

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT STATE WATER COMM MEETING

DATE March 16 PLACE CAPITAL HRG Room

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Jim Eastgate	1021 - 8th Bismarck	Burdick Co. WMD
Bob Skiff	" "	" "
Mark Dyer	POB 1897 Bismarck	US Fish & Wildlife Serv
Sam Hoelzer	BISMARCK	NDSWC
Jim Ketterburg	Bx 727 Madaw	N.D. Assoc. Rec's
Malcolm Litter	413 + Thayer	Tribune
Charles Abanley	Podruch, ND	
Russell Fulmer	Wing, N.D.	Tri County water Bd.
Robert Fobes	1712 E. Tatistatone	Basia electric, atty.
AR Moum	Bx 1458 Bismarck	SCS
Steve Basse	Cogwell ND	SDCD
Eric Heinrich	Adrian ND	Self
David Heinrich	Adrian ND	Self
Tom Daniels	Oakes "	"
Steve Young	POB 1897 Bismarck	USFWS

NORTH DAKOTA STATE WATER COMMISSION

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DATE MARCH 16 PLACE CAPITOL HRG ROOM

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Gordon Bell	Bismarck ND	Bell Geophysics
John Bell	Bismarck ND	"
LAURENCE McMERTY	MINOT, N.D.	N.D. WATER USERS
Fletcher H. Poling	Bismarck	Basin Electric Power Co.
Chuck Rupe	BISMARCK	NGPL
Harold Longelheim	Jarrington	SOCD
Allen Hanson	Ludlow	myself
SWE staff members		

MINUTES

North Dakota State Water Commission
 Meeting Held In
 Large Hearing Room
 State Capitol Building
 Bismarck, North Dakota

March 16, 1978

The North Dakota State Water Commission held a meeting on March 16, 1978, in the Large Hearing Room of the State Capitol, Bismarck, North Dakota. Governor-Chairman, Arthur A. Link, called the meeting to order at 9:20 a.m., and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

Arthur A. Link, Governor-Chairman
 Richard Gallagher, Vice Chairman, Mandan
 Gordon Gray, Member from Valley City
 Alvin Kramer, Member from Minot
 Arlene Wilhelm, Member from Dickinson
 Arthur Lanz, Member from Devils Lake
 Myron Just, Commissioner, Department of Agriculture, Bismarck
 Vernon Fahy, Secretary and State Engineer, North Dakota
 State Water Commission, Bismarck

OTHERS PRESENT:

State Water Commission Staff Members
 Jim Eastgate, Burleigh County WMD, Bismarck
 Bert Neideffer, Burleigh County WMD, Bismarck
 Mark Dryer, US Fish and Wildlife Service, Bismarck
 Jim Ketterling, North Dakota Association REC's, Mandan
 Malcolm Ritter, Bismarck Tribune, Bismarck
 Charles Hawley, Goodrich, ND
 Russel Folmer, Tri County Water Board, Wing
 Deborah Fohr, Basin Electric Power Cooperative, Bismarck
 A. R. Moun, Soil Conservation Service, Bismarck
 William Bosse, Garrison Diversion Conservancy District, Cogswell
 George Heinrich, Adrian, ND
 David Heinrich, Adrian, ND
 Tom Daniels, Oakes, ND
 Steve Young, US Fish and Wildlife Service, Bismarck
 Gordon Bell, Bell Geophysics, Bismarck
 John Bell, Bell Geophysics, Bismarck
 Laurence McMerty, North Dakota Water Users Association, Minot
 Fletcher H. Poling, Basin Electric Power Cooperative, Bismarck
 Chuck Rupe, Natural Gas Pipeline Company, Bismarck
 Homer Engelhorn, Garrison Diversion Conservancy District, Carrington
 Allen Hansen, Ludden, ND
 David Locken, Oakes, ND

Attendance Register is on file in the State Water Commission office for the meeting of March 16, 1978 (filed with official copy of minutes).

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

**CONSIDERATION OF MINUTES
OF DECEMBER 7, 1977 MEETING -
APPROVED**

Secretary Fahy reviewed the minutes of the December 7, 1977 meeting held in Grand Forks, North Dakota, and updated the Commission on several of the items.

After discussion, it was moved by Commissioner Kramer, seconded by Commissioner Lanz, and carried, that the minutes of the December 7, 1977 meeting be approved as presented and distributed.

**CONSIDERATION OF REQUEST
BY STEELE COUNTY WMD FOR
FINANCIAL PARTICIPATION FOR
CONSTRUCTION OF STEELE COUNTY
DRAIN NO. 6 (RYGG SLOUGH)
(SWC Project No. 1665)**

Secretary Fahy presented a request from the Steele County Water Management District for financial participation in the construction of Steele County Drain No. 6, also known as Rygg Slough. Applying normal participation procedures, the State Water Commission's share in the project would amount to \$22,974.00.

It was recommended by the State Engineer that the Commission honor this request and approve 40 percent of qualified construction costs in an amount not to exceed \$22,974.00, contingent upon the following items: 1) the Steele County Water Management Board shall establish the project as a legal drain; 2) the Steele County Water Management Board shall establish a water management plan for the Rygg Slough Watershed. This plan must not allow additional drainage into Rygg Slough so the capacity of the legal drain will not be exceeded; and 3) upon legal drain approval, the Steele County Water Management Board shall enter into an agreement with the Water Commission for completion of final design plans and specifications, contract administration, and construction inspection by the Water Commission staff.

It was moved by Commissioner Gray, seconded by Commissioner Just, and carried, that the Commission approve financial participation in an amount not to exceed \$22,974.00, contingent upon the availability of funds; and also contingent upon the three conditions stated by Secretary Fahy, for the construction of the Steele County Drain No. 6.

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CONSIDERATION OF REQUEST
FROM NELSON COUNTY WMD
FOR FINANCIAL PARTICIPATION
FOR ENTERPRISE TOWNSHIP LEGAL
DRAIN NO. 1
(SWC Project No. 1131)

Secretary Fahy presented a request from the Nelson County Water Management District for financial participation for Enterprise Township Legal Drain No. 1 (formerly Larson Group Diversion). The drain has a watershed of approximately 12 square miles and extends south from

Walsh-Nelson County line to southern end of Enterprise Township. The project will have an approach channel of 3600 feet to a pumping station. The approach channel will drain a large flat in Sections 14 and 23, Township 154 North, Range 59 West. This flat acts as a sump for the entire watershed. The pump station will lift the water from the 3600-foot approach channel approximately 8 feet into a 12-foot open channel. This channel is 24,000 feet long ending at the headwater of Sarnia Dam in Section 20, Township 154 North, Range 50 West. Sarnia Dam will act as the final control for the project. The State Water Commission's share in the project would amount to approximately \$12,660.00.

It was the recommendation of the State Engineer that the Commission approve participation in this project predicated on two conditions: 1) a detailed operation plan be submitted to the State Water Commission which explains who shall control the operation of the pump and who will be responsible for the operation and maintenance of the pump; and 2) that provision be made for the maintenance of Sarnia Dam.

It was moved by Commissioner Lanz, seconded by Commissioner Gray, and carried, that the Commission approve participation for Enterprise Township Legal Drain No. 1 in an amount not to exceed \$12,660.00, contingent upon the availability of funds; and contingent on the two conditions indicated by the State Engineer.

CONSIDERATION OF REQUEST
FROM TRAILL COUNTY DRAIN
BOARD FOR FINANCIAL
PARTICIPATION IN THE
ROSEVILLE FLOOD CONTROL PROJECT
(SWC Project No. 1238)

Secretary Fahy presented a request from the Traill County Drain Board for financial participation in the Roseville Flood Control project, which consists of approximately one mile of critical area treatment and seven miles of channel improvement.

The project is located two miles west of Portland, North Dakota. Qualified construction costs of the project would amount to approximately \$24,000.00 for the State Water Commission's share.

It was recommended by the State Engineer that the Commission honor this request from Traill County and approve financial participation.

It was moved by Commissioner Gray, seconded by Commissioner Lanz, and carried, that the Commission approve financial participation for the Roseville Flood Control project in

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an amount not to exceed \$24,000.00, contingent upon the availability of funds.

DISCUSSION OF PROVISIONS
OF SECTION 404 OF THE CLEAN
WATER ACT RELATING TO DREDGE
AND FILL OPERATIONS

Section 404 of the Clean Water Act (formerly the Federal Water Pollution Control Act of 1972) requires a permit from the Corps of Engineers before the discharge of any dredged or fill material into navigable waters.

Section 404 was extensively amended in 1977. One amendment provides for the Governor to submit a plan to the Administrator of the Environmental Protection Agency for state administration and enforcement of Section 404 permits. That amendment provides, in part:

"The Governor of any State desiring to administer its own individual and general permit program for the discharge of dredged or fill material into the navigable waters (excluding those waters traditionally navigable) within its jurisdiction may submit to the Administration a full and complete description of the program it proposes to establish and administer under the State law, or under an inter-state compact. In addition, such state shall submit a statement from the Attorney General ... that the laws of such State ... provide adequate authority to carry out the described program."

Secretary Fahy indicated that he and members of his staff have discussed this at great length and it appears that there will be a need for some legislation and also a need for determination as to whether the State actually should take over the permitting program. It was suggested by the State Engineer that the Commission consider urging the Governor to request a Legislative Council Committee study of the 404 program in order to get the various legislators acquainted with the complexities of the program and to arrive at a recommendation as to whether or not the State should administer the program.

In discussion, Governor Link read the Summary of a memo to the State Engineer from the Legal Division, which states:

"Although the 1977 regulations will require some changes to reflect the Clean Water Act of 1977 amendments to Section 404, it would appear that they would be very minimal. For example, requirements of federal agencies to obtain 404 permits will be deleted, and dredge and fill definitions will be changed to reflect some exemptions. Since the Corps will be requested to submit comments on a proposed state program, I would expect that the Corps would reject or comment unfavorably on a proposed state program which varies from the July 19, 1977 regulations. In light of this assumption that a proposed state program will have to be very stringent to be approved, and in light of the requirements in the Clean Water Act of 1977 for a state program, a state 404 program may turn out to be very cumbersome."

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Governor Link also indicated that he would support the suggestion of requesting a Legislative Council Committee study of the 404 program.

It was moved by Commissioner Kramer, seconded by Commissioner Lanz, and carried, that the Commission urge the Chairman to recommend to the Legislative Council Committee that a study be made of the Section 404 program.

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

Secretary Fahy presented APPENDIX "A", which represents the water permit agenda, for the Commission's consideration.

There was considerable discussion concerning Casnet Co. of Claremont, South Dakota, who have three requests for permits appearing on the agenda. Permit No. 2917 requests 320.0 acre-feet of water to irrigate 160.0 acres; Permit No. 2918 requests 640.0 acre-feet to irrigate 320.0 acres, and Permit No. 2919 requests 1280.0 acre-feet to irrigate 640.0 acres.

One of the concerns expressed was whether the rapid expansion rate was related to investment purposes and possible speculative reasons, or whether they are actual operators who want to develop the land, use it, and reside within the community?

Milton Lindvig, Director of Hydrology for the State Water Commission, stated that water permit No. 2932, Gaylen Schmidt of Minot, North Dakota, lists a recommendation on the agenda for 132.6 acre-feet to irrigate 88.4 acres. He requested that the Commission consider amending this recommendation to read a total of 325.1 acre-feet to irrigate 223.4 acres.

Following considerable discussion, it was moved by Commissioner Gallagher that the Commission confirm the action of the State Engineer as recommended. The motion was seconded by Commissioner Kramer.

During discussion of the motion, Commissioner Wilhelm stated that the Commission has to understand the State Engineer's and the staff's position in making recommendations to the Commission on an application, but she noted that the existence of the Commission itself is testimony to the fact that the Commission needs to make some other considerations regarding the social type of enforcement. She stated that while it is a courtesy to the staff and the State Engineer to consider each application and automatically okay them, she feels that there are many ways in which the Commission has power or responsibility that the State Engineer and the staff do not have. She also indicated that the Commission is confronted with a completed list on the last day in which to make a decision.

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Commissioner Wilhelm requested the Commission to further consider the three Casnet Co.'s applications, mainly based upon the fact that she felt the Commission did not have ample time to make a firm decision.

Secretary Fahy indicated that it was basically never intended that the Water Commission itself would analyze a water permit. The reason that water permits are brought before the Commission has its basis in history when it was decided that it would be a courtesy to the Water Commission to have them look at the permits. There is no requirement in the law that the Water Commission analyze the permits as such. The permitting system was setup in 1905 and the Water Commission in 1936. This is the basis of trying to keep the Water Commission informed of the State Engineer's actions.

Secretary Fahy also indicated that if the Commission wants something besides the technical analysis of the ability of a source to satisfy demands without impact, and if they want to bring other things into that decision, which was never contemplated in the law, the Commission does have the authority to adopt guidelines which would not infringe on the State Engineer's powers of issuing a water permit. It would merely set broad policy parameters. If the Commission wishes to restrict the amount of water that is included in a permit, it can be done in a number of ways - one of which the Commission is considering at this time by adopting acreage limitations.

There being no further discussion on the motion, the Chairman called the question. Commissioners Gallagher, Kramer, Gray, Lanz and Just voted aye. Commissioner Wilhelm abstained from voting. The Chairman declared the motion passed.

