

1999 HOUSE POLITICAL SUBDIVISIONS

HB 1397

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1397

House Political Subdivisions Committee

Conference Committee

Hearing Date 1-28-99

Tape Number	Side A	Side B	Meter #
1	x		0.0-60.6
		x	.1-9.1
3	x	x	55.1-59.0 / .1-5.7
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: BILL SUMMARY: Relating to the power of a county to regulate zoning. Chairman Froseth called the hearing to order with all members present except Rep. N. Johnson.

Rep. Tom Brusegaard, Dist. 19, Gilby, N.D. : testified in support of the bill. He feels the county should not be able to tell farmers "how" to farm. (See attached testimony)

Rep. Koppelman : 2.2 You mentioned that township zoning regulations already have this kind of prohibition. What about city regulations in extra territorial zoning areas?

Rep. Brusegaard : I have not looked into that section of code. This legislation was drawn up as a direct concern I had with some of the model counties zoning ordinances that were going around the state. I didn't want an undo burden on farmers.

Rep. Glassheim : The zoning may have something to do with the impact of what you do on neighbors. Smell, etc.; I don't know why a zoning board would want to tell you how to farm.

Rep. Brusegaard : The case needs to be made that farmers should have a right to control their land to make it more productive and profitable for themselves. I think this legislation will do it.

(See attached testimony)

Rep. Delmore : 4.0 Do you see this coming in conflict with public health issues?

Rep. Brusegaard : I can't envision that, but this bill doesn't prohibit the state health dept.

Rep. Ekstrom : 4.3 My concern has to do with sewage lagoons on larger farms. The impact on ground water would affect your neighbors.

Brusegaard : This bill does not effect the zoning that regulates that issue.

Rep. Rose : Please define "farming practices"; is that defined in code somewhere.

Brusegaard: It is used occasionally in code. While I haven't found an excellent definition of it yet, the one used in zoning ordinances, it kind of does.

Sen. Ken Solberg, Dist 7 : testified in support of bill. I believe people. in farming, have a right to be left alone as long as they are within their area of farming. This is a little bit of a preventive nature. This is a step in the right direction.

Rep. Rose : I am concerned with the broad definition of "farming practices". This could open some big commercial farming and call it farming practice; then the zoning restrictions will not be able to do anything about it.

Sen. Solberg : I think the zoning laws will take care of the buildings.

Rep. Koppelman :11.2 There is nothing in this bill that prohibits what Rep. Rose addressed.

This just has to do with county zoning, correct.

Sen. Solberg : That's correct.

Rep. Ekstrom : 11.7 We are worried about the bad folks, not the normal people. The wording is so broad. We want to protect the water source.

Rep. Delmore : Do you believe that farming is a type of industry?

Sen. Solberg : No, it's a business not an industry.

Rep. Delmore : 13.1 If you chose to sell your land, could an industry come in and do whatever they please?

Sen. Solberg : I suspect it could, as could any other industry, like General Motors. You would have to rezone for General Motors.

Ken Bertsch, N.D. Farm Bureau : testified in support of 1397. Good legislation that is long overdue in N.D. It's very timely, I think, given the nature of the agriculture environment right now. Local control is a good thing, but when it's used to tease the industry which really needs freedom to react to economic conditions, it becomes too restrictive. We need diversification for us to survive. We need some consistency at the state level. This bill is to advance agriculture in N.D. 14.1-18.4

Rep. Delmore : 18.6 I see quality of life in here. It concerns me that you are saying that the county have no right if a farmer does whatever he pleases with his land. As a farmer, I believe I have recourse on a county level, as well, if I don't like a zoning ordinance put on me.

Ken : No one would get away with things that is objectionable to neighbors. Why would I want to harm people.

Vice Chair Maragos :21.9 Have you ever advocated for local control?

Ken : Yes, we have. What is best for the industry in relation to local control in this area.

Vice Chair Maragos : 22.6 Do you think this is a fair way to approach it from both local standpoint and the industry stand point. You are asking for a huge restriction. Some one is giving up a lot of authority.

