

**1999 HOUSE NATURAL RESOURCES**

**HB 1166**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1166

House Natural Resources Committee

Conference Committee

Hearing Date 1/15/99

Tape Number	Side A	Side B	Meter #
1	x		4.0-18.8
Committee Clerk Signature <i>Kevin Zareh</i>			

Minutes:

**SUMMARY OF THE BILL:** A BILL for an Act to create and enact five new sections to chapter 61-24.6 of the North Dakota Century Code, relating to water rates, operation and maintenance fund, reserve fund for replacement, capital costs, and areas served by the northwest area water supply project; and to amend and reenact section 61-02-23.1 and subsections 3, 6, and 7 of section 61-24.6-02 of the North Dakota Century, relating to condemnation of property for and inclusion of Pierce County in the northwest area water supply project.

Chairman Grosz opened the hearing on HB 1166.

Dave Sprynczynatyk, State Engineer and Secretary to the State Water Commission appeared in favor of HB 1166. (see attached testimony)

Rep. Drovdal asks why we need a new section to authorize the northwest pipeline.

Mr. Sprynczynatyk answered that it would be more efficient to do so.

Rep. Drovdal questioned the water pipeline area, as he noted that most of the western part of the state was not included in the pipeline area, so he asked if it could be renamed the North Central pipeline.

Mr. Sprynczynatyk answered in a joking manner that he could go along with Rep. Drovdal's suggestion.

Rep. Martinson asked Mr. Sprynczynatyk about conflicting interests concerning the historical society.

Mr. Sprynczynatyk answered that they must take that into concern, but he felt that for the most part, the northwest pipeline does not involve Rep. Martinson's district.

Rep. Nelson had a question regarding the quick-take clause and land ownership, and he wanted to know the nature of the dispute, that Mr. Sprynczynatyk referenced in regards to the southwest pipeline.

Mr. Sprynczynatyk answered that in one particular case, there were some absentee land owners, and then he turned the answering over to his project manager, who then described some other cases in answer to Rep. Nelson.

Rep. Nelson asked a follow up question, in regards to quick-take, in the case that negotiations fall through, has it ever occurred that a pipeline was changed to go around a land owner's property.

Mr. Sprynczynatyk answered that they try to work closely with the land owners, but since the pipelines are so complicated, that it would be rare that changing the plans would happen, due to costs and other complications.

Rep. Nottestad asks if it makes it easier to have the quick-take, as the land owners know that the land owners land can be taken.

Mr. Sprynczynatyk answered that yes, the thought that having the quick-take authority did aid.

Mr. Alan Walter, Director of Public Works, of the City of Minot appeared in support of HB 1166.

Rep. Drovdal asked whether the state has quick-take and eminent domain authority with the southwest pipeline.

Mr. Sprynczynatyk answered in the affirmative.

Chairman Grosz then closed the hearing on HB 1166, Rep. Nelson motioned for a do pass, and Rep. Clark seconded it.

HB 1166 passed with a vote of 14 in support, 1 no vote, and 0 absent.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: HB 1166 Amendment to: \_\_\_\_\_

Requested by Legislative Council \_\_\_\_\_ Date of Request: 1-4-99

- 1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative: \$0

The legislation provides for "quick take" condemnation authority and authorizes establishing funds for operations, capital repayment, and reserves for the Northwest Area Water Supply Project - a regional water distribution system. There is no expected fiscal impact to state or local government entities. All revenues received will be from water user entities as a share of construction costs or water use payments.

- 2. State fiscal effect in dollar amounts:

Table with 7 columns: 1997-99 Biennium (General Fund, Special Funds), 1999-2001 Biennium (General Fund, Special Funds), 2001-03 Biennium (General Fund, Special Funds). Rows: Revenues, Expenditures.

- 3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: \$0
b. For the 1999-2001 biennium: \$0
c. For the 2001-03 biennium: \$0

- 4. County, City, and School District fiscal effect in dollar amounts:

Table with 9 columns: 1997-99 Biennium (Counties, Cities, School Districts), 1999-2001 Biennium (Counties, Cities, School Districts), 2001-03 Biennium (Counties, Cities, School Districts). All values are \$0.

