannot be appropriated for a private interest, which precludes this agency
from constructing and participating in the costs of installing an outlet structure
to maintain the lake.

Marvin Landgren, Chairman of the McLean
County Water Management District, discussed some of the background history
and present status of the lake.

Secretary Fahy read a draft Stipulation
prepared by the Commission's Legal Counsel. It was the State Engineer's rec-
ommendation that in order to settle the State Water Commission's interest in
the matter once and for all, such Stipulation be approved by the Commission.
This Stipulation is hereby attached as APPENDIX 'D'.

It was moved by Commissioner Kramer and
seconded by Commissioner Lanz, and carried,
that the State Engineer be authorized to

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execute the Stipulation read previously by the State Engineer, and the execution of this Stipulation will represent the position of the State of North Dakota.

Commissioner Kramer left the meeting at approximately 4:10 p.m.

DRAINAGE RULES AND REGULATIONS

Mike Dwyer, Counsel for the State Water Commission, distributed copies and briefly discussed the revised drainage rules and regulations in accordance with State law. This matter will be discussed in detail at a future meeting after the Commission has had an opportunity to review them.

It was moved by Commissioner Wilhelm, seconded by Commissioner Gray, and carried, that the revised rules and regulations be accepted and that a formal public hearing on such rules and regulations be an agenda item at the Commission's next meeting.

SCHEDULING OF NEXT STATE WATER COMMISSION MEETING

An invitation has been extended to the Commission to meet in the LaMoure area for its next meeting and also to attend an irrigation tour of the area. This date was tentatively scheduled for August 18, 1977, later confirmed to August 15, 1977.

DISCUSSION OF FINANCIAL STATEMENT

Secretary Fahy reviewed a breakdown of the budget, noting special breakdown studies are Apple Creek Unit Study, Devils Lake Advisory Committee Study, and the Dickinson Study.

ADOPTION OF RESOLUTION IN MEMORIAM OF MR. GEORGE MCHUGH, NELSON COUNTY WMD

A draft resolution was presented to the Commission for their consideration in memory of Mr. George McHugh, Nelson County Water Management District.

It was moved by Commissioner Lanz, seconded by Commissioner Gray, and carried, that Resolution No. 77-7-398, In Memoriam of George H. McHugh, be adopted, and that such resolution be forwarded to Mrs. McHugh.
(SEE APPENDIX "E")

CONSIDERATION OF RESOLUTION RECEIVED FROM NORTH DAKOTA LIGNITE COUNCIL IN SUPPORT OF GARRISON DIVERSION PROJECT (SWC Project No. 237)

Secretary Fahy read a resolution received from the North Dakota Lignite Council expressing its support of the Garrison Diversion Project.

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It was the consensus of the Commission that the State Engineer acknowledge receipt of this resolution.

ANG PLANT SITING
HEARING SCHEDULED
FOR JULY 18, 1977
(SWC Water Permit No. 1901A)

Secretary Fahy indicated that copies of the notice of hearing and supporting data for the ANG Coal Gasification Company plant site were mailed to the Commission members. The hearing is scheduled by

the Public Service Commission for July 18, 1977, in Beulah for a Certificate of Corridor Compatibility for Proposed Water Transmission Line and at the same time for a Certificate of Site Compatibility for Plant Construction on the Site.

It was suggested by Commissioner Gallagher that consideration should be given by the Public Service Commission to selecting an alternate site outside of Antelope Creek Valley for the plant site.

After discussion, Vice Chairman Gallagher relinquished the Chair. Commissioner Gray assumed the position of the Chair.

It was moved by Commissioner Gallagher that it be declared the consensus of the Commission to inform the Public Service Commission at its July 18, 1977 hearing that the various factors be weighed that might justify location of the ANG plant outside the agricultural lands of Antelope Valley. The motion received a second from Commissioner Wilhelm.

In discussion of the motion, it was the consensus of the Commission that the intent of the motion be appropriately worded by the State Engineer and that copies of the motion be forwarded to the Commission for their review and comments.

On the call of the question, all members voted aye and the motion was declared passed.

Chair's position.

Commissioner Gallagher resumed the

DICKINSON WATER
SUPPLY STUDY
(SWC Project No. 1674)

It was requested by Commissioner Wilhelm that a progress report on the Dickinson Water Supply Study be a standard agenda item.

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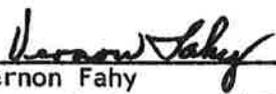
There being no further business to
come before the Commission at this time -

It was moved by Commissioner Lanz, seconded
by Commissioner Wilhelm, and carried, that
the meeting adjourn at 4:45 p.m.



Arthur A. Link
Governor-Chairman

ATTEST:



Vernon Fahy
State Engineer and Secretary

July 8, 1977

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT State Water Commission Meeting
 DATE July 8/1977 PLACE Highway Auditorium
Bismarck, N.Dak
 PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Russ Muskiviska	Minist	N. D. Water users Assn
Bud Lammoye	Bismarck	N. D. Assn of Soil Cons. Dist.
Berni Alt	Bismarck	US Forest Service
Ervin Bouwman	Bismarck	Self
Kenneth Doyke	Williston	Self
W. H. Hall	Bismarck	US FWS
Dave Hornswoth	Bismarck	US FWS
Carl Kuehn	Washburn	N. Dak
Gymard K. Spivy Sr.	Straubville	N. Dak.
Harry Clin	Oakes	Self
Allen Hansen	Ludden	Farmer myself
Charles E. Mumm	Bismarck	SCS
Chuck Mork	MANDAN	Self
Don Ochs	Bismarck	MRBC
Ken Gregory	Mandan	MSIDA

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Sam Borko	Russell N. Dak	Farmer
Roger Kramme	Russell N. Dak	farmer
Lois Kelly	Minot N. Dak	Farmer
Dolan Lohman	Bismarck	Farmer
Neil Peters	Sutton N. Dak	Farmer
Don Wagner	Sutton N. Dak	Farmer
Mervin T. Sandgren	Williston N. Dak.	McLean W. M. D.
Quay Larson	Box 236 Mandan N. Dak	Lewis & Clark RCD
Norman Dahl	McHenry	Bell Hill Div, Dist
Earl Goren	Tooth Lake	Self - Farmer
Tom Hempel	Straubville, N. Dak.	Irrigation Farmer
Glenn Steamer	Hazleton, N. Dak.	landowner
Jay Schuch	Bismarck	landowner
Alfred C. Schultz	Bismarck	
W. R. Stumm	England N. Dak.	Farmer

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Glenda Lotow	P.O. Box 1073 Bismarck, N.D.	NATURAL GAS Pipeline Co.
Alfred Foell	Moffitt N.D.	MSIDA
Walter Thrapel	Tappen, N.D.	MSIDA
Richard Kuntz	Robinson	MSIDA
Leon Bae	Turtle Lake	
Mauris Bodrig	Tappen	Farmer
Violet Bodrig	Tappen	MSIDA
Jeff Prieser	Turtle Lake	Farmer
Edwin Dewick	Tappen	Farmer
John Leiniger	Bisford	Bald Hill Dring Assoc.
Robert Meyer	Bisford	Bald Hill Dring Assoc.
Francis Lago	Cooperstown	Bald Hill Dring Assoc.
Ruth Handlman	Mandan	SBBC
Arvid Prieser	Turtle Lake	min. slope Dring Assoc.
Herb Nathan	Colliharber	My Self.

NORTH DAKOTA STATE WATER COMMISSION
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ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
RT Maguire	Verona N. Dak.	Farmer
Laurin Peterson	Verona N. Dak.	Farmer
Donald Kestel	Mandan N. Dak.	Farmer
Robert H. Gutz	Foster N. Dak.	Farmer
William J. He	Mandan N. Dak.	Cons. Dist. Plant Man.
Robert	Steele	Farm Business
Russell Anderson	Bismarck, N.D.	Basin Exec. Power Co.
David Klambach	Emmet, N. Dak.	Farm Business
Maurice Nafner	Beulah, N. D.	Farmer
Detter Hemmer	Golden Valley N. D.	Farmer
Wilfred Herman	Golden Valley N. D.	Farmer
Ken Lohsheter	Mandan N. D.	Farmer
Alton Kammet	Tappan N. Dak.	Farmer
Alden J. Anderson	Brown N. D.	Engineer
Bob Willoughby	Brown N. D.	"

NORTH DAKOTA STATE WATER COMMISSION
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ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Larry R. Hamer	Oakes	Farmer Myself
Raymond Eric	Eric	Irrigator
Nicholas Stefan	Wendler	Irrigator
Ken Hopkins	Harrison	MSIDA
F. L. Thompson	Effort	Irrigator
Ernie White	Dawson	Irrigator MSIDA
Thurman McNeil	Bealock ND	Irrigator
Geraldowitz	Tappan	IRRIGATOR MSIDA
Marsdenwitz	Tappan ND	" "
Robert E. Sanders	Jamestown	Farmer Union
Richard Lindtgen	Turtle Lake, ND	Irrigator, MSIDA
Dave Rodgers	Ruse, N.D.	Knudsen Farm Irrigation, MRIO.I
Charles Lynderman	Carrington, ND	Farmer + Engineer
Jim M. Lusk	Bealock ND	Rancher & Irrigator MSIDA
eland Vossler	Mercer N.D.	Farmer

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Albert Klain	Turtle Lake	my self
Jack Humbach	Oriska, N. D.	self - former
Fatty Dwyer	401 N 13 th St	student
Richard Huether	Leisbon	Farmer
Steve Schmidt	Bismarck	Tribune reporter
Thomas Engelhorn	Carrington	Gov. Adv. Com. Dist
Larry Fuller	Napoleon N. D.	Coner
J. Johnson	Hagerton N. Dak	Coner
Walter Russell	Narves N. D.	Russell Trailing Co.
Dwight E. Krifer	Livingston Station Bismarck	self
Dennis Kiser	LaMoure N. D.	Self
Samuel McHugh	Hagerton N. D.	Self
Harry Benken	Shields N. D.	Pring farm

NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Leonard Johnson	Smith Lake	Farmer.
William Johnson	Hazen	Emmons County W.M.B.
R. Crockett	Fargo	G.N.D.A.
Diane Oster	Hazen	
Diane Oster	Hazen	
Thomas C. Harris	Dickinson	Fusky Industries
R.E. Doohey	Bismarck	USBR
Dorrie Foster	1717 E. Interstate - Bism.	Baird Electric
Lester Friese	Leonard, N. Dak.	Farmer

APPENDIX "A"

Resolution 77-7-399

ORDER APPROVING PLANS AND SPECIFICATIONS
FOR CHANNEL "A" PROJECT - ROUTE B AND
ALTERNATE NO.1 TO ROUTE B OF CHANNEL "A"
PROJECT.

It is ordered by the North Dakota State Water Commission that the Plans and Specifications for the construction of Channel "A" of Route B with Alternate No.1 of Route B of the Channel "A" Project, which provides for the construction of a channel between Dry Lake, Ramsey County, North Dakota, and Six Mile Bay of Devils Lake, submitted by the Ramsey County Water Management District and the Cavalier County Water Management District for the consideration of the State Water Commission at its meeting held on 8th day of July, 1977, at Bismarck, North Dakota, are in all things approved by the State Water Commission.

Dated this 13th day of July, 1977.

Arthur A. Link, Governor
Chairman of the North Dakota State Water
Commission.

Attested:

Vernon Sahy
Secretary of the North Dakota State
Water Commission

TESTIMONY PRESENTED AT
STATE WATER COMMISSION MEETING
RELATIVE TO CONTINUED DISCUSSION OF
FEASIBILITY OF A REGULATION LIMITING ACREAGE
FOR IRRIGATION WATER PERMITS

JULY 8, 1977

The following testimony was typed verbatim from the tape recording of the meeting:

VERN FAHY: Mr. Chairman, I think, then we can get back on our agenda. The only commitment I made to anyone is that the discussion probably wouldn't get underway until 10:00. It is now one minute after 10, so I think, Mr. Chairman, we can get on Item No. 3 - Continued Discussion of Feasibility of a Regulation Limiting Acreage for Irrigation Water Permits.

Now, just very briefly in summary again, Mr. Chairman, I would like to say that to date the discussion by the State Water Commission have been for informational purposes to develop a background in the event that a regulation is adopted. It has been discussed at two previous meetings and we seem to be at the point where our discussion now has been narrowed down to two types of limitations - one, would be a flat acreage limitation. No one can receive a water permit from the State Water Commission for irrigating in excess of 480 acres. That would be, let's say, call that Alternative A. Alternative B would involve the element of time. A person can receive a water permit for up to 320 acres, but then he would not be eligible for another water permit for X number of years thereafter. Now, I think some of the discussion we used was that you could apply for up to 320 acres, and then it would be three or four years before you could come back in and ask for additional water. Those are basically the two alternatives that have been discussed to date by the Water Commission. In the event that the Commission decides to adopt such a regulation, it will be necessary for us then to develop those parameters into a regulation form as required by State law. Then, we would take the regulation itself to the people for public hearings,

and I would assume that we would do that by going out into the areas with the hearings. We have done that on other major water permits, and so I would assume we would follow that practice. We would probably have meetings in a couple different areas of the State so that it would make it easy for everyone to attend the hearings. So I would like to say that we, at this time, their not ready for that regulation, their seeking additional information - that's the reason for the meeting today. Governor Link and Commissioner Just extend their regrets that they were unable to be here. Governor Link was called to Washington very late Thursday afternoon to meet on agricultural and energy matters with seven other Governors, and Commissioner Just has had a conflict on this date for a number of weeks and was just plain unable to be here. However, they will get the information because we are taping, we will be taping verbatim this section of the Water Commission meeting and we will have that typed up so that the Commission members who are not here will have access to it.

While we are talking about taping, I might say to you that the Water Commission has a tape recorder at each of its meetings, but we do not tape the meetings verbatim. We use it only as an assist in writing our minutes. When we get to an official hearings, such as on a rule or regulation, then we'll either have a Court Reporter or we'll have a machine that can pick up all the testimony and we can then put that in certified copy. For today,, we are going to tape you verbatim. We're going to ask anyone who has anything to say to come to the podium and speak into the podium and we can pick it up on our tape machine and that way we'll be able to type it up afterwards.

Mr. Chairman, that's the only background on the matter. It's Item No. 3.

RICHARD GALLAGHER: Well, we have no list of who would like to appear. The Commission would like to have the greatest amount of input from those who are

knowledgeable or have some ideas that they would like to present for the Commission's consideration. May I suggest that those who would like to appear and make a statement raise their hand one by one - ah, starting from the back of the room, then, Mr. Crockett, would -

R. C. CROCKETT: Members of the North Dakota Water Commission, ladies and gentlemen - my name is R. C. Crockett. I'm the Chief Executive Officer of the Greater North Dakota Association, North Dakota State Chamber of Commerce. GNDA has, since its inception back in 1925, been actually involved in water development work in the State of North Dakota. Perhaps more than any other organization, we have studied the State's resources in order to support the selling of the concept of much of our development work that been conducted, including the Garrison Dam. Fred Frederickson, former Mayor of Valley City, was retained in Washington for over a decade attempting to settle the feasibility of this project. Our organization is also interested in all agricultural issues. We strongly support research; we strongly supported the concept of the Carrington Irrigation Station.

So, I would like to discuss with your permission, Gentlemen, on the issue of an imposed acreage limitation on irrigation in North Dakota. And from this organization stand, I have had considerable experience in this area myself. I served as a County Agent in Burke County in the middle 50's, or the middle 40's rather, and along with the Bureau of Reclamation at that time assisted in setting up the Experimental Irrigation Farm at Des Lacs, or on the Des Lacs Lake. Its been my privilege to work closely with irrigation farmers Tule Lake Valley in a cooperate program we had with them to increase the new varieties of durum wheat. I have sold considerable quantities of seed over the years to irrigation farmers in the Two-Lake Irrigation area. So, I would like to share some of our observations that exist within my organization today. I guess I can appreciate

the concern you people have over size. I guess I can appreciate the good intent in attempting to protect a resource as valuable as land, and the good intent in attempting to make sure that its available to everybody. We're not going to see it in North Dakota perhaps, but traditionally, in newly opened irrigation areas they have water, and Two Lake is an interesting example. It's like two different worlds - half of that Two-Lake Valley or Two-Lake lakebed has billions or, that were built right after World War I when lottery was conducted. After World War II, they opened up the second - again by lottery. And, all these irrigation facts were allocated in one unit to an applicant. Those units out there range from 90 acres to 160.

I would first like to address myself to some of the mistakes that are made in acreage limitations. The Homestead Act of 1861 imposed a limitation of 160 acres to a homesteader. It was a mistake in areas like North Dakota. Certainly a bad mistake in Montana - because North Dakota doesn't have the kind of climate that the Corn Belt does. It doesn't have the kind of climate that eastern United States does, and so in the high, dry plains we live, 160 acres is just no enough. My grandfather homesteaded in this State two years before it became a State. He homesteaded a quarter, he preempted the second one, he tree-claimed the third, and he bought the fourth quarter from an Irishman for \$145 and a mule. Now, a \$145 wasn't the significant part of the transaction, the mule was, because the guy got on the mule and got out of North Dakota. (laughter) Now, ironically, that's how much land I own in North Dakota today. I'm farming a section of land, which is what my grandfather put together in the first few days or the first few years of his residency here as a farmer. We have seen many, many prices come along since then that have mandated larger units. We've substituted cattle for labor in the agricultural process and farmers want to live just as good a life as anybody else in this day and age. The out-house is gone. The kerosene lamp

is gone. The farm people have packed just as good as aspirations for their children as any other group of people do. They enjoy recreation just as much as anyone and are entitled to just as high of quality of life.

Now, the Homestead allocation, 160 acres, was such a mistake in North Dakota that we overpopulated the land. We put way too many people on this land. We tried a one-crop economy, which didn't work, and then extended into the business community. At one time, the State of North Dakota had 865 banks. Almost all of them went broke during the depression. In one year of the depression and the drought in 1935, over 80,000 North Dakotans left the land, in one year. And, if you'll look at the economy of the State by areas, you can see that where the adjustment was the most complete were the economic-size units - that's where the people had done the best and that's where the tax-base is the strongest.

