

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2281

2007 SENATE NATURAL RESOURCES

SB 2281

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2281

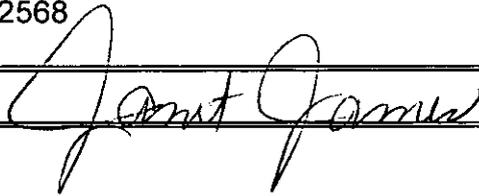
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: # 2568

Committee Clerk Signature



Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened the hearing on SB 2281 relating to posting land to prohibit hunting and the operation of snowmobiles and off-highway vehicles.

All members of the committee were present.

Senator Robert Erberle from District 28 prime sponsor of SB 2282 introduced the bill stating it was on behalf of his constituents. He stated he shares the passion of these constituents as a rancher and land owner. The bill is simple in intent as it states all fenced land is to be considered posted. Being a hunter, he allows hunting on his own land and is not trying to create a rift between hunter/land owner relationships but is hoping to actually narrow the gap. Violations come from those entering posted land and there is no penalty or recourse. Gate posting is not effective as entry to the land is often made on the back side of the property and some times the hunter is not aware of the posting. The fact that property is fenced means there is something in that fence that needs protecting therefore stay away. He further stated that at least 2/3 of land is not fenced and is most likely crop land and it would be a burden to post. The bill addresses range land that does not have a lot of hunting on it. He further stated that with the expensive equipment hunter invest in, they should also buy a PLOT book and

look in a phone book to make the contact with the property owner, and they would bridge the hunter/landowner relationship gap. This is a private property rights issue.

Senator Lyson stated he has received a lot of messages regarding this bill and with North Dakota being so vast and landowners not living on the property; they are upset because they do not want to have to post their land. They would post their land if they wanted to post it and they do not want to be bothered for permission.

Senator Joel Heitkamp asked if a one wire electric fence met the criteria of holding livestock.

Senator Erbele confirmed that to be true as if it holds livestock it would need to be posted but an abandoned fence is not included.

Senator Ben Tollefson stated it is a matter of definition, as what is a fence that is capable of holding livestock.

Senator Erbele explained it is any kind of fence, a single electric wire, although it would be difficult to describe in law as there are many different methods of enclosing livestock.

Senator Tollefson stated many hunters are not knowledgeable about what it takes to enclose livestock so therefore it could be difficult for them to recognize.

Senator Erbele commented that all hunters should be certain of what they are hunting and where they are hunting and the bridge of the landowner/hunter relationship would be narrowed if this was done.

Senator Ryan Taylor of District 7, co-sponsor of SB 2281 testified stating that during his campaign for reelection he heard many of his constituent's concern regarding the burden of having to post their land every year. He has never refused hunters and he also encourages youth hunting by using the youth stickers. His constituents are concerned about their cattle and the time element of posting land. In section 3 he would add the owner's address for contacting

and with technology it is easier to contact landowners. He agreed that defining a fence capable of holding livestock might be problematical.

Senator Tollefson asked if he is in favor all land being posted unless posted open for hunting.

Senator Taylor answered he can see both sides of the issue. From his point of view and from what he heard during the campaign if ranchers can keep their livestock safe and know what is happening in the fenced areas, they would be happy.

Senator Herbert Urlacher stated his name was on the bill and that in his area pasture land is very spread out from the headquarters and posts land that needs protection. His beginning thoughts of signing onto this bill was that there was some merit to it regarding his area, but is open to ideas for the purpose of the people of the state as a whole.

Brian Kramer representing the North Dakota Farm Bureau testified in support of SB 2281 stating they have had a long standing policy of posting all lands in the state of North Dakota. They support the bill from the stand point of protection of livestock.

Senator Lyson asked for opposing testimony of SB 2281.

Foster Hager representing the Cass county Wildlife Club testified in opposition to SB 2281 (See attachment # 1). He further stated the bill is moving toward posting of all lands and the language of what is "capable of holding livestock" needs to be defined.

Roger Kaseman from Linton, North Dakota testified in opposition to SB 2281 stating if they as farmers/ranchers wanted to post their land they would. He stated the bill is a toe in the door to take all land off. As former law enforcement he has found people are not willing to report trespassers and a deputy would have difficulty deciding if an area is actually a fenced area under the definition stated in the bill. He agreed the bill is a property rights issue and the bill would take away the right to post land or not post land. One other issue with the bill is the

government will "Deemed to be posted" and the government will not deem him to do anything. It should be up to the landowner, not the state if private land should be posted.