If additional space is needed, attach a supplemental sheet.

Signed David Sprynczynatyk

Typed Name David A. Sprynczynatyk

Department State Water Commission

Phone Number 328-4940

Date Prepared: January 6, 1999

Date: 1/15/99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House House Natural Resources Committee

Subcommittee on 1166  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Nelson Seconded By Clark

Representatives	Yes	No	Representatives	Yes	No
Chairman Mick Grosz	✓				
Vice-Chairman Dale Henegar	✓				
Representative David Drovdal	✓				
Representative Pat Galvin	✓				
Representative Duane DeKrey		✓			
Rep. Darrell D. Nottestad	✓				
Representative Jon O. Nelson	✓				
Representative Byron Clark	✓				
Representative Todd Porter	✓				
Representative Jon Martinson	✓				
Representative Lyle Hanson	✓				
Representative Scot Kelsh	✓				
Representative Deb Lundgren	✓				
Representative Sally M. Sandvig	✓				
Representative Dorvan Solberg	✓				

Total (Yes) 14 No 1

Absent \_\_\_\_\_

Floor Assignment Clark

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
January 18, 1999 9:14 a.m.

Module No: HR-10-0741  
Carrier: Clark  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1166: Natural Resources Committee (Rep. Grosz, Chairman)** recommends **DO PASS**  
(14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1166 was placed on the  
Eleventh order on the calendar.

**1999 SENATE NATURAL RESOURCES**

**HB 1166**



1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1166

Senate Natural Resources Committee

Conference Committee

Hearing Date February 5, 1999

Tape Number	Side A	Side B	Meter #
1	x		360-2215
03/04/99 1	x		5915-6208
03/04/99 1		x	0-600
Committee Clerk Signature <i>Lyla A. Zagen</i>			

Minutes:

SENATOR TRAYNOR opened the hearing on HB1166: A BILL FOR AN ACT TO CREATE AND ENACT FIVE NEW SECTIONS TO CHAPTER 61-24.6 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO WATER RATES, OPERATION AND MAINTENANCE FUND, RESERVE FUND FOR REPLACEMENT, CAPITAL COSTS, AND AREAS SERVED BY THE NORTHWEST AREA WATER SUPPLY PROJECT; AND TO AMEND AND REENACT SECTION 61-02-23.1 AND SUBSECTIONS 3, 6, AND 7 OF SECTION 61-24.6-02 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO CONDEMNATION OF PROPERTY FOR AN INCLUSION OF PIERCE COUNTY IN THE NORTHWEST AREA WATER SUPPLY PROJECT.

DALE FRINK, Ass't State Engineer testified in support of HB1166.

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Senate Natural Resources Committee

Bill/Resolution Number Hb 1166

Hearing Date February 5, 1999

SENATOR TRAYNOR asked if quick take authority used in the Southwest Pipeline project.

DALE FRINK replied it has been used 8 times, once on main transmission lines, and 7 times on the smaller rural lines.

SENATOR TRAYNOR asked when you did use quick take, were there satisfactory settlements reached with the landowners.

DALE FRINK replied quick take requires that you make a deposit in the court, and in most cases the people will pick up the deposit. We have not actually gone to court, but there are several cases that are not closed yet.

SENATOR TRAYNOR asked how many years this has this been going on.

DALE FRINK replied we started easements in 1984.

SENATOR CHRISTMANN asked where were most of the 8 instances where you used quick take on the Southwest Pipeline project.

DALE FRINK replied we did not have to condemn anyone between the lake and Dickinson on that line. Most of them are on the smaller rural lines because we are following Farmers Home guidelines in acquiring these easements and that means we don't pay for the easement. We do not use quick take unless it is absolutely necessary and may have to reroute quickly.

SENATOR FREBORG asked if through quick take the landowner does not come to terms and don't pick up the deposit, then the landowner has to hire an attorney so the responsibility is with the landowner to spend money to initiate condemnation.

DALE FRINK replied that is correct.

SENATOR FREBORG asked regarding a deposit, what kind of money are we talking about.

