

NORTH DAKOTA STATE WATER COMMISSION

REGISTERATTENDANCE AT State Water Commission MeetingDATE July 25, 1979 PLACE Regent, N. Dak.

PROJECT NO. _____

Your Name	Your Address	Who do you Represent? (Or Occupation)
VERN FATH	BISMARCK	STATE ENGINEER
Jordan K. Gray	Valley City	Comm. Member
AL KRAMER	MINOT	COMM. MEMBER
R.P. Gallagher	MANDAN	" "
George Hardmayer	Mott.	Hettinger County W.M.O.
Frank H. Wagner	✓	✓ ✓ ✓
Chris Taylor Jr	New England	" " "
Arland Grunseth	Bismarck	SWC
David A. Spry	Bismarck	SWC
LAURENCE McBERTY	MINOT	ND. WATER USERS
ART LANZ	Devils Lake	SWC
Kaylene Cartmill	Dickinson	Dickinson Pres
Myron Just	Bismarck	Dept of Ag - Comm member
GOY LINK		
Comm Wilhelm	Dickinson	S.W. Commission

MINUTES

North Dakota State Water Commission
Meeting Held In
Cannonball Room
Regent, North Dakota

July 25, 1979

The North Dakota State Water Commission held a meeting in the Cannonball Room, Regent, North Dakota, on July 25, 1979. Governor-Chairman, Arthur A. Link, called the meeting to order at 10:00 a.m., MDT, and requested Secretary Vernon Fahy to present the agenda.

MEMBERS PRESENT:

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

OTHERS PRESENT:

State Water Commission Staff Members
Laurie McMerty, N.D. Water Users Association, Minot
Kaylene Cartmill, Dickinson Press
George Hardmeyer, Chairman, Hettinger County WMD, Mott
Frank Mayer, Commissioner, Hettinger County WMD, Bentley
Chris Tarpo, Commissioner, Hettinger County WMD, New England

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

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

CONSIDERATION OF MINUTES
OF JUNE 25, 1979 MEETING -
APPROVED

Secretary Fahy reviewed the minutes from the June 25, 1979 meeting which was held in Bismarck, North Dakota. There were no corrections or additions to the minutes.

It was moved by Commissioner Lanz, seconded by Commissioner Gallagher, and unanimously carried, that the minutes of the June 25, 1979 meeting be approved.

EPPING DAM PROPOSAL
(SWC Project No. 346)

Secretary Fahy briefed the Commission members on past actions this spring regarding his order, as State Engineer, that the dam be breached. The spillway of the dam was damaged severely by the high spring runoff. He cited the possible hazards of downstream damage if the dam failed by allowing the dam to remain in an unstable condition. He stated that because of local fisheries use and a Bible Camp there was great interest in restoring the dam.

Governor Link shared with the Commission some of the reactions from local groups regarding the State Engineer's actions, but was satisfied that the situation was handled properly.

Secretary Fahy presented a proposal for cost sharing to reconstruct the dam for an estimated \$510,000 in construction costs, with the federal Heritage Conservation Resource fund to pay 50 percent. Under the proposal, the local entity would acquire the necessary land acreage and the balance of funding would come from the State Outdoor Recreation Interagency Council, State Game and Fish Department, and the State Water Commission. Each agency's share was estimated to be \$85,000. Secretary Fahy recommended Water Commission participation in this project.

It was moved by Commissioner Kramer and seconded by Commissioner Just that the Water Commission participate financially in the reconstruction of Epping Dam with an amount up to \$85,000, subject to the availability of funds. All members voted aye; the motion unanimously carried.

ENGLISH COULEE
INVESTIGATION
(SWC Project No. 1502)

Secretary Fahy related the flooding problems of English Coulee near Grand Forks during the 1979 Red River Valley spring flood. The coulee drains from near Thompson into the west side of Grand Forks and through the University of North Dakota campus.

He noted that there was considerable local concern over the flooding and that he had discussed preliminary investigations with the U.S. Soil Conservation Service to provide a dike-type flood impoundment near Thompson. Secretary Fahy stated that in order to cut the overall time of investigations, the Soil Conservation Service requested the Water Commission to participate in the sub-surface exploration portion of investigation. The local water management district tentatively agreed to share in the exploration expense. The costs were estimated to be \$15,000, shared equally by the Water Commission and the District.

July 25, 1979

Governor Link raised the question of solving a problem which may have been caused or created by developers constructing without regard for a natural waterway. He expressed his desire to review past history and past actions involving the floodplain management of the waterway.

It was moved by Commissioner Gray and seconded by Commissioner Wilhelm that a motion be passed to authorize an amount not to exceed \$7,500 for sub-surface exploration along English Coulee and that amount be matched by the Grand Forks County Water Management District. The motion continued, "to limit future financial consideration until analysis of problems and alternative solutions were reviewed". Also included was the "Chairman's request to the State Engineer for summary of past history and past actions leading up to this 1979 spring flood problem of the English Coulee watershed". All members voted aye; the motion unanimously carried.

DISCUSSION OF RED RIVER
DIKES - DIKE REGULATIONS
(SWC Project No. 1638)

Proposed Rules and Regulations Governing the Construction of Dikes were circulated by Secretary Fahy, attached hereto as APPENDIX "A". He discussed the changes

since the previous proposal. The regulations provide that dikes can be constructed to provide a maximum one-half foot increase in the 100-year frequency flood elevation, but at no time can cause unreasonable damages due to displacement of floodwaters.

It was explained that similar regulations will be adopted in Minnesota, and it is hoped that Minnesota will vigorously apply and enforce the new criteria. In the past, Minnesota has shown a reluctance to apply criteria to existing dikes.

A public hearing will be held in Grand Forks on August 6, 1979, commencing at 8:30 a.m., concerning the new proposal. The hearing officer for the Minnesota Department of Natural Resources must determine if the new changes constitutes a significant change from the rules which were the subject of hearing in April of 1978. If so, Minnesota will also be required to hold a public hearing. The North Dakota hearing will be conducted by the State Engineer, or Counsel Michael Dwyer. Commission members are invited and encouraged to attend.

The dike construction regulations which were circulated state that they are emergency rules, and thus would be effective immediately upon the approval of the Attorney General. Secretary Fahy quoted the portion of the North Dakota Century Code which provides for emergency rules. The law provides:

July 25, 1979

- 28-32-03. Filing of Rules and Regulations - Effect of Rules.
2.(b) Subject to applicable constitutional or statutory provisions, an emergency rule shall become effective immediately upon approval by the Attorney General...if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

Secretary Fahy explained to the Commission the reasons for proposing that the dike regulations be adopted as emergency rules. First, the Governor had issued an Executive Order and the State Water Commission had subsequently adopted a similar resolution, which required that the State Engineer promulgate regulations for dike construction along the Red River by August 15. This was pursuant to an agreement between Governor Link and Governor Quie, to ensure that expeditious action was taken concerning the development of dike criteria. Secretary Fahy indicated that if the normal procedure was used for the dike regulations, it may be into October before they become effective, and therefore, too late to be applied to dike construction and reconstruction this fall. If a new hearing is not required in Minnesota for the dike regulations, it is anticipated Minnesota's regulations will become effective near the August 15 deadline.

