

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1063

Introduced by

Energy and Natural Resources Committee

(At the request of the State Engineer)

1 A BILL for an Act to amend and reenact sections 61-02-01, 61-15-01, and 61-15-02 of the North
2 Dakota Century Code, relating to the term nonnavigable and water conservation; and to repeal
3 section 61-15-08 of the North Dakota Century Code, relating to water conservation.

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

5 **SECTION 1. AMENDMENT.** Section 61-02-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-02-01. Water conservation, flood control, management, and development declared**
8 **a public purpose.**

9 It is hereby declared that the general welfare and the protection of the lives, health,
10 property, and the rights of all the people of this state require that the conservation,
11 management, development, and control of waters in this state, public or private, navigable or
12 ~~unnavigable~~nonnavigable, surface or subsurface, the control of floods, and the management of
13 the atmospheric resources, involve and necessitate the exercise of the sovereign powers of this
14 state and are affected with and concern a public purpose. It is declared further that any and all
15 exercise of sovereign powers of this state in investigating, constructing, maintaining, regulating,
16 supervising, and controlling any system of works involving such subject matter embraces and
17 concerns a single object, and that the state water commission in the exercise of its powers, and
18 in the performance of all its official duties, shall be considered and construed to be performing a
19 governmental function for the benefit, welfare, and prosperity of all the people of this state.

20 **SECTION 2. AMENDMENT.** Section 61-15-01 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **61-15-01. Definitions.**

23 In this chapter, unless the context or subject matter otherwise requires:

- 1 1. "A navigable lake" shall ~~include~~includes any lake which shall have been meandered-
2 and its metes and bounds established by the government of the United States in the
3 ~~survey of public lands~~that was at time of statehood used or susceptible of being used
4 in its ordinary condition as a highway for commerce over which trade and travel were
5 or may have been conducted in the customary modes of trade on water.
- 6 2. "Ordinary high watermark" shall ~~mean~~means that line reached by water when the lake-
7 ~~or stream is ordinarily full and the water ordinarily high.~~below which the action of the
8 water is frequent enough either to prevent the growth of vegetation or to restrict its
9 growth to predominantly wetland species. An island in navigable waters is considered
10 to be below the ordinary high watermark in its entirety.

11 **SECTION 3. AMENDMENT.** Section 61-15-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **61-15-02. Control of water and wildlife conservation projects vested in state.**

14 By virtue of its police power the state shall be vested with the control of navigable lakes
15 ~~which have been meandered and their metes and bounds established by the government of the~~
16 ~~United States in the survey of public lands,~~ within the ordinary high watermark for the purpose
17 of constructing, maintaining, and operating dams, dikes, ditches, fills, spillways, or other
18 structures to promote the conservation, development, storage, distribution, and utilization of
19 such water and the propagation and preservation of wildlife.

20 **SECTION 4. REPEAL.** Section 61-15-08 of the North Dakota Century Code is repealed.