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ORGANIZING IRRIGATION DISTRICTS

This fact sheet is designed for two purposes. First, it will outline the major steps that must be taken to organize an irrigation district in South Dakota. Secondly, it will answer questions most frequently asked in relation to project irrigation as contrasted with privately developed irrigation systems.

It will answer many questions asked by the general public. It would be wise for individuals actively in charge of the details of organization however, to acquaint themselves with provisions of the statutes. Copies of the Irrigation District Law are available at county Extension offices or the State Water Resources Commission in Pierre.

PART 1—STEPS IN ORGANIZATION

Step 1. Determine Feasibility. Answers to the following questions are the important considerations in determining feasibility.

1. Is there an adequate, dependable supply of good quality water available?
2. Are the soils adaptable to irrigation?
3. Will irrigation give increased returns after costs related to the project are considered?

These questions demand detailed studies. When an agency such as the Bureau of Reclamation investigates project feasibility, the results of its studies are made available to prospective irrigators as aids in determining whether they wish to take steps toward irrigation.

Step 2. Petition for Formation. Interested parties must present a petition to the board of county commissioners in the county in which all or part of the proposed district is located. The petition requests that an irrigation district be formed to include lands legally described on the petition. The petition must be signed by a majority of electors who own a majority of the acreage within the proposed irrigation district.

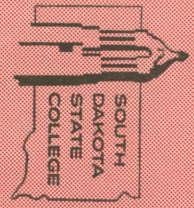
A map of the proposed district, showing at an appropriate scale, the location of the proposed canals or other works, needed to irrigate the proposed district, must accompany the petition. If the water is to come from a stream, the stream flow must be shown in cubic feet per second. If a reservoir is included, its location and capacity in acre feet must be indicated. Cross sections of dams and canals and their capacity must be illustrated in sufficient detail to show the contemplated method of construction.

The petition must be accompanied with a good and sufficient bond, to be approved by the board or

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organizing irrigation districts in south dakota

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boards of county commissioners, in double the amount of the probable cost of organizing such a district, conditioned that the sureties will pay all costs in case such organization shall not be effected. A copy of the petition, maps and other papers must be filed with the Water Resources Commission.

Step 3. Notice of Hearing and Filing of Petitions. The board or boards of county commissioners files copies of the petition and map with the county auditor or auditors concerned. They fix a time and place for a hearing on the petition and publish notice of such hearing in all legal newspapers in the county or counties involved.

Where a proposed irrigation district extends into two or more counties, the county commissioners of these counties act jointly as a single board in establishing the irrigation district and in arranging for election of the district's first board of directors. This joint action shall be arranged by the board of county commissioners of that county having the largest land area proposed for the district.

The Water Resources Commission must have access to a copy of the petition and map for at least 4 weeks, prior to the date set for a hearing.

The notice of hearing gives a brief description of the proposed irrigation district along with the time and place of the hearing, and tells where the petitions are filed and where the same may be examined.

The Water Resources Commission examines the petition and map and submits a report of their findings to the county commissioners at the time of the hearing.

Step 4. Conduct of Hearing. At the time of the hearing the board of county commissioners may alter the district boundaries as may be advisable. The hearing may be recessed from time to time but

cannot exceed 4 weeks in all. Areas within the proposed boundaries not susceptible to irrigation may be excluded and areas outside the proposed district may be included.

The Board also divides the district into three, five or seven divisions. These will constitute director divisions. They are numbered consecutively and should be about the same size.

Step 5. Conduct of Election. The board of county commissioners must then publish in a county newspaper for at least 3 weeks, a notice of an election to determine whether or not the proposed irrigation district shall be formed. Time and place or places of voting are designated. Only qualified electors may vote. (See Part II for definition of qualified elector.)

The Board meets on the second Monday following the election to canvass the vote. If the majority of the votes cast are favorable, the Board declares the territory a duly organized irrigation district and causes certified copies of their proceedings to be filed with the offices of register of Deeds and Auditors of the counties concerned.

Step 6. Election of Directors and Officers. After the district is formed, the board of county commissioners shall give 30 days notice in each of the newspapers published in the district and by posting notices in five public places within each division, of an election to be held. This notice gives date, polling places, judges, and offices to be filled. Officers to be elected are one director for each division (must be a resident of the division), a district assessor, a district secretary and a district treasurer. Election and canvassing are in accordance with general election laws. Officers hold office until the next general election for the irrigation district.

PART II—QUESTIONS AND ANSWERS

Do all types of irrigation require the formation of an irrigation district? No. If unappropriated water is available from an underground or surface source, an individual may develop his own irrigation system by obtaining a permit "To Appropriate Water Within The State of South Dakota" from the Water Resources Commission at Pierre, South Dakota.

When unappropriated underground or surface water is not readily available, supply and distribution systems may be developed to deliver the water to a given area and group of users. This is commonly called project irrigation development and is usually, but not necessarily, done with assistance from a federal agency. Project irrigation development may require the formation of an irrigation district.

What is the relationship between the conservancy sub-district and an irrigation district?

Conservancy sub-districts provide local control over large, complicated, multiple-purpose projects. An irrigation district provides local control over a single purpose irrigation project only. A conservancy sub-district includes all those people who may benefit from a project whether they are direct water users or whether they benefit indirectly from the project. An irrigation district includes only those people whose lands will use water directly for irrigation purposes.