In my experience in working with Yuma Valley, Arizona, irrigation farmers, I found out that it was a tough, hard life. For the 120 to 180-acre fellows, it was a long, dark experience and very difficult to make a go. In fact, many were shovelling out to larger operations. In the Two-Lake thing all the units; first, if all the units under 100 acres found themselves in dire economic straits - they built the most unusual thing out there I've ever seen in an attempt to cope. It's a true, cooperative spirit and, one guy buys combines and does all the combining. Another guy buys four-wheel drives and large plows, and he does all the plowing. And, if I want to raise potatoes in addition to my durum wheat and my grass seed, I'll rent some land from my neighbor and raise potatoes on it. He may rent land from me and grow grass seed on it. Well, I guess you can do that, you can get a bunch of GIs from World War II and they range all the way from cooks to airline pilots, but it's a pretty hard concept to sell this society as overpowered as it is.

Some, substantial changes have been made in the concept of the Garrison Diversion program. When we first started looking at this thing we were talking

about flood irrigation. Today, that's not the concept anymore. We're talking about sprinkler irrigation and that's a much better approach. But, bear in mind, that this project is far north, its far west, and it's a higher altitude than most irrigation projects in this nation. One of the hassels of irrigation in this part of the country is that its awful easy to over-do it. If we, if they would have had irrigation in some of the areas hit by three and four-inch rains last month, we would have lost crops because of too much water. So, I think we must look not just at the emotion, the social and the political aspects of limitation, but we have got to let economics play a part.

Today, an irrigation wheel costs upward to \$60,000. That irrigation wheel can be used to irrigate one, two, three or perhaps even four quarters of land, 160 acres each, if it is used properly. And, I think what you do when you impose a strict acreage limitation, you impose strict standards that may make it uneconomical for the operator. Let me give you an example - I'm convinced that the long and best use of irrigation is forage for production. Alfalfa, an early cop of barley put in a sealed silo, a second crop of barley potentially for grain, but with the option of using it for silage. I don't think that irrigation in North Dakota is going to be sustained by wheat, by sugar beets, by potatoes, or by any of the special crops that we are now growing. Over the long haul, we're going to be sustained by forage crops. I would cite the consensus of present irrigators as proof.

Now, if there is a desire, and your Commission sees necessary to impose some type of restriction, I think that restriction should apply to the basic resource, the water itself. The basic problem you have confronting you, I think, is to make sure that the quality and quantity of the water matches the texture of the land that is being irrigated. So most of that restriction in the organization I represent, is that it should apply to the amount of water that an irrigator can use. I'm going to give an example of why I think that's valid - someone

might see fit to irrigate intensively with high water use on 160 acres of land. On the other hand, I might, someone else might see fit to irrigate sparingly with small amounts of water a section of land, or say pasture livestock. So, I would urge you with all sincerity to look very carefully at acreage restrictions. Let economic factors have a play and at the same time you want to address yourself to the concern about having large operations control this thing. Do it in a manner in the amount of water allocated. I thank you, and if there are any questions, I would be glad to try and answer them.

RICHARD GALLAGHER: Do any of the members have any questions?

ARLENE WILHELM: Mr. Crockett, I would be interested, and I'm particularly interested in your remarks on the restriction of the water used according to the compatibility of the water and soil, and ah, I think that's worth discussing - and I would like to know if you have thought through any methods for enforcement, and the, you know maybe what the possible (undistinguishable) -

R. C. CROCKETT: Well, I, Mrs. Wilhelm, I haven't thought through all the arithmetic because I guess we won't know until Garrison is completed what water is going to cost. We won't know until Garrison is completed the electrical costs either, but I would suggest that it would be easier to impose restrictions on the total water allocated than it would be to enforce an acreage limitation. How, do you stop this thing, you know? A man has a wife and two sons, so it would seem to me that he could have four quarters of irrigated land. Now he is going to be denied. On the other hand, the neighbor who might have a large family, he could have either eight or two allocations. These things are passed around in families and I think it is very difficult to enforce. On the other hand, the allocation of electricity and the allocation of water is something that

is going to have to be managed to pay back to North Dakota irrigation. So, I guess, Mrs. Wilhelm, I just think its, not only, a much more logical approach, but its an easier approach to enforce. And, I think you have to realize another thing that is typical of North Dakota irrigation. Most of these irrigation projects that are going in around the nation have been characterized by a brand new breed of farmers. I can rememeber all the days that I used to take tours of Burke County farmers down to the Yellowstone Project. Everybody had alot of enthusiasm seeing the lush crops growing even though they're suffering a drought up there, but by the time we got back to Stanley and had one beer the boys would look up and see a little cloud and they'd say "well, the crop looks pretty tough but it will probably rain soon, so I guess I would rather not be an irrigator after seeing those guys' callosed hands and those muddy feet". So most of these projects, a new breed has come in. In North Dakota much of this irrigation is going to be done by people who are already on land and in many cases this irrigation is going to be used to contribute to the, ah, security of a dryland unit. I'm convinced of it. So that's why I say 160 acres might provide security, but it won't be a farm operation. For another farm operation who wants to raise livestock who didn't have enough pasture, he may need a section and (undistinguishable) -

AL KRAMER: Dick, before we get off of Arlene's question, at least as far as I'm concerned, I'm much more concerned about the area outside Garrison Diversion because that will have some (undistinguishable) - we've got a tremendous amount of irrigation requests in our permit files on areas outside of the Garrison Diversion drainage. One of our real problems, as I see it, is the coordination of soil types and water because right now there basically isn't the coordination unless the operator goes in there and makes it on his own. And, as far as controls are concerned, we don't have them and neither does anyone else. And so they all, I think, basically, the real problem is -

R. C. CROCKETT: Mr. Chairman, there again, I think we're going to have to watch the drawdown on our aquifers and according to a recent article in Scientific American a leading hydrologist makes the case that we aren't drawing our aquifers down far enough so we won't give ourselves the opportunity to create a large enough storage reservoir. Be that true or not, we're gonna have to control the water permits for the amount of water from aquifers. And, ah, with 160 acre-limitation, we would have water wasted on an aquifer much as they're doing on the Nile River. They over-irrigate to the point where they develop soil-water problems. So, I think if you let economics play and let the operator judiciously use the water he is able to use to match the texture of his land and try to do the best job. And remember one other thing, contrary to the irrigation (undistinguishable) which is largely alluvial till along river bottoms, this is glacial till. There is a great deal of difference between North Dakota soils than there is in the alluvial tills or lake bed or that type of thing. So, there are some places that won't tolerate very much water. There will be other places that do.

ARLENE WILHELM: I have one other question for observation - or maybe a question, for Mr. Crockett. I have noticed that you allude, have alluded in your testimony and in your comments several times to a 160-acre limitation. I, for the purposes of clarification here, I think it might be important for you and maybe many of the people in this room, to point out the fact, you know, or ask if they're conscious of the fact that the actual proposals discussed here by this Commission have been approximately 480-acre limit as well as the 320 (undistinguishable). So, as a Commission we really have not discussed a 160-acre limitation.

R. C. CROCKETT: I was aware of that, Commissioner Wilhelm, and I'm glad you brought it to the audience's attention. I guess I did that unconsciously by relating

to the mistakes of the Homestead Act. Are there any other questions?

RICHARD GALLAGHER: Ah, just one, referring specifically to this 160 which was drawn out of the hat. Ah, I understand your theory would be that you would take the amount of water say that science comes up with, scientists come up with and say fully irrigate 160 acres. A permit then to use that water in whatever manner they wanted over a greater acreage unless it was an acre and a half acre-foot per acre of land. You could take and spread that over one-half an acre-foot or over 160 here and another half over there and what you want is the versatility of it rather than any fixed amount of designated hunk of land.

R. C. CROCKETT: Correct, and the most expeditious and efficient utilization of that irrigation wheel or system that costs upward to \$60,000. Any further -

RICHARD GALLAGHER: Are you, is your reference just to waters from aquifers or are you also thinking of streams as profuse, as say, the Missouri River or streams that are in very short supply, like the Cannonball and the Heart.

R. C. CROCKETT: Well, I talked alot about Garrison Diversion, I guess, that's the big irrigation. I am well aware of the fact (undistinguishable) every aquifer in the State is being tapped and that people are making applications for water permits, of course, this has to apply to all of the ground-water sources as well as irrigation from Garrison Diversion.

RICHARD GALLAGHER: I think a point worth mentioning - the Commission has been working, or the Commission staff have been working toward getting a bunch of scientists together to determine, to classify land, so that they can get compatible

lands with waters. Maybe Vern can give brief reference to it.

R. C. CROCKETT: When we finally get it done, we'll find out we made some mistakes. Only experience will teach us. And, we learned a lesson that the 160-acre Homestead Act was a mistake. Nobody ever did anything about it. So we're still, you know, many federal projects still have the 160-acre limitation. Any other questions? If not, I thank you sincerely.

VERN FAHY: Mr. Chairman, with reference to the soil and water compatibility studies that we're undertaking now, for some time we have been concerned that there are lands being irrigated that should not be. That the soil or the water quality or the soil and water quality is such that they are not compatible and that the person using the water could be degrading his land and perhaps his neighbor's. And, we've been looking at this situation for some time. We originally made a proposal to several soil scientists to develop a standard that we could measure water permits against and say you can or cannot have a water permit with such and such soil or such and such water. We very early on discovered that the soil scientists could not agree upon a single standard. That there were as many deviations as there were soils. However, we haven't given up on that. Allan Fisk of the Soil Conservation Service, the Extension Service, a number of other groups have gotten together with us, we have formed a task force of soil scientists and other experts who have had several meetings. I think we will be bringing to you very shortly a soil and water compatibility parameter that we can use in issuing water permits. It's been very interesting to watch these dedicated people sit around the table and work this thing out. I think we will see, very shortly, a parameter that will be in ranges, perhaps, as many as eight or ten ranges, and we will examine then, we will require soil and water samples to come to us and before we issue a permit, we will issue it in accordance with those parameters.

Some of the soil will say that it can tolerate 18 inches of water a year, some will say you should not apply more than 8 inches, some will say you should not irrigate at all. And, I will be prepared to recommend to you, that you adopt those standards and that we enforce them rigidly. Because our land base in the United States is shrinking every year and I think it is incumbent upon us, as public officials to try to prevent that insofar as we can. So it will be difficult for some people to see their neighbors operating and we have to tell them they can't for instance. It is a choice that must be made and I will be bringing it to you in the near future. It will be through no credit of mine, but it will be through the credit of a group of people, soil scientists from our Universities, our Extension Service, the Soil Conservation Service, Bureau of Reclamation, that type of people, who will develop that and who will deserve the credit for bringing that to you.

RICHARD GALLAGHER: Well, the Chair feels somewhat hopeless in asking you to come up one at a time, I think what I will do is take about a 10-minute recess here, if the Commission agrees, and anyone who wishes to speak on this subject matter can come up and fill out a slip with their name on it, we can call them one at a time, in that manner, rather than requesting you to stand up and ask the Chair to choose which one got on first. If there's no objection with that procedure, we'll - (10-minute recess was taken)

RICHARD GALLAGHER: We'll now be back in session. For your advice we have received about 15 people who would like to be heard on this matter. Ah, we will call the names one at a time and proceed. Conceivably, this will take quite a bit of time for everybody to express their views that we would request that you avoid repetition as much as possible. We desire that everyone be heard. If anyone after we have completed these 15, desire to change his mind and make his feelings

known to the Commission, why, we would be glad to call on him at that time. We do not want to foreclose anyone from having an opportunity to get some input in this very important matter. I'll ask Mr. Fahy to call the people, one by one, as we have them before us here on the table.

VERN FAHY: Mr. Chairman, I'll take these just the way they got stacked up without regard to what viewpoint they are expressing because that's not indicated on here - and I have on top of the list, Guy Larson, Missouri Slope Irrigation Development Association. Mr. Larson.

RICHARD GALLAGHER: I might say with regard to Mr. Larson, that at my request he is appearing here. I have known Mr. Larson over the years and he has been working very closely with this matter out in this area and knowing he has some very strong views and vast experience in this matter, I have used the position I have with the Commission to invite him so that he may take the stand and give us his views.

GUY LARSON: Thank you, Mr. Chairman. Members of the Commission, ladies and gentlemen. I would like first to review with you the procedure we have gone through in the Missouri Slope Irrigation Development Association in arriving at the decision that I should speak for them. I have been working with water projects now in the State of North Dakota for over 35 years and that's as a private citizen, as a legislator both in the House and the Senate, and for 13 years as Secretary of this Irrigation Association. I would like to tell you that yesterday I made an observation to the Missouri River Basin Commission, which I think is valid, and that is that we do have a fascination with big federal projects and I think you know what I'm talking about. I have no aversion to big federal projects. But, by and large in the 10 states that are in the Missouri Basin, the bulk of irrigation that has been developed and is now

producing in the economy in creating stability on the farms in these 10 states is privately developed, privately financed. And, so this is what I am talking about this morning. I am speaking now for the North Dakota farmers who have put their own necks on the line and who have financed irrigation through private sources and been willing to put in the extra effort to be irrigators and who have contributed to the economy and the stability of their operations, the best traditions of the private enterprise system. Now, we spent a lot of time in preparing what I consider to be a fair and reasonable viewpoint for the good of the future of irrigation in North Dakota, because I think when the whole ballgame is totalled up in the future, the way we manage our water resources, the way we manage to put together the use of the land and the water resources we have, will depend a great deal on the way our private operators accept and develop the challenges we have before us.

I would like to read this statement and then I will be open to any questions.

(See page 15)

(Before 2), Mr. Larson added:

GUY LARSON: Now, before I go on, I would like to say, that in effect what we're saying is we're in the early stages of irrigation development from aquifers in North Dakota and the farmers themselves do not want to make the same mistakes that are being made in the states south of us where they have declining water tables, where they are chasing water, and where they are mining water, and where they are losing one of the most precious resources year by year by year. We do not want that in North Dakota, I think that at this point in history, we have a golden opportunity.

(Continue with 2) INSERT Mr. Larson added: Now, I want to tell you the theory behind this. It seems to us that if in an oil field they can figure out the ultimate gains of a resource, a liquid resource that lies from 4 to 16,000

MISSOURI SLOPE IRRIGATION DEVELOPMENT ASSOCIATION

2205 Avenue F East

Bismarck, North Dakota 58501



June 28, 1977

North Dakota State Water Commission
c/o Mr. Vern Fahy
Capitol Office Building
9th and Boulevard
Bismarck, ND 58505

Gentlemen:

The Missouri Slope Irrigation Development Association Board of Directors met on June 26, 1977. There are twenty-one farmer irrigators on this board and we have members in 18 counties. Our organization, whose motives are primarily educational, has been in operation for 14 years. We have no paid personnel; all our efforts are done voluntarily out of a deep interest and belief in the benefits of irrigation to the farmers and to the community.

One of the chief items of discussion at our June 26th meeting was the proposed action of the Water Commission on water permits for irrigation and some of the implications therein. We have discussed at length the history of the water permit system in the United States from the Riparian and Prior Application Systems to the present adventures of some states in the Permit System. We do not believe that the Permit System currently under consideration gets to the heart of our needs in North Dakota.

In light of this we suggest the following steps be taken:

- 1) A determined effort be made by the state to set up models for aquifers showing the safe limits of use that will sustain them as a renewable resource. If this is not done, all our efforts and investment in groundwater studies and in irrigation development could be wasted.
- 2) When this data is completed, hearings should be held as in the manner of oil field hearings that will determine the spacing and usage or pumping limits. ^{annual} The objective being to retain the usage as a renewable resource for future generations, thus harvesting (not mining) the water.
- 3) That the theories of limited ownership be discarded in an effort to make ultimate, sensible use of the resource, and not deny the right of a landowner to make free use of the resources under his land (within the limits of the aquifer model).

INSERT, SEE
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- 4) That the State Water Commission be conservative in issuing water permits to protect investments already made and productivity already developed. The Board of MSIDA is confident that, under the shadow of premeditated, bureaucratic regulation the private irrigation we have developed in the past few years would not have occurred.
- 5) We believe our proposal is both reasonable and sensible. It retains the resource for future generations; it allows the developing farmer access to credit when he can secure a permit; it provides for spacing based on the productivity potential of the aquifer; it does not set up an egalitarian farming structure.

We encourage your sincere consideration of these suggestions and hope most of all that those most concerned, the farmers themselves who are in the business of irrigating, will get a chance to be heard.

Signed,

Arnold Bruner, Pres.
Marvin Bodvig V. pres.

THE MISSOURI SLOPE IRRIGATION
DEVELOPMENT ASSOCIATION

alter Bruner
Willard Bruner
Willard Bruner
Dale Willoughby
Boz A. Boyko
Bob Jolly
Ken Lohsteler
Ivan Boez
E. Edwin Dewitt
Roger Gramme
Dave Hodges
Debb Presser

Jappan, N.D.
Walden Valley, N.D.
Walden Valley, N.D.
Bruner, N.D.
Bruner, N.D.
Menoken
Mandan
Turtle Lake
Jappan N.D.
Bruner, N.D.
Bruner, N.D.
Turtle Lake, N.D.

Kenneth Forsberg

Marvin T. Lundgren

Diane Oster

Quill Oster

Jim McLeish

Thurman McLeish

Shirley Howitz

Spencer Dewitz

Violet Bodvig

Janet Presser

Wm Sevitt

Richard Neurtel

Richard Lindteigen
& Ethel Schan

Rick Hurdelbrink

Alfred Foell

Carl Kuehn

Ervin Bourgeois

Mendon, N. Dak.

Wilton N. Dak.

Hazen, N. Dak.

Hazen N. Dak.

Hayden N. Dak.

Broddach N.D.

Tappan, N. D.

Tappan, N. D.

Tappan, N. Dak.

Turtle Lake, N.D.

Steele, N.D.

Robinson N. Dak.

Turtle Lake, N. Dak.

Poplar N. Dak.

Mendon

on offit N. D.

Underwood N. D.

Bismark

Alden J Henderson

Walter Supnager

Eugene White

Richard M. Stefferson

Raymond Price

Hedrick Grenz

Martin R. Nafus

Ken L. Wagner

Robert Meyer

Neil Peters

John Leininger, Pres.
Bald Hill Irrig. Assoc.

Arman Dahl

Dolan Lablanc

Ray Schuyler

Arnold Hage

Breen, N.D.