DALE FRINK replied the amount is about \$320. On the main line a figure is larger.

SENATOR TRAYNOR asked if any of the landowners on the Southwest Project incurred attorney's fees.

ROGER KOLLING, ND State Water Commission replied no.

SENATOR TRAYNOR asked what is the difference in the time frame if you have the quick take as opposed to not having it.

DALE FRINK replied if you have quick take, you can be on that land within 1 or 2 days, but if you go through the court system it can be a matter of months to obtain permission. The state generally has to pay the attorney fees for the landowner.

SENATOR CHRISTMANN asked if anyone has been paid more than \$320.

DALE FRINK replied we try not to pay anybody more than a set amount, but there have been situations where we will pay for specific damages that we do.

MIKE DWYER, ND Water Users testified in support of HB1166.

SENATOR TRAYNOR asked how long before construction on the NAWS project.

JIM LENNINGTON, NW Area Water Supply with ND State Water Commission replied the schedule for the NAWS project is dependent upon our discussions with Canada. Our proposed plan is that we would have construction start the summer of 1999 and it will be either a 4 or 5 year schedule to get to the City of Minot.

BRIAN KRAMER, ND Farm Bureau testified support of the NAWS project, but doesn't agree with the quick-take provisions and the Bureau is opposed to these provisions.

SENATOR TRAYNOR asked if the Southwest Authority is the operating unit.

MIKE DWYER replied yes. Sign up with landowners is done first and then the easements are acquired.

Page 4  
Senate Natural Resources Committee  
Bill/Resolution Number Hb 1166  
Hearing Date February 5, 1999

SENATOR TRAYNOR closed the hearing on HB1166.

03/04/99-COMMITTEE ACTION-(Tape 1, Side A, Meter# 5915-6208 and Tape 1, Side B,  
Meter# 0-600)

MIKE DWYER, Southwest Water Authority presented a proposed amendment. (See attached proposed amendment) We are not sure if certain cities were required to have an election, but it appears they might have been but they didn't. We want to exempt the Southwest Pipeline Project from that requirement.

SENATOR TRAYNOR asked if 40-33-16 is the section that requires an election.

MIKE DWYER replied yes.

SENATOR HEITKAMP moved for a MOTION TO AMEND, seconded by SENATOR FISCHER. Roll call vote indicated 5 YEAS, 1 NO, 0 Absent and not voting. SENATOR HEITKAMP moved for a DO PASS AS AMENDED, seconded by SENATOR REDLIN. Roll call vote indicated 4 YEAS, 2 NAY, 0 Absent and not voting. SENATOR REDLIN volunteered to carry the bill.

JNW  
3/8/99

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1166  
SENATE AMENDMENTS TO HB 1166 NAT. RES. 3/8/99

Page 1, line 4, replace the first "section" with "sections" and after "61-02-23.1" insert ",  
61-24.3-19,"

Page 1, line 5, after "for" insert "the northwest area water supply project, validation of  
southwest pipeline project water service contracts,"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is amended and reenacted as follows:

**61-24.3-19. Validation of water service contracts.** Water service contracts entered into by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially examined, approved, and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding ~~shall~~ must comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 do not apply to contracts between the commission or the southwest water authority and cities for water service from the southwest pipeline project.

Renumber accordingly

Roll Call Vote #: 1 Date: 3-4-99

**1999 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB1166**

Senate Natural Resources Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken MOTION TO AMEND

Motion Made By Heitkamp Seconded By Fischer

Senators	Yes	No	Senators	Yes	No
Senator John T. Traynor, Chr	✓				
Senator Tom Fischer, Vice Chr	✓				
Senator Randel Christmann		✓			
Senator Layton Freborg	✓				
Senator Joel C. Heitkamp	✓				
Senator Rolland W. Redlin	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Roll Call Vote #: 2 Date: 3-4-99

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1166

Senate Natural Resources Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AS AMENDED

Motion Made By Heitkamp Seconded By Redlin

Senators	Yes	No	Senators	Yes	No
Senator John T. Traynor, Chr	✓				
Senator Tom Fischer, Vice Chr	✓				
Senator Randel Christmann		✓			
Senator Layton Freborg		✓			
Senator Joel C. Heitkamp	✓				
Senator Rolland W. Redlin	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Redlin

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

HB 1166: Natural Resources Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1166 was placed on the Sixth order on the calendar.