Ken : I don't think we are asking for a lot. We have those restrictions in place already. Lots of federal laws. How many levels of control do we have to have before we are over regulated.

Wade Moser, N.D. Stockman's Assoc. : 26.3 testified in support of the bill. We support local control. We are concerned with over regulation. There is a fine line when it comes to the point of regulating simply because they want to possible force an industry out; vs good common sense. We are not trying to create health hazards, as farmers.

Rep. Delmore : 28.5 If the EPA and USDA decides to do some of these things; pass down mandates. Will this do you any good?

Wade : We have to follow mandate. This bill will restrict the zoning board from further restricting. We are heavily regulated now.

Rep. Glassheim : What would be , under current law, your legal rights to protest what a zoning commission has done. You as a farmer.

Wade : I assume we would have some recourse. But look at the possible legal expense, when farmers aren't making a living now.

Lyle Witham, N.D. Health Dept. : I am neutral. Just here to outline some issues of this bill. The health department does not want to get into the business of zoning. Does not make sense to micro manage the agriculture industry. One question, does this bill stop a big hog farm from going in next to a rural housing development? Does the farming practice include the large industrial facility?

Mark Johnson, N.D. Assoc. of Counties : 35.9 testified in opposition to bill 1397. (See attached testimony) Mark shared a letter from Grand Forks, N.D.

Bill Delmore : I wrote some of the zoning laws. I am in opposition. I like local control. I don't like one size fits all. 38.9-41.8

Bryan Hoimes, Township Office Assoc. : 44.1 We are opposed to bill. Nothing in this bill says what is "normal". If county does not have the authority, then who does. Creates a problem, because there are not townships in all counties in N.D.

Jerry Hjelmstad, N.D. League of Cities : testified in opposition to bill. Zoning should be left local. 46.8-50.4

Dennis L. Johnson, N.D. Farmers Union : 52.5 testified in opposition to bill. Gave the committee a handout showing a grassroots study. (See attached testimony) We want local control.

Rep. Severson : What do you feel the original intent was for the bill?

Dennis : We have a problem with "farming practices" since it is not defined. I think they wanted to deal with diversity.

Christopher T. Dodson, N.D. Catholic Conference : side B. testified in opposition. (See attached)

Mary Christensen, Dakota Resource Council : testified in opposition (See attached testimony)

Carl Hokenstad, Burleigh County Planner : testified in opposition. "Farming practices" causes a problem because it is not well defined. I believe in local control. Don't want state mandates.

Rep. Severson : 7.8 How many commissioners are farmers?

Carl : Presently, none.

Rep. Severson : Do you feel the commissioners know what is involved in farming practices? If we would amend this bill to exclude feed lots, would this help?

Carl : Would help, but I still don't think the bill is necessary.

Rep. Koppelman read from Code. Hearing no more testimony, hearing closed.

HB1397 was brought up for consideration later in the day. Chairman Froseth explained there were no amendments offered. What does committee wish.

Rep. Severson :55.1 The intent of sponsor was to mean “farming practices” as cultivating, harvesting, etc. The opposition we heard was concerning major animal farms, feed lots, etc.

Chairman Froseth : I think they were dealing with normal farming activities. They were worried; does a residential area have a right to say a farmer can’t harvest his field, because it may cause a bad order they don’t like. Or maybe he can’t spread fertilizer, because it smells. I have a real problem with that. The farmer was here first.

Rep. Ekstrom : I think the opposition was worried about local control.

Vice Chair Maragos : 59.2 I keep wondering about eminent domain, which has been part of our nations history. I know the farms were there first, but times change and if you are in the wrong place at the wrong time, and you have to let progress proceed.

Rep. Severson : I don’t agree that was the intent at all. Of all people who know progress is important, it is the farmer. Progress will allow them to survive. Agricultural industry is changing.

Rep. Delmore : I think this bill is too wide open for interpretation.