The following applications were approved:
No. 2967 - Hilda Luoma, Oakes; No. 2975 - Eldin L. R. Johnson, Fairview, Montana; No. 2987 - Cooperative Power Association - United Power Association, Elk River, Minnesota (this request was approved by the State Engineer on February 21, 1978); No. 2894 - City of Gwinner (this request was approved by the State Engineer on December 21, 1977); No. 2968 - Gulf Energy and Minerals Company-U.S., Casper, Wyoming (this request was approved by the State Engineer on February 21, 1978); No. 2986 - City of South Heart (this request was approved by the State Engineer on February 21, 1978); No. 2980 - City of Tower City; No. 2979 - North Dakota Concrete Products Co., Bismarck (this request was approved by the State Engineer on December 14, 1977); No. 2767 - Walter Haberman, LaMoure (this request was approved by the State Engineer on December 14, 1977); No. 2983 - Ronnie and Irma Hettich, McLaughlin, S.D.;

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No. 2984 - Anton Silbernagel, Fort Yates; No. 2959 - Basin Electric Power Cooperative, Bismarck (this request was approved by the State Engineer on December 28, 1977); No. 2603 - Lawrence A. Ulmer, Fullerton (this was a request for an additional point of diversion and was approved by the State Engineer on December 29, 1977); No. 2583 - Otter Tail Power Co., Fergus Falls, Minnesota (this is a request for an additional point of diversion); No. 2974 - Crystal Springs Baptist Youth Camp, Inc., Medina; No. 2995 - City of Lakota; No. 3000 - Percy Reed, Oakes; No. 3001 - Barnes Rural Water Users, Inc., Valley City; No. 2880 - Delvin Reich, Zap; No. 3003 - City of Maxbass; No. 2926 - Marshall W. Luidahl, Williston; No. 2951 - Emil Fandrich, Dodge; No. 2741 - Patricia Clairmont, Bismarck (this is a request for an additional point of diversion); No. 880A - Patricia Clairmont, Bismarck (this is a request for an additional point of diversion); No. 3006 - The Falkirk Mining Company, Underwood; No. 3007 - The North American Coal Corporation, Beulah; No. 3011 - Scott Malmberg, Oakes; No. 3013 - David Locken, Oakes; No. 3019 - Roger O. Peterson, Washburn; No. 2173 - City of Wilton (this is a request for an amendment to the conditional permit); No. 2692 - Alfred Lutgen, LaMoure; No. 2810 - City of Bowman; No. 2869 - Jackie L. Pennington, New Town; No. 2874 - Dale C. Peterson, New Town; No. 2368 - Joseph J. Boehm, Karlsruhe; No. 2793 - Eugene Gleason, Hamar; No. 2747 - John J. Wise, Golva; No. 1762 - F. L. Tompkins, Minot (this is a request for a change in the point of diversion); No. 2896 - LeRoy Schwartz, Richardton; No. 2688 - Walter Streifel, Esmond; No. 2589 - Arthur Streifel, Esmond; No. 2826 - Thomas Gilbertson, Binford; No. 2885 - Robert Jacobson, Warwick; No. 2428 - Allen Hansen, Ludden (this is a request for a change in the points of diversion); No. 2267 - Douglas R. Smith, Sheyenne; No. 2783 - T-T Ranch, Grace City; No. 2950 - Clayton Wolt, Sterling (this request was approved by the State Engineer on February 21, 1978); No. 2897 - Howard J. Slaubaugh, Wolford; No. 2784 - Harold Klabunde, Emmet; No. 2917, 2918 and 2919 - Casnet Co., Claremont, S.D.; No. 2859 - David Locken, Oakes; No. 2801 - New Rockford Golf Club, New Rockford; No. 2813 - Lazy S Ranch, Bismarck; No. 2639 - Philip Brademeyer, Oakes; No. 2804 - Morrison Farm, Robinson; No. 2777 - Oakes Country Club, Oakes; No. 2534 - Leo Hoffner, Esmond (this approves a portion of the request that has been

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held in abeyance); No. 2753 - Middle Lane Farm, New Rockford; No. 2333 - Willis Olson, Lisbon (this is a request for a change in the points of diversion); No. 2901 - Knife River Coal Mining Company, Bismarck; No. 2857 and 2858 - Houghton Grazing Association, Houghton, S.D.; No. 2939 - Larry R., Paul and Marvin F. Hansen, Oakes; No. 2506 - Robert E. Berg, Lisbon (this approves a portion of the request that has been held in abeyance); No. 2972 - Ronald J. Ray, Oakes; No. 2547 - Jay C. Anderson, Jamestown (this approves the entire portion which has been held in abeyance); No. 2817 - John Ross Wright, Deering; No. 2760 - Joseph B. and/or James K. Cook, Hazen; No. 2964 - Marlene and Myrna Stremick, Walhalla; No. 2818 - Ronald Ophaug, Kloten; No. 2889 - Allen Schlenker, Montpelier; No. 2932 - Gaylen Schmidt, Minot; No. 2877 - Hazen Park Board; No. 2771 - Lester and Florence L. Friese, Leonard; No. 2772 - Lester Friese et. al., Leonard; and No. 2200 - Vincent Sauer, Tappen (this approves the entire portion held in abeyance and also grants an amendment to the points of diversion).

The following requests were deferred at this time:

No. 2990 - Jerome N. Nissen, Fargo; No. 2985 - Grand Forks-Trail Water Users, Inc., Thompson; No. 2991 - Art Greenberg, Grand Forks; No. 2998 - Terry Kemmet, Tappen; No. 2969 - Leonard Klain, Turtle Lake; No. 2958 - Vern Williams, Milnor; No. 2946 - William Wayne Smith, LaMoure; No. 2945 - Richard A. Schmaltz, Rugby; No. 2994 - James Mongeon, Rolette; No. 2970 - Paul Gohner, Montpelier; No. 2912 - Dale Baasch and Harvey Hoenhause, Lisbon; No. 2913 - Myles Hoenhause, Lisbon; No. 2981 - Hoggarth Bros., Courtenay; No. 2996 - Robert Danforth, Elk River, Minnesota; No. 2982 - Richard J. Faught, Amenia; No. 2999 - Allan Wang, Baker, Montana; No. 2993 - Hugh H. Hoglund, Cooperstown; No. 3002 - Thomas W. Mund, DeLamere; No. 3004 - Otto W. Lanz, Guelph; No. 3008 - Bois De Sioux Golf Club, Wahpeton; No. 3014 - Betty J. Daniels, Oakes; No. 3016 - A. F. Lehr Company, Gackle; No. 3018 - Theodore Grenier, Rolette; No. 3020 - Glen Matthews, Balta; No. 2468 - Dale N. Bang, Killdeer; No. 2734 - Ingstad Land & Cattle Co., Valley City (this is a request for a change in the points of diversion); No. 3012 - Robert J. Barton, Ellendale; No. 3025 - Andrew Jangula, Bismarck; No. 3021 - Rhine J. Klaudt, Linton; No. 3029 - Arthur Streifel, Esmond; No. 3030 - Michael L. Tweed, Tolna;

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No. 3009 - Agassiz Water Users, Inc., Gilby;
 No. 3010 - Mark D. Johnsrud, Watford City;
 No. 3027 - Keith W. Ruhn, Cogswell; No. 3032 -
 Kenneth W. Mund, Milnor; No. 2992 - City of
 Hillsboro; and No. 3033 - Iver G. Lundebly, Tolna.

The following requests were denied:
 No. 2973 - Johnson Bros., Walhalla; No. 2312 -
 Richard E. Anderson, Coleharbor; No. 2266 -
 Marvin Walter, Warwick; and No. 2916 - The Leach
 Ranch, Towner (this request was denied by the
 State Engineer on January 17, 1978).

The following request was withdrawn by the applicant:
 No. 2878 - Anderson Earthmoving, Inc., Minot.
 (SEE APPENDIX "A")

CONTINUED DISCUSSION OF
 ACREAGE LIMITATIONS FOR
 IRRIGATED LAND
 (SWC Project No. 1400)

Secretary Fahy briefly reviewed the
 background discussions for the proposed
 acreage limitations.

Commissioner Just distributed and discussed
 a proposal for acreage limitations, attached hereto as APPENDIX "B", Rules and
 Regulations of the North Dakota State Water Commission Proposed to be Adopted
 Pursuant to Title 61 of the North Dakota Century Code Governing the Use of
 Water for Irrigation Purposes. Commissioner Just indicated that this proposal
 is a hybrid of a number of the other proposals which have been previously discussed.

The Commission recessed at 12:00 noon
 and the meeting was reconvened at 1:45 p.m. The discussion on proposed acreage
 limitations continued.

It was moved by Commissioner Just that the
 State Water Commission hold a public hearing
 in April on these proposed regulations
 governing the use of water for irrigation
 purposes. The motion was seconded by
 Commissioner Lanz.

After a discussion on the number of hearings
 to be held and places in which to hold the hearings -

Commissioner Just amended his original motion to
 state that the State Water Commission hold one
 or more public hearings on these proposed
 regulations governing the use of water for
 irrigation, and that at least one of the public
 hearings be held in Jamestown. The amended motion
 also received a second from Commissioner Lanz.

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The motion was further amended by Commissioner Just that the State Water Commission hold two public hearings in April on these proposed regulations governing the use of water for irrigation purposes and that one of the hearings be held in Jamestown and the other hearing be held in Mandan. Commissioner Lanz seconded this amendment.

Governor Link then invited comments from interested persons in the audience who wished to comment on the discussion.

Mr. Tom Daniels, Oakes, ND, commended the Commission for taking a step in a direction to do something about water allocations in North Dakota and stated that he is in favor of having meetings throughout the irrigation areas of the State to receive input from individuals.

Mr. Allen Hansen, Ludden, ND, indicated that he would like to see the meetings held in Jamestown and other areas of the state.

Mr. Ken Lohstreeter indicated that there are several irrigation districts throughout the state and suggested that maybe these meetings could be held near those areas.

(Individual who did not state his name) indicated that he would like to commend the Water Commission also and feel they are going in the right direction to maintain orderly development of the State's water resources. He indicated that one state-wide meeting should be sufficient.

Secretary Fahy indicated that the format to be followed for adopting rules and regulations will include that the notice of public hearings be published in each county newspaper of the State for two consecutive weeks prior to the hearing.

Discussion then pursued on the creation of irrigation districts, and general discussion regarding the proposal.

The Chairman then called the question on the amended motion. All members voted aye and the motion was declared passed.

DISCUSSION CONCERNING
RED RIVER DIKING
(SWC Project No. 1638)

Dave Sprynczynatyk, Director of Engineering for the State Water Commission, distributed copies and discussed report entitled "Red River of the North, Main Stem, Hydrologic Data", prepared by the Corps of Engineers at the joint request of the State Water Commission and the Department of Natural Resources of Minnesota. This report contains an overview of information available now regarding the agriculture dikes in the area and a historical overview of the flooding in that area.

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He also distributed copies of the Joint and Cooperative Agreement for the Establishment of Criteria for Authorizing Dikes and Other Flood Control Structures and Measures on the Red River of the North and the Bois De Sioux River. This agreement was signed in 1976 and states that the two States will jointly develop criteria to be used in administering permits for agriculture dikes along the Red River.

Also distributed were copies of the proposed criteria called the First Amendment to the Agreement, which is hereby attached to these minutes and labeled as APPENDIX "C". Hearings will be held on April 25 and 26, 1978 on these criteria, and it was suggested that as many of the Commission members who could attend these hearings should do so. Also attached hereto is the News Release regarding the public hearings, labeled as APPENDIX "D".

**CONSIDERATION OF RULES
AND REGULATIONS FOR WATER
MANAGEMENT PROCEDURES IN
MINED-LAND AREAS**

Copies were distributed to the Commission members on proposed Rules and Regulations of the North Dakota State Water Commission and the North Dakota State Engineer Proposed to be Adopted Pursuant to Title 61 of the

North Dakota Century Code Governing Water Resources on Surface Mining Areas.

Secretary Fahy stated that the Public Service Commission approached the State Water Commission, the State Health Department and the State Workmen's Compensation Bureau relative to joining in the promulgation of rules and regulations controlling development in mined-land areas. Their major reason for wanting other state agencies involved is because the Public Service Commission lacks jurisdiction to implement the federal requirements. If these three agencies join with the Public Service Commission there are adequate authorities for carrying out the concepts of the federal legislation.

Mr. Mike Dwyer, Legal Counsel for the State Water Commission, explained that the proposed Rules and Regulations require a water management plan be submitted and approved by the State Engineer in conjunction with the mining permit application submitted to the Public Service Commission.

The water management plan proposed to be required will serve three functions:

- 1) It will facilitate the processing and consideration of permit applications for various water management devices for coal mining operations. Presently, coal mining operators must secure several permits relating to water management, including drainage permits (61-01-22), permits for impoundments (61-02-20 and 61-16-15), and permits for diversion structures (61-16-15);

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- 2) It will insure that the interrelated activities affecting both ground and surface hydrology are considered in total in the preparation and design of a surface coal mining operation. The newly enacted Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) as well as the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) require stringent water quality controls on coal mining operations. Such water quality controls are usually met by a number of sedimentation ponds, diversion, and other water management type structures. The effect is a significant alteration in the flow and quantity of both surface and ground water; and
- 3) It will provide a method by which water related problems can be resolved and dealt with on the coal mining site itself rather than as the water flows off and downstream from surface coal mining operations.

A joint hearing was held with the Public Service Commission on March 13, 1978 on the Section of the Rules and Regulations related to the State Water Commission at which time comments from the public were received. Mr. Dwyer stated that the record had been left open until the end of March to receive additional comments or changes from interested people.

Commissioner Wilhelm discussed several changes that she desired to make to the proposed Rules and Regulations and requested that they be formally presented to the Public Service Commission before the end of March. Her recommended changes are:

Under Section 84-04-01-06. Definitions 5. "Commission" means State Water Commission. Commissioner Wilhelm would like to more precisely define who the State Water Commission is.

Mr. Dwyer suggested that the definition of the State Water Commission be extended to include the Governor, the Commissioner of Agriculture and five appointed citizen members.

It was moved by Commissioner Wilhelm, seconded by Commissioner Lanz, and carried, that the definition of the State Water Commission be changed as suggested by Mr. Dwyer.

Under Section 84-04-02-01. Filing Initial Water Management Plan, it was suggested by Commissioner Wilhelm that the last sentence "Such review shall be complete not more than 60 days from the date of receipt of a complete application" be changed to read "Such review shall be complete when possible not more than 60 days from the date of receipt of a complete application."

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It was moved by Commissioner Wilhelm, seconded by Commissioner Just, and carried, that this change be forwarded to the Public Service Commission.

Section 84-04-04-01. Protection of the Hydrologic System. Commissioner Wilhelm would like to identify more specifically the word "minimize" in the last sentence of that paragraph. (This was only discussed, no decision or motion was made relative to more specifically identifying "minimize".)

Section 84-04-07-05. Inspection. All ponds, including those not meeting the size or other criteria of this chapter shall be examined for structural weakness, erosion, and other hazardous conditions. Commissioner Wilhelm suggested that "who" shall be identified that will examine for structural weakness, erosion and other hazardous conditions.