Page 1, line 4, replace the first "section" with "sections" and after "61-02-23.1" insert ", 61-24.3-19,"

Page 1, line 5, after "for" insert "the northwest area water supply project, validation of southwest pipeline project water service contracts,"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is amended and reenacted as follows:

**61-24.3-19. Validation of water service contracts.** Water service contracts entered ~~into~~ by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially examined, approved, and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding shall ~~must~~ comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 do not apply to contracts between the commission or the southwest water authority and cities for water service from the southwest pipeline project."

Renumber accordingly



**1999 HOUSE NATURAL RESOURCES**

**HB 1166**

**CONFERENCE COMMITTEE**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1166 A

House Natural Resources Committee

Conference Committee

Hearing Date 3/23/99

Tape Number	Side A	Side B	Meter #
1	x		0.0-2.3
Committee Clerk Signature <i>Robin L. Small</i>			

Minutes: REP. DROVDAL called the conference committee to order. The members that were present.... REP. DEKREY, REP. SANDVIG, SEN. TRAYNOR, SEN. FISCHER, SEN. REDLIN.

REP. DROVDAL introduces a new amendment that he thinks that both sides will like. SEN. TRAYNOR does agree with it.

REP. DEKREY moves the amendment, seconded by SEN. REDLIN. The roll call vote was taken with 6 YES, 0 NO, 0 ABSENT. The motion carries.

HB 1166: the conference committee recommends that the SENATE RECEDE from the Senate amendments, and further adopt amendments as follows, and place on the seventh order.

Transcript of 0103

98170.0101  
Title.0200

Prepared by the Legislative Council staff for  
Senate Natural Resources  
March 5, 1999

JNN  
3/8/99

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1166

Page 1, line 4, replace the first "section" with "sections" and after "61-02-23.1" insert ",  
61-24.3-19,"

Page 1, line 5, after "for" insert "the northwest area water supply project, validation of  
southwest pipeline project water service contracts,"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is amended and reenacted as follows:

**61-24.3-19. Validation of water service contracts.** Water service contracts entered ~~into~~ by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially examined, approved, and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding shall ~~must~~ comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 do not apply to contracts between the commission or the southwest water authority and cities for water service from the southwest pipeline project."

Renumber accordingly

Further Amend 6-0

Proposed Amendment to House Bill 1166

The following language would be added to Section 61-24.3-19, NDCC:

The requirements of Section 40-33-16 are not applicable to contracts between the State Water Commission and cities for water service from the Southwest Pipeline Project, if such contracts were approved by the city governing body and executed before January 1, 1999.

*Contract, not started*

*Scranton*

*Medora*

*Beach*

*Sentinel Butte*

*no contract*

*Keldeo*

*Beulah*

*Hayes*

*Center*

*any Merca + Oliver County cities*

*gap*

**CONFERENCE COMMITTEE AMENDMENTS TO HOUSE BILL NO. 1166 NAT. RES. 3/23/99**

That the Senate recede from its amendments as printed on page 810 of the House Journal and page 662 of the Senate Journal and that House Bill No. 1166 be amended as follows:

Page 1, line 4, replace the first "section" with "sections" and after "61-02-23.1" insert ", 61-24.3-19,"

Page 1, line 5, after "for" insert "the northwest area water supply project, validation of southwest pipeline project water service contracts,"

Page 1, after line 18, insert:

**"SECTION 2. AMENDMENT.** Section 61-24.3-19 of the North Dakota Century Code is amended and reenacted as follows:

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Renumber accordingly

(Bill Number) 1166 (, as (re)engrossed):

Your Conference Committee

For the Senate:

For the House:

Sen. Grayson ✓  
Sen. Fischer ✓  
Sen. Redlin ✓

Rep. Droudal ✓  
Rep. DeKrey ✓  
Rep. Sandberg ✓

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)  
723/724      725/726      S724/H726      S723/H725  
the (Senate/House) amendments on (SJ/HJ) page(s) §10 -     

and place \_\_\_\_\_ on the Seventh order.  
727

, adopt (further) amendments as follows, and place  
1166 on the Seventh order:

having been unable to agree, recommends that the committee be discharged  
and a new committee be appointed. 690/515

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the  
calendar.