Rep. Niemeier : 1.5 We see many urban people are renting farms to get away from the city. I think those people know what they are getting into. This new urbanization movement has made us so lily white that we have become offended by the very practice of producing food and fiber.

Rep. Koppelman :2.3 I understand some of these concerns. We need to not stray from the central point. This bill does not prohibit those regulations from occurring. They already occur and will continue to occur even if this bill passes. I am sympathetic to the bill.

Page 7

House Political Subdivisions Committee

Bill/Resolution Number HB1397

Hearing Date 1-28-99

Rep. Glassheim : 3.8 Is this bill looking for a problem? Are counties causing a problem?

Vice Chair Maragos : 4.8 I think this may be taking it out of a political realm, and forcing it into the legal realm, if someone wants to protests. The only way to solve it is to go to court and I don't think we want that.

Rep. Severson : I will work with the sponsor to see if we can get a bit more clear on the language and get back to committee.

Chairman Froseth : We will hold it over.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1397-a

House Political Subdivisions Committee

Conference Committee

Hearing Date 2-4-99

Tape Number	Side A	Side B	Meter #
2	x		41.2-41.9
Committee Clerk Signature <i>Pam Dever</i>			

Minutes: Chairman Froseth opened the meeting up to discuss 1397. We were waiting for amendments, but we were given nothing.

ACTION: Vice Chair Maragos made a motion DO NOT PASS and Rep. Delmore seconded the motion. ROLL CALL VOTE: 12 YES and 3 NO and 0 ABSENT. Rep. Eckre will carry the bill.

Please type or use black pen to complete

Date 2-04-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 1397

House POLITICAL SUBDIVISIONS Committee

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Maragos Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Froseth	/		Rep. Wikenheiser	/	
Vice Chair Maragos	/				
Rep. Delmore	/				
Rep. Disrud	/				
Rep. Eckre	/				
Rep. Ekstrom	/				
Rep. Glassheim	/				
Rep. Gunter	/				
Rep. Johnson, N	/				
Rep. Koppelman		/			
Rep. Niemeier	/				
Rep. Rose	/				
Rep. Severson		/			
Rep. Thoreson, B		/			

Total 12 3
(Yes) (No)

Absent 0

Floor Assignment Rep. Eckre

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
February 4, 1999 2:26 p.m.

Module No: HR-23-1945
Carrier: Eckre
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1397: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **DO NOT PASS** (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1397 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1397

ND Legislative Assembly

ND Legislative Assembly
RR1 Box 4
58235

Phone: (701) 869 - 2855
FAX:
email: tbrusega@state.nd.us

Thursday, January 28, 1999

Rep. Glen Froseth
Chairman, House Political Subdivisions committee

Mr. Chairman, members of the committee:

My is Rep. Tom Brusegaard district 19 which includes most of rural Grand Forks County.

HB1397 prohibits counties from using zoning regulations to issue directives regarding farming practices.

Zoning , in my opinion deals with the location and the use of buildings and structures of lands for residence, recreation, and other purposes. (NDCC11-33-01) I have no problem with, and in fact support, the authority of counties and townships to tell us where to farm. But I take exception when a county tries to tell me how to farm.
(*Example*)

Even in the code, 58-03-11, (which gives townships zoning authority) we prevent regulations or restrictions of the normal incidents of farming. This bill will put the same restriction on counties. I believe this is good legislation. I ask you to give it a **Do Pass** recommendation. Thank you.

Rep. Thomas Brusegaard

elke

TO: Members of the House Political Subdivisions Committee,
Members of the Senate Agriculture Committee, and
Members of the Senate Natural Resources Committee

FROM: *CK* Constance Triplett, Grand Forks County Commissioner and
Member, Grand Forks County Planning
and Zoning Commission

RE: HB 1397, SB 2355, and SB 2366

DATE: January 27, 1999

Please vote no on each of the above-referenced bills. All of these bills appear to be a reaction to the activity of the Grand Forks County Planning and Zoning Commission in the past year and a half.