Second, the State Engineer reviewed the reasons why the emergency effective date is necessary in light of the imminent peril to the public health, safety, or welfare requirements. In 1978, the Minnesota dikes were very effective, pushing floodwaters onto North Dakota lands while Minnesota lands behind the approximately 40 miles of dikes remained virtually dry. The result was millions of dollars of damage in North Dakota to farm property, roads, bridges, etc. In spite of this, Secretary Fahy indicated that Minnesota was very dilatory in adopting diking criteria to prevent future instances like the 1978 flood. The 1979 flood was a record flood, and dikes on both sides of the Red River were overtopped, and many were breached. To ensure that breached dikes were not immediately reconstructed to previous elevations, both North Dakota and Minnesota imposed moratoriums on any dike construction or reconstruction until August 15, at which time, dike regulations would have been promulgated. Secretary Fahy stated that the intent of these actions was to apply the promulgated regulations, when adopted, to dike reconstruction and construction, as well as existing dikes. This would be a major step towards resolving the present imbalance and inequity that exists due to the higher and more extensive dikes in Minnesota. If dike regulations cannot be imposed and enforced on dike construction activities this fall, North Dakota residents and property may be subject to the same situation as it was during the 1978 flood, resulting in millions of dollars of excessive and unnecessary damages. Thus, Mr. Fahy stated that it was his determination that flood damages which may result from failure to adopt the diking regulations for this fall's activities certainly poses an imminent threat to public safety and welfare, and warrants their adoption as emergency rules.

It was moved by Commissioner Wilhelm and seconded by Commissioner Gallagher that

July 25, 1979

Resolution No. 79-7-405, Adoption of Diking Regulations as Emergency, be approved. All members voted aye; the motion unanimously carried. (SEE APPENDIX "B")

During further discussion, Secretary Fahy said that an important element for an overall solution would be to construct ring dikes to protect farms, etc. under special federal funding. The technical help would be provided by the Soil Conservation Service and the State Engineer would have approval authority.

It was moved by Commissioner Gallagher and seconded by Commissioner Lanz to authorize the State Engineer to review the ring dike plans provided by the Soil Conservation Service. All members voted aye; the motion unanimously carried.

**DISCUSSION OF DRAINAGE
RULES AND REGULATIONS**

Copies of existing rules and regulations Governing Drainage of Water were circulated by Secretary Fahy, attached hereto as APPENDIX "C".

It was moved by Commissioner Just, seconded by Commissioner Kramer, and unanimously carried, that the Drainage of Water Regulations, which were circulated, be approved.

The following schedule was presented for six public hearings concerning the Rules and Regulations:

August 6, 1979 - Grand Forks - 8:30 a.m.
August 7, 1979 - Devils Lake - 1:30 p.m.
August 7, 1979 - Carrington - 7:30 p.m.
August 8, 1979 - Fargo - 9:00 a.m.
August 8, 1979 - Jamestown - 8:00 p.m.
August 13, 1979 - Minot - 9:30 a.m.

**DISCUSSION OF NATIONAL
WATER RESOURCES POLICY
AND DEVELOPMENT ACT -
U.S. SENATE BILL 1241**

A copy of U.S. Senate Bill 1241, sponsored by United States Senators Domenici and Moynihan was circulated to each Commission member. The bill is concerned with the National Water Resources Policy

and it, as well as President Carter's proposed policy, has some portions which would not be in the best interest of North Dakota.

Secretary Fahy requested that the Commission members review the proposed legislation prior to the August Commission meeting, so that the bill could be the subject of extensive discussion. He further stated

July 25, 1979

that the item is on the agenda for the next Missouri River Basin Commission meeting.

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

Secretary Fahy presented the water permit agenda, attached hereto as APPENDIX "D", and recommended approval. He noted that many of the agenda entries were for

"Voiding - Incomplete Applications". Discussions followed and Commission members agreed that the voiding of incomplete forms was necessary to keep the records in order.

It was moved by Commissioner Just, seconded by Commissioner Kramer, and unanimously carried, that the actions of the State Engineer be confirmed.

The following requests for water permits were approved: No. 3179 - City of Forman; No. 3180 - City of Oberon; No. 3183 - Texaco, Inc., Keene (this application was approved by the State Engineer on July 5, 1979); No. 2231 - Schwab Farms, Englevale (this is a request for a change in point of diversion); No. 3142 - Dan Laintz, Selfridge (this request was approved by the State Engineer on June 27, 1979); No. 2046 - Alan N. Edwards, Denbigh (this approves the balance of his original request held in abeyance); No. 3161 - Lester J. Lohse, Williston; No. 3122 - K. Kulland Excavating and Gravel Company, Williston; No. 2580 - James Dick, Englevale (this approves a portion of his original request being held in abeyance); No. 2527 - Schwab Brothers, Englevale; No. 3131 - Lidgerwood Golf Association, Inc., Lidgerwood; and No. 2450 - Arnold Widmer, Crete (this approves his request for an additional point of diversion).

The following applications were deferred at this time: No. 3178 - Terrance Zimbelman, Oakes; No. 3181 - LeRoy Schempp, Stirum; No. 3182 - Velva Community Development Corporation, Velva; No. 3184 - Orville Moen, Epping; No. 1023 - City of Sykeston (this is a request for a change in point of diversion); No. 1755 - Christine Sewer and Water Association, Christine; No. 1822 - City of Wahpeton (this is a request for a change in points of diversion); No. 2280 - N. A. Graves, Carrington (this is a request for a

July 25, 1979

change in points of diversion); No. 2988 and 2989 - Lynn Kyser, Erie; No. 3186 - City of Braddock; and No. 2675 - Harold and Harvey Campbell, McIntosh, SD.

The following applications were "Voided - Incomplete Applications": No. 2343 - David J. Hafner, Beulah; No. 2408 - Richard Kerzman, Roseglen; No. 3052 - Lawrence W. Black, Karlsruhe; No. 3088 - Victor and Robert Carlson, Britton, SD; No. 2369 - Harley Bunt, Stirum; No. 2833 - James Roach, Lisbon; No. 2644 - Phillip Juran, Oakes; No. 2694 - Kermit Warner, Moorhead, Minn; No. 2802 - Howard J. Carlson, Rock Lake; No. 2883 - Donald D. Helm, Fairview, Mont; No. 1883 - Henry Langerud, Hoople; No. 1695 - Nick Duppong, Glen Ullin; No. 2104 - Leo E. Ruhland, Emmet; No. 2131 - David Conn, Bismarck; No. 2774 - Dale Stedman, Beach; No. 2811 - Gerald Lechler, Beach; No. 2812 - Vernon Schock, Jamestown; No. 1850 - Barry A. Buchholtz, Jamestown; No. 1846 - Rudolph Hepper, Fort Yates; No. 2806 - Arno Satrom, Clifford; No. 2829 - Terry E. Meyers, Galesburg; No. 2717 - Welton J. Nims, Lisbon; No. 2765 - H. Daniel Frojen, Oakes; No. 2614 - Gloria Brummund, Oakes; No. 2816 - Allan Kirkeby, Drayton; No. 2836 - Ronald M. Kloster, Mayville; No. 3093 - Louis S. Reimers, Carrington; and No. 2135 - Thomas W. Beierle, Mercer. SEE APPENDIX "D"

DISCUSSION OF A PROPOSAL
FOR STATE-CONSTRUCTED
PUMPED-STORAGE HYDROPOWER
ALONG MISSOURI RIVER IN
(SWC Project No. 1652)

Secretary Fahy introduced Lawrence McMerty from the North Dakota Water Users Association, who presented a proposal for State-constructed pumped-storage in North Dakota. Further discussion will be held at the August meeting.