=====  
DATE: 3 / 23 / 99

CARRIER: Droudal

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of amendment

LC NO. \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted \_\_\_\_\_

Statement of purpose of amendment \_\_\_\_\_  
=====

**REPORT OF CONFERENCE COMMITTEE**

**HB 1166:** Your conference committee (Sens. Traynor, Fischer, Redlin and Reps. Drovdal, DeKrey, Sandvig) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 810, adopt further amendments as follows, and place HB 1166 on the Seventh order:

That the Senate recede from its amendments as printed on page 810 of the House Journal and page 662 of the Senate Journal and that House Bill No. 1166 be amended as follows:

Page 1, line 4, replace the first "section" with "sections" and after "61-02-23.1" insert ", 61-24.3-19,"

Page 1, line 5, after "for" insert "the northwest area water supply project, validation of southwest pipeline project water service contracts,"

Page 1, after line 18, insert:

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**61-24.3-19. Validation of water service contracts.** Water service contracts entered ~~into~~ by the commission for the distribution and sale of water to water user entities from the southwest pipeline project are ~~hereby deemed~~ confirmed and approved by the legislative assembly. The commission may commence a special proceeding in and by which the proceedings of the commission and the making of water service contracts ~~shall be~~ are judicially examined, approved, and confirmed, or disapproved and disaffirmed. ~~Such~~ The proceeding ~~shall~~ must comply as nearly as possible with the procedure authorized by sections 61-07-22 through 61-07-28 for irrigation district contracts. The requirements of section 40-33-16 are not applicable to contracts between the state water commission and cities for water service and cities for water service from the southwest pipeline project, provided the contracts were approved by the city governing body and executed before January 1, 1999."

Renumber accordingly

**1999 TESTIMONY**  
**HB 1166**



## TESTIMONY ON HOUSE BILL 1166

### House Natural Resources Committee

David A. Sprynczynatyk, State Engineer  
and Secretary to the State Water Commission

January 15, 1999

Mr. Chairman and Members of the Committee, my name is David Sprynczynatyk. I am the North Dakota State Engineer and Secretary to the State Water Commission and appear today in support of House Bill 1166.

House Bill 1166 allows the State Water Commission to establish water rates for the Northwest Area Water Supply (NAWS) project, specifies how the water rates collected from NAWS project users will be handled by the Commission, defines the NAWS project area more specifically than in the past, and provides quick take authority for the NAWS project. These changes are patterned after the current law for the Southwest Pipeline Project.

This bill will add new sections to N.D.C.C. chapter 61-24.6 giving the Commission the authority to establish water rates for the NAWS project and establish dedicated funds for operation and maintenance, replacement, and capital repayment. These dedicated funds are necessary for the Commission to be able to construct, operate, and manage the NAWS project as authorized under N.D.C.C. § 61-24.6-04, utilizing water service fees and any other payments received from the water users of the NAWS project for the NAWS project.

The bill will also amend subsections 3, 6, and 7 of section 61-24.6-02 of the Century Code to specifically include references to Pierce County and adds a new section to define the project area as areas in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, and Williams Counties. Current law only references northwest North Dakota as the project area. During testimony in previous legislative sessions the area was always described as the nine counties of northwest North Dakota and adjacent counties. Since Rugby and Pierce County have always been a part of the NAWS project, for bonding purposes, it is important to make the definition of the project as clear as possible.

The bill also specifies that the project may provide water from a pipeline transmission and delivery system or other sources to clarify that sources other than the Missouri River can be used for the NAWS project. This again is intended to address the development of water supplies in the Rugby area for Rugby as a part of the NAWS project.