Mike Donahue representing the United Sportsmen of North Dakota and the North Dakota Wildlife Federation testified in opposition of SB 2281 as they agree it is good courtesy to contact the landowner for hunting passage.

Terry Steinwand, Director of the North Dakota Game and Fish Department testified in opposition to SB 2281 stating the trespass laws that have evolved over the years have worked fairly well. The lands that these laws address are the easiest to post, meaning at the gate to the property. He agreed with biggest issue of the difficulty with this bill is the contacting the landowner. Another challenge of this bill is the definition of "capable fencing" and how does a hunter know what is private and what is public land. The biggest concern of the department with any no trespass bill would be the reduction of the ability of the hunter to access the resource in a reasonable manner. He presented data to the committee (See attachment #2)

Bill Helphrey representing the North Dakota Bow Hunter Association testified in opposition to SB 2281 (See attachment #3).

Dennis Daniel testified in opposition to SB 2281 stating there is a lot of land owned by the state much of it not attainable because section lines are solidly fenced off. He had two requests if the bill is passed, first all section lines should have an easily operable gate and second, that there is equal taxes for everyone. If the bill passed the tax gap will just be widened.

Senator Lyson commented SB 2281 was not about taxes.

David Munsch from Morton County testified in opposition to SB 2281 telling of his problems getting a section line gate from the county. He suggested an amendment to the bill so that every section line has access by a gate.

Senator Lyson asked for neutral testimony and hearing none closed the hearing SB 2281.

Senator Joel Heitkamp made a motion for a Do Not Pass of SB 2281.

Senator Tollefson second the motion.

A roll call vote for a Do Not Pass of SB 2281 was taken indicating 7 Yeas, 0 nays and 0 absent or not voting.

Senator Heitkamp will carry SB 2281.

REPORT OF STANDING COMMITTEE (410)
February 1, 2007 1:51 p.m.

Module No: SR-22-1833
Carrier: Heltkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2281: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO NOT PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2281 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

SB 2281

Attachment #1

Cass County
WILDLIFE CLUB

Box 336
Casselton, ND 58012



TESTIMONY OF FOSTER HAGER
CASS COUNTY WILDLIFE CLUB
PRESENTED TO THE SENATE NATURAL RESOURCES COMMITTEE
ON

SB 2281

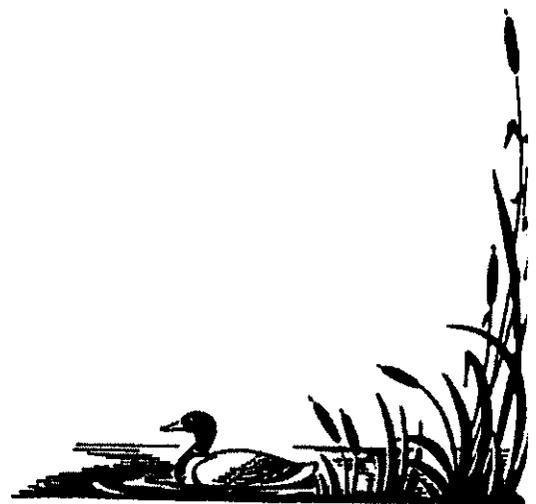
February 1, 2007

Mr. Chairman and Members of the Committee:

My name is Foster Hager representing the Cass County Wildlife Club. We oppose SB 2281 because it appears to make a farmer post land open to hunting (you may hunt signs) if the land is fenced and the farmer wants his land open to hunting.

This bill appears to be a small version of the No Trespass Bill.

Please oppose SB 2281.



**NORTH DAKOTA GAME AND FISH DEPARTMENT
TESTIMONY FOR SB 2281**

February 1, 2007

The North Dakota Game and Fish Department opposes SB 2281.

Current law requires that only the name of the landowner or tenant be legibly written on the posting sign.

1. Fenced lands are some of the easiest to post since it only requires that signs be placed at gates on fenced areas.

Issues

1. How do potential hunters know who to contact for permission to hunt.
2. Private ownership interspersed with federal/state land (which is open to hunting) but both are fenced.

Comparisons

Public Land Open to Hunting

1. North Dakota: 5%
2. South Dakota: 7%
3. Montana: 31%
4. Wyoming: 50%
5. Minnesota: 20%

Hunter Recruitment/Retention

1. Potential to reduce youth hunter recruitment and retention.
2. Hunter survey numbers
 - a. 37% use PLOTS because of no access to private lands
 - b. 68% use PLOTS because private land was posted
 - c. 19% use PLOTS because no public land nearby.