WATER SERVICE CONTRACT FOR
PROPOSED COAL GASIFICATION
PLANT IN WESTERN NORTH DAKOTA
(SWC Water Permit No. 1901A)

Secretary Fahy circulated copies of a news release from the Department of the Interior concerning a water service contract for a proposed coal gasification plant in western North Dakota.

AUGUST WATER COMMISSION MEETING

Secretary Fahy distributed copies of the invitation from Basin Electric and the response from Governor Link regarding the Commission's August 23 meeting in Beulah.

July 25, 1979

In response to a question, Secretary Fahy briefed the Commission and those present on the present status of many CCC, WPA, and FERA dams in North Dakota.

The meeting was recessed at 12:15 p.m. The Commission members then participated in the dedication of Indian Creek Dam at 2:00 p.m.



Arthur A. Link
Governor-Chairman

ATTEST:



Vernon Fahy
State Engineer and Secretary

July 25, 1979

ARTICLE 89-05

PROPOSED REGULATIONS GOVERNING
THE CONSTRUCTION OF DIKES

89-05-01-01. INTENT. The purpose of these rules is to provide for the orderly and consistent review of permit applications to construct, relocate, rebuild or alter agricultural dikes located within the flood plains of the Red River of the North and Bois de Sioux Rivers. The authority to establish these rules is granted to the North Dakota state engineer by section 61-16-15 of the North Dakota Century Code. Similar rules will be in effect in the state of Minnesota. The two states recognize that establishment of these rules governing the issuance, review and denial of permits to construct, relocate, rebuild or alter agricultural dikes along the Red and Bois de Sioux 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 a cooperative and coordinated manner because water management decisions which appear logical in a local or statewide context may have negative interstate and international impacts. These rules will also provide a basis for the review of existing unauthorized agricultural dikes along the Red River and Bois de Sioux River.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-16-15
61-02-24

89-05-01-02. APPLICATION OF REGULATIONS. These regulations govern the review, issuance and denial of permits to construct, relocate, rebuild or alter agricultural dikes located within the flood plains of the Red River of the North and the Bois de Sioux River. Floodplain areas of the Red River of the North are defined by Appendix O, Volume 8 of the Souris-Red-Rainy Basins Comprehensive Study of "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 the Red River or the Bois de Sioux River.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-03. DEFINITIONS. Unless the context otherwise requires, the following definitions apply:

1. "Dike" means an embankment constructed of earth and/or other suitable materials to protect agricultural lands from floods which result from overflow of watercourses or from diffused surface waters.

2. "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.
3. "Farmstead" means a farm dwelling and/or associated farm buildings.
4. "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.
5. "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.
6. "Ring Dike" means an embankment constructed of earth and/or other suitable materials for the purpose of enclosing a farmstead.
7. "Waterway" 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.
8. "Board of commissioners" means the board of commissioners of a water management district.
9. "District" means water management district.
10. "Person" means a human being, firm, partnership, association, corporation, or any other type of private legal relationship, and any governmental organization, which includes, but is not limited to, any agency of the United States, a state agency, and any political subdivision of the state.
11. "State engineer" means the state engineer, appointed pursuant to North Dakota Century Code section 61-03-01, or the state engineer's designee.
12. "Watershed" means the area draining into, or contributing water to, the Red River of the North or the Bois de Sioux River.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-04. SEVERABILITY. The provisions of these regulations shall be severable, and the invalidity of any section or subsection shall not make void any other section or subsection, or any other part.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-05. DESIGN CRITERIA.

1. Dikes shall be constructed so as not to cause an increase in the elevation of flood waters which will result in an unreasonable increase in flood damages due to the displacement of flood waters. However, in no event shall dikes, based on total encroachment, increase the elevation of flood water of the 100 year frequency flood of more than one-half foot.
2. Calculation of the effects of proposed dikes shall be based on the dikes being located on both sides of the Red and Bois de Sioux Rivers so as not to cause more than one-half of the maximum allowable stage increase. If mutual agreement has been reached between persons on both sides of the river, dikes on one side of the river may utilize the entire increase in flood stage elevation allowable.
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.

General Authority

Law Implemented
NDOC 61-16-15

89-05-01-06. DIKE DESIGN DATA. The North Dakota State Water Commission shall provide the discharges and corresponding elevations of various frequency floods (and other available flood data), in relation to known historic floods, for use in dike design.

General Authority

Law Implemented
NDOC 61-16-15

89-05-01-07. DIKES ACROSS NATURAL WATERWAYS AND LEGAL DRAINS. Dikes shall not be constructed across tributaries to the Red River and the Bois de Sioux River without proper authorization from the appropriate agency. Dike setbacks along tributary waterways to the River River and the Bois de Sioux River, within the area defined in Section 89-05-01-02, shall meet the criteria as stated in section 89-05-01-04. Dikes constructed across legal drains or public ditch systems constructed pursuant to Chapter 61-21 of the North Dakota Century Code shall require the approval of the appropriate drain board, water management district or other local authority.

General Authority

Law Implemented
NDOC 61-16-15

89-05-01-08. FARMSTEAD DIKING. Within an existing dike system, ring dikes around individual farmsteads shall not require permits if they do not include tie-backs to existing roadways or dikes. Ring dikes with tie-backs shall be considered part of the overall dike system and will be required to secure diking permits. This waiver of a permit requirement for ring dikes from the state engineer does not relieve the necessity of appropriate authorization for ring dikes from the local water management district in accordance with the North Dakota Century Code.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-09. 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 North Dakota state engineer and shall be accompanied by two (2) complete sets of plans or specifications. Such plans and specifications shall include the following:

1. A general location map with a minimum scale of 1"=800' showing the following:
 - a. Location of the dike with respect to the watercourse;
 - b. Location of field inlets to provide for internal drainage;
 - c. Location of legal drains and natural channels tributary to the main river channel.
2. Detailed cross-sections of the dike showing elevations, in relation to mean sea level, and side slopes.
3. The state engineer may require any other additional information that he deems necessary.

After review of the information required above and other available data, the state engineer 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.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-10. 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 engineer. These permit applications, taken together, must meet the requirements of this chapter.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-11. REFERRAL TO WATER MANAGEMENT DISTRICT. Within forty-five days after the receipt of a permit application, the state engineer shall make recommendations and suggestions concerning the propriety and efficiency of the proposal to the water management district within which the contemplated project is located. The water management district shall, in accordance with these regulations, review the application and impose any conditions for the orderly management of water resources it deems necessary. The permit application shall then be returned to the state engineer for final approval. Unless an exception is granted pursuant to section 89-05-01-15 of this chapter, the state engineer and the water management district shall not allow the construction of a dike not in conformance with this chapter nor which is unsafe, improper, or dangerous, and may order such changes as necessary for safety or the protection of property.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-12. ISSUANCE OF PERMITS. Dike permits will be issued only upon concurrent approval of the state engineer and the appropriate water management district. Approval of the permit will in no way relieve the owner from damages which may be caused or created by construction of the dikes.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-13. JOINT ADMINISTRATION. A copy of each application and accompanying information for a permit shall be forwarded by the state engineer to the department of natural resources of Minnesota for comment and recommendation before final approval is granted. If comments are not received within thirty days, the state engineer shall process the permit without such comments.