During discussion, it was determined that the Public Service Commission would be the examining agency responsible.

Commissioner Wilhelm stated that this report indicated that there is a concern of the use of coal ash in reclamation. The report states that when coal ash is used in backfilling operations and when the ash comes in contact with water it undergoes solidification leading to excessive salinity and high PH values. In view of this statement, Commissioner Wilhelm suggested that it be recommended to the Public Service Commission that they consider the addition of more specific language concerning the potential damages from the use of coal ash.

After considerable discussion, it was moved by Commissioner Wilhelm, seconded by Commissioner Gallagher, and carried, that the State Water Commission recommend to the Public Service Commission that they consider establishing a regulation addressing the potential damages from the use of coal ash in backfilling operations.

Section 84-04-11-01. Water Rights and Replacement. Commissioner Wilhelm suggested that when a water right is lost from mining operations, the burden of proof for damages should lie with the Company, and that the Public Service Commission be requested to make some specific guidelines regarding damages to the landowners.

After considerable discussion, it was moved by Commissioner Wilhelm and seconded by Commissioner Gallagher that Section 84-04-11-01. Protection of Water Rights, read with the recommended changes inserted as follows:
"The permittee shall forthwith replace

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both the quantity and quality of the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where such supply has been affected by contamination, diminution or interruption proximately resulting from surface coal mine operation by the permittee. Upon receipt of a complaint by such owner that his water supply has been so affected, the State Engineer, upon determining that such be the fact, shall forthwith issue an order for the permittee to replace such water supply." At the call of the question by the Chairman, all members voted aye; motion carried.

It was suggested by Mr. Sagsveen that if any of the Commission members want different language for any one of the rules, they could meet with the Legal staff of the Water Commission to draft alternatives which will be sent out to the Commission members for their consideration, and Commission action could be taken at the next meeting.

Secretary Fahy noted that the record on the proposed rules and regulations is being held open until March 31, 1978, and after that time the recommended changes by the Commission members will be incorporated into the Rules and Regulations and then it will be necessary for some adoption procedures after the first of April.

**PROGRESS REPORT ON STUDY
TO DELIVER WATER IN
SOUTHWESTERN NORTH DAKOTA
(SWC Project No. 1674)**

Dave Sprynczynatyk updated the Commission members on the study of delivering water to southwestern North Dakota, noting that at the December meeting of the Commission a Plan of Study was discussed and also

the work that was being done with the rural water districts in that area in regard to surveying the water needs.

Since that meeting, the three rural water districts have begun to gather survey information. To date, the Commission has received approximately 1100 survey forms from the Southwest Rural Water District, which is composed of Slope, Bowman, Hettinger and Adams Counties. There are approximately 2000 farms in the area and they had hoped to survey 1800, or 90 percent of the farms.

Mr. Sprynczynatyk indicated that no completed forms had been received to date from the other two rural water districts. Due to winter weather conditions, the deadline has been extended to May to obtain this information.

Similar survey forms were sent to each of the cities in the 14-county area. Fifty-four cities were contacted and forty-one

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completed survey forms have been received. The remaining 13 cities will be contacted to see why they haven't returned their survey and to give assistance if they need it in completing the form.

It was originally planned to hire one engineer to work with existing State Water Commission engineers to do the preliminary pipeline design. The existing staff engineers did not have the available time to work on the project and also in trying to hire someone, difficulty was encountered because of the short time schedule (approximately 18 months). Thus, a decision was made in February, 1978, to hire a consultant to do the engineering work of this study. Thirty engineering firms were contacted and asked to submit a proposal to do the work. Ten proposals were received, which were screened, and four consulting firms will be interviewed March 17, of which one firm will be selected to do the engineering work and also the environmental and economic working requirements.

Mr. Sprynczynatyk also mentioned that back in October, 1977, contracts were sent to the three rural water districts and as of this date, none of the contracts have been returned.

Mr. Jim Ketterling, Missouri West Rural Water District, indicated that the work will be completed as the contract requires since the deadline has been extended until May.

**SELECTION OF REGULAR
STATE WATER COMMISSION
MEETING DATES**

Secretary Fahy suggested that the Commission consider establishing an orderly procedure for holding Water Commission meetings by designating a certain day(s) of a certain week each month.

After discussing and polling the Commission members of their desired day(s) and week, it was the consensus of the Commission that the designation of a specific day(s) and week be left to the discretion of the Governor and the State Engineer.

**CONTINUED DISCUSSION OF
PROPOSED RULES AND REGULATIONS
FOR WATER MARKETING**

Secretary Fahy commented on the memo dated May 27, 1977, prepared by the Legal Counsel for the Commission, and also on a draft of Rules and Regulations of the North Dakota

State Water Commission Governing Water Use Fees Adopted Pursuant to Section 61-02-14 of the North Dakota Century Code for discussion.

Mr. Sagsveen noted that these regulations were first drafted in November, 1975, and have been modified once. Under the new statutes, the form would have to be changed. There is statutory authority for the State Engineer to levy water use fees for water permits.

Mr. Sagsveen stated that all of the industrial water permits that have been issued since 1974 contain specific conditions that the industrial water users shall pay fees as assessed by the State Water Commission.

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He also noted that a \$20 figure was used when this draft was prepared which was in the Bureau of Reclamation's contract they had prepared and this figure was only used for sake of illustration.

Secretary Fahy noted that two types of proposals are being considered: 1) a conditional charge or optional charge of \$2.00 per acre-foot of water; and 2) a perfected use charge of \$20.00 per acre-foot of water per year.

Secretary Fahy reviewed a proposal submitted previously by Representative Maixner of New England, North Dakota, which is attached to these minutes as APPENDIX "E". Representative Maixner then explained his basis for the proposal.

Secretary Fahy suggested that he and his staff could prepare some projections of examples for further consideration by the Commission if it is agreed that an option charge is needed.

Commissioner Gallagher said he felt there should be an option charge and \$2.00 per acre-foot of water meets with his approval; should treat under separate schedule the irrigation waters; industrial water users should be charged for both surface and ground waters; and for industrial water users there should be no free use - begin charging with the first acre-foot.

Commissioner Kramer suggested that the State Water Commission prepare examples for all existing industrial plants using a \$2.00 per acre-foot option charge annually; prepare examples of existing users beginning with the first acre-foot and first gallon of water; and also prepare another example showing an exemption up to 5000 acre-feet of water.

Commissioner Wilhelm agreed with Commissioner Kramer's suggestion, and in addition she suggested that a graduated-charge scale also be prepared.

It was the consensus of the Commission members that the State Engineer be directed to prepare examples of projections from the suggestions as discussed and present at the next Water Commission meeting for further discussion and consideration.

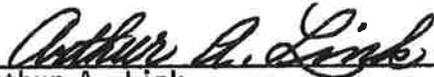
OTHER BUSINESS

Under other business, Secretary Fahy updated the Commission members on the dam safety program, discussed the status of the Pembilier Dam; discussed the recommendations submitted by the Booz-Allen & Hamilton Consulting firm on the Legislative Council's performance audit of the State Water Commission; reported on the meeting held with the Bureau of Indian Affairs and the Indian Affairs Commission; and discussed the current status of the Rush Lake project.

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

It was moved by Commissioner Gallagher, seconded
by Commissioner Gray, and carried, that the
meeting be adjourned at 5:10 p.m.



Arthur A. Link
Governor-Chairman

ATTEST:



Vernon Fahy
State Engineer and Secretary

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WATER PERMIT AGENDA FOR MARCH 16, 1978 MEETING

* INDICATES P...OR
PERMIT STATUS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2967	Luoma, Hilda - Oakes (Dickey County) Priority: 9- 8-77 Hearing: 12- 5-77	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	237.0 acre-feet 158.0 acres	225.0 acre-feet 150.0 acres
2975	Johnson, Eldin L. R. - Fairview, Montana (McKenzie County) Priority: 10-10-77 Hearing: 12- 5-77	Yellowstone River * NO PRIOR PERMITS	Irrigation	1200.0 acre-feet 591.0 acres	591.0 acre-feet 591.0 acres
2987	Cooperative Power Association-United Power Association - Elk River, Minn. (McLean County) Priority: 11- 3-77 Hearing: 12- 5-77	Ground Water (Weller Slough Aquifer) * #1161 (Priority Date: 5-8-64) Granted 733,000 acre-feet #1977 (Priority Date: 9-20-73) Granted 15,000 acre-feet #2176 (Priority Date: 11-25-74) Granted 168.0 acre-feet	Industrial (Electric Power Generation)	231.0 acre-feet	231.0 acre-feet (This request was approved by the State Engineer on February 21, 1978)
2990	Nissen, Jerome N. - Fargo (Benson County) Priority: 6-30-77 Hearing: 12- 5-77	Ground Water * NO PRIOR PERMITS	Irrigation	760.0 acre-feet 380.0 acres	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2973	Johnson Bros. - Walhalla (Cavalier County)	Pembina River, trib. to Red River of the North	Irrigation	675.0 acre-feet 448.2 acres	It is recommended that this application be denied; application does not represent actual intent of proposed project.
	Priority: 9-29-77 Hearing: 12- 5-77	* NO PRIOR PERMITS			
2985	Grand Forks-Traill Water Users, Inc. - Thompson (Grand Forks Co.)	Ground Water	Municipal - (Rural Domestic)	60.0 acre-feet	It is recommended that action be deferred at this time.
	Priority: 10-10-77 Hearing: 12- 5-77	* #1795 (Priority Date: 5-28-71) Granted 650.0 acre-feet #2497 (Priority Date: 7-22-76) Granted 200.0 acre-feet			
2894	Gwinner, City of - Gwinner (Sargent County)	Ground Water (Unnamed Aquifer)	Municipal	350.0 acre-feet	275.0 acre-feet (This request was approved by the State Engineer on December 21, 1977)
	Priority: 7-26-77 Hearing: 9-26-77	* NO PRIOR PERMITS			
	(Applicant revised point of diversion - new hearing scheduled for:)				
	12-19-77				