Tappan, N.D.

Dawson N. Dak.

Hensley, N. Dak.

Price, N. Dak.

Benmuel, N. Dak.

Beulah, N. D.

Sutton, N. D.

Birford N. D.

Sutton N. Dak.

Birford, N.D.

McHenry, N.D.

Birford N. Dak.

Brammer, N. Dak.

Coopers town, N. Dak.

feet below the surface of the earth, there ought to be able to be a formula figured out that will determine what the safe limits of pumping are for a resource that lies from probably 90 to 250 feet below the surface of the earth. And, if we don't do it, I think we are derelict.

(Continue with 2) on page 15 to end of written statement)

GUY LARSON: Now, we've met and discussed every one of these proposals at length. We've considered them to be reasonable and I would like at this time to have the farmer-irrigators who support this proposal to stand. (Approximately 90% in the auditorium stood) We thank you very much. If you have any questions, I would be glad to try to answer them.

RICHARD GALLAGHER: Do any of the Commissioners have any questions?

ARLENE WILHELM: I have one - I just want to, ah, I think this really does show thought and I appreciate it. I do have one question about the third suggestion here and that is, I hope that the, I understand probably, Guy, that you can't speak for everybody in this group, but, you know, from visiting with your group, what is the feeling about family farm and land as related to land speculation with water rights. My concern here is the modelling of aquifers so the outcome is predictable almost lays the basis for quite a lot of speculations, not only in land, but water rights and I would like to know if your group has discussed that particular problem in relation to Item 3, or suggestion No. 3.

GUY LARSON: I don't know if I completely understand your questions.

ARLENE WILHELM: Well, I'll try to make it a little simpler or understandable.

If we do not limit, in a sense, the amount of land and water rights that can be owned beneath the aquifer, except by quantity available, this would, in some respects, particularly when the amount of water is actually known and modelled, when we know the aquifer, the amount of water is available -

GUY LARSON: I think I understand now.

ARLENE WILHELM: It's very easy for people to move in -

GUY LARSON: Well, Arlene, here's the way we arrived at this conclusion. We discussed this at some length, and we could see no precedent for this action. The fact that a farmer happens to own land over an aquifer is more or less an Act of God at this point in history. We're in a period of discovery in aquifers. Now, why should the ownership of water be any different from the ownership of say, coal or oil rights, or any other valuable commodity that lies below the surface of the land the farmer owns. In fact, the Federal Government has even stepped back to the point where they own the resource under the farmer's land. For instance, coal, they give the farmer the right to determine what the useage shall be. And, I can see no reason why the State of North Dakota will accept the posture that will change the value of ownership of land within this State for the farmer. Because they have accumulated, what they call, an economic unit, and this varies across the State to a great degree. What it takes to support a farmer in western North Dakota is a far cry from what it takes in acreage to support a farmer in eastern North Dakota. The types of soil are different. Now, are you going to start, we talked about this. Because the most valuable areas for farming in the State lie in the Red River Valley, if we accept the posture that you're mentioning there, should we then limit a fellow to so many acres of Red River Valley land and should we say that he

is going to have to share those acreages with somebody else because he happens to have good farmland. You see, it leads to many questions which, when you start digging into them, become basic questions of your ethic philosophy. That's why we mention the word egalitarian. Is it the purpose of this Board to make everybody equal, you've got a job on your hands. I'd never make a farmer, I'm not physically capable of doing that. But, I think mentally, I'm capable of understanding what their problems are. And, I have spent a greater share of my lifetime working with them on their intimate problems. And, I think that if you should corner almost any of them on this subject, you'd find out in a hurry that they can't quite agree that any land should be taken away from them, to satisfy the needs of somebody else. It just doesn't work in that kind of -

ARLENE WILHELM: To clarify your position then a little bit more, I guess I would support not taking land away from people. But, does the group recognize then, and I think it may be a little (undistinguishable) from what you are saying, the water is a resource that is to be used for the common good of all the people of the State, as does our Constitution and Legislation.

GUY LARSON: I don't see how the State could be any more fair. We are submitting ourselves in the statement to regulation - to save the water for useage for future generation. It has never been done in another state. We're doing it voluntarily. And, the farmers that signed this, we have this document, a special copy for you, with over 50 signatures on it, by these irrigator-farmers who have made these investments. Submitting themselves to this type of regulation. I don't know how they could be more gentle, more fair about it. I think the whole posture of the think is looking to the future, retaining a valuable resource. Do you have any more questions?

ARLENE WILHELM: Thank you.

GUY LARSON: Your welcome. Thank you very much. (APPLAUSE)

RICHARD GALLAGHER: I just have one, a couple of - one, I refer to your last paragraph, I trust that you consider that we will give you every opportunity to be heard and I assume that remark will get a chance, the opportunity you can be sure will be extended at all times during - attempting to come up with something. And, I assume that you can see that maybe some rules and regulations should be arrived at so that everybody is playing the same ballgame.

GUY LARSON: Yes, but I think they should be based on something that is founded with research that makes North Dakota more safe in their water program.

RICHARD GALLAGHER: I would ask Mr. Fahy's comments on a couple of these matters. Your paragraph No. 1 and 2, so that they understand that the Commission has been proceeding somewhat along the line of your request.

GUY LARSON: Well, I want you to know that I thoroughly understand Vern's problems. We've discussed them a lot and he's been very good about furnishing me with a lot of good ideas and so have a lot of people, I tell you I really love these farmers. I don't know how many years I've got left, but I'll be here batting for them.

VERN FAHY: Well, Mr. Chairman, just to respond to your comment. Our staff is no stranger to the development of aquifer models. However, we're limited in the extent to which we can develop these models by financial limitations.

Money to hire staff, equipment, and that sort of thing. We have developed models - one to justify the location of the sugar beet plant down near the Wahpeton area. Another to determine the limit on the number of permits that could be granted out of the Horseshoe Aquifer in Strawberry Lake. We are spacing wells in the Page area to the chagrin of some farmers, I might add, at a mile and a half spacing. To develop the background necessary to complete a model in that area for issuing permits and to attempt to sustain that resource. I might say that the major aim of our agency, which is different from many other states, the major aim of our agency is to administer our water rights program in a fashion that will provide stability to the aquifer rather than depletion of the aquifer. That's not to say that there will not be at some time farmers who will be out of water or may have to deepen their wells or that sort of thing. However, our whole aim is to make it possible for that aquifer to stabilize at some level. So, in a sense, the very administration of our water permit program at the present time is a regulation of use from aquifers. Admittedly, we don't know enough. We don't have enough detail at this time to develop the models necessary. We have been meeting with the U.S. Geological Survey to start the second phase program which is the phase that goes to development of models. As you know, the Geological Survey participates 50 percent on the cost of these ground-water studies, which we have completed to date in all except two counties, or are underway. Hopefully, they will go with us on developing the second stage studies, which is the studies which will lead to the modelling of our major aquifers. It will take time, but we think that with our present practices and with that kind of research in the offing, that we can put North Dakota in a position that will make it the envy of the states, who have up until this time, mis-managed that resource. Mr. Chairman, I and my staff could talk at length on this. I would just as soon cut it off. I just want to make it plain that we are not blindly proceeding with the administration of water rights.

GORDON GRAY: Vern, I have two questions to ask of you. No. 1 - could you reply specifically to just what the model is that you speak of? Secondly, if you were able to build a staff which you need, you would need, and if your blessed with a reasonable, cooperative legislature, how long would it take you to develop this model, or models, for the State of North Dakota?

VERN FAHY: Mr. Chairman, I'll respnd in a rather limited fashion. Most people nowadays are familiar with computer systems which would be the basis of our model. In effect what we would do would simulate the conditions of the aquifer. We would simulate its static level, we would simulate the various drawdowns that are taking place as a result of existing wells so that we could arrive at any changes that the existing uses make upon that resource. Then we could plug into that model requests for new wells, and new developments, so that knowing the existing and knowing the impact of the existing by plugging in new proposals we can determine what will happen in that particular aquifer. It's a rather safe type of technical operation. It's not new, it has been done in many areas so it's not a new operation that we're proposing. I think it's a tried and true development to measure a resource, measure the impacts on the resource by use of the model.

Secondly, and your question relates to how long would it take. Unfortunately, the length of time to accomplish the work of the Water Commission is dependent upon the State Legislature and upon how good a job we and you can do in convincing the State Legislature that we need the resources to accomplish this very vital program. We've been looking at the ground-water studies to date that started back in late 50's and we're just in the processing of completing it. So it sounds like a lengthy program. However, keep in mind that in the modelling program, we will be selecting the major aquifers and we'll not be covering the scope that we did in the original definition of the areal extent of aquifers. So, Mr. Chairman, I would say that with the kind of staff that we need, the kind of funds that we

need for development, we're probably looking at eight to ten years. Milt, you fellows are closer to it than I, what would be your guess?

MILTON LINDVIG: It would be years towards responding to development of critical areas like you said and very likely it's going to be quite an ongoing thing because as more data becomes available (undistinguishable) subject to some modification, things like that. So, it could be an ever ongoing process for many, many years.

VERN FAHY: I would think, Mr. -

GORDON GRAY: Any estimate on the number of years?

MILTON LINDVIG: I would hesitate to speculate on that.

VERN FAHY: I would suggest, Mr. Chairman, that our modelling program will be geared to approaching those areas in which the most development has taken place, No. 1. No. 2, those areas in which a critical problem has arisen due to the existing development, and No. 3, perhaps picking an area in which there seems to be a proposal for development where none has taken place. So, I think it's pretty hard to attach years to that sort of thing. We probably can say seven, eight or ten years we could get some of our major aquifers modelled, but I can foresee for many years in the future requests from a small number of farmers to say 'what's the potential in my area' and we'd move on and try to do that. So, I think that it'd be a problem-solving approach in the final analysis.

RICHARD GALLAGHER: If there are no further remarks, why we'll proceed with -

VERN FAHY: Now, if I didn't lose my stack. The next person on the list is Milo Hoisveen, from the Tri-County Water Users Association.

MILO HOISVEEN: Members of the State Water Commission, ladies and gentlemen. My name is Milo Hoisveen. I am Executive Secretary for the Tri-County Water Resources Development Association, which includes the Apple Creek Unit, which is under development or in phases of being studied at the present time. The long awaited time when North Dakota landowners utilize the ground water that underlies their land has arrived. Drought periods and excellent work by the State Water Commission in locating aquifers are responsible for this extreme interest in obtaining ground water for agricultural and other uses. I would like to commend the State Water Commission on its consideration and deliberation in regard to their endeavors to regulate the use of water from aquifers. It was assuming a difficult task. A task which has never been successful in any other western state as of this date. In the Water Resource Development Plan, which I am preparing for the Tri-County area, I am recommending that some of the, some form, of an aquifer management district be inaugurated for minor aquifers until such a time legislation may be enabled governing aquifer uses. This would involve the rotation method of use. Another route that could serve the purpose of ground-water management is the use of irrigation districts. This could again serve as a self-governing board which could relieve the State Water Commission of many of the burdens which they are being confronted with at an increasing rate. It is realized that your water right requests are frequently isolated from each other and if acreage or volume limitations are proposed on irrigators in such areas, it may cause a dampening effect on the healthy water development of the aquifer. In my opinion, the pioneers in ground-water development are worthy of preference treatment for the general attitude toward the early ground-water aquifer irrigators was "it isn't practical" and the more envious

ones would probably say "if I had the money, I would have had the irrigation system also". Now, after many success stories, the attitude of a rapidly becoming, is rapidly becoming one "if he can do it, I can do it, too". Many users insist they can no longer afford to operate without the irrigation systems.

I am certain that the State Water Commission would not make retroactive decisions. Certainly to do so would cost much costly litigation on the part of both parties. The major reason for changing attitude and increased use of irrigation, is, of course, weather. Droughts continue to occur periodically and during these periods, supplemental moisture definitely improves the quality and the yields of crops. The farmer is also becoming more efficient in his operations. I am certain that persons testifying here today will mention many items concerning aquifers, such as the increased aquifer delineations, safe annual yields, granting rights on the basis of soil classification, including infiltration rates, a short growing season, different consumptive rates, and hopefully, we in the Apple Creek Unit will find recharge possibilities to be most helpful in the Apple Creek Unit. This, we hope, will be the result of the utilization of water from the Missouri River.

I might also add, that the Apple Creek Unit has already initiated a cooperative study with the North Dakota State University and the Bureau of Reclamation in cooperating to determine the possibility of irrigating soils believed to have marginal irrigation potentials. Compilation of figures in the Apple Creek area indicate that there are about 9600 acres of land being irrigated in Burleigh County, somewhere around 6000 in Kidder county, and between 5000 and 6000 in Emmons County. It is quite true that some of the municipalities that are obtaining water from ground-water sources may be a little distainful over agricultural water development. And, in some instances, it might prove practical for these municipalities to engage in what we could term as offset

pumping storage. And, this would be when irrigators are not utilizing the water to the full extent, to pump into reservoirs which they could impound water and use it as the drought conditions or dry weather conditions dictate. Some consideration, I am sure, might be expressed in respect to the volume of water. Well, for instance, here along the Missouri River or some of our principal rivers, in the floodplain areas, there might be just ample ground water and I don't think that limitations should be imposed in these areas. I think that we in North Dakota should use, utilize just about all of the water that we can without adversely affecting that of someone else. Certainly, the downstream interests will utilize this water probably to float boats which is in the category that the O'Mahoney-Milliken Amendment expresses concern over and believes that the waters of the states and the upper reaches should be utilized pretty much for consumptive uses. This, of course, goes down to the municipalities and the lower areas, but it does not recognize the old-time navigation servitude.

And, we also have areas in North Dakota such as in the lake soils in the Red River Valley where frequently two to three inches of water is ample during a season. It is just enough to get the supplement during the dry season where a crop of 25 or so acres could blossom out into 50 acres. Whereas, here in the western part probably we will require at least somewhere between 15 and 18 inches of water in order to bring about the type of crops that are being raised in the area.

If there should be some questions that you desire to ask of me - I am sure there will be a number of these items that will be pursued further by other testimony.

RICHARD GALLAGHER: Are there any members of the Commission who desire to ask Mr. Hoisveen any questions?

GORDON GRAY: I can't think of any questions, but I know he's qualified to answer.

MILO HOISVEEN: Thank you. (APPLAUSE)

VERN FAHY: Mr. Chairman, the next slip is Robert E. Sanders, Farmers Union, Jamestown.

ROBERT SANDERS: Mr. Chairman, members of the Commission - I am Robert E. Sanders, a staff member of the North Dakota Farmers Union located in Jamestown. I did appear before the Commission at the prior hearing in which this was discussed and I don't want to repeat necessarily the things that I said then - you have them on the record, so I'll be very brief today.

Farmers Union does support a limit per farm or per person on water for irrigation. As I understood the Chairman, he would appreciate it if the testimony today were restricted to the two proposals that probably will be brought about as a promulgated rule at sometime in the future. I would prefer not to make the choice between those two at the present time. But, I would like to say that our reason, the reason that our membership supports a limitation is as much economic as it is social. And, the reason for supporting the limitation among the economic basis, is that there are many farmers, many of them members of the North Dakota Farmers Union, who have not yet seen fit to make the investment in irrigation systems. Perhaps they haven't had the opportunity or perhaps they have adopted a "go-slow wait and see" attitude for irrigation. They want to wait and see how it works out. But, they do not want to see all the water from the aquifers, and most don't realize that the harvestable water from the aquifers is limited. They do not want to see that entirely used up. Because if it is and they're still holding a farm with no opportunity to get water for it, the price of that farm is going to be diminished as compared to the price of farms that have water

available to them. There were a couple of other things mentioned earlier this morning with regard to the aquifers. One, that they should be maintained at a reasonable level consistent with the proper level, and I have, at prior times, visited with the State Engineer, and Vern you will recall that I have assured you and right now will assure the Commission and the audience here that the Farmers Union is firmly committed to the principal that the aquifers should be used, but only to the extent that they will stand and remain a good source of water into the indefinite future. So when the time comes that you wish to consider that, you can count on the support of this organization. We do believe the water should be harvested, but not mined.

One other comment that was made and this was also a part of the Farmers Union Program recommendation adopted at the Convention last fall. And that is that given water supplies really should be tailored to the land that is there to be irrigated. If you have land that, surface acres, that are somewhat salty, and you have a water supply that is somewhat salty, the approach to irrigation should be much more cautious than if you have water with no salt content to put on that same land, or if you have land with no salt content and wish to apply the same water.

So, I would like again to assure the Commission, the State Engineer, and those assembled here who are interested in irrigation, that if a rule at sometime is promulgated, we will support trying to find some system for helping you to have the system adopted, and will match water to irrigable acres so that not only the water in the aquifer can be preserved for the indefinite future, but also the productive capability of the land on which that water is to be used.

Gentlemen, since I did state our position on limitations at the prior meeting and have stated that we will support a limit, I believe that this is all that I have to say today. Are there any questions?

RICHARD GALLAGHER: Mr. Sanders, and anyone here present. You need not limit your remarks on this with regard to this question, to the two proposals that have been presented so far, in the past meeting - the time-phase limitation and the flat acreage limitation. I can see this morning, why we presented, they also presented one in regard to space and useage of pumping limits, and Mr. Crockett's application of water where you can take it and move it over a vast area may have a limitation as to amount. You have the, you can put in on, let's say, you had enough for 160 acres, you put it over 640 acres, but by spreading it at a lesser amount, leaving it up to the individual operators. Now, these are proposals, but we don't want you to feel that your limited, you need limit your remarks just to those two - the time space and the flat acreage in your remarks today.

ROBERT SANDERS: Ah, thank you, Mr. Chairman. I suppose because some of the audience was not here when I appeared here a month ago, we did at that time support 160-acre limitation per person. So that a husband and wife would have 320 acres. If there was a son involved in the farm operations, a partner, he would also be entitled to an additional 160 acres, making it 480 acres. If there was, if he was married, that would add an additional 160 acres. The individual member of the family would have to be participating in the farming operation. Without doubt, model for this came from the Reclamation Law. I didn't sit in with the Program Committee when they were adopting it so I do not know what the comments before the Committee were. The Committee proposal was then presented to the State Convention and was adopted as I recall without any serious dissent. That was our proposal. I did present it to the Commission at the prior hearing and really thought I shouldn't repeat, but perhaps for the benefit of the audience, it was well to do that.