General Authority

Law Implemented
NDCC 61-16-15
61-02-24

89-05-01-14. PERMIT REVOCATION. The applicant shall provide 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 engineer. 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 state engineer and the appropriate water management district will also result in revocation of the permit.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-15. DIKE RECONSTRUCTION OR REBUILDING. Reconstruction or rebuilding of any authorized dikes shall require notification of the state engineer and recertification upon completion in accordance with section 89-05-01-14.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-16. 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 North Dakota 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, among other things, shall be increase in flood stage, increase of stage at existing city dikes, increase in stream velocity, and environmental effects. In addition, the state engineer will authorize the utilization of farmsteads, property lines, and existing roads for dike construction, consistent with these regulations.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-17. APPLICATION TO EXISTING DIKES. These rules 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 89-05-01-02. Exceptions are farmstead dikes which meet the provisions of section 89-05-01-08.

General Authority

Law Implemented
NDCC 61-16-15

89-05-01-18. PROCEDURE UPON COMPLAINT OF VIOLATION. If the state engineer receives a complaint of unauthorized dike construction, the state engineer shall so inform the appropriate district. The district shall report on the complaint within thirty days. If the district fails to satisfactorily report on the complaint within thirty days or if its report indicates the existence of unauthorized dike construction but that it intends to take no action on the complaint, the state engineer may send such district notice of intent to file suit under the North Dakota Environmental Law Enforcement Act of 1975, as provided in North Dakota Century Code section 32-40-07. If the district fails to satisfactorily respond to the notice of intent, the state engineer may file a suit against the district which seeks that the court order proper enforcement or which seeks other appropriate relief, as provided in North Dakota Century Code chapter 32-40.

General Authority

Law Implemented
NDCC 61-16-15
32-40-07

89-05-01-19. ENFORCEMENT ACTION WITHOUT RECEIPT OF COMPLAINT. The state engineer may take the enforcement action described in section 89-02-01-21 without the receipt of a complaint if the state engineer has determined that a violation of North Dakota Century Code section 61-16-15 has occurred.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-16-15

89-05-01-20. CRIMINAL COMPLAINT. If the state engineer determines that North Dakota Century Code section 61-16-15 has been violated, the state engineer may cause a criminal complaint to be filed against the accused.

General Authority
NDCC 28-32-02
61-03-13

Law Implemented
NDCC 61-16-15

89-05-01-21. EMERGENCY. These regulations will take effect immediately upon approval of the attorney general.

General Authority
NDCC 28-32-02
61-03-13

Law Implemented
NDCC 28-32

RESOLUTION NO. 79-7-405

Adoption of Diking
Regulations as Emergency

WHEREAS, the Red River of the North is an interstate and international river, draining thousands of acres of watershed area in North Dakota, South Dakota, and Minnesota; and

WHEREAS, in recent years, frequent flooding by the Red River of the North has caused the loss of millions of dollars in damage and has destroyed crops, roads, bridges, and buildings; and

WHEREAS, extensive dikes have been constructed along the Red River of the North, both in Minnesota and North Dakota, north of Grand Forks, North Dakota. However, the dikes constructed along the Red River in Minnesota are more extensive (46 miles in Minnesota compared to 21 miles in North Dakota), more continuous, and capable of retaining more water, and therefore magnify damages in North Dakota caused by flooding of the Red River; and

WHEREAS, the severe flooding of the Red River in 1979 caused the breach of many of the dikes along the Red River; and

WHEREAS, Governor Link and Minnesota Governor Quie have agreed that it is necessary to prohibit the reconstruction of any existing dikes, or the construction of any new dikes, until uniform rules for dike construction are adopted in both states, to ensure that citizens on both sides of the Red River receive equitable protection from agricultural dikes; and

WHEREAS, it is imminent that rules be immediately adopted to apply to dike construction or reconstruction activities during the remainder of 1979, to ensure that the present inequitable situation does not continue for any additional flood seasons.

NOW, THEREFORE, BE IT RESOLVED that the North Dakota State Water Commission in its meeting held in Regent, North Dakota, on this 25th day of

July, 1979, does hereby strongly support the State Engineer's determination that dike regulations be promulgated as emergency regulations, for the reasons that emergency adoption of such regulations may prevent substantial damages which may otherwise occur due to existing dikes.

FOR THE NORTH DAKOTA STATE WATER COMMISSION:

/S/ Arthur A. Link
Arthur A. Link
Governor-Chairman

SEAL

ATTEST:

/S/ Vernon Fahy
Vernon Fahy
State Engineer and Secretary

ARTICLE 89-02

DRAINAGE OF WATER

Chapter
89-02-01 Drainage of Ponds, Sloughs, or Lakes or any Series
Thereof, and of Meandered Lakes

CHAPTER 89-02-01
DRAINAGE OF PONDS, SLOUGHS, OR LAKES, OR ANY SERIES
THEREOF, AND OF MEANDERED LAKES

Section	
89-02-01-01	Intent
89-02-01-02	Definitions
89-02-01-03	Permit Required
89-02-01-04	Permits for Legal Drains
89-02-01-05	Exceptions to Permit Required
89-02-01-06	Methods For Determining Area of Watershed
89-02-01-07	Filing Application
89-02-01-08	Referral of Applications To Appropriate Water Management District
89-02-01-09	Criteria for Determining Whether Drainage is of Statewide or Interdistrict Significance
89-02-01-10	Hearing on Applications of Statewide or Interdistrict Significance
89-02-01-11	Emergency Drainage
89-02-01-12	Notice of Hearing
89-02-01-13	Content of Notice of Hearing
89-02-01-14	Time for Determination by Board of Commissioners
89-02-01-15	Determination by Board of Commissioners
89-02-01-16	Approval of Applications by Board of Commissioners
89-02-01-17	Denial of Application
89-02-01-18	Approved Applications of Statewide or Interdistrict Significance
89-02-01-19	Criteria to Determine Whether Drainage Will Adversely Affect Lands of Lower Landowners
89-02-01-20	Conditions to Permits
89-02-01-21	Procedure Upon Complaint of Violation
89-02-01-22	Enforcement Action Without Receipt of Complaint
89-02-01-23	Criminal Complaint

89-02-01-01. INTENT. The intent of this article is to establish rules for the handling of applications for permits to drain certain ponds, sloughs, or lakes, or any series thereof, and meandered lakes, as required by North Dakota Century Code Sections 61-01-22 and 61-15-08.

General Authority
 NDCC 61-03-13
 28-32-02

Law Implemented
 NDCC 61-01-22
 61-15-08

89-02-01-02. DEFINITIONS. Unless the context otherwise requires, the following definitions apply:

1. "Board of commissioners" means the board of commissioners of a water management district.
2. "District" means water management district.
3. "Drain" includes any natural watercourse opened or improved for the purpose of draining a pond, slough, or lake, or any series thereof, and any artificial drains of any nature or description constructed for such purpose, including dikes and other appurtenant works.
4. "Legal Drain" means a drain constructed pursuant to Chapter 61-21 of the North Dakota Century Code.
5. "Slough" includes three types:
 - a. Type one are "seasonally flooded basins or flats" which includes lowlands where the soil is covered with water, or is waterlogged, during variable seasonal periods but is usually well drained.
 - b. Type two are "inland fresh meadows" which includes lowlands where the soil is usually without standing water during most of the growing season but is waterlogged within at least a few inches of its surface.
 - c. Type three are "inland shallow fresh marshes" which includes lowlands where the soil is usually waterlogged during the growing season and is often covered with as much as six inches (15 centimeters) or more of water.
6. "Pond" means the lowland where the soil is covered with six inches (15 centimeters) to three feet (0.91 meters) or more of water during the growing season. This definition classifies ponds as type four or "inland deep marshes".
7. "Lake" means a lowland having a greater depth of water and having more permanent standing water than either a slough or pond. This definition classifies lakes as type five or "inland open fresh water".