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2968	Gulf Energy and Minerals Company-U.S. - Casper, Wyoming (Dunn County) Priority: 9-15-77 Hearing: 12-19-77	Ground Water (Dakota Formation) * NO PRIOR PERMITS	Industrial	120.0 acre-feet	120.0 acre-feet (This request was approved by the State Engineer on February 21, 1978)
2991	Greenberg, Art - Grand Forks (Grand Forks Co.) Priority: 11- 1-77 Hearing: 12-19-77	Ground Water	Industrial (Potato Wash Plant)	20.0 acre-feet	It is recommended that action be deferred at this time. * #1916 (Priority Date: 1-23-73) Granted 1906.0 acres
2986	South Heart, City of - South Heart (Stark County) Priority: 10-14-77 Hearing: 1-23-78	Ground Water (Tongue River Formation)	Municipal	160.0 acre-feet	80.0 acre-feet (This request was approved by the State Engineer on February 21, 1978)
2998	Kemmet, Terry - Tappen (Kidder County) Priority: 11-23-77 Hearing: 1-23-77	Ground Water	Irrigation	1463.6 acre-feet 731.8 acres	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2980	Tower City, City of - Tower City (Cass County)	Ground Water (Tower City Aquifer)	Municipal	67.0 acre-feet	67.0 acre-feet
	Priority: 10-25-77 Hearing: 11-21-77 (Hearing rescheduled because of inclement weather conditions the date of hearing) 12- 5-77	* NO PRIOR PERMITS			
2969	Klain, Leonard - Turtle Lake (McLean County)	Ground Water	Irrigation	376.5 acre-feet 251.0 acres	It is recommended that action be deferred at this time.
	Priority: 9-19-77 Hearing: 11-21-77 (Hearing rescheduled because of inclement weather conditions the date of hearing) 12-12-77	* NO PRIOR PERMITS			
2958	Williams, Vern - Milnor (Ransom County)	Ground Water	Irrigation	960.0 acre-feet 480.0 acres	It is recommended that action be deferred at this time.
	Priority: 8-22-77 Hearing: 11-21-77 (Hearing rescheduled because of inclement weather conditions the date of hearing) 12- 12-77	* #716 (Priority Date: 4-25-57) Granted 50.0 acres #987 (Priority Date: 4- 3-62) Granted 248.0 acres			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2946	Smith, William Wayne - LaMoure (LaMoure County) Priority: 8- 3-77 Hearing: 11-21-77 (Hearing rescheduled because of inclement weather conditions the date of hearing) 12-12-77	Ground Water	Irrigation	240.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			
2945	Schmaltz, Richard A. - Rugby (Pierce County) Priority: 8- 6-77 Hearing: 11-21-77 (Hearing rescheduled because of inclement weather conditions the date hearing) 12-12-77	Ground Water	Irrigation	650.0 acre-feet 389.0 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			
2994	Mongeon, James - Rolette (Rolette County) Priority: 11-15-77 Hearing: 12-19-77	Ground Water	Irrigation	320.0 acre-feet 156.0 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2970	Gohner, Paul - Montpelier (Stutsman County) Priority: 9-22-77 Hearing: 12-19-77	James River * NO PRIOR PERMITS	Irrigation	109.8 acre-feet 73.2 acres	It is recommended that action be deferred at this time.
2912	Baasch, Dale and Hoehause, Harvey - Lisbon (Ransom County) Priority: 11-28-77 Hearing: 12-19-77	Ground Water * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
2913	Hoehause, Myles - Lisbon (Ransom County) Priority: 11-28-77 Hearing: 12-19-77	Ground Water * #2011 (Priority Date: 11-28-73) Granted 303.5 acres	Irrigation	320.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
2981	Hoggarth Bros. - Courtenay (Griggs County) Priority: 12- 2-77 Hearing: 12-27-77	Ground Water * #2553 (Priority Date: 9-27-76) Granted 200.0 acres	Irrigation	408.5 acre-feet 273.2 acres	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2996	Danforth, Robert - Elk River, Minn. (Dickey County)	Ground Water	Irrigation	234.0 acre-feet 156.0 acres	It is recommended that action be deferred at this time.
	Priority: 12- 2-77 Hearing: 12-27-77	* NO PRIOR PERMITS			
2979	North Dakota Concrete Products Co. - Bismarck (Burleigh County)	Ground Water (McKenzie and Apple Creek Aquifers)	Industrial	1.5 acre-feet	1.5 acre-feet (This request was approved by the State Engineer on December 14, 1977)
	Priority: 10-18-77 Hearing: 12- 5-77 Deferred: 12- 7-77	* NO PRIOR PERMITS			
2767	Haberman, Walter - LaMoure (LaMoure County)	Ground Water and Twin Lakes (LaMoure and Spiritwood Aquifers)	Irrigation	843.8 acre-feet (596.4 acre-feet G.W.) (247.4 acre-feet Lake) 421.9 acres	Recommend for approval: 265.0 acre-feet 150.0 acres (Balance of request shall be held in abeyance) (This request was approved by the State Engineer on December 14, 1977)
	Priority: 3- 1-77 Hearing: 7-25-77 Deferred: 8-16-77	* NO PRIOR PERMITS			
2983	Hettich, Ronnie and Irma - McLaughlin, S.D. (Sioux County)	Oahe Reservoir	Irrigation	1359.8 acre-feet 678.9 acres	1357.8 acre-feet 678.9 acres
	Priority: 10-20-77 Hearing: 11-28-77 Deferred: 12- 7-77	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2984	Silbernagel, Anton - Fort Yates (Sioux County)	Oahe Reservoir	Irrigation	613.0 acre-feet 306.9 acres	613.0 acre-feet 306.9 acres
	Priority: 10-20-77 Hearing: 11-28-77 Deferred: 12- 7-77	* NO PRIOR PERMITS			
2959	Basin Electric Power Cooperative - Bismarck (Mercer County)	Missouri River	Industrial (to furnish nutrients and oxygen to proposed fish farm)	4839.0 acre-feet (consumptive use estimated at less than 6.0 acre-feet per year)	4839.0 acre-feet (6.0 acre-feet consumptive use) (This request was approved by the State Engineer on December 28, 1977)
	Priority: 8-23-77 Hearing: 10-24-77 Deferred: 12- 7-77	# 659 (Priority Date: 2-3-56) Granted 6570.0 acre-feet #1039 (Priority Date: 9-24-62) Granted 970,000 acre-feet #1661 (Priority Date: 9-22-69) Granted 300.0 acre-feet #2179 (Priority Date: 12-13-74) Granted 19,000 acre-feet #2847 (Priority Date: 5-4-77) Granted 20.0 acre-feet for 5 years			
2603	Ulmer, Lawrence A. - Fullerton (Dickey County)	Ground Water	Irrigation	This is a request for an additional point of diversion located in the SE¼ of Section 24, Township 132 North, Range 62 West.	It is recommended that this request be granted. (This request was approved by the State Engineer on December 29, 1977)
2583	Otter Tail Power Co. - Fergus Falls, Minn. (Mercer County)	Ground Water (Bedrock Aquifer)	Industrial	This is a request for an additional point of diversion located in the NE¼ of Section 10, Township 143 North, Range 88 West	It is recommended that this request be granted.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2982	Faught, Richard J. - Amenia (Cass County) Priority: 10-10-77 Hearing: 1-23-78	Ground Water * NO PRIOR PERMITS	Irrigation	494.0 acre-feet 247.0 acres	It is recommended that action be deferred at this time.
2974	Crystal Springs Baptist Youth Camp, Inc. - Medina (Stutsman County) Priority: 12-13-77 Hearing: 1-23-78	Crystal Springs Lake * NO PRIOR PERMITS	Municipal - (Rural Domestic)	4.0 acre-feet	4.0 acre-feet
2995	Lakota, City of - Lakota (Nelson County) Priority: 11-14-77 Hearing: 1-23-78	Ground Water (McVillie Aquifer) * #1200P (Priority Date: 7-1-19) Granted 358.2 acre-feet	Municipal	700.0 acre-feet	700.0 acre-feet
3000	Reed, Percy - Oakes (Dickey County) Priority: 11- 3-77 Hearing: 1-23-78	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	402.0 acre-feet 268.0 acres	Recommend for approval: 150.0 acre-feet 100.0 acres (Balance of request shall be held in abeyance)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3001	Barnes Rural Water Users, Inc. - Valley City (Barnes County) Priority: 11-17-77 Hearing: 1-23-78	Ground Water (Spiritwood Aquifer) * NO PRIOR PERMITS	Municipal - (Rural Domestic)	550.0 acre-feet	Recommend for approval: 350.0 acre-feet (200.0 acre-feet shall be held in abeyance)
2999	Wang, Allan - Baker, Montana (Slope County) Priority: 11-25-77 Hearing: 1-23-78	Little Missouri River, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	246.0 acre-feet 123.2 acres	It is recommended that action be deferred at this time.
2993	Hoglund, Hugh H. - Cooperstown (Griggs County) Priority: 11- 8-77 Hearing: 1-23-78	Ground Water * #793 (Priority Date: 5-20-59) Granted 22.5 acres	Irrigation	407.0 acre-feet 238.0 acres	It is recommended that action be deferred at this time.
2880	Reich, Delvin - Zap (Mercer County) Priority: 6-14-77 Hearing: 7-19-77 Deferred: 8-16-77	Knife River, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	179.0 acre-feet 119.3 acres	119.3 acre-feet 119.3 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3002	Mund, Thomas W. - DeLamere (Sargent County) Priority: 11-18-77 Hearing: 1-23-78	Ground Water # 2496 (Priority Date: 7-20-76)	Irrigation	225.0 acre-feet 150.0 acres Granted 255.0 acres	It is recommended that action be deferred at this time.
3003	Maxbass, City of - Maxbass (Bottineau County) Priority: 11-22-77 Hearing: 1-23-78	Ground Water (Unnamed Aquifer) * NO PRIOR PERMITS	Municipal	39.0 acre-feet	39.0 acre-feet
2926	Luidahl, Marshall W. - Williston (Williams County) Priority: 7- 1-77 Hearing: 10-10-77 Deferred: 12- 7-77	Little Muddy River or Lake Sakakawea * NO PRIOR PERMITS	Irrigation	370.0 acre-feet 185.0 acres	185.0 acre-feet 185.0 acres
2951	Fandrigh, Emil - Dodge (Dunn County) Priority: 8- 9-77 Hearing: 10-24-77 Deferred: 12- 7-77	Unnamed Tributary, trib. to Knife River * NO PRIOR PERMITS	Irrigation - Waterspreading	123.0 acre-feet 82.0 acres	82.0 acre-feet 82.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2741	Clairmont, Patricia - Bismarck (Burleigh County) Hearing for Amendment: 8- 1-77 Deferred: 8-16-77	Missouri River	Irrigation	This is a request for an amendment to permit - to add an additional point of diversion.	It is recommended that this request be granted.
880A	Clairmont, Patricia - Bismarck (Burleigh County) Hearing for Amendment: 8- 1-77 Deferred: 8-16-77	Missouri River	Irrigation	This is a request for an amendment to permit - to add an additional point of diversion.	It is recommended that this request be granted.
3004	Lanz, Otto W. - Guelph (Dickey County) Priority: 1-10-78 Hearing: 1-30-78	Ground Water	Irrigation	480.0 acre-feet 231.0 acres	It is recommended that this request be deferred at this time.
		* NO PRIOR PERMITS			
3006	The Falkirk Mining Company - Underwood (McLean County) Priority: 11-23-77 Hearing: 1-30-78	Ground Water (Tongue River Formation)	Industrial (for dust control on haul roads)	350.0 acre-feet	350.0 acre-feet
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3008	Bois De Sioux Golf Club - Wahpeton (Richland County) Priority: 11-29-77 Hearing: 1-30-78	Red River of the North * NO PRIOR PERMITS	Irrigation	15.0 acre-feet 52.7 acres	It is recommended that action be deferred at this time.
3007	The North American Coal Corporation - Beulah (Mercer County) Priority: 12- 2-77 Hearing: 1-30-78	Ground Water (Tongue River Formation) * NO PRIOR PERMITS	Industrial (control fugitive dust on haul road system)	35.0 acre-feet	35.0 acre-feet
3011	Malmberg, Scott - Oakes (Dickey County) Priority: 12-13-77 Hearing: 1-30-78	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 156.0 acres	225.0 acre-feet 150.0 acres
3013	Locken, David - Oakes (Dickey County) Priority: 12-19-77 Hearing: 1-30-78	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	600.0 acre-feet 295.9 acres	Recommend for approval: 203.0 acre-feet 135.0 acres (Balance of request shall be held in abeyance)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3014	Daniels, Betty J. - Oakes (Dickey County)	Ground Water	Irrigation	300.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
	Priority: 12-21-77 Hearing: 1-30-78	* NO PRIOR PERMITS			
3016	Lehr, A. F. Company - Gackle (LaMoure County)	Ground Water	Irrigation	186.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
	Priority: 12-22-77 Hearing: 1-30-78	* NO PRIOR PERMITS			
3018	Grenier, Theodore - Rolette (Rolette County)	Ground Water	Irrigation	312.0 acre-feet 156.0 acres	It is recommended that action be deferred at this time.
	Priority: 1- 3-78 Hearing: 1-30-78	* NO PRIOR PERMITS			
3019	Peterson, Roger O. - Washburn (McLean County)	Missouri River	Irrigation	500.0 acre-feet 230.7 acres	461.4 acre-feet 230.7 acres
	Priority: 1- 6-78 Hearing: 1-30-78	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3020	Matthews, Glen - Balta (Pierce County) Priority: 7- 1-77 Hearing: 2- 6-78	Ground Water	Irrigation	195.0 acre-feet 70.62 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			
2468	Bang, Dale N. - Killdeer (Dunn County) Priority: 1- 5-78 Hearing: 2- 6-78	Ground Water	Irrigation	374.0 acre-feet 187.0 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			
2173	Wilton, City of - Wilton (McLean County) Hearing for Amendment: 2- 6-78	Ground Water (Lost Lake Aquifer)	Irrigation	This is a request for an amendment to conditional permit.	It is recommended that this amendment be granted for an additional point of diversion.
2333	Olson, Willis - Lisbon (Ransom County) Hearing for Amendment: 2- 6-78	Ground Water	Irrigation	This is a request for a change in the points of diversion.	Defer action at this time. It was necessary to re- advertise, as the news- paper did not publish the first week.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2692	Lutgen, Alfred - LaMoure (LaMoure County) Priority: 1-20-77 Hearing: 4-25-77 Deferred: 5-27-77	Ground Water (Spiritwood Aquifer) * NO PRIOR PERMITS	Irrigation	640.0 acre-feet 320.0 acres	Recommend for approval: 150.0 acre-feet 150.0 acres (Balance of request shall be held in abeyance)
2312	Anderson, Richard E. - Coleharbor (McLean County) Priority: 9-15-75	Ground Water * NO PRIOR PERMITS	Irrigation	908.0 acre-feet 605.0 acres	Recommend that this application be denied; applicant failed to complete application.
2266	Walter, Marvin - Warwick (Eddy County) Priority: 4-18-75	Ground Water * NO PRIOR PERMITS	Irrigation	776.0 acre-feet 388.0 acres	Recommend that this application be denied; applicant failed to complete application.
2810	Bowman, City of - Bowman (Bowman County) Priority: 4-11-77 Hearing: 7-19-77 Deferred: 8-16-77	Ground Water (Fox Hills Formation) * #725 (Priority Date: 6-6-57) Granted 730.0 acre-feet #914 (Priority Date: 6-27-61) Granted 1968.4 acre-feet	Municipal	250.0 acre-feet	It is recommended that no additional acre-feet be granted under this permit, but that a point of diversion located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 12-131-102 be approved.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2734	Ingstad Land & Cattle Co. - Valley City (Stutsman County) Hearing for Amendment: 2- 6-78	Ground Water and Chicago Lake	Irrigation	This is a request for a change in the points of diversion.	It is recommended that action be deferred at this time.
3012	Barton, Robert J. - Ellendale (Dickey County) Priority: 12-14-77 Hearing: 2- 6-78	Ground Water	Irrigation	200.0 acre-feet 133.8 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			
2869	Pennington, Jackie L. - New Town (Mountrail County) Priority: 5-25-77 Hearing: 10- 3-77 Deferred: 12- 7-77	Slough, non-contrib- uting to Missouri River Basin	Irrigation	58.0 acre-feet 30.0 acres	30.0 acre-feet 30.0 acres
		* NO PRIOR PERMITS			
2874	Peterson, Dale C. - New Town (Mountrail County) Priority: 6- 3-77 Hearing: 10- 3-77 Deferred: 12- 7-77	Slough, non-con- tributing to Missouri River Basin	Irrigation	57.0 acre-feet 32.0 acres	32.0 acre-feet 32.0 acres
		* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2368	Boehm, Joseph J. - Karlsruhe (McHenry County) Priority: 2- 2-76 Hearing: 3- 8-76 Deferred: 4-21-76	Ground Water (New Rockford Aquifer)	Irrigation	234.0 acre-feet 156.0 acres	234.0 acre-feet 156.0 acres * #2490 (Priority Date: 9-28-76) Granted 135.0 acres
2793	Gleason, EuGene - Hamar (Eddy County) Priority: 3-22-77 Hearing: 6- 1-77 Deferred: 7- 8-77	Ground Water (Spiritwood and Warwick Aquifers)	Irrigation	1636.0 acre-feet 818.0 acres	Recommend for approval: 225.0 acre-feet 150.0 acres (Balance of request to be held in abeyance) * NO PRIOR PERMITS
2878	Anderson Earth- moving, Inc. - Minot (McLean County) Priority: 6-10-77 Hearing: 7-19-77 Deferred: 8-16-77	Lake Audobon	Industrial (dust control & compaction on US Highway 83)	8.0 acre-feet	The applicant has withdrawn this request.
2916	The Leach Ranch - Towner (McHenry County) Priority: 8-30-76 Hearing: 10-10-77 Deferred: 12-16-77	Souris River	Irrigation	1430.0 acre-feet 780.0 acres	It is recommended that this request be denied, based on availability of in- sufficient water in Souris River for irrigation. (This application was denied by the State Engineer on January 17, 1978)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2747	Wise, John J. - Golva (Golden Valley Co.) Priority: 5-17-77 Hearing: 7- 5-77 Deferred: 7- 8-77	Unnamed Tributary, tributary to Bullion Creek and Little Missouri River	Irrigation - Waterspreading	48.0 acre-feet 24.0 acres	24.0 acre-feet 24.0 acres * #1983 (Priority Date: 9-27-73) Granted 79.0 acres
1762	Tompkins, F. L. - Minot (McHenry County) Hearing on Amendment: 5-23-77 Deferred: 5-27-77	Ground Water (New Rockford Aquifer)	Irrigation	This is a request for a change in points of diversion.	It is recommended that the request for a change in the points of diversion be granted.
2896	Schwartz, LeRoy - Richardton (Dunn County) Priority: 2- 2-77 Hearing: 10- 3-77 Deferred: 12- 7-77	Ground Water and Knife River (Unnamed Aquifer)	Irrigation	340.0 acre-feet (240.0 a.f. River; 100.0 a.f. Ground Water or River) 170.0 acres	150.0 acre-feet 150.0 acres * #371 (Priority Date: 11-24-50) Granted 39.1 acres
2688	Streifel, Walter - Esmond (Benson County) Priority: 1-14-77 Hearing: 3-28-77 Deferred: 4-15-77	Ground Water (Unnamed Aquifer)	Irrigation	200.0 acre-feet 160.0 acres	200.0 acre-feet 150.0 acres * NO PRIOR PERMITS