ARLENE WILHELM: I have one question before Mr. Sanders is seated. Mr. Sanders, from the things that I have read, I am under the impression that the Farmers Union is, the organization is concerned about the trend for the larger farms and the inability of young people to get the resources with which to get the smaller farms of their own. In other words, the migration (undistinguishable) and the de-centralization of the economic farming structure. Is that correct?

ROBERT SANDERS: That has been the historic position, yes.

ARLENE WILHELM: Then, do you see a value in some type of limitation other than the preservation of the water resource and the just of the economic liability of the irrigation operation itself? Or the farm unit itself?

ROBERT SANDERS: Yes, we do. I am certain our members would hope that with water matched with the good North Dakota soil, it will support at least as many farms as we have now and stop the deterioration in numbers of farms on into the future and this is an economic thing as well as a social.

ARLENE WILHELM: Has any concern been registered, now I am going to be very careful not to be misunderstood here, I support emphatically the efforts of the Commission to model and to learn about our ground water supplies in North Dakota and I am pleased that we are far ahead of the rest of the states in the nation on this thing and I would, I hope that we would, you know, I want to speak to your efforts to get a handle on it so we know what is going on down there and what is available. However, I am wondering if any of you are aware of a discussion in your body somewhere in your membership, that might, that are concerned with the public awareness and the availability of the results of modelling programs, that it would be very easy to force speculator-type

investments in the land and in the water rights. Has there been any concern, that, that is a concern to me personally, and I guess that I am looking, I am wondering, if that exists maybe somewhere else?

ROBERT SANDERS: I think that there's a two-part question there, Commissioner. Yes, there has been discussion and there is concern about speculation in land where it is assumed or known that there is an underground aquifer close by, water for irrigation. However, let me hasten to add that I don't believe that our membership or any of the leadership would propose modelling on the fear that speculators would get a tip on where to buy, so to speak. And I don't mean a tip from someone personally, but through general knowledge. We would support modelling and hope that some other means like an acreage limitation would take care of the speculation.

RICHARD GALLAGHER: Are there any other questions? Would you, do you believe the acreage limitations that also exist on the, on those who are taking out of the Missouri River, for instance where we have a large body of water, the Missouri and also the lake behind it.

ROBERT SANDERS: I would think that our program doesn't directly address this, but I would think the membership would support a limitation on water taken from a flowing stream, like the Missouri River where its available, or from a reservoir, and the same as it would from an aquifer. Basically, the North Dakota Farmers Union has always supported, as has the National Farmers Union, the reclamation limitation in the Reclamation Law of 1902, for the reason that we have always believed it's better economics and a better social situation where there are as many as possible people living on the land and supporting a small community. I guess my answer would be yes, it's my presumption. If there are

no other questions -

MILO HOISVEEN: Could I, I would like to address one question, and that is - the last 14 projects approved by the Bureau of Reclamation carry what we call a Class I Equivalency and that permits the irrigator or landowner to exceed the 160-acre limitation in cases where you might have Class 2 or Class 3 land. In other words, it puts in little more competitive with the Class I landowner. It might be, I don't recall the figures off hand, Class 2 Equivalent could be say instead of 160 acres, it might be 220 acres and Class 3 might be 280 acres, some such a thing. Would your organization support such a delineation of the acreage limitation, or, that is an increase in the acreage limitation based on soils?

ROBERT SANDERS: Mr. Chairman, Milo, I'll do the best that I can to answer that without pre-empting the prerogative of delegates to the next convention or some convention in the future, when they may take that up. To this point, I know of no deviation from the Reclamation Law limitation in a written policy statement. I will say this, I have visited with a number of North Dakota Farmers Union members who say "we're not sure of what the limitation should be, (undistinguishable) 160 acres in an area like this where you don't raise the specialty crops, labor intensive and high return per acre". So, I would say this, that I am sure the convention delegates, if and when this is brought before them, would take a very hard look at it and make a decision. Of course, I can't guarantee which way it would go.

THOMAS HEIMBUCH: When did your organization come to the conclusion that your membership was in favor of one-quarter limitation per individual? Because I'm a member and I really didn't know anything about it until the last meeting here.

RICHARD GALLAGHER: Just one moment please, the Chair wants to preserve some degree of order here and -

THOMAS HEIMBUCH: I just thought I'd point out the fact this hasn't been voted on as far as I know by the membership of your organization which you represent.

RICHARD GALLAGHER: Just so that you all go around the Chair with the ruling on this - the Chair is going to restrict the questions to the members of the Commission for their enlightenment. Thereafter, anyone who wishes to make any statements will be granted the opportunities so that we do not have a cross-examination going on by 150 people against one person. With that in mind, there being no further questions from the Commission, we'll move onto the next one.

ROBERT SANDERS: Mr. Chairman, may I respond to this inasmuch as it was asked?

RICHARD GALLAGHER: Yes.

ROBERT SANDERS: At the most recent convention every local in North Dakota Farmers' Union that made the effort to send delegates to the State Convention were represented, all of the locals represented by the delegates. The delegates at that Convention, the most recent one, did vote for an acreage limitation on water from aquifers in North Dakota. Previous to that, as many conventions as I can recall, they've voted to support the 1902 Reclamation Law if it came up to some question. Thank you very much.

RICHARD GALLAGHER: Thank you.

VERN FAHY: Tom Heimbuch - did I pronounce that right?

THOMAS HEIMBUCH: That's right. Thank you, Mr. Chairman, my name is Tom Heimbuch, I irrigate 480 acres in southeastern North Dakota near Oakes. All I do is irrigate. I have no dryland. I have been associated with irrigation since 1967 when I started college at NDSU to work on my BS in Soils. I received my BS in 1971 and went on to, after a tour in the Army there, on to do research work in, with Irrigation down in Oakes research site, south of Oakes. I received my MS in Soils in 1974 and thereupon starting farming. I have been farming, this will be my fourth season now and I have been renting land in the beginning and purchasing land in the last year or two. I accumulated 480 acres of land which I farm, my wife and I, because really (undistinguishable) We've worked real hard to put this farm together and this limitation, would in effect, limit my farm size to 480 acres and I am opposed to that. I am a member of Farmers Union as I have said. I think that there are some, considerably many cases where the irrigation could be feasible, has to be larger than three quarters. In some instances, like the registered seed potato business that we have at Oakes, they cannot grow seed potatoes on the same ground more than once every three years or so, so they have to have a considerable amount of land to make production economically feasible for them. Now, this potato business at Oakes employs, I don't now exactly how many people, but it's from 20 to 30 people, that they employ. These people would not be there if this limitation was put into effect because this business would have to move to some other state where they could put together a (undistinguishable) enough size to operate efficiently. I think this limitation is contrary to the spirit of free enterprise and it discriminates against the people who often take the risk to develop the land and discriminates against the people that are capable of making irrigation pay. I think the State should do everything possible to help irrigation development and not to discourage it by, in my opinion, water that is renewable and is not used is wasted and wasting a resource such as water is a loss to every person in this State. The economics of irrigation have become a,

tighter and tighter, that's what I found out as I become a better farmer and have gotten higher yields. I have found out that we need higher yields to break even. This year on my irrigated corn, which is my main crop, we needed approximately 120 bushels an acre to break even. Now, that might not sound much to people who aren't, much of you people who aren't acquainted with irrigation, but 120 bushels is a good corn yield. Because your average irrigator is probably turning somewhere around 100 bushels. That means the average irrigator is going to lose a lot of money this year on \$2.00 corn, if it is that high. So, we're dealing with a subject, or a fragil subject here, and that if we discourage it just a little, we're going to curtail the development somewhat. And, there is limitation the size of the farm can vary, or the economic size of the farm will vary from one state to another and from part of North Dakota to another. In the southern part of North Dakota we can draw, with good management hopefully 130 bushel corn as an average, and some people who disagree with me that there isn't possible to maintain a ten-year average of that type of yield. And, in the northern part of the State, they're awful lucky to get 100 bushel or 90 bushel will be more like it. In my experience in research, we found that the yields of irrigated crops were considerably higher at Oakes compared to Carrington. The corn at Carrington in the north isn't a practical thing to do. This makes, if irrigators (undistinguishable) at a disadvantage compared to the people who are growing this crop dryland say in a cornbelt those people can turn 120, 130, 140, 150 bushels of corn without any investment in irrigation. And, we as irrigators are taking poor quality land, land that is virtually useless in many cases and turning it into some of the most productive land in the State. We're not doing this at no cost to us. It's costing us about \$50 to \$60,000 to develop one quarter and we're pouring tremendous amounts of money in fertilizer, machinery and labor to do this. In light of these facts, it is easy to see why people consider irrigation to be an unpractical, unprofitable practice in North Dakota and at this one time you may

be right. Irrigation will surely be unprofitable to the farmer who on the average (undistinguishable) and I know that from experience. When I started, though I had the six-year degree from a good University, I was not a good farmer. And, it hasn't been until the last year or two that I've done a real good job. And, a person only doing an average job of irrigating is going to lose money. And, if he does a good job and chooses the wrong crop irrigating, he is gonna lose money.

I would like to point out also that the gains in North Dakota from the development of irrigated land. When I developed each one of my quarters, I paid approximately \$2,000 in sales tax for each one that was developed. The income from my, the three quarters that I have now, was increased from virtually nothing to probably \$40,000 gross per quarter. One this, I pay State income tax and I pay Federal income tax, and this is revenue the State wasn't getting before, One quarter, the first quarter I developed was pasture and supported about 20 cows per year. Now, it grows 123 bushel corn. The second quarter I developed was a quarter that was in the (undistinguishable) and the government was paying \$12 per acre per year to the previous owner. The third quarter I developed, was considered a very poor quarter for dryland. It hadn't been farmed since the 30's and there was, and for 21 days there were 90 cows on that quarter the year before I developed it, and those cows just about starved to death. And now, it is my best quarter of irrigated land and it has produced very good corn for me for two years that I've irrigated it.

In closing, I would like to say that irrigation and, will suffer with acreage limitation and the people of this State will lose if a limitation is passed. And, in my own case, it will start directly, because with only three quarters of land, I cannot make a sufficient living to support my family in the future. And, probably would have to consider a different occupation. I certainly hope nothing comes of this, because I really enjoy farming and I think there is a bright future in irrigation farming. Thank you.

RICHARD GALLAGHER: As I understand, you are just against any regulation?

THOMAS HEIMBUCH: I am against the regulation for just limitations of an acreage limitation. As an irrigator, I am probably more concerned about the amount of water in that aquifer so that I am not mining that than anybody around the country. I am against issuing permits that would, in effect, mine the aquifer. Against issuing permits in excess of the amount of recoverable water to keep this aquifer producing every year. And I hope, strongly recommend you look into this model concept and whatever else you do to protect the water that's there so we don't mine and destroy an aquifer. Thank you.

ARLENE WILHELM: I guess on second thought, I do have a question. I would like, you know, you made a statement that you were hoping you were in favor of total private enterprise relating to the ability of a, you know, a person to put resources together to develop a resource, and (undistinguishable) well, you know, that's tough. And I guess maybe I could sympathize with that a little bit, but I am wondering then, what, how you feel about somebody I know who says that they've been forced because of the existence of the doctrine of prior appropriation, (undistinguishable) priority system, a person that, who went and applied for 4,000 acres, he's, this individual I understand it, has created some negative feelings in his area because of, you know, buying land (undistinguishable) and now has, you know, applied for more irrigation rights for I guess, I understand it, for more than 4,000 acres. How would you feel about that?

THOMAS HEIMBUCH: Okay, your question is in two parts. First of all, somebody is not forced to develop because they can get a permit and have four years to develop, or five years to develop, after they receive their permit. Is that correct?

VERN FAHY: Four years.

THOMAS HEIMBUCH: Four years to develop it, so a person can apply for a permit and wait four years before he has to develop it and still maintain the status of his appropriation date, isn't that correct?

Second, the law, I think we should, deal with these cases on an individual basis rather than putting a limitation through. And, that's a philosophical question that will never be answered in your life and you'll know your answer along the line, but that's for me to convince you, or you to convince me, that probably is impossible. To me, it's a philosophical question, on what you believe in.

ARLENE WILHELM: How do you feel about your agency, which is the Water Commission here, being faced with a flurry of such permit requests? Like an administrative thing, that this agency will have to -

THOMAS HEIMBUCH: I don't think that the Water Commission can decide what's right or wrong on this. I think they can appropriate water according to the amount of water that is there, so that we can develop this resource safely and in the fastest possible, so that this State can enjoy the benefits of this irrigation.

ARLENE WILHELM: Thank you.

THOMAS HEIMBUCH: Thank you. Any more questions?

RICHARD GALLAGHER: If there are no further questions, thank you.

THOMAS HEIMBUCH: Thank you. (Applause)

VERN FAHY: Mr. John Leininger of the Bald Hill Irrigation Association from Binford.

JOHN LEININGER: Mr. Chairman, members of the Water Commission. I'll keep my comments brief because I notice that it is about dinner-bell time and many of you are getting restless in your seats.

I would like to second Guy Larson's and the Missouri Slope Irrigation Association's proposal. As Chairman of the Bald Hill Irrigation Association, representing its members, in Griggs County, we do like to emphasize that we are in favor of limiting, or a regulation that would limit irrigation by the water resources that are available in the aquifers under the land that a particular person farming on his own, rather than an acre limitation as such. We, as we mentioned before, feel that there needs to be more research done in the aquifers that are existing and as we mentioned, this is being taken care of but time is necessary to do this to complete the studies. But with the resources, the modern resources we have available, if there's anyway to expedite or speed this up with future computers and such, we feel that this is very important to do this. To keep track of the aquifers so that they are not depleted and as I mentioned to emphasize here, the irrigation size or the amount of land that the particular farmer may own or irrigate be dependent upon these studies that you would conduct. The movement of the aquifer, the water movement in these aquifers, is important. How is it - do we know this? We are not knowledgeable - maybe you do. What is the static level of this water over the time, over a period of time of six or eight or ten years? This is going to have to be studied as we go along. And, again I guess I'll second or emphasize that the soils types be based, the amount of water needed should be based on the soil type of land on a particular crop being irrigated, rather than just a flat amount of water to be used and we know that from farm to farm the

soil varies greatly. And, the amount of water needed is going to vary greatly, too. If an acre limitation was put on, for example, 160 acres, 320, 480, I'm sure would injure many farmers today who are irrigating more acres than this, or plan to. Our Association, would be against putting on an acre limitation. Thank you. That's all the comments I have - are there any questions?

RICHARD GALLAGHER: Any questions of Mr. Leininger? Thank you. (Applause)

VERN FAHY: Mr. Gerald Presser of Turtle Lake. For those of you who are interested, we are about half through with those who wish to speak.

RICHARD GALLAGHER: But, we intend to break for lunch! (Laughter)

GERALD PRESSER: Members of the Water Commission. My name is Gerald Presser, Turtle Lake.

(Mr. Presser read his statement - page 43)

Thank you. (Applause) I'll try and answer any questions, if there are some -

RICHARD GALLAGHER: Apparently not. The Chair will entertain some sort of suggestion as to how long to recess for lunch - we will adjourn until 1:30.

VERN FAHY: There is a lunch room -

(Recess)

(The meeting was reconvened at 1:30 p.m.)

VERN FAHY: Mr. Chairman, the next name on the list is Harry Cline, Oakes, North Dakota.

As an irrigator and chairman of the Missouri Slope Irrigation Development Association I was appalled when I first heard of the restrictions that were being proposed.

I can understand restrictions on Irrigation development on an aquifier that is ~~adequately~~ monitored and it requires management to prevent draw down on the water table.

How ever, planning restrictions or limiting irrigation development to some one who has adequate water and the initiative to develop it is unheard of.

I am certainly not opposed to proper water management but I would hate to think that I would be limited in Irrigation development if the resources were adequate .

Gerald Presser
Turtle Lake, N. Dak.

HARRY CLINE: Mr. Chairman, members of the Commission. I am here as a citizen of Oakes and just had a few observations I'd like to throw out and I'll keep it short. I feel when we limit the numbers of acres that a person may irrigate, you are also going to promote certain economic limitations upon those people. I see this in the (undistinguishable) Different types of machinery are used to farm irrigation land versus non-irrigation, and if you do not keep a broad enough base, why there are going to be people, the only way they'll be able to handle two or three quarters of land is to lease it out to someone else so that he can get a broad enough base for his machinery to come in.

The other thing I see is, that is sometime it is questionable whether irrigation land is profitable, in fact in the years, lots of years, the Oakes area where a dryland farmer has more dollars than the irrigation farmer does.

The other thing I see in the Oakes area, is that we have farms down there that are developing their land under irrigation instead of expanding and buying more land. And, I guess I don't see where this is bad. We'll also see marginal land that the cash rate taken off the marginal land is not enough to make it, so they're having to use cattle to use up the fodder, making a dual purpose for our land.

There's also this concern for the water grab. I don't see where this is any different, I guess, from the land grab that has been going on in North Dakota for years. Our farms keep getting larger and larger, yet we do not stop this. The beautiful thing about the land grab or the water grab is that it always has to pay for itself economically. You can own all the land you want to, and develop all the land you want, it's got to make money. And, it seems that the history of the Bonanza farmers has always been that they've never lasted. A classic example of outside interests coming, I'm thinking of the Gates Rubber Company, where they started big farming business. It so happened they couldn't do in eight-hour days, five days a week.

The other thing I wonder is if we're promoting a, the water limitation, if we aren't approaching the concept of socialism. Why create a monster that would encourage people to sell the land to outside interests and then lease that land back for 99 renewable, or for 99 years, a 99-year lease with a renewable clause? This is the way we get around. It seemed every time we make a law, there's always a loophole for those that want to take advantage of it.

It appeared right now that you have the support of the irrigators. And, it will seem very logical to continue with your present program, which I feel the Water Commission has been doing an excellent job of controlling the permits according to development of the aquifer.

These are just some comments that I have as an outsider.

RICHARD GALLAGHER: Are there any questions of Mr. Cline? Thank you very much.

VERN FAHY: Chairman, the next gentleman on the list is Charles Linderman of Carrington, North Dakota.