N.D.C.C. § 61-02-23.1 gives the Commission "quick take" authority to acquire the right of way needed to construct the Southwest Pipeline Project. House Bill 1166 amends N.D.C.C. § 61-02-23.1 to provide "quick take" authority to the Commission for use on the NAWS Project. Quick take authority for the NAWS project will reduce the construction costs of the NAWS project by avoiding lengthy

condemnation proceedings that would halt or delay construction of the project. Quick take will allow negotiations for easements to continue right up until construction.

Under non-quick take, the Commission would not acquire the right to go on the property until a court judgment grants the Commission an easement. This could take several months. Quick take allows the Commission to deposit an amount with the court and immediately go on the property. Disputes about whether the landowner was properly compensated could continue to be resolved through the court system.

Both the State Engineer and the State Water Commission support House Bill 1166 and request your favorable consideration of the bill.

Thank you.

**TESTIMONY ON HOUSE BILL 1166**

**Senate Natural Resources Committee**

**Dale Frink, Assistant State Engineer  
on behalf of**

**David A. Sprynczynatyk, State Engineer  
and Secretary to the State Water Commission**

**February 5, 1999**

Mr. Chairman and Members of the Committee, my name is Dale Frink. I am the Assistant State Engineer and appear today on behalf of David Sprynczynatyk, the North Dakota State Engineer and Secretary to the State Water Commission, in support of House Bill 1166.

House Bill 1166 allows the State Water Commission to establish water rates for the Northwest Area Water Supply (NAWS) project, specifies how the water rates collected from NAWS project users will be handled by the Commission, defines the NAWS project area more specifically than in the past, and provides quick take authority for the NAWS project. These changes are patterned after the current law for the Southwest Pipeline Project.

This bill will add new sections to N.D.C.C. chapter 61-24.6 giving the Commission the authority to establish water rates for the NAWS project and establish dedicated funds for operation and maintenance, replacement, and capital repayment. These dedicated funds are necessary for the Commission to be able to construct, operate, and manage the NAWS project as authorized under N.D.C.C. § 61-24.6-04, utilizing water service fees and any other payments received from the water users of the NAWS project for the NAWS project.

The bill will also amend subsections 3, 6, and 7 of section 61-24.6-02 of the Century Code to specifically include references to Pierce County and adds a new section to define the project area as areas in Bottineau, Burke, Divide, McHenry, McLean, Mountrail, Pierce, Renville, Ward, and Williams Counties. Current law only references northwest North Dakota as the project area. During testimony in previous legislative sessions the area was always described as the nine counties of northwest North Dakota and adjacent counties. Since Rugby and Pierce County have always been a part of the NAWS project, for bonding purposes, it is important to make the definition of the project as clear as possible.

The bill also specifies that the project may provide water from a pipeline transmission and delivery system or other sources to clarify that sources other than the Missouri River can be used for the NAWS project. This again is intended to address the development of water supplies in the Rugby area for Rugby as a part of the NAWS project.

N.D.C.C. § 61-02-23.1 gives the Commission "quick take" authority to acquire the right of way needed to construct the Southwest Pipeline Project. House Bill 1166 amends N.D.C.C. § 61-02-23.1 to provide "quick take" authority to the Commission for use on the NAWS Project. Quick take authority for the NAWS project will reduce the construction costs of the NAWS project by avoiding lengthy condemnation proceedings that would halt or delay construction of the project. Quick take will allow negotiations for easements to continue right up until construction.

Under non-quick take, the Commission would not acquire the right to go on the property until a court judgment grants the Commission an easement. This could take several months. Quick take allows the Commission to deposit an amount with the court and immediately go on the property. Disputes about whether the landowner was properly compensated could continue to be resolved through the court system.

Both the State Engineer and the State Water Commission support House Bill 1166 and request your favorable consideration of the bill.

Thank you.

Proposed Amendment to House Bill 1166

The following language would be added to Section 61-24.3-19,  
NDCC:

The requirements of Section 40-33-16 are not applicable to contracts between the State Water Commission or the Southwest Water Authority and cities for water service from the Southwest Pipeline Project.