

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Mathern

1 A BILL for an Act to amend and reenact sections 61-04-03 and 61-04-05 of the North Dakota
2 Century Code, relating to water permit applications and notices.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 61-04-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **61-04-03. Application for water permit - Contents - Information to accompany.**

7 The application for a permit to make beneficial use of any waters of the state shall must be in
8 the form required by the rules ~~established~~ adopted by the state engineer. ~~Such~~ The rules shall
9 must prescribe the form and contents of, and the procedure for filing, the application. The
10 application, along with all other information filed with it ~~the application~~, ~~shall~~ must be retained in
11 the office of the commission after approval or disapproval of the application. The state engineer
12 may require additional information not provided for in the ~~general~~ rules if the state engineer
13 deems it ~~to be~~ necessary. Applications must also include the estimated target aquifer and
14 depth of the proposed water appropriation. If the applicant is not the surface owner of record,
15 the applicant shall submit documentation showing that written permission for surface access
16 has been granted by the surface owner of record.

17 **SECTION 2. AMENDMENT.** Section 61-04-05 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **61-04-05. Notice of application - Contents - Proof - Failure to file satisfactory**
20 **proof.** When an application is filed which complies with this chapter and the rules adopted
21 under this chapter, the state engineer shall instruct the applicant to:

- 22 1. Give notice of the application by certified mail in the form prescribed by rule, to all
23 record title owners of real estate within a radius of ~~one mile [1.61 kilometers]~~ five

- 1 miles [8.05 kilometers] from the location of the proposed water appropriation site,
2 except:
- 3 a. If the one-mile [1.61-kilometer] radius extends within the geographical
4 boundary of a city, the notice must be given to the governing body of the city
5 and no further notice need be given to the record title owners of real estate
6 within the geographical boundary of the city.
- 7 b. If the one-mile [1.61-kilometer] radius includes land within the geographical
8 boundary of a rural subdivision where the lots are of ten acres [4.04 hectares]
9 or less, the notice must be given to the governing body of the township or
10 other governing authority for the rural subdivision and no further notice need
11 be given to the record title owners of real estate within the geographical
12 boundary of the rural subdivision.
- 13 c. If the one-mile [1.61-kilometer] radius includes a single tract of rural land
14 which is owned by more than ten individuals, the notice must be given to the
15 governing body of the township or other governing authority for that tract of
16 land and no further notice need be given to the record title owners of that
17 tract.
- 18 2. Give notice of the application by certified mail in the form prescribed by rule to all
19 persons holding water permits for the appropriation of water from appropriation
20 sites located within a radius of ~~one mile [1.61 kilometers]~~ five miles [8.05
21 kilometers] from the location of the proposed water appropriation site. The state
22 engineer shall provide a list of all persons who must be notified under this
23 subsection to the applicant.
- 24 3. Give notice of the application by certified mail in the form prescribed by rule to all
25 municipal or public use water facilities within a twelve-mile radius of the proposed
26 water appropriation site. The state engineer shall provide a list of all municipal or
27 public use water facilities that must be notified under this subsection to the
28 applicant.
- 29 4. Provide the state engineer with an affidavit of notice by certified mail within sixty
30 days from the date of the engineer's instructions to provide notice. If the applicant
31 fails to file satisfactory proof of notice by certified mail within sixty days and in

- 1 compliance with the applicable rules, the state engineer shall treat the application
2 as an original application filed on the date of receipt of the affidavit of notice by
3 certified mail in proper form. Upon receipt of a proper affidavit of notice by certified
4 mail, the state engineer shall publish notice of the application, in a form prescribed
5 by rule, in the official newspaper of the county in which the proposed appropriation
6 site is located, once a week for two consecutive weeks.
- 7 5. The notice must give all essential facts as to the proposed appropriation, including
8 the places of appropriation and of use, amount of water, the use, the name and
9 address of the applicant, and the date by which written comments regarding the
10 proposed appropriation must be filed with the state engineer. The notice must also
11 state that anyone who files written comments with the state engineer will be mailed
12 a copy of the state engineer's recommended decision on the application.
- 13 6. The applicant shall pay all costs of the publication of notice.