CHARLES LINDERMAN: My name is Charles Linderman and I farm near Carrington, North Dakota. I am a potential irrigator and I have a degree in Agricultural Engineering and am a Registered Engineer in North Dakota. And, before I came back to take over the family farm, I worked for the Agricultural Research Service in Nebraska and worked with irrigation down there. Being my background as it is, it may surprise you I came down here today to support the limit on use of water for irrigation. I think this is an idea who's time has come. And, any time something like this comes forward, there's always 101 reasons why it won't work. But, I think this can be worked out with good planning and with the input from irrigators and from soil scientists and from engineers that know the technicalities of this. The comment was made this morning that perhaps

480 acres isn't an economical unit and it will retard our irrigation development. Speaking as an engineer, I think with the equipment we have today, you can certainly make an economical irrigation unit with 480 acres. Commonly used equipment now is the center pivot which covers a quarter section and if you're a farmer that can irrigate successfully on three quarters with one of these center pivot systems, and do it year after year, you're a very top notch farmer.

Another factor that comes in here, the typical irrigator in North Dakota isn't going to be like the irrigator in California or Colorado or some different part of the country. He's gonna be an irrigation farmer and a dryland farmer. And this irrigation will just be a part of what he is gonna do, something to stabilize his unit. And, so he doesn't have to justify his total farming operation on this irrigation unit. I think that this, this water supply we have is a valuable resource and I don't think that we can say that the guy that owns the land has a right to have this water that is under this land, just like the coal, or some other mineral. Water isn't like coal, water moves around, it's part of the hydrologic cycle. It evaporates, it falls with rain, it runs down the stream, it runs underground, it goes all over the place and we have people out there making water surveys trying to study this and learn more about it. But, we can't say that just because it's under my piece of ground, that I own it, that I can pump it out. You'd have to drive sheet piling clear to the bedrock and build a wall clear to the top of the atmosphere, then you could pump water around your farm and say you weren't affecting anybody else.

One thing that was brought out that I really agreed with, a change that I would like to see, a direction, a change of direction I would like to see on this, is to limit the quantity of water that is used rather than the acres irrigated. I think that's a, that's the first thing I thought when I heard this was being talked about. That would certainly encourage good irrigation management because if an irrigator had, now I'm not proposing this just for the

sake of discussion, say 1,000 acre-feet, up to 1,000 acre-feet depending upon how much irrigable land he had, and if he could have this, have a permit to use this quantity of water, and he could irrigate and intensively on a vegetable crop, or he could spread it over maybe acres of wheat or whatever was best for his operation, however he wanted to do it, that way you preserve your opportunity for free enterprise if you give the opportunity to the guy who has the management ability and wants to expand his operation and wants to try something different - he's the man that's out there in front (undistinguishable) developments and is always trying something new, that will give him the opportunity to use these abilities and try things, not limited to a certain acreage and I think that, that will fit in to most anybody's farming operation, one way or another.

And also, as a potential irrigator, I will be willing to put my neck on the line and say that I think that since this water belongs to the people of the State of North Dakota, that it wouldn't be altogether unreasonable to have some kind of a use rate that fits in. And, I'm saying this is a potential irrigator, somebody that might want to use some of this water. I don't think it would be unreasonable to have a small fee and maybe a progressive fee, that would be an increase if you used more water and they're talking about this for electricity now, too. It would certainly encourage better water management. I think that's what we're after here, that's what the whole thing is about is to make the best use of this water. I don't think we can afford to wait for all these modelling studies to be done, either. I think we have to act now on this limitation before it's too late. I don't poo-poo this idea that some big companies and corporations are coming up here and grabbing up this water. I don't say that it can't happen, just because one or two big farming operations had to back out, that doesn't mean this can't happen. And, once they get their foot in the door, it's gonna be pretty hard to get rid of them and I don't think they make good neighbors. I don't want them around, I want my neighbors

to be a family farmer like I am. So, I think this action should be taken right now, not wait for a complete modelling. You can study things to death, and use that as for excuse to not take any action and put it off forever. I know, in our community, there was an outfit came in, outside money, came in and they offered a, just a, outrageous price for my father's farm and then the thing never did go through and the only reason is because they couldn't get enough acres in one unit. They wanted several thousand acres on one unit. And, once you get even, somebody in our own community, if he gets control of several thousand acres, has water permits for the thing, if he ever decides to sell, there's a better than ever chance that, that'll be sold to somebody from outside our community. That concludes my comments.

RICHARD GALLAGHER: Are there any questions?

ARLENE WILHELM: I have one. Would you, Mr. Linderman, maybe expound a little on what your concept would be as far as limiting the quantity of water. Are you talking about the quantity of water available, or the quantity of water applied, you know, obviously, you mean't available? How would you, rather than limiting acreage, you limit the quantity of water? How would you limit the quantity of water that is available to the operator, or would you limit, you know, how much, to apply to....

CHARLES LINDERMAN: Well, what I was thinking of was the quantity of water that the irrigator could have. What his permit allowed him to pump. And, with the idea that he could use that as he saw fit. And, to my way of thinking, that will eventually result in efficient use of water, because if he only had so much, then he'd have to spread that around to make the best use of it. Just like anything else thats limited, like his money, or his time, or anything else.

ARLENE WILHELM: Of course, we're doing that now, the Commission does grant a permit for so many acre-feet.

RICHARD GALLAGHER: One other question, talking just about your idea - it has been expressed several times today, this, put a limit on the quantity of water to be used. Now, how do you relate that to the total number of X percent, or the total number of acres owned by the operator, or X percent by the total number of acres that could be irrigated-owned by the operator?

CHARLES LINDERMAN: I would think that the fair way to do that would be to appropriate so much water, the quantity of water appropriated would depend on how many irrigable acres he had. But, there would be a limit at some point, you could have so many acres, inches per irrigable acre, up to may 1,000 acre-feet or whatever number would be decided on, as the limit. In other words, we wouldn't want to give anybody, just because the guy had 40 acres to irrigate, he wouldn't use 1,000 acre-feet because he wouldn't have any use for that much water. But, if a guy had enough water, I mean if he had enough irrigable land to use that much water, he could use up to his total limit.

RICHARD GALLAGHER: One expression today that perhaps a greater amount of water should be allocated, permitted on lands that require more water than on lands that apparently are, can get away with less water. Does that fit into your formula?

CHARLES LINDERMAN: My opinion on that would be that, with proper irrigation management one kind of soil shouldn't require greater amounts of water than another. Depends upon the climate and the crop your growing. Now, if you've got sandy soil and put on more water than your crop can use, you'll have more leaching, more losses. If your surface irrigating, a lot, use a lot more

water. But, my opinion would be that with proper irrigation management, the soil type doesn't have as much to do with it, as the crop and the climate.

ARLENE WILHELM: Would you, excuse me - would you limit according to the size of the aquifer, or not? Or would you consider other factors, such as you know, farm size?

CHARLES LINDERMAN: Well, I don't know. I kind of feel they should be limited according to the size of the aquifer. I think a smaller aquifer, there'd be a smaller number of farms involved, we'd still have the same factors of economy scale and those other things we have been talking about. So, that the smaller aquifer would just serve the smaller number of farms.

ARLENE WILHELM: So then your aquifer limit would not change. That would mean, the -

CHARLES LINDERMAN: That would be my thinking, yes.

RICHARD GALLAGHER: Erv Bourgois.

ERVIN BOURGOIS: Mr. Chairman and the Commission. I can make a few remarks here before I read my written statement here. I live about ten miles along the river and we have a 1,000 acres of irrigation. We're the first ones that irrigated on the Missouri River bottoms. Through the years, we have built up, we saw the opportunity to get into the potato business, and built a wash plant and a warehouse. Now, you've got to use your equipment up to capacity. A potato harvester now runs about \$20,000 to to \$115,000, and a wash plant about \$200,000, so our equipment investment for (undistinguishable) maximum. We put in 250 acres

of potatoes, or more, and we operate this wash plant and sell to a local super market which has 52 outlets. Before we got into the potato business, the potatoes were imported from the Grand Forks area. By producing potatoes locally, we saved the costs of energy from trucking to Bismarck from Grand Forks. We do employ about 10 to 15 people in the winter time to wash these potatoes and bagging them.

Another thing on potatoes, you can't raise potatoes on the same ground all the time, you've got to rotate about every third year because of the disease problems in the ground. So, that's all I'll say on my farming operations.

All the years we've got irrigation, we didn't design any new methods, we travelled all around and what other people had done, we copied. We're the greatest copiers in the world. So, nothing wrong with, what's so wrong with copying success. So, I had a few thoughts here and I'm not much of a public speaker, so I had to write it down, so I'll read it to you.

(Mr. Bourgois read his statement - page 52) (APPLAUSE)

RICHARD GALLAGHER: Do you irrigate out of the Missouri?

ERVIN BOURGOIS: Huh?

RICHARD GALLAGHER: Do you irrigate out of the Missouri?

ERVIN BOURGOIS: Out of wells, too, both.

VERN FAHY: The next one is Mr. Herb Grenz, Emmons County Irrigation Association.

HERB GRENZ: Mr. Chairman, ladies and gentlemen of the Committee. My name is Herb Grenz, from, I represent J-T Ranch, Emmons County, and I'm not representing

HEARING ON LIMITING IRRIGATION ACRES

This hearing reminds me of a generation ago when the supporters of the graduated land tax law tried to pass legislation to discourage farmers from increasing the size of their holdings through taxation. At that time they were using small tractors and 2 or 3 bottom plows which now are not only impractical but are no longer on the market. Looking back at the present time one can see how impractical it would have been to limit the farm acreage. If the Federal Government had enforced the 160 acre limit per owner in California on irrigated land, there would have been little development of mechanization in handling the fruit and vegetable harvests. Under limited acreage the mechanization would not have been financially possible. Harvesting machines cost many thousands of dollars. The machines eliminated thousands of steep laborers. I read in the paper that they were debating the issue of the number of acres an irrigator could own in the State of Washington, so I called the Commissioner of Agriculture in Olympia, Wash. He said the measure on the ballot was that no individual could own more than 2,000 acres of irrigated land but that it would not be retroactive if passed. This same bill was defeated in their last legislature and he felt it would be turned down by the vote of the people.

Risk capital has done most of the development in other states which have made the most progress. Anyone wanting to invest risk capital under our state laws should have a business climate that would encourage investments. This is what has been done in other states and what we need in our state for the development of our agricultural potential.

/S/ Ervin Bourgois

the Irrigation Association of Emmons County. The Chairman, Mr. McCrory, called me this morning and indicated that he could not make it. He's President of the Emmons County Water Management District Association. However, we've discussed this limitation of acres and we feel both that there pretty well coordinated in our thoughts. So, I am representing basically myself.

Now, we do irrigate land in Emmons County, but I'll go back, in one issue, and give you an essence or an illustration of what took place last winter. Now, in Emmons County, we have what we call the Horsehead-Winona Flats, which consists of approximately 30,000 irrigable acres. Now, this of course, is a Bureau Project and its hard. I live on the, what you call the mouth, or the beginning of the Horsehead Flats which consists approximately of 22,000 acres of useable irrigated acres. Now, we as a unit, are irrigating, as private individuals. However, we are trying to entice and talk to landowners that are involved in this irrigation project if they'd be interested in irrigating, that they better get off their dead butts and do it now or forget it. (Laughter) But, we don't know what's happened, but at the time the project looked were very peaceful and we held public meetings, but in extent we didn't get very good turnouts so what we did was organize kitchen meetings, where we could take the landowners that were centrally located and we'd invite about 12 people, the Bureau of Reclamation would come down and we'd sit down and discuss the feasibility of irrigation in their units. And the biggest factor, and the biggest confusion, and the biggest thing that caused a little bit of frustration in, and I wonder if I want to get into, was the 160-acre limitation, as was, is recommended by the Bureau. I could have 160 acres, my wife can have 160 acres, I suppose my son can have 160 acres, but did you ever try to go borrow money whenever everything is chopped up like that, to a banker. He'll throw you out the doors, especially when you need capital to irrigate. But nevertheless, the fact is, most people figure because a lot of the land involved more than

160 acres and often involved 400 to 500 acres. Now, these people have worked through generations to build up this unit and they're not about to let it go down the drain because of the limitation of 160 acreage (undistinguishable), and right now I would say without the least bit of hesitation, that this is perhaps the biggest drawback of getting complete satisfaction of the landowners and going ahead (undistinguishable) unit.

And, the cost factors aren't that great. It's about \$10 an acre for buying the water and about \$10 an acre for paying back the costs. So, you are talking about \$3 an acre after the project is completed for having the unit in operation. But, what is a major drawback is the acreage limitation. Because it is a federal project. And, of course, if our Senator or Representative from Wisconsin gets his way, I don't think there will be another irrigation project in the State or in the country. But nevertheless, irrigation is something that is completely different and it sort of takes a hard look at you and it sort of takes a breed of people to go into irrigation itself. Now, I will forget about the Horsehead Flats, I just wanted to bring that back around that this is what has developed in that unit itself with a rejection of the 160-acre limitation because most people had about 400-500 acres that could be irrigated.

Okay, now I'm talking about the unit that we have ourselves. We irrigate 135 acres of barley and 135 acres of corn and 135 acres of sunflowers, 80 acres of soybeans and 50 acres of oats right now. We applied for our first water rights in 1961. I am still not finished. So, you don't do these things overnight. Now, since we started in 1961, which was perhaps one of the first units to have the center pivot system in the State of North Dakota. We lost 2,300 acres to the Government on the Oahe Reservoir. Alright, since we lost 2,300 which chopped out a lot of unit, we have approximately about 1,000 acres of farmable acres left and the rest is all rough prairie ground. And, I'm talking about rough prairie ground, I mean when the cows are walking through the hillside,

because they can't make it up straight up. But nevertheless, we have not added an extra acre to that unit since we put in irrigation. And, what I'm trying to stress here is that you become intensive when you go into irrigation, not extensive. I could have gone, we could have purchased more acres, but we did not. I can't understand why we should go out and buy another quarter of land when we have dry weather and it doesn't do us a darn bit of good. We, you, can take that same money and invest it back into a quarter and put it under irrigation. So therefore, you are not shoving another farmer out, as many have indicated. I think you people have to go and look at everything with a common sense theory. The use of water when you irrigate. Well, North Dakota State University has set up a checkbook method. Now, you can't just sit down and say I'll use so many inches of water per crop, because each crop is different and every year is different. This year, to give you an example in April and May in Emmons County, we didn't have a drop of rain. I had to put two inches of water on to plow the ground, prepare the seedbed to plant corn. I got the corn planted. On Memorial Day we got a vicious two inches of rain. It packed the soil. Alright, the corn is just coming through. I couldn't get in to break the crust because I'd get stuck. So, I sat there and I sweated it out. When I started taking a count, I had lost a third of my crop in corn - it had crusted under. So, I should have 27,000 plants, today I have 16,000. So, I tore the damn thing up and reseeded corn again. Just got done with that, I got another two inches, just before I tore it up, I got two inches of rain, so it delayed me. And, that's what we got, two and two. Then I got the field dry enough, I went in and tore the corn up, reseeded again, and we had a four-inch splash on it. So, instead of pumping it on the land, you pump it off the land. So, I finally got it dry enough again, where I was gonna put the additional 60 acres (undistinguishable), I got three and a half inches of rain. So, now I'm pumping water out again, you see how (undistinguishable)

I would have to say, I'm sorry to joke around like this because I don't want to become verbatim to what other people have said, but, the thing I think and I disagree with the theory of the Farmers Union; I'm a member myself and I disagree with some of these other theories, that, to give you an example. I think the greatest threat in North Dakota and even in the areas of irrigation, is not that one man has to irrigate more than the other, because you have people in an area are going to be more entice, they're gonna be more progressive and they're gonna go ahead. Now, before a couple of years pass, most of the aquifers that are to be discovered, will be discovered by individual people. They call a well driller up and says "I want to know if I got underground water where I can irrigate". Right? Then you poeple came along later on to have this ground-water survey put out. But the fact is, when we went into irrigation, we said we're going to push water from the river up, lift it 150 feet and put water on the land, we were laughed at by the neighbors, and then you go ahead and sort of meekly sneak around and wonder "Well, am I going to do it, or am I not gonna do it, because if it is not a success, I'm really gonna be razzed, I won't even be able to get a beer in the bar, because they'll laugh me out." So, you take the guts, you take the determination and you go ahead and do it. Now, they come around and say "I want to do it, but I don't want to make all the errors you made while you were doing it." But, that's progress and I think, aquifers, which is different from our situation because we have the Oahe Reservoir, when you have underground aquifers, I think, I don't see where any landowner is going to go and invest hundreds of thousands of dollars and then dry the darn thing up. It's just like having a big calendar that (undistinguishable) calf crop next year. Really. I can understand you gentlemen have to have your regulations when you get into an aquifer and we have a large request for a water permit, that you'd have to sit there and say "Well, look, we don't know what this aquifer can produce, we don't know the productivity of it, we don't know its limitations.

We certainly don't want to get into the mess that Nebraska-Kansas (undistinguishable) reservoir". I think you have to use the common-sense approach. But, nevertheless, how long do you sit there and hold a man back for free enterprise? Because he want to go ahead and irrigate and the other neighbors sit around and say "Well, I'm not gonna irrigate, I don't think it's worth it". Well, are you gonna punish one man three years, four years, five years, ten years, fifteen years, before some of these people decide "Well, maybe I should put a well in, maybe I should irrigate". I think when you have an underground aquifer, I think you should let it be well known that, by God, there's underground water. And, if the man is making application for a large request, or a permit for pumping water, this is fine, but you people can limit that. But, the fact is you better let it be well known that as soon as the other people in the area, their gonna find out they got underground water, and if they want to get into the business of irrigation, they can't sit around and wait ten years. Do we have to let them know that maybe I am interested, maybe I better get on the ball, too. That's my opinion on underground aquifers.