8. "lateral drain" means a drain constructed after the establishment of the original drain or drainage system (for which a permit was obtained) and which flows into such original drain or drainage system.
9. "Meandered lake" means any pond, slough, or lake which has been totally or partially meandered and its metes and bounds established by the government of the United States in the survey of public lands.
10. "Person" means a human being, firm partnership, association, corporation, or any other type of private legal relationship, and any governmental organization, which shall include, but not be limited to, any agency of the United States, a state agency, and any political subdivision of the state.
11. "State engineer" means the state engineer, appointed pursuant to North Dakota Century Code section 61-03-01, or the state engineer's designee.
12. "Watershed" means the area contributing surface waters into a slough, pond, or lake.
13. "Waterway" means any channel, either natural (as a lake, river, stream, creek, or draw) or artificial (as a canal, grassed ditch, drain, ditch or pipe).

General Authority
 NDCC 61-03-13
 28-32-02

Law Implemented
 NDCC 61-01-22,
 61-15-08

89-02-01-03. PERMIT REQUIRED.

1. A permit is required before any person may construct a drain for the purpose of draining waters from a slough, pond, or lake, or any series thereof, having a watershed area of eighty acres (32 hectares) or more.
2. A permit is required before any person may drain by pumping a slough, pond, or lake or connected series of sloughs, ponds, or lakes having a watershed of eighty acres (32 hectares) or more.
3. A permit is required before any person may drain or cause to be drained, or who shall attempt to drain any meandered lake.
4. A permit is required for a "legal drain" constructed pursuant to North Dakota Century Code Chapter 61-21.

5. A permit is required for the construction of any lateral drain, as defined herein, unless it is within the assessed area of a legal drain which has been permitted for the entire assessed area, in accordance with section 89-02-01-04.
6. A permit is required before any person may modify the drainage authorized in the original permit. Modification of drainage shall include deepening and widening of a drain, or the extension of any drain.
7. A permit is not required for the cleaning and clearing of obstructions to a drain, or seeding or riprapping, provided that the drainage authorized in the original permit is not altered. Nor shall a permit be required for the cleaning and clearing of obstructions to a drain constructed pursuant to Chapter 61-21 of the North Dakota Century Code which did not require a drainage permit when constructed, provided the drain has been properly maintained and the cleaning or clearing does not alter the original drainage.

General Authority
 NDCC 61-03-13
 28-32-02

Law Implemented
 NDCC 61-01-22
 61-15-08

89-02-01-04. PERMITS FOR LEGAL DRAINS. The permit for a "legal drain" constructed pursuant to Chapter 61-21 of the North Dakota Century Code, if so specified, may encompass the entire assessed or benefited area. In order for a permit to encompass the entire assessed or benefited area, the legal drain must be designed to accommodate, as determined by the state engineer, the drainage of the entire assessed area. However, it may still be necessary to secure the approval of the appropriate drain board or water management district prior to the construction of lateral drains, as defined herein, within the assessed area.

General Authority
 NDCC 28-32-02
 61-03-13

Law Implemented
 NDCC 61-01-22
 61-15-08

89-02-01-05. EXCEPTIONS TO PERMIT REQUIRED. The provisions of section 89-02-01-03, except subsection 3, shall not apply to any drain constructed under the comprehensive supervision of a federal or state agency. The only agencies deemed capable of such comprehensive supervision are the state water commission, state highway department, army corps of engineers, the soil conservation service, for projects constructed pursuant to the Watershed Protection and Flood Prevention Act (Pub. L. 83-566; 16 USC 1001) and the bureau of reclamation. However, these agencies shall notify the state engineer of any proposed drainage projects under their direct supervision prior to construction.

General Authority
 NDCC 28-32-02
 61-03-13

Law Implemented
 NDCC 61-01-22
 61-15-08

89-02-01-06. METHODS FOR DETERMINING AREA OF WATERSHED. The following methods shall be utilized in determining whether the area of a watershed for a slough, pond, or lake, or any series thereof, comprises eighty acres (32 hectares) or more.

1. The watershed area shall be estimated from the most accurate or reliable maps or surveys available. Published seven and one-half minute topographic maps are preferred.
2. Aerial photographs of the watershed may also be used to define the drainage area.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22

89-02-01-07. FILING APPLICATION. Any person desiring a drainage permit shall file an application with the state engineer on state water commission form number twenty-eight. A copy of the permit application shall also be filed with the board of commissioners of the water management district within which is found a majority of the watershed or drainage area of the pond, slough, or lake, or any series thereof. (The Richland County water management district has requested that the permit application be forwarded through the local water management district for consideration before submission to the state engineer). The applicant shall provide an engineering analysis showing the downstream impacts of the proposed drainage. The analysis shall include a determination of the capacity of the receiving waterway and a comparison of pre-drainage and post drainage waterway flows. If the application is incomplete, or if the information contained therein is insufficient to enable the state engineer or the appropriate water management district to make an informed decision on the application, the application shall be returned to the applicant for correction.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-08. REFERRAL OF APPLICATIONS TO APPROPRIATE WATER MANAGEMENT DISTRICT. The state engineer shall determine whether the application involves drainage of statewide or interdistrict significance. The state engineer shall attach to the application any comments, recommendations, and engineering data which may assist the appropriate district in making a determination on the application. The application shall then be referred to the appropriate board of commissioners of the water management district within which is found a majority of the watershed or drainage area of the pond, slough, or lake, or any series thereof.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-09. CRITERIA FOR DETERMINING WHETHER DRAINAGE IS OF STATEWIDE OR INTERDISTRICT SIGNIFICANCE. In determining whether the proposed drainage is of statewide or interdistrict significance, the state engineer shall be guided by the following criteria:

1. Drainage which would affect property owned by the state or its political subdivisions.
2. Drainage of sloughs, ponds, or lakes having recognized fish and wildlife values.
3. Drainage which would reduce the storage capacity of a slough, pond, or lake to be drained by twenty-five acre-feet (30.83 cubic decameters) or more.
4. Drainage or partial drainage of a meandered lake.
5. Drainage which would have a substantial effect on another water management district.
6. Drainage which would convert previously non-contributing areas (based on twenty-five year event - four percent chance) into permanently contributing areas.
7. The state engineer shall not be limited to the criteria of subsections 1 through 6 of this section. For good cause, the state engineer may classify any proposed drainage as having statewide or interdistrict significance, or the state engineer may determine that certain proposed drainage is not of statewide or interdistrict significance even though the proposed drainage falls within subsections 1, 2, 3, 5, or 6.
8. Drainage of type one sloughs is not of statewide or interdistrict significance.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-10. HEARING ON APPLICATIONS OF STATEWIDE OR INTERDISTRICT SIGNIFICANCE. Upon referral by the state engineer of an application of statewide or interdistrict significance to the board of commissioners, the board shall set a date for a hearing. The purpose of the hearing shall be to collect evidence from those concerned as to whether the application to drain should be granted, and if so, the conditions under which any water may be drained. In addition, the board shall investigate whether the projected additional quantity of water which will be drained will overburden the waterway into which water will be drained, and whether such drainage will flood or adversely affect the lands of lower proprietors. A hearing shall not be required by the state engineer for proposed drainage which is not of statewide or interdistrict significance.