Overall, reducing reasonable ability to access will reduce hunting and management ability.

North Dakota Game and Fish urges a 'do not pass' recommendation.

SB 2281

Good morning Mr. Chairman and members of the Committee

My Name is Bill Helphrey and I represent the North Dakota Bowhunters Association.

We ask that you to defeat this bill.

Those that support this legislation probably ask if it is too much for the hunter to drive in the yard or call them and ask permission to hunt on private land. Our reply to that is "no"; we are not against this bill because we don't want to ask permission to hunt on private land. We respect the rights of the landowner and prefer to have a good working relationship with them. We want to be able to return year after year and not have to always look for a new place to hunt. We are however, against this bill because it would require us to find the landowner to get this permission; and that finding is the problem. Without any posters with the landowner's name, it is a real challenge just finding the landowner.

Without the aid of a "no hunting sign" with the landowners name on it, and even with the aid of a county map and county atlas, finding the owner in order to ask permission is in many cases difficult if not impossible.

I have randomly selected a page from such a county atlas to demonstrate this point. Let's take a look at township 142N-R88W in Mercer County. This is an area in unit 9-C, which is open to Antelope hunting.

I do not know what year this atlas was published, however the cost then was \$84.00. Even if it were brand new, there is no guarantee of accuracy.

According to this County Atlas, there are 57 landowners that own that entire township of 36 sections. Only two, of the thirty-six sections, are owned in their entirety by any single individual. Many of the sections have as many as four owners, each owning part of the section. Of the 57 owners listed, only 20 are listed as even living in the township. A search of the Beulah, Hazen and Center telephone listings produced 30 of the 57 names; slightly over 50%. This leaves the remaining 27 landowners location unknown.

Those that support this bill will claim that it works in Montana and Wyoming. It does. However, as shown in my example, it is not unusual for North Dakota Landowners to own land that is broken up into pieces that are scattered across the area and there are quite a few North Dakota landowners that live out of state. This Bismarck Tribune article sites an individual that owns 300 acres and lives in Wisconsin. How are we going to find him? The land in Montana and Wyoming is generally contiguous in nature and the landowner usually lives on that land. When one gets permission to hunt in those other states they are usually hunting on a piece of property that is all in one block, and large enough to spend some time on. The average size of a farm or ranch in North Dakota is 1283 acres. The average farm or ranch in Montana is 2139 acres and the average farm or ranch in Wyoming is 3651 acres. These numbers come from the Economic Research Service, United States Department of Agriculture.

With this bill, a landowner that wanted to encourage hunting because of depredation problems would automatically have his land posted whether he wanted it or not..

In many cases North Dakota land is just too broken up to make finding the landowner an even moderate task at best. I would like to make reference to an article in the Bismarck Tribune, dated January 19, 2007. -----

All we are asking for is a realistic chance of being able to contact the proper person so we can ask. If the land isn't posted, the owner is telling us that it is OK to hunt on that property. If it is posted, we at least have a name to start with. Don't take away the only practical tool we have for asking permission to hunt.

Thank you for your time and please defeat this bill.