But the fact is, on your limitations or from 320 to 480, I pump out of the reservoir. We sacrificed 2,300 acres of flat bottomland that I had that I could flood irrigate. I could still pump from the river, I could flood irrigate, I didn't have to level, or a darn thing. And, I pumped for six years on it. And, they taught me well how to negotiate, I can tell you that. That's one thing I did get from them. But the fact is, that we had to change our whole unit around to become intensive instead of extensive. And, I think when you talk to most irrigators that's their whole feeling, that we are becoming intensive farmers, we're not becoming land grabbers, we're not trying to push anybody off. In fact, we asked one irrigator, if another man is ever interested in irrigation, he's gonna sit down and help him out. And say, now don't do this mistake, don't buy from that fellow because his warranty isn't worth a damn, or anything else,

he's gonna help that fellow out, and that I would vouch all the money on you want to bet. And, I don't think underground aquifers, in some certain situations, I don't think one irrigator is gonna try to (undistinguishable) the other. I think we gotta go and approach everything with a common-sense approach and I'll tell you what, fellows, the more rules and regulations you put on, the bigger risk you get into. And sad as it is, if you read the June 29 report of U.S. News and World Report on Agriculture, the States of the two Dakotas, Montana, Minnesota, Colorado, Nebraska, Kansas, Oklahoma, we're going to have approximately 75,000 farmers going down the drain. That is their forecast. And, the only think that looks good now is the peanuts. That's what U.S. News and World Report said. And, surprisingly or not, Kansas, Oklahoma and Nebraska are even in more severe financial positions than the two Dakotas and Colorado, which are next, and Montana and Minnesota follow thereafter. And yet, in these three states, we have the biggest amount of irrigation but I would assume that perhaps (undistinguishable) of the land has bursted on re-financing. And right now, I as a farmer, don't know what I'm going to do for usre or not. I don't know what going to make money. I've been in the cattle business for a long time and I'm down to the bottom. But, I've gotta raise feed to feed them. Do I give up, or what do I - But, I'm irrigating and I plan one getting one more system this fall, if I can afford one. But, it's been a long, hard battle. We've buried alot of pipeline. I'm glad I waited because plastic pipe has come in, you got alot of buried lines, alot of things that were outdated ten years ago are not outdated today. So, it's made it alot easier. That's all I have to say. (Applause) Do you have any questions? None whatsoever? (Applause)

VERN FAHY: Mr. Larry Hansen, Oakes, North Dakota.

LARRY HANSEN: Mr. name is Larry Hansen. I farm and irrigate south of Oakes.

Well, what I'm about to say has been said many times - I definitely oppose any acreage limitation of any kind for irrigation. That's all I really have to say.

VERN FAHY: Allen Hansen, Ludden, North Dakota.

ALLEN HANSEN: Mr. Chairman, members of the Water Commission. I, again, a lot of things have been said that I would like to say, so I'll.... I am Allen Hansen from Ludden, North Dakota. I irrigate about 980 acres. On my farm, we employ two families because of irrigation, besides my own family. I would be against acreage limitations. I think if you want to stop irrigation in North Dakota, acreage limitations and a fear of not getting a permit renewed would help in the hindrance of this irrigation. Limitations is not what made North Dakota the state it is. The challenge to make the land produce to most it will is what made the State grow. And, I think that irrigation, we have a chance to produce the food and feed we need in North Dakota which, in turn, produces jobs so we can keep our sons and our daughters and our neighbors in the State. I asked a fellow, LeRoy Wolf, who works with me, has had 50 head of cattle on our farm. I asked him what he would do if the State Water Commission limited my acreage or cut it down, or whatever, so I couldn't afford to have him work with me anymore. And, his answer was "I would most likely go to South Dakota in hopes of finding a farmer who is irrigating, so I would have a guaranteed feed supply for my cows". He also told me that the reason he quit farming about four years ago and came to work for me was because he seen what irrigation was doing on our farm. And, I just can't explain how good a man, this man is. He handles our cattle like they were his own, and I've encouraged him to participate in our farm as much as possible.

Another, why should we export our most important resource, which is people, when we have the opportunity to keep them here in North Dakota because of

irrigation. I would support a "go slower pace" on these permits and working closer with the Water Commission to harvest this water so that we don't mine it. I am all for working with the Water Commission and I think they've did a good job and I'd really like to work with you on this. Thank you.

RICHARD GALLAGHER: Any questions of Mr. Hansen? (Applause)

VERN FAHY: Mr. Lynnard K. Spiry, Sr., Straubville, North Dakota. If I butcher your names, please correct me.

LYNNARD SPIRY: Mr. Chairman, Water Commission, ladies and gentlemen. I am a ranch manager, I'm not a landowner. In fact, I'm not a native of North Dakota. I cam from the state right next door, south. The great Oahe Lake that we have took my future home, at that time it was my future home. The Corps of Engineers, we were, they advocated irrigation when they took us out, or when they were acquiring the land. I am kind of getting away, I'm trying to build up something here. They really stressed irrigation to get us people to give up our land. At that time we fought it. We figures we had some of the best land in the United States. It was river bottom land. We had water available to us. We could have pumped out of the river. We could have irrigated. But, they said that you guys give up your land and what we're going to do, in essence, is we're going to make water available to more land, more land than just the river bottoms. Acreage that you can't fathom in your minds. Well, find and dandy. We still fought it. We took it to court and finally when it came due, they said if we wanted to stay here we could irrigate. We could irrigate rice if we could do it in 90 feet of water.

In a way, I was, I was young, but there's a bitterness in me because of this, but I am for irrigation. And, I'm not for limiting any one person to

the amount of lands that he can irrigate, provided he does not take water away from anyone or anything else. If I take a block of land and I'm just gonna, say 10 quarters, and my 10 quarters are sitting over an aquifer, and I happen to be the very fortunate one if that aquifer is 10 quarters square and I have every quarter of this and I find out about it, and my neighbors haven't found out about it, I will do my damndest to irrigate every 10 quarters. Every one of them. And, I don't do this trying to cut my neighbor out, because this is free enterprise we are talking about. If a quarter of this aquifer land was available to him, I would be more than happy to have him as my irrigation neighbor. If he can sink a well and angle it in and tap it, I would be very happy to have him as my irrigating neighbor. But, to sit there and to limit me to 10 quarters because somebody over here does not have water under his land - ah, that's not moving forward unless your backing up. That don't make no sense.

There's a social, or social, there's an economical impact here that's, that wasn't really gone into today. Excuse me, Bernie, your tapes' out. It's, I'll back up here - it's the monies that are into an area. I live five miles from a used-to-be town. I've been to that town probably 15 times and I still don't know where it's at. When you look at it that way, it's kind of funny, kind of strange. The land that we have, there's six old homesites on it. And, every one of them could have had irrigated land. Every one of them could be alive today. This was during the 160 acres, when you come on in and settle it. I got the land, the type of land we live on down there, is sugar sand. You take a bag of sugar and spill it on this floor, and that's just what my land looks like except it's not white, it's sandy colored. The gentleman back a ways who stated he's going to be a future irrigator and he made the statement that he thinks that water, inches, certain inches of water would work for all types of soil, that man's got a rude awakening, I'll tell you right now. We happen to be fortunate, or unfortunate enough to live on land where the water don't stay

there. You pump it out and it goes right down and, by golly, we got to pump it back up again. And, don't think we can't count on rain. Last summer, we had two inches of rain, well 1 and 7/8. There's no way that we could have taken our land and put any kind of crop on that land and get a crop off it. We had dryland corn that made 13 bushels to the acre and the low spots where we counted it. Within 10 feet of those low spots, we had stalks that didn't shoot an ear. They got two feet high and died. The funny part of it is, within four feet of where these plants are, there was all the water in the world. You dig a trench and we better get your work done if your at six feet, because by tomorrow morning, you're gonna have to wear swimming trunks. If you don't take that water and pump it up and give it to these plants, they don't make it, they don't make it.

It was brought to my mind here awhile back that irrigators are terrific polluters. They take all this damnable fertilizer and they dump it on the land and they pump the water to it and they hope something grows and they wash it away and it goes through the soil. Thats a bunch of hogwash. If you want to look at it that way, I think you'll have to say that dryland farmers are bigger polluters than irrigators are. Because when they dump fertilizer on land, they just about have to dump it on all at once. They can't babyfeed that stuff like we can. And believe you me, the cost today, you babyfeed that stuff. You just don't take it out there by the gallons and the truckloads and dump it all over the place. It's not there. Another thing, we don't go out there in the spring and we don't turn those irrigators on and not look at them again until fall. No, that don't work that way either. Because you've seen crops that had too much water. And, there was a gentleman here just a little while ago telling you how he couldn't get rid of the water to work on his doggone stuff after he had planted it twice.

Irrigation is going to be the life of this land. When we talk about family farms, I manage 3,000 acres. Nobody's ever told me or can ever tell me the size of a family farm, because there is no such thing as a family farm,

per se, per size. There isn't. It's by your ability. My neighbor next door may be a 1,000 acres bigger than me and he'll go to Florida, have a good time, raise beautiful crops and I'll be working my butt off on 2,000 acres and don't know how in the heck he can do it. Why, it's ability. We can go on and on, and we can get into this so doggone deep. And, I get to the point where I really get downright discouraged about it, so time's running short - we'll cut it short and appreciate your time in letting me speak.

RICHARD GALLAGHER: Do any of the Commission members have any questions? (Applause)

VERN FAHY: Bernard Vculek of Crete, North Dakota.

BERNARD VCULEK: Members of the Commission, ladies and gentlemen. I want to make this very brief. The day is running on. I want to make it very plain that I am in favor of limitations of water on whatever the aquifers will stand for. Because we do not want to pump the aquifers out and mine them. I know that's been said here before. I want to re-emphasize that. Any other limitations, acreage limitations, bot the Alternate A and B, that were spoke of this morning, are not acceptable, as far as I am concerned. We need the large irrigators as well as the small irrigators and the medium-size irrigators. Different people have different abilities and we certainly need any of them where there's water we should make use of it. I have neighbors who I have tried to encourage to start irrigating. One of my neighbors told me then, he says, "he'll do it, but it'll cut into his fishing too much," so therefore he felt he just would prefer not being involved. He's got water, he's right up against mine. He hasn't applied for a permit, he's not interested. Now, if people aren't interested why should someone else be stopped from getting water when they're interested.

As far as the use of water, I think this is one thing that hasn't been

brought out that might make a little difference. One big Cottonwood tree will use four acre-feet of water a year, is what I've been told. If you happen to have a 100 big Cottonwoods out in your fields, it would be like 400 acre-feet of water that is being used. I haven't got the place that I can verify this, but I was told this by a very knowledgeable individual from Minnesota who works with irrigation much of each year. We do know that they let off alot of nice moist air and cool air, so it's probably true, but I haven't verification. I believe it's against the free enterprise system that our country was built on. And, I have a copy from the Greater North Dakota Association and the Governor signed a proclamation on June 13, no, he signed it on June 3, the week of June 13 through June 19 and it's called Free Enterprise Week. I think we'd like that free enterprise year around, year in and year out. I believe it would be important that we continue that way.

In the Oakes are we worked on some potential corn plant that may process a large amount of shelled corn. This particular plant would need 140,000 acres of corn to produce at 90 bushels an acre to make a feasible plant. That's why I'm saying, we need all different kinds of people irrigating. This type of a plant would produce alcohol, it could be used for mixing with gas and goodness knows it would make use of a farm product. And, make it into a product that could be used for energy. I think it would be very important, besides cutting down on our surpluses that we apparently have.

I do a careful job of water scheduling and fertilizer application by what the crops need. I listened to the tapes from the last Water Commission meeting and there appeared to be some people making comments that suggest that we're just dumping the fertilizer on, pouring on the water. This is not true. I know it's been said, by some of the other individuals, I doubt if there are very many that are doing such a thing as that and if they are, it won't be long before they'll be out of business.

Just have one more thing. A copy of the March 16, 1977 Bismarck Tribune says the North Dakota Water Commission has identified ground-water sources or aquifers holding at least 40,000,000 acre-feet, almost enough to cover the entire state a foot deep with water. And, there's hundreds of square miles remaining to be studied in detail, so that even larger ground water might be identified in the future. I think we should make use of the natural resources we have, the best we can. Thank you. Any questions?

RICHARD GALLAGHER: Thank you very much. (Applause)

VERN FAHY: Mr. Chairman, we have one more personal appearance, then there's a letter that's been addressed to Commissioner Wilhelm. I don't know if she intends to present that or not, but - The last spokesman that has indicated that he wants to speak is Mr. Tompkins of Minot, North Dakota. I don't see him in the audience just now, perhaps he was unable to come back after lunch. Mr. Chairman, then that completes the list of those who have indicated that they wanted to make a presentation.

ARLENE WILHELM: Mr. Chairman and Commission members. I, since I am representing at the request of Representative Maixner, his feelings, or conveying his feelings to you, I am taking this place at this particular podium. But, before I do that, I would like to make a few comments on my own.

First of all, I want it clear that the position of Representative Maixner as indicated to me here is not at all my position. It is only his position, which he has asked me to convey to the Commission.

Secondly, I would like to may be call attention to the fact that I am concerned, that there may be some over-reaction in North Dakota today to this (undistinguishable) and I think that over-reaction might be a sympton of fear

about things that this Commission is not even considering doing. Some of those things are, of course, a straight, a very strict, arbitrary maybe capricious, type of decision like a black-and-white 160 acres or 320 acres, you know, limitation. And, I think that it is pretty safe for me to stand here and say that I really doubt anybody on the Commission has those kinds of things in mind.

I think another fear that seems to exist in the State that is coming back to me is that we will abrogate existing rights. Take away existing water rights. Now, well, I am sure that hasn't occurred to anyone of the Commissioners or the staff people. I am sure that water rights that exist will continue to exist.

I think that it also has to be made clear that maybe from some of my questioning and my positions that I may be anti-irrigation. I am not. I am for irrigation wherever it is feasible and wherever it is good for the social system. However, I guess, while I am not clear in my own, in other words, I haven't made up my mind what type of regulation we might apply as a Commission, I am, I do favor some type of regulation. I don't know what it will be yet and I haven't considered all those things that were said here today. I do believe, though, that there must be some type of regulation as most of you have indicated, for social reasons, for economic reasons, and for ecological reasons. So, why I would favor some type of regulation, if, I am not willing even today to take a position on what type of regulation I will eventually favor. I am, you know, will consider everything you've said and I am sure that speaks for all the other Commissioners. However, I think that there might be a great deal of concern about my particular position.

I guess with that I would like to indicate that Representative Maixner wrote me a letter on July 2, asking me to convey to the Commission for him some further thoughts that he has given on the subject of irrigation. He did appear at our last meeting and spoke of a retail irrigation and a water marketing concept. And, I'm not going to read this letter verbatim because things have

gone on through our agenda. We won't have very much time for the rest of our agenda. But, I will just try to condense it.

Representative Maixner first concerns himself with what type of limitations would exist, like per person or per operator. He goes by, he suggests that, he says, "I believe that only actual farm owner/operators should be eligible to receive a permit. The operator should be defined as an adult individual actually working with the land being permitted. This definition could include the spouse, but would exclude any children of the couple, unless they also qualify as operators."

And he said, then, in another paragraph, "The regulation adopted should also take into account the farms now irrigating more than the limit adopted, and 'grandfather them in'." So while he does support acreage limitations, he does also say that those existing now should be recognized and should not be abrogated. I'm not going to read this all as I've said, because each Commissioner has a copy of it.

By the way, he, Representative Maixner was misquoted in the Bismarck Tribune yesterday as supporting a 160-acre limitation. That is not the case. Representative Maixner has never indicated what kind of an acreage limitation he would support and when he has talked about potential limitations, I think he's talked about may be 360 or a section per husband and wife team.

Alright, he further says here "The time limit approach, that is one of the possibilities that we're discussing". In other words may be 360 acres now and then another three or four years, another 360 acre application. He's, about that, his statement is the time-limit approach would solve none of the problems with speculation that concern me. But would merely drag out the permit approval and perfection process. The individual interested would buy the land, operate it for a period of time, apply for the permits allowed each three years and sell the parcels as the permits were perfected. So he is, you know, he fears,

that such a control really would not stop the speculation that he happens to worry about as well.

Then he goes onto say, finishes his letter this way. "One of the major benefits of irrigation for the State is the increased revenue from a given amount of land and the larger number of farmers that an irrigated area will support over a non-irrigated area. Adoption of an absolute limit on the acreage permitted will insure that the State actually received this benefit, that the water of the State is really put to a "beneficial use" for all of the people of the State, rather than a select group who happens to have the capital available for the immediate development of our water resources. It would be a real tragedy if the aquifer study funded by North Dakota became a tool for speculators and land grabbers to drive people from the land instead of the benefit for the rural areas of the State that it was intended to be."

And, then he enclosed a copy from a Wall Street Journal article on some of the abuses that operate in California in the administration of the federal law. That is the sense of Mr. Maixner, or Representative Maixner's letter and I would, I guess, I would like to indicate that the one thing I do particularly share in there is the concern, as I mention today, over speculation in North Dakota over land and as a person, I guess I would like to say that I think that free enterprise is certainly, you know, is like apple pie and motherhood. You know, you can't take exception to free enterprise. But, I also think it would be nice for all of us to remember that we are strong, not by virtue of ourselves, by virtue of those who have gone before us and made our lives, made our paths smooth. All people are not in that favored position, either from intelligence, the genes they have inherited or economically, economic or social advantages. And, so I guess maybe we do have to consider some of those people, too. And, those are my, part of this was to convey Representative Maixner's feelings, but also to may be allay some of the fears

that I think that maybe some of the people in the room may have about my own position in this matter. Thank you. (Representative Maixner's statement is attached hereto - pages 70, 71 and 72)

ERVIN BOURGOIS: May I ask you a question, Mr. Chairman?

RICHARD GALLAGHER: If Commissioner Wilhelm so desires, why she may answer the question.

ERVIN BOURGOIS: May I ask a question?

ARLENE WILHELM: Certainly.

ERVIN BOURGOIS: What kind of warped thinking is that? A dryland farmer can have a whole township and farm it, and restrict an irrigator to limited acres.

ARLENE WILHELM: I don't, I don't, I can't address myself to the warped thinking. I -

ERVIN BOURGOIS: There's no limit to what a dryland farmer can do. I know one farmer's got a whole township just about already - he can buy two townships with his money - so why put restrictions on these irrigators when a dryland farmer can do as he pleases?

ARLENE WILHELM: I don't know what really that subject has -

ERVIN BOURGOIS: I'm talking about Maixner. He's thinking about, he wants to restrict the irrigator and I think he's a dryland farmer, isn't he?

