

Testimony Provided by Robert Shaver, Director, Water Appropriations Division, North Dakota State Water Commission to the Legislative Audit and Fiscal Review Committee – December 19, 2012.

Water Permitting Process Concerns:

- I. Reducing the time required for the State Engineer to take action on a water permit application.
 - Evaluation time is, in many cases, not due to lack of staff but rather is “science based”.
 - Many of the state’s groundwater aquifers are at advanced stages of development.
 - To make decisions on pending applications from these aquifers can take 10 to 15 years of monitoring aquifer water-level response to pumping, water use monitoring, and climate data monitoring.
 - The State Engineer is very reluctant to deny these pending applications until he can do so with a high level of certainty that the aquifer (water source) cannot accommodate additional development.
 - State law requires that the rights of senior appropriators (permit holders) cannot be unduly affected.

- II. Communication protocols between water permit applicant and Water Appropriations Division.
 - Improvements can be made to notify permit applicant of status of permit and selected stages of processing. For example:

Once the water permit application is forwarded to project area hydrologist for evaluation, the hydrologist should notify permit applicant. The hydrologist can describe local water management issues and concerns and provide permit applicant with an estimated time line for completion.

If the projected evaluation time is in excess of a year, the project hydrologist should periodically contact the permit applicant and provide an update on the status of the permit.

III. Does the Water Appropriations Division have adequate resources in place to efficiently process water permit applications?

- The State Engineer has requested funding for two FTE's in the 2012-2015 biennium budget for the Water Appropriations Division of the State Water Commission.
- One position is for a Water Resource Engineer II to evaluate water permit applications in the Missouri River drainage basin, that are predominately for water associated with oil field industrial use.
- There are only two hydrologists tasked with evaluating surface water permit applications in the State. The hydrologist assigned to the Missouri River basin has seen a very large increase in temporary water permit applications with the advent of the oil boom in western North Dakota. In 2012, this hydrologist processed close to 500 temporary surface water permit applications, many of which were to provide water for oil field industrial use.
- The second FTE requested is a Water Resource Manager.
- Currently the Water Appropriations Division of the State Water Commission employs only one Water Resource Manager to monitor and compile annual water use throughout the entire state. The scope of these duties and responsibilities has increased on an annual basis as the number of permitted water users has increased.