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2589	Streifel, Arthur - Esmond (Benson County)	Ground Water (Unnamed Aquifer)	Irrigation	320.0 acre-feet 156.0 acres	225.0 acre-feet 150.0 acres
	Priority: 10-26-76 Hearing: 11-23-76 Deferred: 12- 7-76	* NO PRIOR PERMITS			
2826	Gilbertson, Thomas - Binford (Griggs County)	Ground Water (Spiritwood Aquifer)	Irrigation	600.0 acre-feet 416.9 acres	367.0 acre-feet 245.0 acres
	Priority: 4-15-77 Hearing: 6-27-77 Deferred: 7- 8-77	* NO PRIOR PERMITS			
2885	Jacobson, Robert - Warwick (Benson County)	Unnamed Lake, non-contributing to Devils Lake Basin	Irrigation	221.0 acre-feet 141.0 acres	150.0 acre-feet 100.0 acres
	Priority: 6-20-77 Hearing: 10-17-77 Deferred: 12- 7-77	* NO PRIOR PERMITS			
2428	Hansen, Allen - Ludden (Dickey County)	Ground Water	Irrigation	This is a request for a change in points of diversion.	It is recommended that this request be granted.
	Hearing for Amendment: 5-2-77 Deferred: 5-27-77				

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2267	Smith, Douglas R. - Sheyenne (Eddy County) Priority: 3-24-77 Hearing: 8- 1-77 Deferred: 8-16-77	Ground Water (Northwest Eddy Aquifer) * NO PRIOR PERMITS	Irrigation	632.0 acre-feet 316.0 acres	232.0 acre-feet 155.0 acres
2783	T-T Ranch - Grace City (Eddy County) Priority: 3-14-77 Hearing: 6- 6-77 Deferred: 7- 8-77	Ground Water (Unnamed Aquifer) * NO PRIOR PERMITS	Irrigation	314.0 acre-feet 157.0 acres	Recommend for approval: 30.0 acre-feet 30.0 acres (An additional 155.0 acre- feet shall be held in abeyance)
2950	Wolt, Clayton - Sterling (Burleigh County) Priority: 8- 8-77 Hearing: 10-24-77 Deferred: 12- 7-77	Ground Water (Hell Creek or Fox Hills Formations) * NO PRIOR PERMITS	Municipal - (Rural Domestic)	36.0 acre-feet	36.0 acre-feet (This request was approved by the State Engineer on February 21, 1978)
2897	Slaubaugh, Howard J. - Wolford (Pierce County) Priority: 3-15-77 Hearing: 10- 3-77 Deferred: 12- 7-77	Ground Water (Unnamed Aquifer) # 2447 (Priority Date: 7-29-76) Granted 33.6 acres	Irrigation	200.0 acre-feet 200.0 acres	200.0 acre-feet 200.0 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2784	Klabunde, Harold - Emmet (McLean County)	Ground Water (White Shield Aquifer)	Irrigation	312.0 acre-feet 156.0 acres	225.0 acre-feet 156.0 acres
	Priority: 3-15-77 Hearing: 7-18-77 Deferred: 8-16-77	* #1747 (Priority Date: 12-16-70) Granted 302.5 acres * #2102 (Priority Date: 12-5-74) Granted 298.7 acres			
2917	Casnet Co. - Claremont, S.D. (Sargent County)	Ground Water (Oakes Aquifer)	Irrigation	320.0 acre-feet 160.0 acres	225.0 acre-feet 150.0 acres
	Priority: 6-28-77 Hearing: 10-10-77 Deferred: 12-7-77	* #2094 (Priority Date: 5-3-74) Granted 320.0 acres) * #2318 (Priority Date: 5-20-75) Granted 270.0 acres) Granted to Dale Cutler, * #2601 (Priority Date: 10-27-76) Granted 220.0 acres) owner of Casnet Co.			
2859	Locken, David - Oakes (Dickey County)	Ground Water (Oakes Aquifer)	Irrigation	225.0 acre-feet 160.0 acres	225.0 acre-feet 150.0 acres
	Priority: 5-11-77 Hearing: 7-11-77 Deferred: 8-16-77	* NO PRIOR PERMITS			
2801	New Rockford Golf Club - New Rockford (Eddy County)	Ground Water (Unnamed Aquifer)	Irrigation	20.0 acre-feet 65.82 acres	20.0 acre-feet 65.82 acres
	Priority: 3-28-77 Hearing: 6-6-77 Deferred: 7-8-77	* #2090 (Priority Date: 4-8-74) Granted 65.82 acres			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2813	Lazy S Ranch - Bismarck (Burleigh County) Priority: 4-12-77 Hearing: 6- 7-77 Deferred: 7- 8-77	Ground Water (Burnt Creek Aquifer)	Irrigation	312.3 acre-feet 243.0 acres	312.3 acre-feet 243.0 acres * #694 (Priority Date: 8-22-56) Granted 82.0 acres
2639	Brademeyer, Philip - Oakes (Dickey County) Priority: 1-25-77 Hearing: 2-22-77 Deferred: 3-24-77	Ground Water (Unnamed Aquifer)	Irrigation	234.0 acre-feet 156.0 acres	225.0 acre-feet 150.0 acres * #2751 (Priority Date: 3-2-77) Granted 150.0 acres
2804	Morrison Farm - Robinson (Kidder County) Priority: 4- 1-77 Hearing: 6- 6-77 Deferred: 7- 8-77	Ground Water (Unnamed Aquifer)	Irrigation	922.0 acre-feet 615.0 acres	Recommend for approval: 225.0 acre-feet 160.0 acres (Balance of request shall be held in abeyance) * NO PRIOR PERMITS
2777	Oakes Country Club - Oakes (Dickey County) Priority: 3-14-77 Hearing: 5-31-77 Deferred: 7- 8-77	Ground Water (Oakes Aquifer)	Irrigation	122.0 acre-feet 61.0 acres	92.0 acre-feet 61.0 acres * #1122 (Priority Date: 1-27-64) Granted 22.54 acres

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2534	Hoffner, Leo - Esmond (Benson County)	Ground Water (Unnamed Aquifer)	Irrigation	640.0 acre-feet 312.0 acres	<p>On Feb. 11, 1977, the Comm. approval the appropriation of 202.5 acre-feet to irrigate 135.0 acres. The balance of the request has remained being held in abeyance.</p> <p>The SWC staff has reviewed that portion being held in abeyance and now recommends that the applicant be granted an additional 202.5 acre-feet of water to irrigate an additional 135.0 acres of land.</p> <p>Total amounts granted would then be 405.0 acre-feet of water to irrigate 270.0 acres.</p>
	Priority: 9-10-76	* NO PRIOR PERMITS			
2753	Middle Lane Farm - New Rockford (Wells County)	Ground Water (New Rockford Aquifer)	Irrigation	228.0 acre-feet 114.0 acres	171.0 acre-feet 114.0 acres
	Priority: 3- 3-77 Hearing: 6-27-77 Deferred: 7- 8-77	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3025	Jangula, Andrew - Bismarck (Emmons County)	Ground Water	Irrigation	624.0 acre-feet 312.0 acres	It is recommended that action be deferred at this time.
	Priority: 1-17-78 Hearing: 2-13-78	* #3025 (Priority Date: 7-6-77) Granted 246.6 acres			
3021	Klaudt, Rhine J. - Linton (Emmons County)	Unnamed Creek and Beaver Creek, trib. to Missouri River	Irrigation	129.5 acre-feet 86.3 acres	It is recommended that action be deferred at this time.
	Priority: 9-19-77 Hearing: 2-13-78	* #1102 (Priority Date: 9-9-63) Granted 26.8 acres #1461 (Priority Date: 6-22-67) Granted 20.0 acres			
2333	Olson, Willis - Lisbon (Ransom County)	Ground Water	Irrigation	This is a request for a change in the points of diversion.	It is recommended that this request be granted.
	Re-hearing for Amendment: 2-13-78				
3029	Streifel, Arthur - Esmond (Benson County)	Ground Water	Irrigation	861.0 acre-feet 430.5 acres	It is recommended that action be deferred at this time.
	Priority: 11-15-77 Hearing: 2-21-78	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3030	Tweed, Michael L. - Tolna (Eddy County)	Ground Water	Irrigation	856.0 acre-feet 571.0 acres	It is recommended that action be deferred at this time.
	Priority: 11-25-77 Hearing: 2-21-78	* NO PRIOR PERMITS			
3009	Agassiz Water Users, Inc. - Gilby (Grand Forks Co.)	Ground Water	Municipal- (Rural Domestic)	50.0 acre-feet	It is recommended that action be deferred at this time.
	Priority: 12- 8-77 Hearing: 2-27-78	* #1840 (Priority Date: 4-20-72) Granted 150.0 acre-feet			
3010	Johnsrud, Mark D. - Watford City (McKenzie County)	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
	Priority: 12-13-77 Hearing: 2-27-78	* NO PRIOR PERMITS			
3027	Ruhn, Keith W. - Cogswell (Sargent County)	Ground Water	Irrigation	228.0 acre-feet 152.2 acres	It is recommended that action be deferred at this time.
	Priority: 1-18-78 Hearing: 2-27-78	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3032	Mund, Kenneth W. - Milnor (Sargent County) Priority: 2- 6-78 Hearing: 2-27-78	Ground Water	Irrigation	320.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
		* NO PRIOR PERMITS			
2992	Hillsboro, City of - Hillsboro (Traill County) Priority: 2- 6-78 Hearing: 2-27-78	Ground Water	Municipal	860.0 acre-feet	It is recommended that action be deferred at this time.
		* #1165P (Priority Date: 7-23-1900)	Granted 430.0 acre-feet		
3033	Lundebly, Iver G. - Tolna (Nelson County) Priority: 2- 3-78 Hearing: 2-27-78	Ground Water	Irrigation	60.0 acre-feet 241.3 acres	It is recommended that action be deferred at this time.
		* #1889 (Priority Date: 11-29-72)	Granted 30.0 acres		
2918	Casnet Co. - Claremont, S.D. (Sargent County) Priority: 6-28-77 Hearing: 10-10-77 Deferred: 12- 7-77	Ground Water (Oakes Aquifer)	Irrigation	640.0 acre-feet 320.0 acres	450.0 acre-feet 300.0 acres
		* #2094 (Priority Date: 5-3-74)	Granted 320.0 acres)		
		#2318 (Priority Date: 5-20-75)	Granted 270.0 acres)		Granted to Dale Cutler,
		#2601 (Priority Date: 10-27-76)	Granted 220.0 acres)		owner of Casnet Co.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2901	Knife River Coal Mining Company - Bismarck (Bowman County) Priority: 6- 1-77 Hearing: 10- 3-77 Deferred: 12- 7-77	Unnamed Tributary, trib. to Buffalo Creek; and Ground Water * NO PRIOR PERMITS	Industrial	300.0 acre-feet (100.0 acre-feet surface water; 200.0 acre-feet ground water; 98.4 acre-feet storage)	25.0 acre-feet for industrial use; 98.4 acre-feet storage; 65.6 acre-feet surface area
2857	Houghton Grazing Association - Houghton, S.D. (Sargent County) Priority: 5-11-77 Hearing: 9-26-77 Deferred: 12- 7-77	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	480.0 acre-feet 320.0 acres	450.0 acre-feet 300.0 acres
2858	Houghton Grazing Association - Houghton, S.D. (Sargent County) Priority: 5-11-77 Hearing: 9-26-77 Deferred: 12- 7-77	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	720.0 acre-feet 480.0 acres	Recommend for approval: 225.0 acre-feet 150.0 acres (Balance of request shall be held in abeyance)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2939	Hansen, Larry R., Paul and Marvin F. - Oakes (Dickey County)	Ground Water (Oakes Aquifer)	Irrigation	720.0 acre-feet 475.8 acres	675.0 acre-feet 450.0 acres Granted to Larry Hansen
	Priority: 6- 2-77 Hearing: 10-17-77 Deferred: 12- 7-77	* #1303A (Priority Date:7-2-65) Granted 191.2 acres) #2203 (Priority Date: 1-22-75) Granted 755.0 acres)			
2919	Casnet Co. - Claremont, S.D. (Dickey County)	Ground Water (Oakes Aquifer)	Irrigation	1280.0 acre-feet 640.0 acres	Recommend for approval: 225.0 acre-feet 150.0 acres (Balance of request shall be held in abeyance) Granted to Dale Cutler, owner of Casnet Co.
	Priority: 6-28-77 Hearing: 10-10-77 Deferred: 12- 7-77	* #2094 (Priority Date: 5-3-74) Granted 320.0 acres) #2318 (Priority Date: 5-20-75) Granted 270.0 acres) #2601 (Priority Date: 10-27-76) Granted 220.0 acres)			
2506	Berg, Robert E. - Lisbon (Ransom County)	Ground Water (Sheyenne Delta Aquifer)	Irrigation	1120.0 acre-feet 560.0 acres	On March 24, 1977, the Commission granted 202.5 acre-feet to irrigate 135.0 acres. The balance of the request has been held in abeyance. The Commission staff has now reviewed a portion of the amount being held in abey- ance and has recommended that the Commission consider granting the applicant an additional 127.5 acre-feet to irrigate an additional 85.0 acres. The balance of request shall remain in abeyance. 48 Total amounts granted would then be 220.0 acre-feet 220.0 acres
	Priority: 8-12-76	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2972	Ray, Ronald J. - Oakes (Dickey County) Priority: 9-28-77 Hearing: 10-31-77 Deferred: 12- 7-77	Ground Water (Oakes Aquifer) * NO PRIOR PERMITS	Irrigation	225.0 acre-feet 150.4 acres	225.0 acre-feet 150.0 acres
2547	Anderson, Jay C. - Jamestown (Stutsman County) Priority: 3- 7-77	Ground Water (Marstonmoor Plain Aquifer) * NO PRIOR PERMITS	Irrigation	580.0 acre-feet 312.0 acres	On May 27, 1977, the Commission granted the applicant approval to divert 202.5 acre-feet of water to irrigate 135.0 acres. The remainder of the request was held in abeyance. The Comm. staff has now reviewed that balance being held in abeyance and recommends that the applicant be granted an additional 210.0 acre-feet to irrigate an additional 140.0 acres. By granting this additional amount, the totals granted would be 412.5 acre-feet of water to irrigate 275.0 acres.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2817	Wright, John Ross - Deering (McHenry County)	Ground Water (Unnamed Aquifer)	Irrigation	496.0 acre-feet 248.3 acres	Recommend for approval: 40.0 acre-feet 40.0 acres (Balance of request shall be held in abeyance)
	Priority: 7-13-77 Hearing: 8- 1-77 Deferred: 8-16-77	* NO PRIOR PERMITS			
2760	Cook, Joseph B. and/or James K. - Hazen (Mercer County)	Ground Water and/or the Knife River (Knife River Aquifer)	Irrigation	759.6 acre-feet 506.4 acres	692.5 acre-feet 482.0 acres
	Priority: 3-22-77 Hearing: 5-23-77 Deferred: 5-27-77	* #1553 (Priority Date: 5-31-68) Granted 267.4 acres #1744 (Priority Date: 12-7-70) Granted 207.0 acres			
2964	Stremick, Marlene and Myrna - Walhalla (Cavalier County)	Pembina River, trib. to Red River of the North	Irrigation	468.0 acre-feet 312.0 acres	312.0 acre-feet 312.0 acres
	Priority: 9- 1-77 Hearing: 10-31-77 Deferred: 12- 7-77	* NO PRIOR PERMITS			
2818	Ophaug, Ronald - Kloten (Nelson County)	Ground Water (McVillie Aquifer)	Irrigation	264.0 acre-feet 156.4 acres	202.5 acre-feet 135.0 acres
	Priority: 4-14-77 Hearing: 6- 7-77 Deferred: 7- 8-77	* NO PRIOR PERMITS			