By way of background, when Bob Bergquist (Enviropork) requested a permit to site a farrowing operation along Highway 2 near Larimore, ND, and very near the Elk Valley aquifer, some of the people involved in decision-making had concerns about the potential for odor problems, groundwater contamination and the location immediately adjacent to a state highway. However, since our zoning ordinance didn't adequately address these issues, we felt we had no choice but to approve the request.

Then, to be better prepared for any further applications by similar facilities, we set about drafting an ordinance regarding concentrated-animal feeding operations (CAFO). We have made this a very public process, much more than is required by state law or our own regulations. The proposed ordinance has been discussed at several meetings of the Planning and Zoning Commission. We have actively sought the advice of area cattle and pork producers as well as input from members of local environmental groups. We have met with staff from the state Health Department and have reviewed many similar ordinances from neighboring states.

We started in September 1997 with the intention to draft a comprehensive ordinance because there appeared to be very little regulation of these facilities by the state. Then, Enviropork was sued by two nearby landowners and District Judge Bruce Bohlman issued an order in September 1998 which included, among other things, a conclusion that Enviropork's waste lagoon should be regulated as a solid waste facility by the state, rather than included in a blanket exemption for farming activities.

In response to Judge Bohlman's ruling, the State Department of Health has issued emergency regulations and, I understand, is working on permanent regulations to deal with many of the

environmental issues associated with concentrated-animal feeding operations.

In response to the Health Department's reaction, the Grand Forks County Planning and Zoning Commission has substantially re-written our proposed CAFO ordinance to eliminate any duplication of regulatory effort. Our proposal is now essentially a siting ordinance (minimum setbacks from other residences, businesses, waterways, highways) and an information-exchange mechanism (copies of plans filed with the state need also to be filed with the County).

I believe that the County's actions have been perfectly appropriate throughout this process. Siting of any major business which may affect the public health and welfare is the traditional function of County planning and zoning boards. This process has been an interesting interplay between private interests, local government, the courts and state agencies. It appears to me that the existing laws are adequate to protect the rights of all parties and to allow the appropriate balance between the rights of landowners and the rights of the public at large. All of the proposed changes, represented by the three bills referenced above, would skew the balance away from the public interest in protecting the environment.

I urge you to vote against all of these bills. Thank you for your consideration.



*Representing the Diocese of Fargo
and the Diocese of Bismarck*

Christopher T. Dodson
Executive Director

To: House Political Subdivisions Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1397 (County Zoning and Farm Practices)
Date: January 28, 1999

Mr. Chairman, members of the committee, I am Christopher Dodson, the executive director of the North Dakota Catholic Conference. The North Dakota Catholic Conference opposes House Bill 1397.

The North Dakota Catholic Conference is concerned about the future of farming in North Dakota. This is why last November the North Dakota Catholic bishops issued a joint statement on the matter of rural life. In that statement the bishops called for policies consistent with the principle of subsidiarity. This principle recognizes that human dignity requires that persons and communities should possess the ability to exercise responsible self-governance. Subsidiarity means that while larger governments have a role and sometimes a duty to involve themselves in local affairs, they should give deference and due respect to local communities. Specifically applying the principle of subsidiarity to rural issues, the bishops stated that local communities should be allowed to enact land use ordinances to further the common good. House Bill 1397 violates that principle by stripping counties of their rightful position to regulate for the common good of the larger community.

We realize that the purpose of the bill is to assist farming. For several reasons, however, is not an appropriate way to accomplish that goal. First, the approach rests on the false assumption that all farming practices are equal with respect to their effects on the community and the environment. This simply is not true and we need only to look at the environmental and social problems in other states to realize that some agricultural practices operate in a manner contrary to the common good and good stewardship of creation.

Second, the bill embraces a mistaken view of property. Property rights are important, but they are not absolute. All property is held in what the Pope has called a "social mortgage." That means that no one, including farmers, has a right to do whatever they want with their property. All exercise over property is subject to the common good, the need to respect human life and dignity, and proper

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House Political Subdivisions Committee
Page 2
January 28, 1999

stewardship of creation. Civil authorities, especially local authorities, have a duty to regulate the use of property for the common good and all citizens have a moral obligation to comply with proper regulations.