Forty-fifth Legislative Assembly

STATE OF NORTH DAKOTA

BISMARCK 58505

Rep. Rick Maixner
District 39
Rural Route 3, Box 69A
New England, ND 58647



Committees
Industry, Business
& Labor
Natural Resources

July 2, 1977

Arlene Wilhelm
104 Third Avenue East
Dickinson ND 58601

Dear Arlene,

Since the last meeting of the Water Commission, I have spent some time thinking about the limitation of irrigation permits and some of the discussion at that meeting. I am writing this letter in hopes that you will convey some of my thoughts to the commission at the upcoming meeting, since I will be unable to attend.

The first area of consideration in a regulation limiting water permits for irrigation would have to be the eligibility to receive a permit. I believe that only actual farm owner/operators should be eligible to receive a permit. The operator should be defined as an adult individual actually working the land to be permitted. This definition could include the spouse, but would exclude any children of the couple unless they also qualified as operators, or unless they inherited the land as minors and were not considered dependents of a couple also holding a permit.

In the case of co-operative corporations engaged in farming, the legal entity should be eligible for the limiting unit for each stockholder who qualifies as an operator. Since at this time, no corporation other than a co-operative may engage in farming in North Dakota (NDCC 10-06-01) the commission should thoroughly investigate any legal entity applying for a permit to irrigate, and not grant any permits to corporations not legally operating in the state. (A permit was granted last meeting to a land and cattle company without such consideration.)

The regulation adopted should also take into account the farms now irrigating more than the limit adopted, and "grandfather them in". The regulation should prohibit the acquisition of land with irrigation permits when such acquisition would mean exceeding the adopted limit, or possibly require the approval of the commission for any water right transfer. I believe it is important not to "grandfather" all land now owned over an aquifer, but only the permits already granted. If the rate

schedule which I presented at your last meeting is adopted, it would help break up some of the existing large units, since the progressive rate structure would make irrigation of units in excess of 640 acres unfeasible.

Two items discussed at the last meeting of the commission bear some comment: the time limit rather than the acre limit, and the existing ownership of land over a known aquifer. The time limit approach would solve none of the problems with speculation that concern me, but would merely drag out the permit approval and perfection process. The individual interested would buy the land, operate it for a period of time, apply for the permits allowed each three years, and sell the parcels as the permits were perfected. Existing ownership of land could be used the same way. In addition, one of the complaints of long time residents of areas to be irrigated is that before aquifers were public knowledge, speculation had begun.

One of the major benefits of irrigation for the state is the increased revenue from a given amount of land and the larger number of farmers that an irrigated area will support over a non-irrigated area. Adoption of an absolute limit on the acreage permitted will insure that the state actually receives this benefit, that the water of the state is really put to a "beneficial use" for all of the people of the state, rather than a select group who happens to have the capital available for the immediate development of our water resources. It would be a real tragedy if the aquifer study funded by North Dakota became a tool for speculators and land grabbers to drive people from the land instead of the benefit for the rural areas of the state that it was intended to be.

Sincerely,

rick
Rick Maixner
State Representative

P.S. I am including a copy of an article from the Wall Street Journal concerning problems in California caused by federal agency apathy.

Grass-Roots Issue

J.S. Water-Policy Bias Against Little Farmers s Charged in California

'amily Farmers' Suits Seek Wider Irrigation Benefits As Provided in 1902 Law

ut Who Is More Efficient?

By WILLIAM WONG

Staff Reporter of THE WALL STREET JOURNAL.
FIREBAUGH, Calif.—Willoughby Houk, third-generation farmer here, is speeding on a bumpy road at better than 70 miles an hour in his blue pickup truck, pointing his pride to the homes and farms of his neighbors. "It's a growing, building community," he says.

But Mr. Houk goes sour when he turns his gaze to the adjacent 570,000 acres of the Westlands Water District. It contains some of the most fertile farmland in America, he says. Mr. Houk with scorn, "You can go 10 miles there without seeing a home."

Big absentee landlords predominate in the Westlands. Mr. Houk asserts. And thereon runs a decades-old controversy that once again is agitating family farmers. A number of corporations with farm holdings and a clutch of local and Federal officials.

Who should have rights to Federal irrigation water in the arid western U.S.? It is a question that has come to focus on California's lush Central Valley, and particularly the Westlands, where farmers using cheap Federal water grossed about \$335 million a year. Without Federal water, one observer has said, the land would go back to scrubrabbit and desert.

Clung Out the Water
Small farmers claim the Federal Government is failing to enforce a 70-year-old law. The National Reclamation Act that was designed to spread Federal water benefits as widely as possible. They contend that large absentee-landowners have been the principal beneficiaries of the act.

"The bottom line issue," says Mr. Houk, "is preserving the opportunity for family farmers to work the land." Behind the disputes about the law's intent and enforcement lies a broad philosophical dispute about farming in America.

"With family farms you're talking roots family history, ties to the soil," says one small farmer. But an official of Southern Pacific Co., which owns 109,000 acres in Westlands, talks of "efficiencies of scale" that produce "more abundant, better quality and lower priced" goods for the consumer.

The National Reclamation Act of 1902 had two major provisions to encourage family farms. One limited to 160 acres the size of individual holdings that were to get Federal water. The other specified that such water was to go only to owners who were bona fide residents or living nearby.

The Legal Tangle
A 1926 amendment said that landowners with holdings larger than 160 acres had to sign contracts agreeing to sell the excess within 10 years—at a Government-approved price that doesn't include the value added by Federal water.

"The bureau observes the law," says a Washington, D.C., spokesman for the Interior Department's Bureau of Reclamation, the unit charged with administering the legislation. Some big landowners agree. "The bureau has been very strict," says Jack Woolf, who farms 8,000 acres in nearby Huron. "It's been very rigid. God, you can't get them to waver on anything."

Ralph M. Brody, manager and general counsel for the Westlands Water District, says the process of breaking up large holdings is working. "They didn't develop overnight; they're not going to break up overnight," he says. As of last year, asserts Mr. Brody, the average farm operation in the Westlands was 2,407 acres, compared to 4,640 acres in 1968.

Westlands farmers once relied on underground water, which is inferior to surface water due to high salt and boron content, and which in any case became scarce in the 1950s. Federal surface water began to flow here in the late 1960s after the government completed the \$939 million San Luis canal and distribution system. That is when some large landholders began signing contracts promising to sell their excess holdings.

The small holders who claim lax enforcement are pressing their case through various legal actions here and nearby. A major bone of contention is the 1926 amendment that failed to restate the original requirement that landholders be residents. Mr. Brody and other officials have interpreted that omission to mean that residency no longer is required.

Is Silence Repeal?

This riles observers such as Paul S. Taylor, professor emeritus of economics at the University of California, Berkeley, and a long-time critic of the Government's reclamation administration. "Brody's argument rests on the legal claim that you can repeal a law by silence," says Prof. Taylor. "You won't find many lawyers who will accept his argument."

Critics of the Government are taking heart from some legal and political developments. The U.S. Supreme Court recently let stand a Federal Appeals Court ruling affecting one million acres adjacent to Westlands. The ruling said that landholders getting irrigation from the U.S. Army Corps of Engineers' Pine Flat dam must agree to sell holdings in excess of 160 acres. Some of the big holders had received Federal water benefits for 22 years without having to sign contracts to sell their excess.

Some legal observers say the ruling, by implication, affects some 90 other water projects of the Corps of Engineers. George Ballis, executive director of a Fresno-based group called National Land for People, calls the Pine Flat decision "a great psychological and political victory."

In another case, a Federal Court held in 1972 that the reclamation law's residency requirement applies to landholders getting Federal water in California's Imperial Valley. This case currently is before the U.S. Appeals Court in San Francisco.

President Carter's new Interior Secre-

tary, Cecil Andrus, has pulled back for review a contract for water delivery to Westlands that had gotten preliminary approval from the Ford administration. It would have guaranteed about 1.3 million acre feet a year for 40 years—without requiring residency on the part of landholders with more than 160 acres.

Politicians such as Gov. Edmund G. Brown Jr. of California have taken up the small landholders' cause. Senators Gaylord Nelson of Wisconsin and Floyd Haskell of Colorado, both Democrats, are expected to introduce legislation soon that would include residency requirements and other proposals favored by Mr. Ballis and others.

Both sides are looking for the residency issue to be resolved in the courts, probably by the Imperial Valley case. Mr. Brody, the Westlands official, says that if the courts hold that residency applies to Federal reclamation sales, then it will be applied to Westlands.

Up to now, he maintains, "There's no illegality in what's been going on in Westlands." A possible explanation of why the officials haven't enforced residency requirements emerged in the Imperial Valley trial when a Reclamation Bureau official said "almost an unmanageable" bureaucracy would be needed to verify residence.

Excess land sales that have taken place in the Westlands so far, involving some 125,000 acres, haven't required that buyers become residents. In August the National Land for People group obtained a court injunction halting further sales on this basis.

Critics of policy in Westlands complain that the original legislation's intent has been violated in other ways. They note that persons holding title to a 160-acre farm may be relatives of actual purchasers who are absentee. And, in a few cases, foreign corporations hold title to 160-acre parcels.

"There's nothing in our system that says selling to relatives violates the intent of the law," says Mr. Brody. Mr. Woolf (whose 8,000 acres include eight 160-acre lots with himself, his wife, and each of his six children listed as owners) says, "What they (the small landowners) want is to put people of their own choice on the land."

The Big Owners

Besides Southern Pacific, corporate landowners in Westlands include Anderson, Clayton & Co., Standard Oil Co. of California and Bangor Punta Corp. Advocates of smaller farms complain that big holders who are selling excess lands are reaping windfall profits.

Not least among the benefits has been the use of cheap Federal water for 10 years before a contract to sell excess land takes effect. But the biggest windfall may be the interest-free loan that made possible the entire Central Valley irrigation project of which the San Luis unit here is a part. Experts say that agricultural water users are repaying less than 20% of total project cost including interest, with power users and the federal Treasury picking up most of the bill.

Then there is the profit to be made selling the land. Southern Pacific has been deluged with "better than 1,000 proposals for purchase of our excess lands," says O. G. Linde, president of the company's land subsidiary.

"These haven't come from farmers, but from fast-buck speculators and syndicators," he says, adding that "we haven't dealt with them; we don't intend to." SP's excess lands, he vows, will go to "persons who will farm the land."

Government-approved prices, as required by the law in excess sales, have ranged from \$500 to \$700 an acre. But the market value of the land, with the Federal water, is roughly \$750 to \$1,000 an acre above those prices. And the purchasers of excess lands can turn around and sell at market value.

Dispute on Prices

A major issue is the value of the Federal water. It is supplied at a third the cost of state-provided water, and small farmers argue that without it, Westlands acreage probably is worth \$200 an acre or less. But big land interests point out that land adjacent to Westlands, without Federal water, has been fetching up to twice the sale prices of Westlands excess land.

Critics of Southern Pacific point out that the company got its Westlands acreage free, through land grants given to make possible the creation of a railroad system. "If SP got a buck an acre they'd make a profit," says Mr. Ballis.

Says Mr. Linde of SP, "There obviously is a profit in selling the land, but we don't see it as a windfall to SP." Other big holders generally acquired their land through conventional purchases.

ARLENE WILHELM: Yes, he is -

ERVIN BOURGOIS: Well, why is he getting involved when he's a big farmer himself, a dryland farmer?

ARLENE WILHELM: Well, there's, you know, there's a consciousness of the irrigation potential in western North Dakota and you know, I cannot speak for Representative Maixner, I guess I would have to say that I share along with his concerns, over, over the growing farm and the elimination of the small farms. I think that's pretty common social consideration and you know, that, I can't speak for him, but I don't know, perhaps, he feels, as the law indicates, that water is, you know, to be used for the common good and then maybe that's what his concern, where his concern comes in. I really can't speak for him. I can speak for myself.

ERVIN BOURGOIS: What do you mean by common good?

ARLENE WILHELM: What does the law mean by the common good?

ERVIN BOURGOIS: I understand that Maixner is more than an average dryland farmer and I don't know why he's got to stick his nose into an irrigation farmer that wants to expand his operations.

ARLENE WILHELM: Well, I think you have to, I think we better probably limit this because our time is limited. But, I personally know that Representative Maixner is not a big dryland farmer, he is, indeed, a small farmer just getting started.

RICHARD GALLAGHER: Maybe, just a moment so that we can get back on our track

here. Our purposes today is to receive ideas. When regulations, if any, are proposed, at that time, I think we should be open for public debate, for each angle. We want to get the maximum expressions and see if we can come up with a product that makes sense.

ARLENE WILHELM: If there are no further questions from the Commission, I will sit down.

RICHARD GALLAGHER: Permission granted. I said that we would quit after - apparently we have gone through the list who have expressed their desire in writing to appear now. Are there any others that wish to make their -

WALTER HUFNAGEL: My name is Walter Hufnagel from Tappen, North Dakota. I irrigate 480 acres, three quarters, not quite 480 acres. But I want to comment. There seems to be a great fear of speculators coming in here and driving ahold of this land and making a big profit on it. I think any place where there's a dollar to be made, you're gonna see a speculator. Whether it's in the cattle business, grain business - there are may dryland speculators. And, they aren't all bad. They're all part of the free enterprise system. The speculators would come into an area, deal out for irrigation, settle down in family-sized units and do the community a great favor by developing an area and hopefully would make a profit. But, some speculators go broke, too. And, I think it's just ridiculous to make laws like this for fear of speculators. I think they would do us all some good. Thank you, that's all I have to say.
(Applause)

RICHARD GALLAGHER: Any others who wish to speak? If not, I wish to thank you all for your input into this meeting. I think I speak with some assurance that

this matter will be resolved in the near future. But, it certainly will be considered in many points of view as may be obtained and received, and, why, we hope we can come up with something that will reserve our water resources, not necessarily limit the use of water except when extremely necessary. It is our intention to move on with our agenda. You are welcome to remain. I'll ask the Secretary to just review what we have coming up on our agenda so that may be you can make up your minds before we start.

(End of discussion) * * * * *

WATER PERMIT AGENDA FOR JULY 8, 1977 MEETING

* INDICATES PRIOR PERMIT STATUS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2772	Friese, Lester, Leonell and Ronald; and Mann, Connie - Leonard (Ransom County) Priority: 3-28-77 Hearing: 5-31-77	Ground Water	Irrigation	900.0 acre-feet 600.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2773	Wiese, Walter W. - Oakes (Sargent County) Priority: 3-10-77 Hearing: 5-31-77	Ground Water	Irrigation	506.8 acre-feet 235.4 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2768	Miller Gravel & Ready Mix, Inc. - Cando (Towner County) Priority: 3- 3-77 Hearing: 5-31-77	Ground Water	Industrial (Gravel washing & concrete plant)	440.0 acre-feet	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2769	Heitkamp, Mrs. Jerome - Mooreton (Ransom County) Priority: 3- 9-77 Hearing: 6-20-77	Ground Water	Irrigation	600.0 acre-feet 390.93 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS

APPENDIX "C"