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2889	Schlenker, Allen - Montpelier (Stutsman County) Priority: 4- 4-77 Hearing: 10-31-77 Deferred: 12- 7-77	Ground Water (Spiritwood Aquifer)	Irrigation	409.0 acre-feet 272.7 acres	Recommend for approval: 270.0 acre-feet 180.0 acres (An additional 50.0 acre-feet shall be held in abeyance)
		* NO PRIOR PERMITS			
2932	Schmidt, Gaylen - Minot (McLean County) Priority: 4-19-77 Hearing: 6-27-77 Deferred: 7- 8-77	Ground Water (Lake Nettie Aquifer)	Irrigation	482.8 acre-feet 241.4 acres	325.1 acre-feet 223.4 acres
		* NO PRIOR PERMITS			
2877	Hazen Park Board - Hazen (Mercer County) Priority: 6- 8-77 Hearing: 7-19-77 Deferred: 8-16-77	Ground Water (Knife River Aquifer)	Irrigation	130.0 acre-feet 65.0 acres	130.0 acre-feet 65.0 acres
		* NO PRIOR PERMITS			
2771	Friese, Lester and Florence L. - Leonard (Cass County) Priority: 3-28-77 Hearing: 5-31-77 Deferred: 7- 8-77	Ground Water (Sheyenne Delta)	Irrigation	480.0 acre-feet 320.0 acres	405.0 acre-feet 270.0 acres
		* #698 (Priority Date: 11-20-56) Granted 264.5 acres) #1241 (Priority Date: 9-22-64) Granted 184.4 acres)			Granted to Lester Friese

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2772	Friese, Lester et. al. - Leonard (Ransom County) Priority: 3-28-77 Hearing: 5-31-77 Deferred: 7- 8-77	Ground Water (Unnamed Aquifer)	Irrigation	900.0 acre-feet 600.0 acres	Recommend for approval: 337.5 acre-feet 225.0 acres (The remainder of this request shall be held in abeyance) * #698 (Priority Date: 11-20-56) Granted 264.5 acres) #1241 (Priority Date: 9-22-64) Granted 184.4 acres) Granted to Lester Friese
2200	Sauer, Vincent - Tappen (Kidder County) Priority: 1-20-75 Hearing on Amendment: 6-6-77 Deferred: 7-8-77	Ground Water (Kidder County Aquifer)	Irrigation	468.0 acre-feet 312.0 acres	On May 12, 1975, the Comm. granted the applicant approval to appropriate 220.0 acre-feet of water to irrigate 270.0 acres, and an additional 120.0 acre-feet has been held in abeyance. The Comm. staff has now reviewed that portion being held in abeyance and recommends that the appli- cant be granted an addition- al 120.0 acre-feet. The applicant has also request a change in the point of diversion, and the Comm. Staff recommends that this change be granted. The total amounts granted to the applicant would then be 340.0 acre-feet to irrigate 270.0 acres.

**RULES AND REGULATIONS
OF THE NORTH DAKOTA STATE WATER COMMISSION**

Proposed to be Adopted

Pursuant to Title 61 of the North Dakota Century Code

GOVERNING THE USE OF WATER FOR IRRIGATION PURPOSES

GENERAL INFORMATION

Title 84: State Water Commission and State Engineer

Article 84-05: The Use of Water for Irrigation Purposes

Action: Proposed Rules and Regulations (First Draft, dated
(2/28/78)

Summary: The State Water Commission is considering regulations which would, if adopted, establish residency requirements for water permit applicants and permittees, establish age requirements for water permit applicants and permittees, establish limitations on the water permit application by persons during a three year time period, establish limitations on undeveloped permits by a water permit applicant and permittee, and establish maximum authorized irrigable acreage by a permittee.

Hearings: It is the policy of the State Water Commission to afford the public an opportunity to participate in the development of the proposed regulations. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the State Water Commission. Public hearings on the proposed regulations are anticipated. Comments should be submitted to the State Engineer, State Water Commission, State Office Building, 900 East Boulevard, Bismarck, N.D. 58505.

Effective date of proposed regulations: The proposed regulations are still in the developmental state. Therefore, the State Water Commission has not yet determined whether the proposed regulations will be adopted or, if adopted, when

they will be effective.

Supplemental information: The concepts contained in the proposed regulations have been provided by members of the State Water Commission. They do not constitute opinions or suggestions by the author. The proposed regulations have been drafted by Assistant Attorney General Murray G. Sagsveen, (701) 224-2750.

Authority: These regulations are adopted pursuant to general regulation-making authority of the state water commission and the state engineer in North Dakota Century Code sections 61-02-11 and 61-03-13.

The authority for the state water commission and the state engineer to adopt regulations limiting the area of land which may be irrigated and requiring the landowner to reside on or in the neighborhood of the land irrigated is implied in the following sections of the North Dakota Century Code:

61-02-01. WATER CONSERVATION, FLOOD CONTROL, AND ABATEMENT OF STREAM POLLUTION DECLARED A PUBLIC PURPOSE.--It is hereby declared that the general welfare and the protection of the lives, health, property, and the rights of all the people of this state require that the conservation and control of waters in this state, public or private, navigable or unnavigable, surface or subsurface, the control of floods, and the regulation and prevention of water pollution, involve and necessitate the exercise of the sovereign powers of this state and are affected with and concern a public purpose. It is declared further that any and all exercise of sovereign powers of this state in investigating, constructing, maintaining, regulating, supervising, and controlling any system of works involving such subject matter embraces and concerns a single object, and that the state water conservation commission in the exercise of its powers, and in the performance of all its official duties, shall be considered and construed

to be performing a governmental function for the benefit, welfare, and prosperity of all the people of this state.

* * *

61-02-14. POWERS AND DUTIES OF THE COMMISSION.--
The commission shall have full and complete power, authority, and general jurisdiction:

1. To investiage, plan, regulate, undertake, construct, establish, maintain, control, operate, and supervise all works, dams, and projects, public and private, which in its judgment may be necessary or advisable.

* * *

- k. To provide for the storage, development, diversion, delivery, and distribution of water for the irrigation of agricultural land and supply water for municipal and industrial purposes....

* * *

2. To define, declare, and establish rules and regulations:

* * *

- b. For the full and complete supervision, regulation, and control of the water supplies within the state....

* * *

5. To exercise all express and implied rights, power and authority, that may be necessary, and to do, perform, and carry out all of the expressed purposes of this chapter and all of the purposes reasonably implied incidentally thereto or lawfully connected therewith;

* * *

61-02-29. COMMISSION TO HAVE FULL CONTROL OVER UNAPPROPRIATED PUBLIC WATERS OF THE STATE.--
The commission shall have full control over all unappropriated public waters of the state, whether above or under the ground, to the extent necessary to fulfill the purposes of this chapter.

GENERAL PROVISIONS

84-05-01-01 INTENT

84-05-01-02 APPLICATION

84-05-01-03 DEFINITIONS

84-05-01-01. INTENT. The commission policies of acreage limitations, residency, time limitations, development of permits prior to filing additional applications, and other criteria are designed:

1. To provide opportunity for a maximum number of farmers on the land.
2. To widely distribute the benefits which accrue from utilizing waters of the state.
3. To promote the family-size owner-operated farm.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
61-02-01
61-02-14
61-02-29

84-05-01-02. APPLICATION. the policies contained in this article shall apply to water permits granted after the effective date of the article.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
61-02-01
61-02-14
61-02-29

84-05-01-03. DEFINITIONS. Unless the context otherwise requires, the following definitions apply to this article:

1. "Commission" means the state water commission (Governor, Commissioner of Agriculture, and five citizen members).
2. "State engineer" means the state engineer, appointed pursuant to North Dakota Century Code Section 61-03-01, who is also the chief engineer and secretary of the commission.

3. "Application" means an application for a conditional water permit for irrigation purposes.
4. "Applicant" means a person submitting an application for a conditional water permit for irrigation purposes.
5. "Irrigable land" means the area to which acreage limitations are applicable and is the net acreage possessing irrigated crop production potential, after excluding areas that are occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feed lots, equipment storage yards, and similar facilities, together with dedicated roads open for general unrestricted use by the public. Areas used for field roads, farm ditches and drains, tail water ponds, temporary equipment storage, and other uses dependent on operational requirements necessary to produce a specific crop, and subject to change at will, are included in the net irrigable acreage.
6. "Resident owner" means a landowner, who has his principal place of residence within a fifty mile radius of the land to receive or receiving water at least ten months per year and who receives a majority of his total gross income from farming, ranching, and other agricultural activities.

General Authority
 NDCC 61-02-11
 28-32-02

Law Implemented
 NDCC 61-02-01
 61-02-14
 61-02-29

CRITERIA FOR APPLICANTS PROPOSING TO SUBMIT APPLICATIONS**FOR A CONDITIONAL WATER PERMIT FOR IRRIGATION PURPOSES****Section**

- | | |
|-------------|---|
| 84-05-02-01 | Applicant Criteria |
| 84-05-02-02 | Rejection of Unacceptable Applications |
| 84-05-02-03 | Residency |
| 84-05-02-04 | Legal Age |
| 84-05-02-05 | Time Limitations Concerning Water Permit Applications |
| 84-05-02-06 | Development of Permits Prior to Filing Application |
| 84-05-02-07 | Acreage Limitations |
| 84-05-02-08 | Soil and Water Compatability |
-

84-05-02-01. APPLICANT CRITERIA. All applicants must meet the criteria contained in this chapter.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-02-02. REJECTION OF UNACCEPTABLE APPLICATIONS.

The state engineer shall not accept an application unless the applicant meets the criteria contained in this chapter.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-02-03. RESIDENCY. An applicant must be a resident owner.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-02-04. LEGAL AGE. An applicant must be eighteen years of age.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-02-05. TIME LIMITATIONS CONCERNING WATER PERMIT APPLICATIONS. An applicant may not, during any thirty-six month period, apply for water permits to irrigate more than three hundred and twenty acres of irrigable land. Examples:

1. Mr. Irrigator files water permit applications with the state engineer on August 1, 1979. The applications request water to irrigate three hundred twenty acres of irrigable land. Mr. Irrigator may not file additional water permit applications until August 1, 1982.

2. Mr. Waterspreader files a water permit application with the state engineer on August 1, 1979. The application requests water to irrigate one hundred sixty acres of irrigable land. A second application for one hundred sixty acres is filed on September 1, 1980. Mr. Waterspreader will be eligible to file additional permit applications to irrigate up to one hundred sixty acres of irrigable land on August 1, 1982. If no additional applications are filed by September 1, 1983, Mr. Waterspreader may file water permit applications for the irrigation of up to three hundred twenty more acres of irrigable land.

General Authority
 NDCC 61-02-11
 28-32-02

Law Implemented
 NDCC 61-02-01
 61-02-14
 61-02-29

84-05-02-06. DEVELOPMENT OF PERMITS PRIOR TO FILING

APPLICATION. A person may not submit an application if he holds an undeveloped permit or permits to irrigate one hundred sixty acres or more of irrigable land.

General Authority
 NDCC 61-02-11
 28-32-02

Law Implemented
 NDCC 61-02-01
 61-02-14
 61-02-29

84-05-02-07. ACREAGE LIMITATIONS. A person may not submit an application which, if approved, would authorize him to irrigate more than four hundred eighty acres of irrigable land under the criteria defined in section 84-05-03-06.

General Authority
 NDCC 61-02-11
 28-32-02

Law Implemented
 NDCC 61-02-01
 61-02-14
 61-02-29

84-05-02-08. SOIL AND WATER CAPABILITY. All applications shall contain a statement of soil and water compatibility for the land to be irrigated from the Soil Conservation Service, U.S. Department of Agriculture.