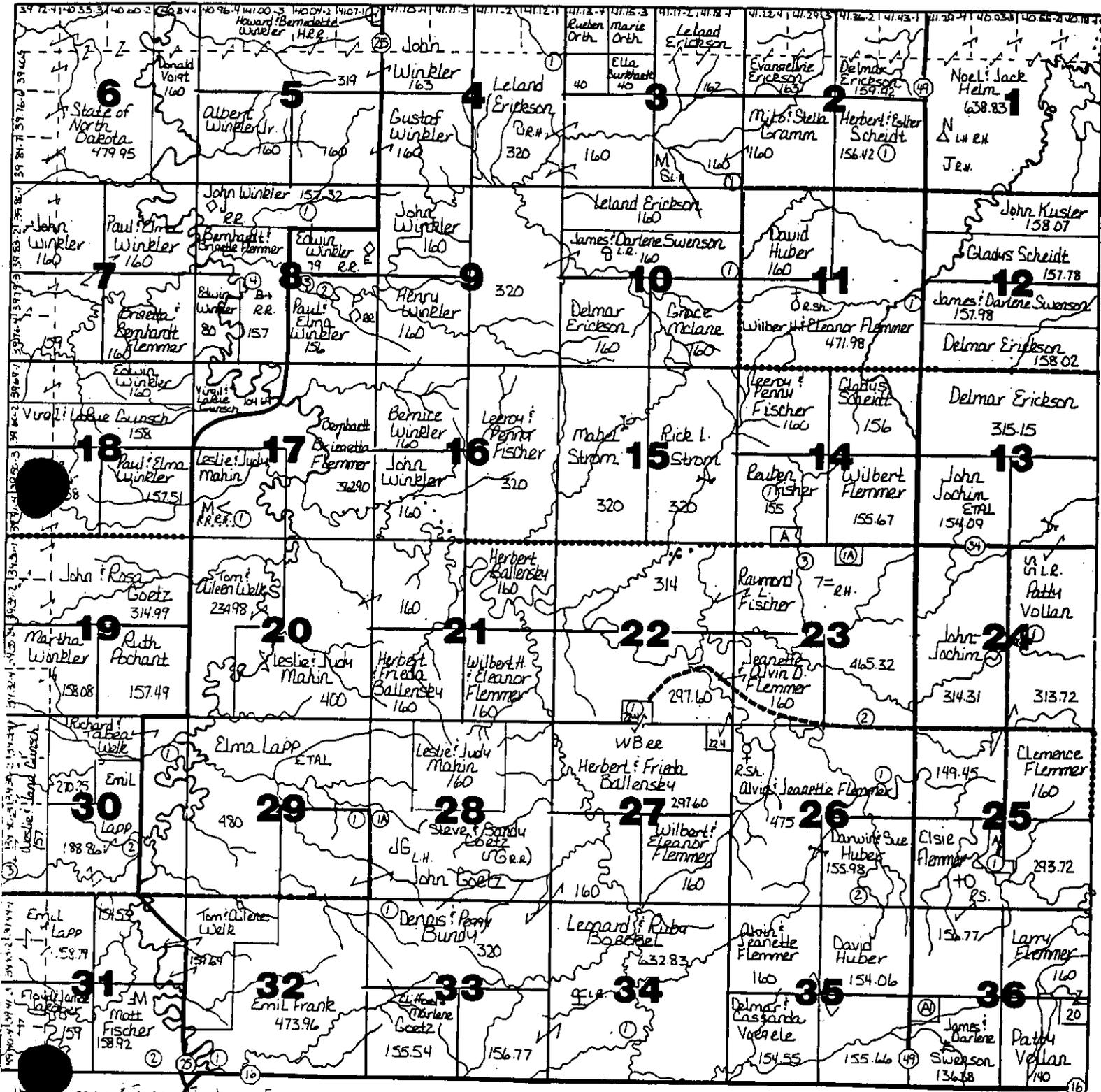
Does anyone have any questions of me?