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2770	Heitkamp, Jerome - Mooreton (Richland County) Priority: 3-17-77 Hearing: 5-31-77	Ground Water	Irrigation	240.0 acre-feet 160.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2771	Friese, Lester and Florence L. - Leonard (Cass County) Priority: 3-28-77 Hearing: 5-31-77	Ground Water	Irrigation	480.0 acre-feet 320.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2776	Mongeon, Adrian S. - Rolette (Rolette County) Priority: 3-14-77 Hearing: 5-31-77	Ground Water	Irrigation	640.0 acre-feet 464.89 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2777	Oakes Country Club - Oakes (Dickey County) Priority: 3-14-77 Hearing: 5-31-77	Ground Water	Irrigation	122.0 acre-feet 61.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* #1122 (Priority Date - 1-27-64) Granted 22.54 acres			
2780	Steffes, Clarence - LaMoure (LaMoure County) Priority: 3-14-77 Hearing: 5-31-77	Ground Water	Irrigation	640.0 acre-feet 320.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2782	Strander, Douglas - Fort Ransom (Ransom County) Priority: 3-14-77 Hearing: 5-31-77	Ground Water	Irrigation	400.0 acre-feet 200.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available for complete review of the request.
		* NO PRIOR PERMITS			
2787	McAllister, Velma - Huron, S.D. (Ransom County) Priority: 3-17-77 Hearing: 5-31-77	Ground Water	Irrigation	240.0 acre-feet 160.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available for complete review of the request and also for a lack of data.
		* NO PRIOR PERMITS			
2788	Hutchinson, Duane P. - Killdeer (Dunn County) Priority: 3-18-77 Hearing: 6- 1-77	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available for complete review of request.
		* NO PRIOR PERMITS			
2789	Oster, Orville - Hazen (Mercer County) Priority: 3-18-77 Hearing: 6- 1-77	Missouri River	Irrigation	953.6 acre-feet 476.8 acres	953.6 acre-feet 476.8 acres
		* #933 (Priority Date - 8-25-61) Granted 83.2 acres			
2791	Schlenker, Elroy - Adrian (LaMoure County) Priority: 3-21-77 Hearing: 6- 1-77	Ground Water	Irrigation	480.0 acre-feet 320.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available for complete review of request.
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2792	Vander Wal, David - Pollock, S.D. (Emmons County) Priority: 3-21-77 Hearing: 6- 1-77	Oahe Reservoir	Irrigation	434.8 acre-feet 217.4 acres	434.8 acre-feet 217.4 acres * #1546 (Priority Date - 5- 1-68) Granted 87.0 acres
2793	Gleason, EuGene - Hamar (Eddy County) Priority: 3-22-77 Hearing: 6- 1-77	Ground Water	Irrigation	1636.0 acre-feet 818.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2795	Winter Sports Limited - Fort Ransom (Ransom County) Priority: 3-22-77 Hearing: 6- 1-77	Sheyenne River, trib. to Red River of the North	Industrial (snowmaking)	130.0 acre-feet	Recommend to defer action at this time due to the fact that sufficient time was not available for complete review of request.
2545	Pesek, James - Alexander (McKenzie County) Priority: 9-24-76 Hearing: 10-11-76 Deferred: 12- 7-76 Request for change in point of diversion Hearing: 6- 1-77	Unnamed Creek, trib. to Timber Creek and Missouri River	Irrigation	67.0 acre-feet storage plus 29.28 acre-feet annual use 101.8 acres	67.0 acre-feet storage plus 29.28 acre-feet annual use 101.8 acres * NO PRIOR PERMITS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2725	Hankinson, City of - Hankinson (Richland County) Priority: 5-10-77 Hearing: 6- 1-77	Ground Water	Municipal	285.0 acre-feet	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * #735 (Priority Date - 6-25-57) Granted 285.0 acre-feet
2200	Sauer, Vincent - Tappen (Kidder County)	Ground Water	Irrigation	This is a request for a change in the points of diversion.	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2797	Riskedahl Bros. - Steele (Kidder County) Priority: 3-23-77 Hearing: 6- 6-77	Ground Water	Irrigation	467.0 acre-feet 311.9 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2798	Schwab, Lester - Engelvale (Ransom County) Priority: 3-25-77 Hearing: 6- 6-77	Ground Water	Irrigation	360.0 acre-feet 240.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * #2018 (Priority Date - 12-31-73) Granted 310.0 acres
2570	Brossart, Vernon - Balta (Pierce County) Priority: 5- 5-77 Hearing: 6- 6-77	Ground Water	Irrigation	117.0 acre-feet 78.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2783	T-T Ranch - Grace City (Eddy County) Priority: 3-14-77 Hearing: 6- 6-77	Ground Water * NO PRIOR PERMITS	Irrigation	314.0 acre-feet 157.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2778	Renken, Harry W. - Shields (Grant County) Priority: 11- 8-76 Hearing: 6- 6-77	Ground Water * NO PRIOR PERMITS	Irrigation	130.0 acre-feet 65.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2801	New Rockford Golf Club - New Rockford (Eddy County) Priority: 3-28-77 Hearing: 6- 6-77	Ground Water * #2090 (Priority Date - 4-8-74) Granted 65.82 acres	Irrigation	20.0 acre-feet 65.82 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2803	Obrigewitch, Patrick - Belfield (Stark County) Priority: 3-31-77 Hearing: 6- 6-77	Unnamed Intermit- tent Draw, trib. to Heart River * NO PRIOR PERMITS	Recreation and Stockwater	60.0 acre-feet storage plus 25.8 acre-feet annual use	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2804	Morrison Farm - Robinson (Kidder County) Priority: 4- 1-77 Hearing: 6- 6-77	Ground Water * NO PRIOR PERMITS	Irrigation	922.0 acre-feet 615.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2807	Vasvick, Leonard - Ellendale (Dickey County) Priority: 4- 4-77 Hearing: 6- 6-77	Ground Water	Irrigation	450.0 acre-feet 312.2 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2808	Fey Brothers - Sheldon (Ransom County) Priority: 4- 7-77 Hearing: 6- 6-77	Ground Water	Irrigation	46.0 acre-feet 23.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2813	Lazy S Ranch - Bismarck (Burleigh County) Priority: 4-12-77 Hearing: 6- 7-77	Ground Water	Irrigation	312.3 acre-feet 243.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* #694 (Priority Date - 8-22-56) Granted 82.0 acres			
2785	Ferch, Julius - LaMoure (LaMoure County) Priority: 3-16-77 Hearing: 6- 7-77	Ground Water	Irrigation	640.0 acre-feet 320.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2818	Ophaug, Ronald - Kloten (Nelson County) Priority: 4-14-77 Hearing: 6- 7-77	Ground Water	Irrigation	264.0 acre-feet 156.4 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2820	Clairmont, William - Bismarck (Burleigh County) Priority: 4-15-77 Hearing: 6- 7-77	Missouri River	Irrigation	673.6 acre-feet 336.8 acres	673.6 acre-feet 336.8 acres * #2741 (Priority Date - 3-14-77) Granted 235.0 acres
2821	Garrison Golf Club - Garrison (McLean County) Priority: 4-25-77 Hearing: 6-28-77	Ground Water	Irrigation	80.0 acre-feet 40.0 acres	80.0 acre-feet 40.0 acres * NO PRIOR PERMITS
2681	Woodworth, City of - Woodworth (Mountrail County) Priority: 1-27-77 Hearing: 3-28-77 Deferred: 4-15-77	Ground Water	Municipal	65.7 acre-feet	30.0 acre-feet (This request was approved by the State Engineer on June 3, 1977) * NO PRIOR PERMITS
2575	Dakota Adventist Academy - Jamestown (Burleigh County) Priority: 8-19-76 Hearing: 6- 6-77	Ground Water	Municipal (School)	44.8 acre-feet	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2630	Carter, Ernest C. - Lisbon (Ransom County) Priority: 11- 8-76 Hearing: 6-27-77	Sheyenne River, trib. to Red River; and Ground Water	Irrigation	1200.0 acre-feet (560.0 Sheyenne; 320.0 Ground Water; & 320.0 Shey. or G.W.) 600.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. 139

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2822	New Salem, City of - New Salem (Morton County) Priority: 2-17-77 Hearing: 6-27-77	Ground Water * NO PRIOR PERMITS	Municipal	200.0 acre-feet	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
2824	Jacobson Memorial Hospital Care Center - Elgin (Grant County) Priority: 6- 3-77 Hearing: 6-27-77	Ground Water * NO PRIOR PERMITS	Municipal (Hospital)	80.0 acre-feet	20.0 acre-feet
2825	North Valley Water Association, Inc. - Cavalier (Pembina County) Priority: 4-27-77 Hearing: 6-27-77	Ground Water * #1968 (Priority Date - 5-8-75) Granted 200.0 acre-feet * #2327 (Priority Date - 10-3-75) Granted 60.0 acre-feet	Municipal- (Rural Domestic)	65.0 acre-feet	Defer action at this time pending further study and investigations.
1968	North Valley Water Association, Inc. - Cavalier (Pembina County)	Ground Water	Municipal- (Rural Domestic)	This is a request for a change in the points of diversion.	It is recommended that this request for a change in the points of diversion be approved.
2826	Gilbertson, Thomas G. - Binford (Griggs County) Priority: 4-15-77 Hearing: 6-27-77	Ground Water * NO PRIOR PERMITS	Irrigation	600.0 acre-feet 416.9 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2831	Gutzmer, Gary and Lavern - Mantador (Richland County) Priority: 4-19-77 Hearing: 6-27-77	Ground Water	Irrigation	600.0 acre-feet 320.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2832	Schmidt, Gaylen - Minot (McLean County) Priority: 4-19-77 Hearing: 6-27-77	Ground Water and/or Slough	Irrigation	482.8 acre-feet 241.4 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2834	Schiffner, Dorothy - Englevale (Ransom County) Priority: 4-20-77 Hearing: 6-27-77	Ground Water	Irrigation	1280.0 acre-feet 640.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2835	Klindt, Henry D. - Walhalla (Pembina County) Priority: 4-22-77 Hearing: 6-27-77	Unnamed Creek, trib. to Tongue River and Red River of the North	Irrigation	107.0 acre-feet 107.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2753	Middle Lane Farm - New Rockford (Wells County) Priority: 3- 3-77 Hearing: 6-27-77	Ground Water	Irrigation	228.0 acre-feet 114.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2840	Huether, Richard H. - Lisbon (Ransom County) Priority: 4-15-77 Hearing: 6-28-77	Ground Water	Irrigation	702.0 acre-feet 468.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * #2322 (Priority Date - 10-1-75) Granted 320.0 acres
2841	Huether, Richard H. - Lisbon (Ransom County) Priority: 4-15-77 Hearing: 6-28-77	Ground Water	Irrigation	468.0 acre-feet 312.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * (same as application #2840 listed at top of this page)
2842	Huether, Richard H. - Lisbon (Ransom County) Priority: 4-15-77 Hearing: 6-28-77	Ground Water	Irrigation	468.0 acre-feet 312.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * (same as application #2840 listed at top of this page)
2843	Huether, Richard H. - Lisbon (Ransom County) Priority: 4-15-77 Hearing: 6-28-77	Ground Water	Irrigation	936.0 acre-feet 624.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * (same as application #2840 listed at top of this page)
2844	Huether, Richard H. - Lisbon (Ransom County) Priority: 4-15-77 Hearing: 6-28-77	Ground Water	Irrigation	345.0 acre-feet 230.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * (same as application #2840 listed at top of this page)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2676	Fluge, Duane - Egeland (Towner County) Priority: 1- 5-77 Hearing: 6-28-77	Mauvais Coulee	Irrigation	200.0 acre-feet 134.68 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2677	Fluge, Ethel - Egeland (Towner County) Priority: 1- 5-77 Hearing: 6-28-77	Mauvais Coulee	Irrigation	125.0 acre-feet 83.7 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2757	Umber, Larry - Pollock, S.D. (Emmons County) Priority: 3- 8-77 Hearing: 5- 9-77 Deferred: 5-27-77	Oahe Reservoir	Irrigation	1628.0 acre-feet 814.0 acres	1628.0 acre-feet 814.0 acres
		* NO PRIOR PERMITS			
2752	Langelier, Ed - Pollock, S.D. (Emmons County) Priority: 3- 2-77 Hearing: 5- 2-77 Deferred: 5-27-77	Oahe Reservoir	Irrigation	437.4 acre-feet 218.7 acres	437.4 acre-feet 218.7 acres
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2845	Harvey, City of - Harvey (Wells County) Priority: 5- 2-77 Hearing: 7- 5-77	Ground Water	Municipal	500.0 acre-feet	500.0 acre-feet * #733 (Priority Date - 6-21-57) Granted 2190.0 acre-feet
2846	Drees Farming Association - Grand Forks (Grand Forks Co.) Priority: 2- 8-77 Hearing: 7- 5-77	Ground Water	Irrigation	270.0 acre-feet 142.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2744	Berg, Ronald - Englevale (Ransom County) Priority: 5- 6-77 Hearing: 7- 5-77	Ground Water	Irrigation	2340.0 acre-feet 1475.2 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * NO PRIOR PERMITS
2747	Wise, John J. - Golva (Golden Valley Co.) Priority: 5-17-77 Hearing: 7- 5-77	Unnamed Tributary, trib. to Bullion Creek & Little Missouri River	Irrigation- Waterspreading	48.0 acre-feet 24.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request. * #1983 (Priority Date - 9-27-73) Granted 79.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2745	Mrachek, John - Alexander (McKenzie County)	Lonesome Creek, trib. to Yellow- stone River	Irrigation- Waterspreading	160.0 acre-feet 141.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
	Priority: 5-18-77 Hearing: 7- 5-77	* #106A (Priority Date - 9-13-02) Granted 61.2 acres			
2805	Bring, Lynn A. - Galesburg (Traill County)	Ground Water	Irrigation	830.0 acre-feet 554.6 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
	Priority: 4- 4-77 Hearing: 7- 5-77	* NO PRIOR PERMITS			
2799	Weinreis, Lloyd - Golva (Golden Valley Co.)	Little Missouri River	Irrigation	350.0 acre-feet 175.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
	Priority: 3-25-77 Hearing: 7- 5-77	* #810 (Priority Date - 8-25-59) Granted 127.1 acres * #941 (Priority Date - 10-4-61) Granted 55.0 acres			
2800	Weinreis, Lloyd - Golva (Slope County)	Little Missouri River	Irrigation	432.0 acre-feet 216.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
	Priority: 3-25-77 Hearing: 7- 5-77	* (Same as application #2799 lists above)			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNT REQUESTED	COMMENTS & RECOMMENDATIONS
2790	Moellenkamp, Robert - Lisbon (Ransom County) Priority: 3-21-77 Hearing: 7- 5-77	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	Recommend to defer action at this time due to the fact that sufficient time was not available to completely review request.
		* NO PRIOR PERMITS			
2847	Basin Electric Power Cooperative - Bismarck (Mercer County) Priority: 5- 4-77 Hearing: 7- 5-77	Ground Water	Industrial	310.0 acre-feet for 1978, or first year of construction; 20.0 acre-feet annually for following five years	310.0 acre-feet for 1978, or first year of construction; and 20.0 acre-feet annually for following five years.
		* # 659 (Priority Date - 2-3-56) Granted 6570.0 acre-feet * #1039 (Priority Date - 9-24-62) Granted 970,000 acre-feet (maximum consumption 30,000 acre-feet) * #1661 (Priority Date - 9-22-69) Granted 300.0 acre-feet * #2179 (Priority Date - 12-13-74) Granted 19,000 acre-feet			
2657	Huether, Richard H. - Lisbon (Ransom County) Priority: 12-17-76 Hearing: 2- 7-77 Deferred: 2-11-77	Ground Water	Irrigation	468.0 acre-feet 312.0 acres	Recommend for approval: 202.5 acre-feet 135.0 acres (Remainder of permit request shall be held in abeyance)
		* #2322 (Priority Date - 10- 1-75) Granted 320.0 acres			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2413	Anderson, Andy - Lisbon (Ransom County)	Ground Water	Irrigation		<p>The Commission has approved a total of 282.0 acre-feet to irrigate 215.0 acres, holding the remainder of the application in abeyance. Of this total amount, 80.0 acre-feet were granted to irrigate in the NW$\frac{1}{4}$ of Section 9, Township 134, Range 54. The applicant has requested that these 80.0 acre-feet granted for the NW$\frac{1}{4}$ of Section 9 be transferred to the SW$\frac{1}{4}$ of Section 9, Township 134, Range 54 because test drilling has shown that a better section of the aquifer exists in the SW$\frac{1}{4}$ of Section 9.</p> <p>It is recommended that this request be approved. (The remainder of the application request shall continue to be held in abeyance)</p>
2718	Oriska, City of - Oriska (Barnes County)	Ground Water	Municipal	40.0 acre-feet	40.0 acre-feet
	Priority: 2- 9-77 Hearing: 5- 2-77 Deferred: 5-27-77	* NO PRIOR PERMITS			
2696	Husky Industries, Inc. - Dickinson (Stark County)	Ground Water	Industrial	300.0 acre-feet	245.0 acre-feet
	Priority: 1-25-77 Hearing: 2-28-77 Deferred: 3-24-77 and 4-15-77	* #883 (Priority Date - 11-29-60) Granted 240.0 acre-feet			

STATE OF NORTH DAKOTA
COUNTY OF MCLEAN

IN DISTRICT COURT
FOURTH JUDICIAL DISTRICT

IN THE MATTER OF)

The Application of Don Hoge)
to Dike the West Side of)
Painted Woods Lake in Sections)
4, 5, 8, 9, 16, and 17, Town-)
ship 143 North, Range 81 West,)
McLean County)

Admin. No. 76-4

STIPULATION

THE PARTIES HEREBY AGREE:

1. The diking along the west side of Painted Woods Lake was originally constructed to or near 1660' m.s.l. on or before 1955 with the approval of the State Engineer and State Water Commission. Its existence since that time has been substantially continuous.

2. Respondent Hoge is authorized to repair the dike up to the 1660 m.s.l. elevation throughout its length at the present elevation.

3. Repondent Hoge will cause a survey to be made of the dike, as repaired, in a manner acceptable to the State Engineer.

4. The State Water Commission, upon receipt of an acceptable survey of the dike, will note its approval thereon and cause a record of the survey and approval to be filed with the Register of Deeds, McLean County.

5. Before further modifications are made to the repaired dike, Respondent Hoge shall secure approval from appropriate state or local authorities if such approval is required by law or regulation.

6. Respondent Hoge is authorized to drain and utilize the Inner meandered lake located in SW $\frac{1}{4}$ Section 9, Township 143 North, Range 81 West. This authorization is granted pursuant to Section 61-15-08 of the North Dakota Century Code; no permit, pursuant to Section 61-01-22, shall be required.

7. This stipulation and resulting order shall be filed by the State Engineer with the Register of Deeds of McLean County.

Vernon Fahy
Vernon Fahy
State Engineer

Subscribed and sworn to before me this _____ day of _____, 1977.

(SEAL)

Notary Public

Donald Hoge

Donald Hoge

Subscribed and sworn to before me this 25th day of July, 1977.

(SEAL)

Alan Grindberg

Notary Public

ALAN GRINDBERG

NOTARY PUBLIC, BURLEIGH CO., ND

My Commission Expires OCT. 16, 1980

Richard P. Hoge

Richard P. Hoge

Subscribed and sworn to before me this 25th day of July, 1977.

(SEAL)

Alan Grindberg

Notary Public

ALAN GRINDBERG

NOTARY PUBLIC, BURLEIGH CO., ND

My Commission Expires OCT. 16, 1980

Murray G. Sagsveen

Special Assistant Attorney General

Subscribed and sworn to before me this _____ day of _____, 1977.

(SEAL)

Notary Public

Alan Grindberg

Alan Grindberg

Attorney for Respondent

Subscribed and sworn to before me this 27th day of July, 1977.

(SEAL)

Donald R. Holloway

Notary Public

DONALD R. HOLLOWAY

Notary Public, BURLEIGH CO., N. DAK.

My Commission Expires March 25, 1978

APPENDIX "E"

RESOLUTION 77-7-398

In Memoriam

George F. McHugh

George McHugh was appointed a member of the Board of the Nelson County Water Management District in 1961 and has served diligently since that time. During his service with the Water Management District, Mr. McHugh took a very active interest in water management at the state as well as the local level. He gave willingly and freely of his time, talents, and experience in promoting the wise and proper development of Nelson County's and North Dakota's water and related land resources. Mr. McHugh was chairman of the Nelson County Water Management District for sixteen years, and was serving as chairman of the board at the time of his death.

In view of these facts, NOW, THEREFORE, BE IT RESOLVED by the North Dakota State Water Commission assembled in Bismarck, North Dakota on this 8th day of July, 1977, that it does express its appreciation and gratitude for the many years of dedicated service given by George McHugh to the Nelson County Water Management District; and its sorrow on his passing; and

BE IT FURTHER RESOLVED that the State Water Commission extends its heartfelt sympathy to Mrs. Myrtle McHugh and that a copy of this resolution be sent to her.

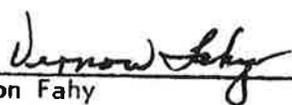
FOR THE NORTH DAKOTA STATE WATER COMMISSION:



 Arthur A. Link
 Governor-Chairman

SEAL

ATTEST:



 Vernon Fahy
 State Engineer and Secretary