However, the appropriate water management district may hold hearings on such applications at their discretion.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-11. EMERGENCY DRAINAGE. The requirement for a hearing and notice thereon may be waived by the state engineer in order for the board of commissioners to process applications for temporary emergency drainage. However, a hearing shall be conducted at the earliest opportunity if the emergency drainage is to be permanent and has been determined by the state engineer to be of statewide or interdistrict significance.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-12. NOTICE OF HEARING. For all hearings required pursuant to this article, the board of commissioners shall, at the applicant's expense, publish notice in a newspaper of general circulation in the area of the proposed drainage once a week for two consecutive weeks. The final published notice shall be published not more than fifteen days, nor less than five days, before the date set for the hearing. The board of commissioners shall also, at the applicant's expense, give notice by certified mail not more than thirty days nor less than ten days from the date set for hearing, to:

1. All record title owners of real estate or holders of a contract for deed whose property would be directly affected by the proposed draining, as determined by the board of commissioners of the water management district.
2. All downstream landowners riparian to the waterway into which water will be drained, within two miles (3 kilometers) from the outlet of the drain.
3. Any water management district which would be affected by the water to be drained. This must include any adjacent district into which the drained water will flow.
4. The North Dakota game and fish department.
5. The North Dakota department of health.
6. The state highway department for any proposed drainage which will affect the right-of-way of any state highway.

General Authority
NDCC 28-32-02
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-13. CONTENT OF NOTICE OF HEARING. The notice shall give all essential facts concerning the proposed drainage, including, but not limited to: name and address of applicant; legal description of the area to be drained; purpose of drainage; waterway into which the water will be drained; legal description of confluence of drain and waterway into which the water will be drained; estimated dates drainage construction will commence; the time, date, and location of the hearing; and other pertinent information.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-14. TIME FOR DETERMINATION BY BOARD OF COMMISSIONERS. Within thirty days after a hearing required pursuant to this article, or at the earliest opportunity in emergency situations, the board of commissioners shall make a determination on the application. The thirty day time limit may be extended by the board for complex or unique applications.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-15. DETERMINATION BY BOARD OF COMMISSIONERS. The determination by the board of commissioners upon a permit application shall include the following considerations:

1. Whether the quantity of water to be drained will overburden the waterway into which the water will be drained.
2. Whether the drainage will flood or adversely affect the lands of lower proprietors.
3. Whether easements acquired are adequate.
4. Whether the board has considered oral and written comments and testimony received at the hearing.
5. Any conditions deemed necessary by the board of commissioners.
6. Any other factors deemed important by the board of commissioners.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-16. APPROVAL OF APPLICATIONS BY BOARD OF COMMISSIONERS.

1. Approved Applications not Involving Drainage of Statewide or Interdistrict Significance. The board of commissioners' approval shall be noted thereon and it shall be a permit to drain. Notice of the board's action shall be forwarded to the state engineer.
2. Approved Applications Involving Drainage of Statewide or Interdistrict Significance. The board of commissioners' approval shall be noted thereon, and the application, along with the determination, copies of all applicable easements, copies of the publication of notice, minutes of the hearing and any meeting relating thereto, and any information used by the board in reaching a determination on the application shall be immediately forwarded to the state engineer. Notice of the board's action shall be forwarded to the applicant.

General Authority
NDOC 28-32-02,
61-03-13

Law Implemented
NDOC 61-01-22
61-15-08

89-02-01-17. DENIAL OF APPLICATION. A denied application shall be returned to the applicant along with a copy of the board of commissioners' determination. A complete copy of the determination shall also be forwarded to the state engineer.

General Authority
NDOC 28-32-02,
61-03-13

Law Implemented
NDOC 61-01-22
61-15-08

89-02-01-18. CONSIDERATION BY STATE ENGINEER OF APPLICATIONS OF STATEWIDE OR INTERDISTRICT SIGNIFICANCE. The state engineer, upon receipt of an application to drain of interdistrict or statewide significance, which has been approved by a board of commissioners, shall make a determination whether the permit shall be granted, utilizing information received from the water management district. The state engineer shall utilize any other available information. If the state engineer determines that the applicant and the board of commissioners have satisfactorily shown that the proposed drainage satisfies applicable requirements, the state engineer shall approve the permit. If the state engineer is not so satisfied the state engineer shall either deny the application or return it to the appropriate board of commissioners for reconsideration noting the application's shortcomings thereon. In making his determination, the state engineer shall consider, among other things:

1. Whether the proposed drainage will adversely affect property owned by the state or a political subdivision.

2. Whether the water to be drained may overburden an interdistrict waterway.
3. Whether the proposed drainage will adversely affect the property of downstream landowners.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-19. CRITERIA TO DETERMINE WHETHER DRAINAGE WILL ADVERSELY AFFECT LANDS OF LOWER LANDOWNERS. The state engineer and board of commissioners shall be guided by the following criteria:

1. No uncontrolled drainage shall be permitted into receiving waterways unless specific data indicates that such receiving waterway has sufficient capacity to handle the additional flow of water.
2. No uncontrolled drainage shall be permitted from noncontributing watershed. A non-contributing drainage area, for the purposes of this section, is an area which does not contribute natural flowing surface water to a waterway at an average frequency more often than once in three years over the latest thirty year period.
3. Exceptions may be authorized by the board of commissioners and state engineer on an individual basis. Factors that will be considered shall be waterway capacities, control structures, drainage area, increased volume of runoff, and environmental effects. Request for exceptions must be accompanied by a plan satisfactory to the board of commissioners and state engineer.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-11
61-15-08

89-02-01-20. CONDITIONS TO PERMITS. The state engineer may require as a condition to any permit a post-construction survey of the permitted drain. Cross-section or profile surveys may be required at points specified by the state engineer. Any permit to which the state engineer has attached such condition will be perfected upon receipt of the survey. The state engineer may attach any other conditions to an approved permit deemed necessary by him according to the circumstances of each application.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-21. PROCEDURE UPON COMPLAINT OF VIOLATION. If the state engineer receives a complaint of unauthorized drainage, the state engineer shall so inform the appropriate district. The district shall report on the complaint within thirty days. If the district fails to satisfactorily report on the complaint within thirty days or if its report indicates the existence of unauthorized drainage but that it intends to take no action on the complaint, the state engineer may send such district notice of intent to file suit under the North Dakota Environmental Law Enforcement Act of 1975, as provided in North Dakota Century Code section 32-40-07. If the district fails to satisfactorily respond to the notice of intent, the state engineer may file a suit against the district which seeks that the court order proper enforcement or which seeks other appropriate relief, as provided in North Dakota Century Code chapter 32-40.