TOWNSHIP: 142N

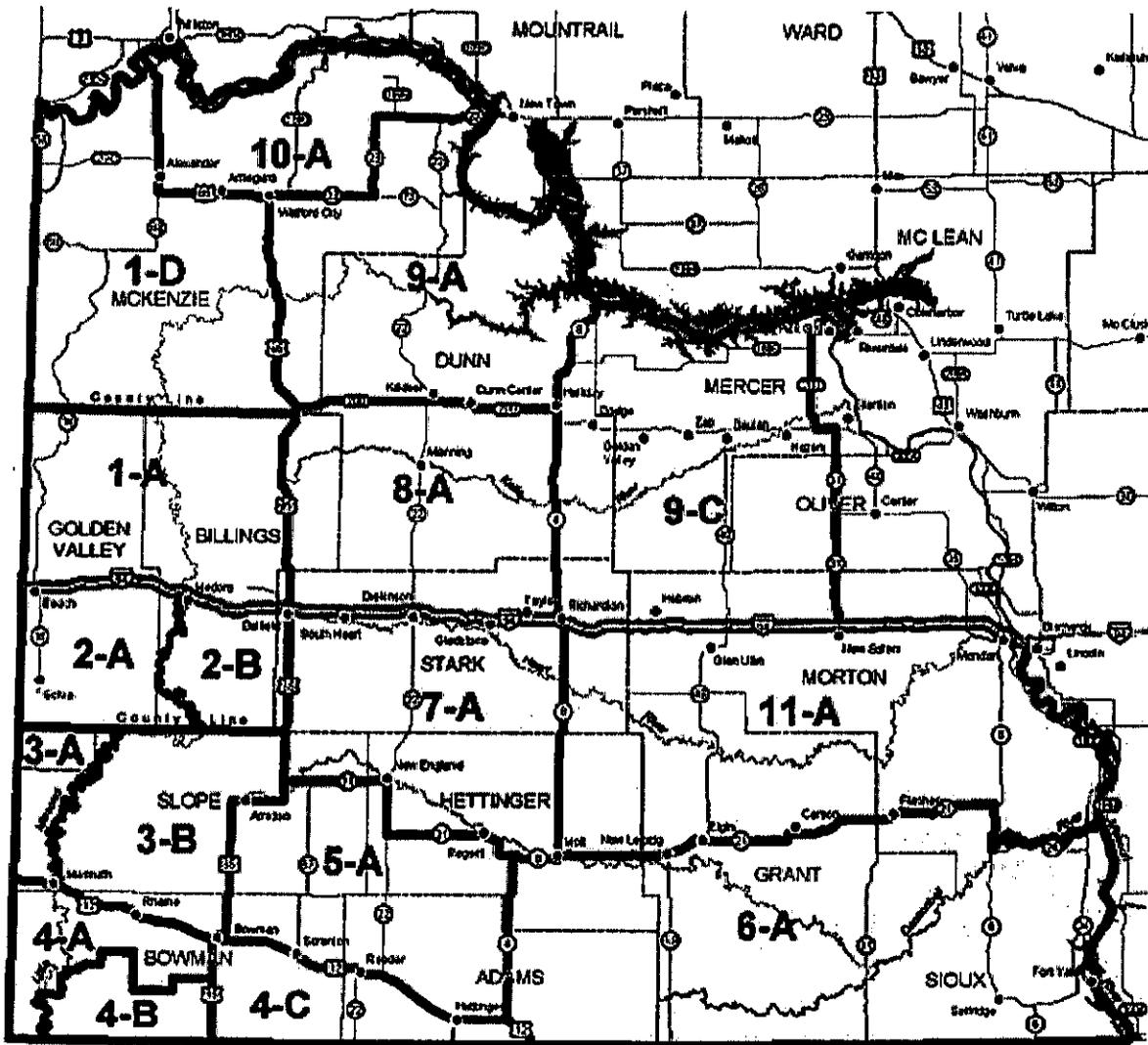
MAP OF: TWP 142N-R88W

RANGE: 88W

CODE: D



- 1. Leroy & Penny Fischer 5
- 23. R. Larry & Lora Gustaf 5
- 25. P. Frank & Penny Eide Jr. 188
- 27. P. Wilbert & Eleanor Flemmer 28
- 28. P. John & Wilma Goetz 28
- 29. P. John Kemmel 25



Last Name	First Name	Live In Twsp
Ballensky	Herbert	Y
Boeckel	Leonard & Ruby	Y
Boehler	Twila	N
Bundy	Dennis & Peggy	Y
Burkhaelt	Ella	N
Erickson	Leland	Y
Erickson	Evangeline	N
Erickson	Delmar	N
Fischer	LeRoy & Penny	N
Fischer	Reuben	Y
Fischer	Raymond	Y
Fischer	Matt	N
Flemmer	Berry & Bernhardt	N
Flemmer	Bernhardt & Brieaetta	N
Flemmer	Wilbert & Eleanor	Y
Flemmer	Jeanette & Alvin	N
Flemmer	Clarance	N
Flemmer	Elsie	N
Flemmer	Larry	N
Frank	Emil	N
Goetz	John & Rosa	N
Goetz	Sandy & Steve	N
Goetz	Clifford & Marlene	Y
Gramm	Milo & Stella	Y
Gunsch	Virgil & Lalue	N
Helm	Noel & Jack	N
Huber	Darwin & Sue	Y
Huber	David	N
Jochim	John	Y
Kusler	John	N
Lapp	Emil	N
Mahin	Leslie & Judy	Y
McLane	Grace	N
Orth	Rueben	N
Orth	Marie	N
Pochart	Ruth	N
Scheidt	Gladys	N
Schidt	Herbert & Ester	N
State of ND		
Strom	Mabel	N
Strom	Rick L	N
Swenson	James & Darlene	Y
Voegele	Delmar & Cassanda	N

Voight	Donald	N
Vollar	Patty	N
Welk	Tom & Aileen	Y
Welk	Richard & Tabea	Y
Winkler	Howard and Bernadette	Y
Winkler	Albert	N
Winkler	John	Y
Winkler	Gustaf	N
Winkler	Paul & Elma	Y
Winkler	Edwin	Y
Winkler	Henry	N
Winkler	Bernice	N
Winkler	John	Y
Winkler	Martha	N

57 owners listed

20 Listed as living in Township

Largest single block is 640 acres

640 acre ownership appears twice out of 36 sections