General Authority
 NDCC 61-02-11
 28-32-02

Law Implemented
 NDCC 61-02-01
 61-02-14
 61-02-29

POLICIES CONCERNING TRANSFERS OF PERMITTED LAND

- 84-05-03-01 General Policy Concerning Transfers of Permitted Land
 - 84-05-03-02 Certain Transfers of Permitted Land Contrary to the Public Interest
 - 84-05-03-03 Transfer of Permitted Land to Nonresident
 - 84-05-03-04 Transfer of Permitted Land to Minor
 - 84-05-03-05 Transfer of Permitted Land to Person Holding Undeveloped Permits
 - 84-05-03-06 Transfer of Permitted Land to Person Holding Maximum Amount of Permitted Land
-

84-05-03-01. GENERAL POLICY CONCERNING TRANSFERS OF PERMITTED LAND. North Dakota Century Code section 61-04-15 provides, in part, that: "The transfer of title to land in any manner whatsoever shall carry with it all rights to the use of water appurtenant thereto for irrigation purposes". This chapter does not prohibit the transfer of title to land for irrigation purposes. Rather, this chapter declares certain transfers to be contrary to the public interest and that continued use of water by the transferee is a nonbeneficial use.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-03-02. CERTAIN TRANSFERS OF PERMITTED LAND CONTRARY TO THE PUBLIC INTEREST. The transfers identified in section 84-05-03-03 through 84-05-03-06 are contrary to the public interest. Consequently, the use of water for irrigation purposes by a permittee-transferee is not a beneficial use. Therefore, the state engineer shall initiate forfeiture proceedings against permit connected with unauthorized transfers.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-03-03. TRANSFER OF PERMITTED LAND TO NONRESIDENTS. The transfer of permitted land to a nonresident is contrary to the public interest.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-03-04. TRANSFER OF PERMITTED LAND TO MINOR. The transfer of permitted land to an individual less than eighteen years of age is contrary to the public interest.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-03-05. TRANSFER OF PERMITTED LAND TO PERSON HOLDING UNDEVELOPED PERMITS. The transfer of permitted land to a person holding an undeveloped permit or permits to irrigate one hundred sixty acres or more of irrigable land is contrary to the public interest.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

84-05-03-06. TRANSFER OF PERMITTED LAND TO PERSON HOLDING MAXIMUM AMOUNT OF PERMITTED LAND. The transfer of permitted land is contrary to the public interest if the permittee-transferee would hold permits to irrigate more than four hundred eighty acres of irrigable land after the transfer.

1. However, a husband and wife may together hold permits to irrigate up to nine hundred sixty acres of irrigable land notwithstanding the extent of their individual ownerships.
2. If a permittee is a legal entity other than a single ownership, the permitted irrigable acreage shall be prorated in proportion to the ownership interest.

For example, if a person has a one-third interest in a partnership holding a permit to irrigate four hundred eighty acres of irrigable land, one hundred sixty acres shall be prorated to that person.

3. A permittee who involuntarily acquires permitted irrigable acreage in excess of the limits authorized in this section (e.g. by inheritance or death of a spouse) shall have five years to transfer such property before the initiation of forfeiture proceedings by the state engineer.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

CHAPTER 84-05-04

POLICIES CONCERNING HOLDERS OF WATER PERMITS

Section
84-05-04-01 Maintenance of Residency

84-05-04-01. MAINTENANCE OF RESIDENCY. The state engineer shall initiate forfeiture proceedings against any permittee who changes his residence thereby losing his status as a resident owner.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

CHAPTER 84-05-05

CONDITIONS TO BE ATTACHED TO WATER PERMITS

Section
84-05-05-01 Permit Conditions

84-05-05-01. PERMIT CONDITIONS. The state engineer shall attach the following condition to all permits granted for irrigation purposes: Acceptance of this permit binds permittee to applicable rules and regulations of the state water commission and the state engineer.

General Authority
NDCC 61-02-11
28-32-02

Law Implemented
NDCC 61-02-01
61-02-14
61-02-29

FIRST AMENDMENT TO

JOINT AND COOPERATIVE AGREEMENT
FOR THE ESTABLISHMENT OF CRITERIA
FOR AUTHORIZING DIKES AND OTHER
FLOOD CONTROL STRUCTURES AND MEASURES
ON THE RED RIVER OF THE NORTH
AND THE BOIS DE SIOUX RIVER

1. Article IV of the agreement is hereby amended by the deletion of the existing article and the insertion of the following new article:

IV. JOINT DIKE CRITERIA FOR AGRICULTURAL DIKE CONSTRUCTION

A. GENERAL PURPOSE

The purpose of these criteria is to provide for the orderly and consistent review of permit applications to construct, relocate, rebuild or alter agricultural dikes along the Red River of the North and Bois de Sioux Rivers in order to assure that the granting of such permits would be in the best interests of the people of Minnesota and North Dakota. These criteria would be mutually applicable in both states. The authority to establish these joint criteria is granted to the Commissioner of Natural Resources in Minnesota Statutes, Sections 105.42, 105.49 and 471.59 and to the North Dakota State Water Commission by Sections 61-02-24 and 61-16-15 of the North Dakota Century Code. The two states recognize that establishment of these criteria governing the issuance, review and denial of permits to construct, relocate, rebuild or alter agricultural dikes along the boundary rivers is but the first step in the exercise of joint control over those activities which could contribute to an increased flood potential of these rivers. The two states further recognize the need to exercise this joint control in that water management decisions which appear logical in a local or statewide context may have negative interstate and international impacts.

The criteria herein are being established at this time because there is a current need to provide a basis for the review of existing, unauthorized agricultural dikes and permit applications for the construction of additional agricultural dikes along the boundary waters. Local land owners view such dikes as interim solutions to local flood problems.

B. JURISDICTION

These criteria governing the review, issuance and denial of permits to construct, relocate, rebuild or alter agricultural dikes along the boundary rivers pertain to all such dikes located within the flood plains of the Red River of the North and the Bois de Sioux Rivers. Floodplain areas of the Red River of the North are defined by Appendix O, Volume 8 of the Souris-Red-Rainy Basins Comprehensive Study as "Red River of the North Main Stem Regional Floodplain Area" and the floodplain of the Bois de Sioux River is defined by the U.S. Geological Survey one percent chance of recurrence area flood quadrangles. These criteria apply to dikes constructed on tributaries within the floodplains of these boundary rivers.

C. DEFINITIONS

For the purposes of these regulations certain terms or words used herein shall be interpreted as follows:

"Agricultural Dike" or "Dike" means an embankment constructed of earth and/or other suitable materials to protect agricultural lands from frequently recurring floods (10-year frequency or more often) which result from overflow of watercourses or from diffused surface waters.

"Boundary Rivers" means the Red River of the North and the Bois de Sioux River as they form a natural boundary between the States of Minnesota and North Dakota.

"Farmstead" means a farm dwelling, adjacent farm buildings and those non-tillable acres adjacent to the buildings.

"Flood Frequency" means the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equalled or exceeded. This frequency is usually expressed as having a probability of occurring, on the average, once within a specified number of years.

"Flood Waters" means those waters which temporarily inundate normally dry areas adjoining a watercourse. This inundation results from an overflow of the watercourse caused by excessive amounts of rainfall and/or snowmelt which exceed its capacity.

"Ring Dike" means an embankment constructed of earth and/or other suitable materials which completely encloses a parcel of land.

"Watercourse" means a channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

"Watercourse, Class I" means, in Minnesota, those natural watercourses serving as major drainage outlets, or major tributaries to those outlets, which are capable of serving a number of beneficial public purposes; smaller natural watercourses serving specific values such as trout streams and scenic waterways.

"Watercourse, Class II" means, in Minnesota, those natural watercourses serving as tributaries of Class I watercourses which are often perennial streams serving more than one beneficial public purpose.

D. SEVERABILITY

The provisions of these regulations shall be severable, and the invalidity of any paragraph, subparagraph, or subdivision thereof shall not make void any other paragraph, subparagraph, subdivision, or any other part.

E. DESIGN CRITERIA

1. Dike Setbacks. Dikes are to be constructed a sufficient distance from the river so as not to cause an increase in the elevation of flood water of the 10-year frequency flood of more than one (1) foot at any point along the river. However, when the effect of the dike extends within the corporate limits of any city the permitted increase in flood water elevation shall not exceed 0.5 feet within the corporate limits of the city. Calculation of the effects of proposed dikes shall be based on the dikes being located on both sides of the boundary water an equal distance from the center of the channel. If mutual agreement has been reached between applicants on both sides of the river as to location of the dike, the "equal distance from the center" requirements may be waived providing the limit for increase in flood stage is met.

2. Dike Elevations. Dikes are to be designed and constructed so that they will be overtopped upon the occurrence of a flood that is one foot higher than the 10-year frequency flood at that point.

3. Dike Dimensions. Dike top width shall not be less than six (6) feet. Side slopes shall not be steeper than 3:1, except where slope stability analysis and slope erosion control can justify steeper slopes. No organic soil or material shall be allowed in the foundation of the fill of dikes.

4. Vegetative Cover and Riprap. A protective cover of grasses shall be established on all exposed surfaces of the dike. Riprap shall be used where required for control of erosion.

5. Interior Drainage. Dikes shall have provisions for interior drainage. The design shall include plans to handle the discharge from the drainage area based on drainage design requirements for the local area.

F. HYDROLOGIC DATA FOR DESIGN

The North Dakota State Water Commission and the Minnesota Department of Natural Resources shall provide the discharges and corresponding elevations of the 10-year flood (and other available flood data), in relation to known historic floods, for use in dike design.

G. DIKES ACROSS NATURAL WATERWAYS AND LEGAL DRAINS

Dikes shall not be constructed across Class I or Class II watercourses in Minnesota. Dikes shall not be constructed across the following rivers in North Dakota: Wild Rice, Sheyenne, Elm, Goose, Turtle, Forest, Park and Pembina. Dikes constructed across other natural waterways, streams or rivers in Minnesota and North Dakota shall have an opening capable of passing the summer storm having a four percent chance of recurrence and have an emergency spillway to prevent overtopping of the structure when the one percent (1%) summer storm occurs. Dike setbacks along tributary waterways, within the area defined in Section B of these criteria, to the boundary water shall meet the criteria as stated in Section E.

Dikes constructed across legal drains or public ditch systems shall require the approval of the appropriate watershed district, drain board, water management district or other local authority.

H. FARMSTEAD DIKING

Within an existing dike system, ring dikes around individual farmsteads shall not require dike permits if they are not provided with tie-backs to existing roadways

or dikes. Ring dikes provided with tie-backs shall be considered part of the overall dike system and will be required to secure diking permits. Outside the dike system there shall be no limitations on tie-backs of dikes around farmsteads.

I. ADMINISTRATION

1. Application for Permit. All applications submitted by the owner to construct, to relocate, rebuild or alter dikes shall be made on forms provided by the Minnesota DNR or ND State Water Commission and shall be accompanied by two (2) complete sets of plans or specifications. Such plans and specifications shall include the following:

A) A general location map with a minimum scale of 1"=800' showing the following:

- 1) Location of the dike with respect to the watercourse
- 2) Location of field inlets to provide for internal drainage
- 3) Location of legal drains and natural channels tributary to the main river channel.

B) Detailed cross-sections of the dike showing elevations, in relation to mean sea level, and side slopes.

After review of the information required above and other available data, the state agency to which the application is made shall determine the location and number of required cross-sections of the river channel and overland areas. These locations shall be provided to the applicant who shall then provide the required cross-section data. The applicant shall undertake and agree to pay the expenses incurred in securing these cross-sections.

2. Joint Permit Applications. Joint permit applications involving two or more landowners or a permit application on behalf of two or more landowners will be accepted by the State agencies. These permit applications, taken together, must meet the above criteria.

3. Issuance of Permits. Dike permits will be issued only upon concurrent approval by the state and local government in which state the dikes are located. Approval of the permit will in no way relieve the owner from damages which may be caused or created by construction of the dikes.

4. Joint Administration. A copy of each application for a permit shall be forwarded by the state agency receiving the initial application to the other state for comment and recommendation before final approval is granted.

5. Permit Revocation. The applicant shall provide for certification by a registered land surveyor, engineer, or other qualified person or agency that the finished dike elevations are not higher than those approved by the state agency to which the application was submitted. The permit will be revoked for failure to provide this certification.

The permit may be revoked for failure to construct the dike in accordance with the plans and specifications submitted. Structural alteration of the dike without permission of the appropriate state agency will also result in having the permit revoked.

6. Dike Maintenance. All dikes must be adequately maintained to the required shape, height, and protective covering. All maintenance shall be the responsibility of the permit holder. The maintenance of dikes must include periodic removal of woody vegetation (for example, trees and shrubs) which may become established on the embankment. Design of the project shall include provisions of maintenance access.

J. EXCEPTION TO THE CRITERIA

Under special circumstances, exceptions to the dike criteria may be authorized on an individual basis but they must have the concurrent approval of the N.D. State Engineer, local water management board in North Dakota, Minnesota Department of Natural Resources and local watershed district in Minnesota. Factors that will be considered shall be increase in flood stage, increase of stage at existing city dike, increase in stream velocity and environmental effects. Request for exceptions must

be accompanied by a plan satisfactory to all agencies.

K. APPLICATION TO EXISTING DIKES

These criteria shall apply to all unauthorized dikes constructed in the past for the protection of those agricultural lands located within the floodplains of the Red River of the North and the Bois de Sioux, as defined in Section B of these criteria. Exceptions are farmstead dikes if they meet the provision of Section H of these criteria.

2. The first paragraph of Article V of the agreement is hereby amended by the deletion of the words "adopted pursuant to" and the insertion in lieu thereof the words "contained in". The first paragraph of Article V, as amended, therefore provides:

V. REMOVAL OF UNAUTHORIZED DIKES

Parties to this agreement hereby agree that they shall immediately take whatever steps are necessary and available to remove unauthorized dikes adjacent to the boundary rivers not meeting the criteria contained in part IV above.