General Authority
NDCC 28-32-02
61-03-13

Law Implemented
NDCC 32-40-07
61-01-22,
61-15-08

89-02-01-22. ENFORCEMENT ACTION WITHOUT RECEIPT OF COMPLAINT. The state engineer may take the enforcement action described in section 89-02-01-21 without the receipt of a complaint if the state engineer has determined that a violation of North Dakota Century Code section 61-01-22 or North Dakota Century Code section 61-15-08 has occurred.

General Authority
NDCC 28-32-02,
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

89-02-01-23. CRIMINAL COMPLAINT. If the state engineer determines that either North Dakota Century Code section 61-01-22 or North Dakota Century Code section 61-15-08 has been violated, the state engineer may cause a criminal complaint to be filed against the accused.

General Authority
NDCC 28-32-02
61-03-13

Law Implemented
NDCC 61-01-22
61-15-08

* INDICATES PRIOR
PERMIT STATUS

WATER PERMIT AGENDA FOR JULY 25, 1979 MEETING

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3178	Zimbelman, Terrance - Oakes (Sargent County) Priority: 4-17-79 Hearing: 6-25-79	Ground Water * NO PRIOR PERMITS	Irrigation	544.6 acre-feet 362.95 acres	It is recommended that action be deferred at this time.
3179	Forman, City of - Forman (Sargent County) Priority: 4-12-79 Hearing: 6-25-79	Ground Water * NO PRIOR PERMITS	Municipal	149.0 acre-feet	149.0 acre-feet
3180	Oberon, City of - Oberon (Benson County) Priority: 4-23-79 Hearing: 6-25-79	Ground Water * NO PRIOR PERMITS	Municipal	33.8 acre-feet	33.8 acre-feet
3181	Schempp, LeRoy - Stirum (Sargent County) Priority: 4-24-79 Hearing: 6-25-79	Ground Water * NO PRIOR PERMITS	Irrigation	960.0 acre-feet 624.6 acres	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3182	Velva Community Development Corporation - Velva (McHenry County) Priority: 4-25-79 Hearing: 6-25-79	Ground Water * NO PRIOR PERMITS	Industrial	276.2 acre-feet	It is recommended that action be deferred at this time.
3183	Texaco, Inc. - Keene (McKenzie County) Priority: 4-27-79 Hearing: 6-25-79	Ground Water * The applicant holds a number of permits in McKenzie County.	Industrial (to dissolve salt accumulations in producing oil wells)	29.04 acre-feet	29.04 acre-feet (This request was approved by the State Engineer on July 5, 1979.)
3184	Moen, Orville - Epping (Williams County) Priority: 5-10-79 Hearing: 6-25-79	Unnamed Stream, trib. to Stony Creek and Missouri River * NO PRIOR PERMITS	Irrigation - Waterspreading	187.5 acre-feet 125.0 acres	It is recommended that action be deferred at this time.
1023	Sykeston, City of - Sykeston (Wells County) Priority: 6-28-62 Hearing on Amendment: 7- 3-79	Pipestem Creek (Lake Hiawatha), trib. to James River	Municipal	This is a request for a change in point of diversion to NE¼ Section 13, Township 146, Range 69	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
1755	Christine Sewer and Water Association - Christine (Richland County) Priority: 4026-79 Hearing: 7- 3-79	Ground Water * NO PRIOR PERMITS	Municipal	100.0 acre-feet	It is recommended that action be deferred at this time.
1822	Wahpeton, City of - Wahpeton (Richland County) Priority: 6-11-73 Hearing on Amendment: 7- 3-79	Ground Water	Municipal	This is a request for a change in the points of diversion.	It is recommended that action be deferred at this time.
2280	Graves, N. A. - Carrington (Foster County) Priority: 5-12-75 Hearing on Amendment: 7- 3-79	Ground Water	Irrigation	This is a request for a change in the points of diversion.	It is recommended that action be deferred at this time.
2231	Schwab Farms - Englevale (Ransom County) Priority: 3-10-75 Hearing on Amendment: 7- 3-79	Ground Water	Irrigation	This is a request for a change in point of diversion.	It is recommended that this request for a change in point of diversion be approved.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2988	Kyser, Lynn - Erie (Cass County) Priority: 5- 2-79 Hearing: 7- 9-79	Ground Water * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
2989	Kyser, Lynn - Erie (Cass County) Priority: 5- 2-79 Hearing: 7- 9-79	Ground Water * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 160.0 acres	It is recommended that action be deferred at this time.
3186	Braddock, City of - Braddock (Emmons County) Priority: 4-24-79 Hearing: 7- 9-79	Ground Water * NO PRIOR PERMITS	Municipal	25.0 acre-feet	It is recommended that action be deferred at this time.
2675	Campbell, Harold and Harvey - McIntosh, S.D. (Grant County) Priority: 6-21-79 Hearing: 7- 9-79	Unnamed Creek, trib. to Cedar River * #1335 (Priority Date: 8-28-65) Granted 222.0 acres	Stockwater & Recreation	21.0 acre-feet storage plus 15.0 acrefeet annual use	It is recommended that action be deferred at this time.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
3142	Laintz, Dan - Selfridge (Sioux County) Priority: 11- 3-78 Hearing: 1-22-79 Deferred: 2-20-79	Unnamed Stream, trib. to Porcupine Creek and Missouri River * NO PRIOR PERMITS	Livestock	48.2 acre-feet storage plus 29.1 acre-feet annual use	48.2 acre-feet storage plus 29.1 acre-feet annual use (This request was approved by the State Engineer on June 27, 1979)
2046	Edwards, Alan N. - Denbigh (McHenry County) Priority: 8- 8-74	Ground Water (Denbigh Aquifer) * NO PRIOR PERMITS	Irrigation	882.0 acre-feet 882.0 acres	On June 30, 1975, the applicant was granted 770.0 acre-feet of water to irrigate 511.0 acres; balance of request held in abeyance. The SWC staff has reviewed that portion held in abeyance and now requests releasing an additional 112.0 acre-feet to irrigate an additional 133.0 acres. Totals granted would then be 882.0 acre-feet to irrigate 644.0 acres. The remaining 238.0 acres would be denied.
3161	Lohse, Lester J. - Williston (Williams County) Priority: 2-16-79 Hearing: 5- 7-79 Deferred: 6-25-79	Cottonwood Lake * NO PRIOR PERMITS	Irrigation	300.0 acre-feet 200.5 acres	Recommend for approval: 40.0 acre-feet 40.0 acres (Remainder of request to be held in abeyance)

