

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1147

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Danna G. Ballantyne  
Operator's Signature

10/2/03  
Date

2003 HOUSE NATURAL RESOURCES

HB 1147

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

*Donna Ballantyne*  
Operator's Signature

10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1147

House Natural Resources Committee

Conference Committee

Hearing Date January 9, 2003

Tape Number	Side A	Side B	Meter #
1	XX		0-3720
Committee Clerk Signature <i>G. M. Meyer</i>			

Minutes:

**Chair Nelson:** opened the hearing on HB 1147 relating to appeals from the decisions of the water commission and the state engineer.

**Dale L. Fink:** Testified on behalf of HB 1147 (SEE ATTACHED TESTIMONY).

**Rep. Keiser:** There is a distinction between the time of the decision and when somebody becomes aware of the decision. What is process of notification for those impacted by a decision.

**Dale L Frink:** Referred to Matthew Sagsveen from the Attorney General's Office

**Matthew Sagsveen:** The process is informal, but so well known that if given the aggrieved they will have opportunity. This is to prevent years down the road coming back and claiming a grievance.

**Rep. Keiser:** I understand that that is the way it has been done in the past. It seems to me to be a little bit unfair. Because we will be running into a technicality when the decision is made it does not become public knowledge for two weeks. The person cannot respond in a timely fashion

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

*Dorena Holbrook*  
Operator's Signature

*1/2/03*  
Date

Page 2  
House Natural Resources Committee  
Bill/Resolution Number HB 1147  
Hearing Date 1/9/03

because of this statute. There should be a requirement that it become public information in some capacity. I would not support it because of this.

**Dale L Frink:** Mr. Chairman my only point is that at some point there needs to be some finality to it. That is one of the reasons I went to thirty days instead of fifteen. At some point we need to be able to say: "yes you have a permit." People are very nervous about being half way finished with construction and being repealed on a water permit.

**Rep. Drovdal:** What percentage of the decisions of the Water Commission have been appealed and what is the general time frame of those appeals.

**Dale L Frink:** I do not know the actual numbers but, we are working on that right now. The appeal process is quite extensive. This process is done through an administrative law judge. The process is quite drawn out and does cause problems in getting a permit.

**Rep. Drovdal:** What is the average time for an aggrieved party to come forward with a complaint.

**Dale L Frink:** Most of the decisions are not appealed. One of my staff have had them run for two to three month periods.

**Rep. DeKrey:** I wonder if thirty days is long enough.

**Rep. Solberg:** I would think the department would be tired of these permits taking two years.

**Dale L Frink:** We have had this process drag out for up to two years not for this reason in particular, but because of the entire process. This is one factor.

**Rep. Clark:** I don't have a problem with that deadline being put on there. My question is how are notices provided.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

*Doreen Ballantyne*  
Operator's Signature

10/2/03  
Date

Page 3  
House Natural Resources Committee  
Bill/Resolution Number HB 1147  
Hearing Date 1/9/03

**Dale L Frink:** We advertise in the newspaper and contact anyone within a one mile radius and through public systems. There is a fairly extensive system for this. The final ruling does not have a formal notification process.

**Rep. Nottestad:** I have a problem pertaining getting back to the water resource board. There are many boards that meet once a month. Someone will be chastised for the thirty day deadline.

**Dale L Frink:** We advertise for the hearing. It is just the decision that we do not. I would like some finality to the process.

**Rep. Nottestad:** The burden of the notification should be on your department.

**Dale L Frink:** We do notify those who attend the hearing or provide written comments in some way to us. You will be notified. We do not advertise in the newspapers regarding the decision.

**Chair Nelson:** How is that notification made?

**Matthew Sagsveen:** We need to make the distinction between the water permits and 61-03-22 which is any decision the state engineer makes. That is different from the water permit process where testimony is given in a hearing process.

**Rep. Porter:** I am interested in the reason behind the word change "because of any action" in line 7 and 18. Right now an aggrieved person has the right to a fair hearing and it appears to me you are taking that right away. Where does that leave a person that is aggrieved?

**Matthew Sagsveen:** The changes were made to make it read better.

**Rep. Porter:** There must be a difference between an action and a decision.

**Dale L Frink:** Personally I do not.

**Matthew Sagsveen:** I think the purpose was to simplify it but if you want it could be left in.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

  
Operator's Signature

1/12/03  
Date

Page 4  
House Natural Resources Committee  
Bill/Resolution Number HB 1147  
Hearing Date 1/9/03

**Rep. Porter:** The members of the committee are concerned over the notification process. There is no end date for finality to this process. After hearing the concerns do you think there needs to be something written into this to make a formal end notification process. My concern stems from the individual who might live two to three hundred miles away from the family farm. That person may go to the renter and discover that they were adversely affected and not know it. Is there something that needs to be done about that possibility.

**Chair Nelson:** If they are a land owner they would be notified.

**Dale L Frink:** If they are within one mile.

**Rep. Klein (2150):** Reiterates the concern for absentee landlord.

**Dale L Frink:** But we are getting pressure from those looking for a permit.

**Chair Nelson:** This is a double edged sword on one hand protecting the landowner and the public good by delaying the process.

**Rep. Klein:** Don't they apply for this permit long in advance?

**Dale L Frink:** The process takes longer than that you would have to apply the summer before in order to complete it in time. Part of it is a shortage of water. Someone comes in on a water permit on the Missouri river they would not have to wait that long. If they have access to the river it would be done in as short a time as possible. But a ground water permit will take longer.

**Rep. Drovdal (2460):** I disagree about the water permit on the Missouri river not taking a long time. Why do we use the same system regarding the decision.

**Dale L Frink:** It just adds expense to the individual making the request for a permit.

**Rep. Kelsner:** The committee understands the need for closure, but I guarantee you that if we pass this bill this session we will be back here next session with a snowbird who missed the

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

*Danna H. [Signature]*  
Operator's Signature

1/9/03  
Date

Page 5  
House Natural Resources Committee  
Bill/Resolution Number HB 1147  
Hearing Date 1/9/03

notification because of the mail being tied up. The problem is this language is strong. There recourse would be zero. No matter the excuse. How do we find a solution.

**Rep. Norland (2800):** How many hearings are there?

**Dale L Frink:** I would guess five to six.

**Rep. Norland:** How many are challenged.

**Dale L Frink:** I would guess ten percent. Fifty percent have at least one letter related to it.

**Rep. Nottstad:** Because of the time in advance of the permit the thirty of sixty day period is irrelevant.

**Rep. DeKrey:** Does the irrigator have to shut down following the decision.

**Matthew Sagsveen:** There is an injunction process.

**Rep. DeKrey:** How do they make the determinations as to who get the letters?

**Dale L Frink:** A circle is drawn around the site of the project.

**Chairman Nelson** appoints **Rep. Keiser, Rep. DeKrey, and Rep. Kelsh** to a subcommittee to work with the water commission for common ground.

**Rep. Solberg** stressed the need to provide closure to this process.

**Chair Nelson** pointed out that the bill would be unlikely to receive support on the floor in its present form.

**Chair Nelson** adjourned the meeting.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

*Dorena Bell*  
Operator's Signature

1/9/03  
Date