Finally, we are concerned about the possible effects of this bill. State Catholic conferences and dioceses around the nation, as well as the National Catholic Rural Life Conference, are very concerned about the growth of large concentrated animal feeding operations. These operations have threatened God's creation, disrupted communities, and endangered family farming. The states with the most problems are often the ones that have stripped local communities of their rightful role in regulating the operation of such facilities. We don't need those types of problems in North Dakota; we don't need House Bill 1397.

Dakota Resource Council

P.O. Box 1095, Dickinson, ND 58602-1095

Telephone (701) 227-1851; FAX 225-8315

e-mail: drc@dickinson.ctctel.com

Testimony

HB1397 Relating to the power of a county to regulate zoning
House Political Subdivisions Committee

Dakota Resource Council wishes to express strong opposition to this bill.

Establishing reasonable and effective regulations for concentrated animal feeding operations (CAFOs) has become a national issue in the last few years. This need for regulation has come about due to changes in the pork industry reflected in giant hog confinement operations, which pose new threats to ground and surface water and air quality in rural areas. The State Department of Health, November 12, initiated statewide discussion among farm organizations and other interested parties to prepare for possible state rulemaking. Dakota Resource Council has actively participated in this process.

One clear conclusion of the November 12 discussion was that in proper CAFO regulation, both the state and political subdivisions have an important role to play. The state must provide a permitting process and basic standards for such matters as construction, setbacks, and bonding. On the other hand, local siting decisions more properly belong to political subdivisions, according to the Health Department.

This bill would thrust all CAFO siting decisions upon the state and deprive subdivisions of their vital role in local land use planning, at least with regard to agricultural lands. Like all other groups with a farm constituency, DRC would like to do whatever is possible to aid farmers during these difficult times. But loss of local control in the community planning process will not aid farmers.

Let's take of one example of the destructive potential of this legislation. Let's say that local citizens, including neighboring farmers, are facing the proposed development of a 5,000-sow farrowing operation with a lagoon the size of two football fields and producing as much waste as the city of Williston. If they are like their counterparts all over the country, they will have some concerns about the siting of such a facility. If this bill passes, those citizens will hear two contradictory messages from the state about their concerns. First, the Health Department will tell them that siting is a local concern. But then the Century Code will tell them they can't adopt any local zoning related to this facility. Where are they to take their concerns?

This is no way to treat citizens. Please vote a "do not pass" on this bill.

M. Christensen
1-28-99

1397 -
Dennis Johnson
ND F. Union

- 1. 4. WETLANDS POLICY
- 2. A. Wetlands of less than one acre should not be under any jurisdiction by
- 3. state or federal agencies.
- 4.
- 5. B. When dealing with farmland, primary consideration should be given to
- 6. the economic impact on agriculture.
- 7.
- 8. C. Landowners should be able to move water within the boundaries of
- 9. their property without regulation, interference or easements.
- 10.
- 11. D. No net gain of wetland acres.
- 12.
- 13. E. Any policy developed should recognize the function of wetlands as an
- 14. agricultural property.
- 15.
- 16. F. Water outside the boundary of a wetland should be considered
- 17. sheetwater and not subject, under any circumstances, to jurisdiction
- 18. by state or federal agencies.
- 19.

20. 5. LIVESTOCK PRODUCTION RECOMMENDATIONS

21. Livestock production is essential to the well-being of North Dakota. North
22. Dakota Farmers Union actively promotes the development of livestock
23. production in North Dakota as a vital component in maintaining a healthy
24. agriculture sector.

25.

26. North Dakota Farmers Union recognizes that family farming and good
27. stewardship of the land are not incongruous and that sound environmental

1. practices and family farm agriculture should work together. Our policy
2. encourages a well-balanced, sensible environmental policy that protects
3. the public and the environment without unduly burdening family farmers
4. through excessive regulation or economic hardship.

5.