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2343	Hafner, David J. - Beulah (Mercer County) Priority: 12-22-75	Lake Sakakawea * #1904 (Priority Date: 1-30-73) Granted 532.0 acres	Irrigation	1064.0 acre-feet 532.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2408	Kerzman, Richard - Roseglen (McLean County) Priority: 3-19-76	Ground Water * NO PRIOR PERMITS	Irrigation	1170.0 acre-feet 780.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
3052	Black, Lawrence W. - Karlsruhe (McHenry County) Priority: 2-22-78	Ground Water * #1906 (Priority Date: 1-22-73) Granted 158.0 acres	Irrigation	158.0 acre-feet 79.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
3088	Carlson, Victor and Robert - Britton, S.D. (Sargent County) Priority: 4-13-78	Ground Water * NO PRIOR PERMITS	Irrigation	960.0 acre-feet 468.6 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2369	Bunt, Harley - Stirum (Ransom County) Priority: 2-13-76	Ground Water * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 160.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2833	Roach, James - Lisbon (Ransom County) Priority: 4-20-77	Sheyenne River, trib. to Red River of the North * NO PRIOR PERMITS	Irrigation	280.0 acre-feet 140.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2644	Juran, Phillip - Oakes (Sargent County) Priority: 11-22-76	Ground Water * NO PRIOR PERMITS	Irrigation	217.35 acre-feet 144.9 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2694	Warner, Kermit - Moorhead, Minn. (Cass County) Priority: 1-24-77	Ground Water * NO PRIOR PERMITS	Irrigation	240.0 acre-feet 160.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2802	Carlson, Howard J. - Rock Lake (Towner County) Priority 3-31-77	Slough, trib. to Rock Lake * NO PRIOR PERMITS	Irrigation	431.0 acre-feet 213.5 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2883	Helm, Donald D. - Fairview, Mont. (McKenzie County) Priority: 6-17-77	Ground Water * NO PRIOR PERMITS	Irrigation	320.0 acre-feet 160.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
1883	Langerud, Henry - Hoople (Walsh County) Priority: 10-13-72	Ground Water * NO PRIOR PERMITS	Industrial	3.0 acre-feet	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
1695	Duppong, Nick - Glen Ullin (Morton County) Priority: 3-31-70	Muddy Creek, trib. to Heart River * NO PRIOR PERMITS	Recreation	32.0 acre-feet storage plus 24.0 acre-feet annual use	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2104	Ruhland, Leo E. - Emmet (McLean County) Priority: 5-30-74	Garrison Reservoir, trib. to Missouri River * NO PRIOR PERMITS	Irrigation	960.0 acre-feet 564.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2131	Conn, David - Bismarck (Emmons County) Priority: 7-11-74	Oahe Reservoir * NO PRIOR PERMITS	Irrigation	91.0 acre-feet 45.5 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2774	Stedman, Dale - Beach (Golden Valley Co.) Priority: 3-11-77	Little Beaver Creek, trib. to Beaver Creek and Little Mo. River * NO PRIOR PERMITS	Irrigation	252.0 acre-feet 126.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2811	Lechler, Gerald - Beach (Golden Valley Co.) Priority: 4-11-77	Little Beaver Creek, trib. to Beaver Creek and Little Mo. River * NO PRIOR PERMITS	Irrigation- Waterspreading	68.0 acre-feet 34.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2812	Schock, Vernon - Jamestown (Stutsman County) Priority: 4-11-77	Ground Water * NO PRIOR PERMITS	Irrigation	318.0 acre-feet 159.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
3122	Kulland, K. Excavating & Gravel Company - Williston (Williams County) Priority: 4-19-79 Hearing: 6-18-79 Deferred: 6-25-79	Ground Water (Little Muddy Aquifer) * #2445 (Priority Date: 5-10-76) Granted 10.0 acre-feet	Industrial (Gravel Wash Plant)	5.0 acre-feet	5.0 acre-feet
2580	Dick, James - Englevale (Ransom County) Priority: 10-21-76 Hearing: 2-14-77	Ground Water (Englevale Aquifer) * #2581 (Priority Date: 10-21-76) Mr. Dick applied for a total of 160.6 acres. Application is in pending status.	Irrigation	1600.0 acre-feet 800.0 acres	On April 18, 1979, the applicant was granted 60.0 acre-feet to irrigate 40.0 acres; remainder of request held in abeyance. A portion of that amount held in abeyance has now been reviewed and it is recommended that the applicant be granted an additional 45.0 acre-feet to irrigate an additional 30.0 acres; remainder of request shall continue to be held in abeyance. Totals then granted thus far would be 105.0 acre-feet to irrigate 70.0 acres.

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2527	Schwab Brothers - Englevale (Ransom County)	Ground Water (Englevale Aquifer)	Irrigation	720.0 acre-feet 360.0 acres	150.0 acre-feet 100.0 acres
	Priority: 3- 2-77 Hearing: 11-13-78 Deferred: 12- 5-78	* #2231 (Priority Date: 3-10-75) Granted 410.0 acres to Schwab Farms			
3131	Lidgerwood Golf Association, Inc. - Lidgerwood (Richland County)	Ground Water (Milnor Aquifer)	Irrigation (Golf Course)	50.0 acre-feet 19.34 acres	30.0 acre-feet 19.34 acres
	Priority: 7- 3-78 Hearing: 11-20-78 Deferred: 12- 5-78	* NO PRIOR PERMITS			
2450	Widmer, Arnold - Crete (Sargent County)	Ground Water (Engelvale Aquifer)	Irrigation	This is a request for an additional point of diversion located in NE¼ of Section 10-132-58.	It is recommended that this additional point of diversion be approved.
	Priority: 5-12-76 Hearing on Amendment: 6-18-79 Action Deferred on Amendment: 6-25-79				

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
1850	Buchholtz, Barry A. - Jamesstown (Stutsman County) Priority: 5-16-72	James River * NO PRIOR PERMITS	Irrigation	12.0 acre-feet 6.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
1846	Hepper, Rudolph - Fort Yates (Sioux County) Priority: 5- 4-72	Oahe Reservoir * NO PRIOR PERMITS	Irrigation	968.0 acre-feet 484.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2806	Satrom, Arno - Clifford (Cass & Steele Cos.) Priority: 4- 4-77	Ground Water * NO PRIOR PERMITS	Irrigation	1840.0 acre-feet 1227.5 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2829	Meyers, Terry E. - Galesburg (Steele County) Priority: 4-18-77	Ground Water * NO PRIOR PERMITS	Irrigation	240.0 acre-feet 160.0 acres	Application is Incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2717	Nims, Welton J. - Lisbon (Ransom County) Priority: 2- 9-77	Ground Water * NO PRIOR PERMITS	Irrigation	540.0 acre-feet 320.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2765	Frojen, H. Daniel - Oakes (Dickey County) Priority: 2- 2-77	James River * #1337 (Priority Date: 10-29-65) Granted 80.0 acres	Irrigation	519.95 acre-feet 343.3 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2614	Brummund, Gloria - Oakes (Sargent County) Priority: 10-29-76	Ground Water * NO PRIOR PERMITS	Irrigation	240.0 acre-feet 160.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2816	Kirkeby, Allan - Drayton (Walsh County) Priority: 4-13-77	Red River of the North * NO PRIOR PERMITS	Irrigation	300.0 acre-feet 267.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".

NO.	NAME AND ADDRESS	SOURCE	PURPOSE	AMOUNTS REQUESTED	COMMENTS & RECOMMENDATIONS
2836	Kloster, Ronald M. - Mayville (Steele County) Priority: 4-22-77	Ground Water * NO PRIOR PERMITS	Irrigation	600.0 acre-feet 312.0 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
3093	Reimers, Louis S. - Carrington (Foster County) Priority: 4-25-78	Ground Water * NO PRIOR PERMITS	Irrigation	1764.0 acre-feet 1175.6 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".
2135	Beierle, Thomas W. - Mercer (McLean County) Priority: 8- 1-74	Ground Water * NO PRIOR PERMITS	Irrigation	223.8 acre-feet 149.2 acres	Application is incomplete and the applicant has not expressed an interest to complete; therefore, it is recommended the application be "Voided".