STATE OF MINNESOTA

STATE OF NORTH DAKOTA

Commissioner
Department of Natural Resources

State Engineer
State Water Commission

DATE: _____

DATE: _____

February 8, 1978
SWC# C6-10 & #1638 77HEARING DATES SET FOR APRIL 25-26 ON PROPOSED CRITERIA FOR
AGRICULTURAL DIKE CONSTRUCTION ALONG RED RIVER OF THE NORTH

The Minnesota Department of Natural Resources and the North Dakota State Water Commission have announced they have developed proposed joint criteria to provide for the review of permit applications to construct, relocate, rebuild or alter agricultural dikes along the Red River of the North and the Bois de Sioux River. The criteria would be mutually applicable in both states. North Dakota and Minnesota signed a cooperative agreement on November 23, 1976, to establish joint criteria for dike construction along the boundary waters. The proposed criteria were developed after several meetings with the Minnesota - Dakota Farmers Flood Control Association. That Association represents farmers in the Oslo, Minnesota, and adjacent North Dakota areas who built flood protection dikes in 1975 without required state permits. The proposed criteria would apply to all unauthorized dikes constructed in the past.

In developing the criteria, North Dakota and Minnesota requested the U.S. Army Corps of Engineers to prepare a report on known flood data and to summarize results of the Corps analysis of the effects of existing dike construction. The Corps study report was transmitted to two states and the Minnesota - Dakota Farmers Flood Control Association last November. The public may review the report at local watershed district, drainage board, or water management district offices; at governmental offices in cities and counties along the boundary waters; and at the regional office of the Upper Mississippi River Basin Commission in Fargo.

In his letter transmitting the Corps study, District Engineer Colonel Forrest T. Gay, stated his concern over the potential adverse impacts which could occur to the river regime should indiscriminate

NORTH DAKOTA
STATE WATER COMMISSION

NEWS RELEASE

construction of farm levees continue unabated or uncontrolled. He went on to say that "Such farm levees, if built high enough and close enough to the river banks, would cause significant increases in flood stages and flood velocities for all discharges in excess of bank-full capacity."

Hearings on the proposed criteria will be held on April 25, 1978, at Moorhead State University, in the Ballroom of the Comstock Memorial Union Building, 6th Avenue and 14th Street South, Moorhead, and on April 26, 1978, in A&B Room 36 of the Grand Forks Armory Auditorium, 615 1st Avenue North, Grand Forks. The hearings will commence each day at 9:30 a.m. and continue until all who wish to be heard on the proposed criteria have had the opportunity to be heard.

North Dakota and Minnesota have expressed the hope that the hearings on the proposed criteria will be well attended and that the audience will be a cross-representation of all interests, in order to reflect total public attitude toward the proposed criteria. They believe that the final adopted criteria will be more meaningful if there is an informed public and maximum public input to the decision-making process. All those who attend the hearing in either Moorhead or Grand Forks will be given the opportunity to be heard, if they so desire. It will not be necessary for the public to attend both hearings for their comments to be considered. The proposed criteria will be presented and testimony taken at each hearing location.



Forty-fifth Legislative Assembly

STATE OF NORTH DAKOTA

BISMARCK 58505



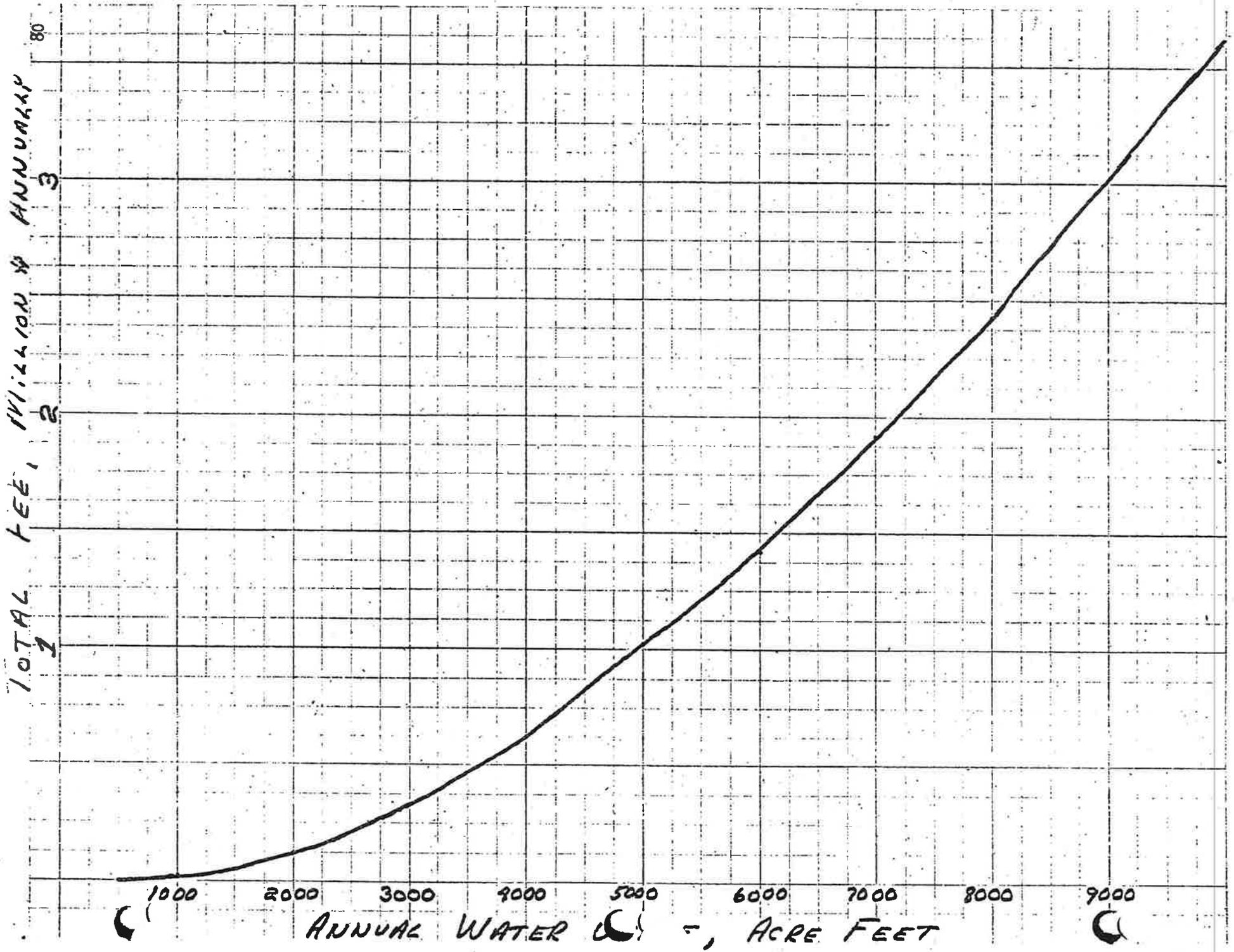
Rep. Rick Maixner
 District 39
 Rural Route 3, Box 69A
 New England, ND 58647

Committees
 Industry, Business
 & Labor
 Natural Resources

Up to 500 acre-feet	No Charge		
Each acre-foot over 500	\$50/ acre-foot		
" " " "	1000	\$100/	" "
" " " "	2000	\$200/	" "
" " " "	3000	\$300/	" "
" " " "	4000	\$400/	" "
" " " "	6000	\$500/	" "
" " " "	8000	\$600/	" "
" " " "	10000	\$700/	" "
" " " "	12000	\$800/	" "

Total Annual Fee for Permit Holder

500 Acre-feet	No Charge
1000 " "	25,000
2000 " "	125,000
3000 " "	325,000
4000 " "	625,000
5000 " "	1,025,000
6000 " "	1,425,000
7000 " "	1,925,000
8000 " "	2,425,000
9000 " "	3,025,000



NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT SWC PUBLIC HEARING

DATE 4-17-78 PLACE MANDAN

PROJECT NO. 140

Your Name	Your Address	Who do you Represent? (Or Occupation)
Ruben Hummel	West N. Dak.	farmer
Dwight Rott	Jappen, ND	farmer
Herold Krafz	Turtle Lake ND	farmer
Austin Engel	Bismarck	SPD
Nick Schmell	Breier,	Farmer
Donald Lutz	Mandan	farmer
Bill Freymiller	Bismarck	
Jim Cook	Wagon	Farmer
John G. Tomau	Flaker	Gowder
Everett Johnson	Map ND	Farmer
Ron Gelsert	Max. N.D.	Farmer
Malcolm Otter	Bismarck Tribune	Trib
Erwin Jose	Regan	Farmer
Earl Brown	Turtle Lake	Farmer
Phil Park	Steele	Farmer

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT SWC PUBLIC HEARING

DATE _____ PLACE MANDAN

PROJECT NO. 1400

Your Name	Your Address	Who do you Represent? (Or Occupation)
<u>C. E. Mitchell</u>	<u>Bismarck</u>	<u>Calvin H. W. Bush</u>
<u>Pete Balkan</u>	<u>B13</u>	<u>Soil Cons. Service</u>
<u>Ray Price</u>	<u>Price</u>	<u>FARMER</u>
<u>Ken Jorsborg</u>	<u>Mandan</u>	<u>"</u>
<u>Walter Tupper</u>	<u>Tupper</u>	<u>Farmer</u>
<u>Frank Boudich</u>	<u>Glenview Mt.</u>	<u>TENNECO (BAC) Co.</u>
<u>Herbert Nathan</u>	<u>Colharbus</u>	<u>McLean Planning Comm</u>
<u>Ann van Oosting</u>	<u>Hensler 7 D,</u>	<u>oliver county Farmers Union</u>
<u>Roy Althoff</u>	<u>New Salem N.D.</u>	<u>Morton County F.U.</u>
<u>Kenneth Doepe</u>	<u>Wilton, N. Dak.</u>	<u>McLean Water Development</u>
<u>Alden S. Henderson</u>	<u>Breien N.D.</u>	<u>Engineer</u>
<u>James Burt</u>	<u>tenth side st</u>	<u>"</u>
<u>Clifford Nelson</u>	<u>mandan N. D.</u>	<u>Self & Pres. of lower best River Irrig Co</u>
<u>James Ketterling</u>	<u>Mandan</u>	<u>N.D. Assoc. of REC's / RTC's</u>
<u>Glenda Lotow</u>	<u>P.O. Box 1073 Bismarck, ND.</u>	<u>Natural Gas Pipeline Company of America</u>

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT SWC HEARING

DATE 4-18-78 PLACE JAMESTOWN

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Lawrence McMonty	Mund, N.D.	N.D. Water Users
Ed Walton	Englevale N. Dak	Myself
Ken Huber	Grand Forks 2414 West Willow Ct	
Bill Huthen	Lisbon N. Dak.	Myself
Terry Kemmet	Tappan, N.D.	KITWELL DRILLING, INC.
Wayne E. Buback	Cassington N. Dak	N.D.S.U. Extension Service
Vivige Ross	Northwood ND	farming myself
Paul M. Baker	P.O. Box 1294 Jamestown, ND	myself
Lowell Marshall	1015 10TH AVE. SE. JAMESTOWN	MY SELF
Robert T. Mayie	Verona N. Dak	Mayie Farms
Larry Kenyon	Englevale N. Dak.	self
Felix E. Sander	Jamestown	Farmer Union
Bill Swan	Jamestown	Farmer Union
Thomas Mund	DeLemue	Farm Bureau & myself
Paul Huntz	Tappan N.D.	myself

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Richard Bontrop	Doyle ND.	Farmer
Richard Bontrop	Steele	Co Agent
James Marsden	Box 2064 Targio, N.D.	N.D. FARM BUREAU
Zena Bierley	Adrian, ND.	
Bill Robb	Jamestown	KEYS RADIO
Howard Lakeus	Edgeley ND	irrigator
Bruce Lakeus	Edgeley ND	irrigator
Mike Brandenburg	Edgeley ND	irrigator
Dick Hatt	TAPPER ND	irrigator
Ed Schieder	Edgeley	irrigator
Ray Williams	Smethport	FR. SALESMAN
Jouie Williams	"	self
Dolan Lablow	Binford	irrigator
Anthony Peterson	"	Farmer
Harold Johnson	Talpa	Monnick - in villa in Dist

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT SWC HEARING

DATE 4-18-78 PLACE JAMESTOWN

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Gary Stenel	Englevale,	FARMER
Ronald Wagner	Englevale	FARMER
Al Larson	LaMoure Park	Farmer
Richard Anderson	Litchville, N.D.	Farmer
Harold Dewitz	Tappen, N.D.	Farmer
Craig Kemmet	Tappen N.D.	Farmer
Richard Dwyer	Tappen	Farmer
M. H. Werner	LaMoure	FARMER
Bill Schaefer	Jamestown	National Catholic Rural Life Conference
Edwin Dewitz	Tappen	Farmer
Douglas Mundt	LaMoure	Farming
Carol Hufnagel	Tappen	
Ken Crowell	530 3rd St. S.W. Jamestown	Planner
Pete Balkan	BIS	Soil Cons. Service
Dorinda V. Rupp	Edgley, N.D.	Jame Valley Elec Coop

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NORTH DAKOTA STATE WATER COMMISSION
REGISTER

ATTENDANCE AT _____

DATE _____ PLACE _____

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
Roger & Johnson	Tatna	Farming
Ralph M Winge	Sitchville	Farmer & Segestator
Poyce Duff	Verona	Farmer
Wm Schuck	Exploose	Farmer
Wm Kitterby	Jawston	Farmer Real Estate
Howard Bruthy	Wiskok	Farmer
Fran Daniels	Oakes	Farmer
Melvin Moench	Edgemoor N.D	farmer.

NORTH DAKOTA STATE WATER COMMISSION

REGISTER

ATTENDANCE AT SUB WATER COMM HEARING

DATE 4-18-78 PLACE JAMESTOWN

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
William Scoville	Steele	Irrigate owner of Irrigation Co.
Gene White	DAWSON	IRRIGATION self employed.
Edith Nash	HATTON, N.D.	TRAIL (a. 612 c 12)
Robert Guenz	Home Station Bernard, N. D.	Self Irrigation
Morton E. Bardell	Jamestown, N.D.	
Larry R. Hansen	Oakes N. Dak	Former Irrigator
Jerome Sepler	Lincoln N. Dak	Irrigator
Judy Delitz	Joppen	Irrigator
Doris Delitz	Joppen.	Irrigation
Erwin J. Lundgren	Kulen	