6. **A. IMPLICATIONS OF SCALE**

7. Livestock waste is a valuable resource that provides essential nutri-
8. ents to crop land. However, when livestock waste is concentrated into
9. large volumes, improperly stored, transported, or disposed, it can
10. have a negative effect on the environment. The issue of scale is critical
11. in determining the levels of risk associated with waste management,
12. and therefore paramount in the development of policy. Matching the
13. appropriate regulatory control to the appropriate scale may be key in
14. designing appropriate livestock waste management practices.

15. While stewardship is essential at every level of livestock production,
16. the current megafarm trend in livestock production has consequences
17. that need to be addressed at a different level than small-scale
18. production. The large amount of waste generated by industrial-sized
19. production presents a considerable waste management challenge. In
20. addition to the detrimental effects large quantities of waste can have
21. on land and water, there are also concerns that waste containing
22. bacteria, viruses, and other possibly dangerous organisms being
23. released into the environment in huge volumes could lead to public
24. health issues.

25.

26. However, there is general concern that any additional regulations
27. aimed at industrial sized agriculture would lead to costly and intrusive

1. measures for all producers that could force small to medium size
2. producers out of business.

3.

4. North Dakota Farmers Union supports a tiered system that deter-
5. mines the degree of regulation by the size of the operation. This
6. system should have at least three categories and should be based on
7. animal units.

8.

9. **B. FEDERAL REGULATION**

10. The Environmental Protection Agency, the Administration and Con-
11. gress are working to establish national standards for large-scale
12. confinement operations or CAFOs (Confined Animal Feeding Opera-
13. tions) that may include regulatory, statutory and/or voluntary (incentive
14. based) measures.

15.

16. Because there is a great variance in environmental conditions from
17. state to state and even within each state, broad national guidelines
18. may not be appropriate for every location.

19.

20. North Dakota Farmers Union supports national minimum guidelines
21. or standards that give primacy for implementation and flexibility in
22. regional planning to the states. A national policy should discourage
23. polluters from "shopping" among the states for the lowest environ-
24. mental standards and encourage states and localities to establish
25. standards beyond the federal minimums.

26.

27.

1. C. STATE REGULATION

2. North Dakota's current guidelines require concentrated feeding or
3. feedlot operations of equal to or over two hundred animal units to meet
4. approval requirements. Any operation, regardless of its number, may
5. also require approval if it is determined that waste from that operation
6. is a pollution threat.

7.
8. North Dakota Farmers Union supports state standards that are NOT
9. size neutral. A graduated system of at least three tiers, small (below
10. 200), medium (200-1,000) and large (over 1,000) should be imple-
11. mented with a sliding scale of standards that address each size
12. operation.

13.
14. North Dakota Farmers Union urges the North Dakota Department of
15. Health to issue rules for livestock operations over 1,000 animal units
16. that prohibit locating over glacial aquifers, require bonding and
17. provide an opportunity for a public vote through the administrative
18. process.

19.
20. North Dakota should safeguard the right of political subdivisions to
21. enact and enforce their own zoning ordinances and we strongly
22. encourage all townships and counties to establish their own stan-
23. dards, so long as minimum state requirements are met.

24.
25. We would support legislation that codifies these specifications.

26.
27.

1. D. NORTH DAKOTA DEFINITION OF ANIMAL UNIT

2. A unit of measure equal to approximately 1,000 pounds of animal.

3.	ANIMAL	AU
4.	1.5 feeder cattle	1
5.	1 mature dairy/beef	1
6.	1 horse	1
7.	4 swine (over 55 lbs)	1
8.	8 sheep	1
9.	30 turkeys	1
10.	80 chickens	1

11.

12. E. SPECIFIC RECOMMENDATIONS FOR LARGE-SCALE FACILITIES:

13. 1) North Dakota Farmers Union SUPPORTS holding animal "own-
 14. ers" responsible for spills as it pertains to contract feeding, which
 15. shifts the responsibility from the corporate owners to the contract
 16. feeder. However, it is important to note that since corporations
 17. cannot "own" livestock in ND under NDCC 10-06, this would NOT
 18. have the desired effect of holding corporations financially respon-
 19. sible for spills or flawed lagoon designs. A more appropriate state
 20. policy would be to draw capital investors or lagoon designers into
 21. the chain of liability.

22.

23. 2) Because technology exists that reduces environmental impact,
 24. enhances the quality of life for neighbors and communities, and
 25. encourages increased production, North Dakota Farmers Union
 26. SUPPORTS using a higher standard of technology for waste
 27. storage than an open air lagoon. New and expanding large scale

1. operations should be required to utilize new technologies.
- 2.
3. 3) North Dakota Farmers Union SUPPORTS setback distances
4. from an existing residence (residence on the facility not appli-
5. cable), business, church, school or public use area.
- 6.
7. 4) Permit applicants must prepare and submit a manure manage-
8. ment plan containing detailed information regarding proposed
9. method of distribution (optimum crop schedule, timing and loca-
10. tion of applications, calculations about how much land is necessary
11. for application, methods to reduce/eliminate potential water pol-
12. lution and odor, and detailed records for 3-5 years following
13. application detailing methods and dates of application.)
14. (a) ND regulations restrict spreading of waste on ice, however,
15. not on frozen ground.
16. (b) Application of waste should be injected or incorporated into
17. the soil. Aerial spraying of liquid waste should be prohibited.
18. (c) No waste should be applied to slopes so high as to be highly
19. erodible.
- 20.
21. 5) Permit applicants for a large scale facility must serve notice to the
22. public describing the type of facility to be constructed, the type of
23. waste to be generated, and the waste handling treatment to be
24. used, a legal description of the property, and notice of a public
25. comment period. Applicants must develop a "baseline" for moni-
26. toring future water/soil quality. In addition, all managers, operators
27. must complete training in waste management and odor control.

- 1.
2. 6) Permit holders must disclose the number of animal units within a
3. facility upon request. The Health Department should develop a
4. policy that includes nursing animals in permitted amount of animal
5. units.
- 6.
7. 7) Annual, unannounced inspections of operations including inde-
8. pendent testing of water quality.
- 9.
10. 8) "Bad Actor" legislation allowing the state to reject permits from
11. producers who have a poor environmental record (habitual envi-
12. ronmental damage) or whose permit has been revoked in another
13. state.
- 14.
15. 9) Facility closing requirements that ensure proper clean-up if they
16. cease operating. This would require total removal of manure and
17. contaminated soils within a specified period after closure and
18. revegetation within three years of closure.
- 19.
20. 10) Existing operations should be required to comply with new rules
21. within a certain amount of time. NO grandfather clauses.
- 22.
23. 11) In order to protect taxpayers, permits should require financial
24. assurances including proof of liability insurance to a determined
25. amount, net worth, or adequate bonding.
- 26.
- 27.

1. 12) Increase the statute of limitations for the nuisance law.

2.

3. 13) Provide penalties.

4.

5. 6. STATE WATER POLICY

6. Since our state's water belongs to all the people of North Dakota, the North
7. Dakota Water Commission should manage our water resources to the
8. greatest advantage to our citizens, with all areas of the state being given
9. equitable consideration.

10.

11. A. We call for adoption of a comprehensive state water policy which will
12. allow North Dakota to claim its rightful share of water resources.

13. We believe the majority of funding for water projects should come from
14. the federal government due to the long-standing commitment that was
15. made to the people of North Dakota for diversion of Missouri River
16. water.

17.

18. We believe supplemental state funding of water development projects
19. to be in the best interest of North Dakota. These programs should be
20. funded through the state's personal and corporate income taxes.

21.

22. B. To give more family farmers the opportunity to irrigate from groundwa-
23. ter, we suggest that the state legislature allow the State Water
24. Commission to limit water permit acquisition to 320 acres every three
25. years to a maximum acreage of 640 acres per farm.

26.

27. C. The Devils Lake Basin continues to have problems with excess water