Who is an elector?

An elector is any resident of the state owning not less than ten acres of land within the proposed irrigation district. The United States of America, the state of South Dakota or any political sub-division thereof, or any corporation owning ten acres or more of land within the proposed irrigation district is an elector.

To what extent is a landowner financially obligated if he signs a petition for a district?

If a district is formed, it has the power of levying assessment for operating costs. The formation of an irrigation district does not obligate the land-owners to the construction of a project. Commitment to construction of a project comes only after a favorable vote of the electors within the irrigation district indicates a desire to accept a repayment contract with the conservancy sub-district or with the United States.

If the farm has been purchased on a contract-for-deed, who signs the petition? If the contract-for-deed is of record in the office of the county register of deeds, both the landowner and the individual contract-for-deed purchaser of such land shall be treated as an elector.

Can non-residents who own land within the boundaries of the proposed district sign the petition?

No, non-residents owning South Dakota land in a proposed irrigation district are not eligible to sign a petition or vote. This does not include the United States government or a corporation owning ten or more acres of land and authorized to do business in the state.

If a minor is the legal owner, who may sign?

The child's guardian may sign, but guardianship authority must be presented.

Who furnishes the bond mentioned in Step No. 2?

Those parties interested in organizing the district will have to arrange for the necessary bond.

How are initial directors and officers nominated?

The first directors and officers of the Irrigation District are nominated by petitions signed by not less than one percent of the electors (landowners) in the district who cast votes for Governor at the preceding general election. For the first directors and officers, these petitions are sent to the County Commissioners.

What are the duties of the directors and officers of an irrigation district?

The directors shall hold regular meetings on the last Tuesday of each month. All meetings are open to the public.

Special meetings may be held upon order of the president of the Board. Such order must specify the business to be transacted.

All records of the Board shall be open to inspection by any elector during business hours.

A brief statement covering the proceedings shall be published in one newspaper of general circulation, in the district.

The Board, its agents and employees, shall have the right to enter upon any land within the district to make surveys, etc.

The Board shall also have the right to acquire, either by purchase or condemnation, all lands and waters and other property necessary for construction, use, maintenance, repair and improvement of any canal . . . and lands for reservoirs for storage of water and all necessary appurtenances.

The Board "shall also have the right to acquire by purchase or condemnation . . . irrigation works . . . ditches, canals, or reservoirs already constructed."

The Board may "construct the necessary dams, reservoirs and works for the collection of water for the district . . . etc."

The Board may enter into any obligation or contract with the United States government or a conservancy sub-district for the construction, operation, and maintenance of the delivery and distribution of water . . . etc.

The Board may contract with the United States or with a conservancy sub-district for a water supply.

The Board "may accept on behalf of the district appointment of the district as fiscal agent of the United States, etc."

In carrying out its responsibilities, the Board shall have the power to do any and all things required by federal statutes in connection with rules and regulations provided by a department of the federal government.

The Board may enter into supplemental contracts.

If a farmer has irrigable land, does he have to be included in an irrigation district to receive water?

Yes, This is the only way he can be assured of an irrigation water supply and share in the project water right.

If a farmer is in an irrigation district and owns irrigable land and decided not to use the water, does he have to pay for anything?

Yes. All irrigable land within an irrigation district will be subject to an annual assessment for construction charges as well as for O & M (Operation and Maintenance).

Does he pay for water on the basis of amount of land irrigated?

The annual charge or assessment is based on an acre rate depending on the amount and class of land irrigated for which the operator is entitled to a given amount of water.

If only part of his land is classified as irrigable, yet all of it is within the boundaries of the district, does a farmer pay water costs on his entire farm?

No. He pays only on that acreage classified as irrigable. For example — if there are 80 acres classified as irrigable out of a farm of 200 acres, he would pay the water charge of a specified amount per acre annually on the 80 acres.

Is there any limit to the number of irrigable acres any one owner may own within a district?

There is no limit on ownership of land, but federal law provides that water cannot be delivered to any one individual ownership in excess of 160 acres of irrigable land. An owner may own any amount of non-irrigable land which may be included in his unit. The non-irrigable land is not assessed.

Can other members of a family own irrigable land in the district?

Yes. Each member of the family may own 160 acres of irrigable land.

Can an owner of 160 acres of irrigable land rent additional irrigable land?

Yes.

What is considered excess land?

Excess land in Federal Reclamation projects refers to the portion of the irrigable land which is in excess of 160 acres held in the beneficial ownership of any single person, or in excess of 320 irrigable acres held in the beneficial ownership of husband and wife as joint tenants or tenants in common. Water charges will be made for land in excess of 160 or 320 acres, but no water will be furnished to

those lands unless the owner files a recordable contract for disposing of them before water is first delivered.

After irrigation is developed, water may be furnished to excess irrigable land if the land was acquired by foreclosure, or other process of law, by conveyance in satisfaction of mortgage, by inheritance or devise, for a period not to exceed five years after the effective date of such acquisition.

How is excess land disposed of?

A board of competent appraisers will establish a value for the excess land. The landowner may then, without penalty, sell the excess land, at a price not more than the appraised value. The landowner does not have to sell until he receives a bona-fide offer for his excess acreage.

Will the government buy the excess land?

No. At the present time funds are not available for the purchase of excess land.

What is a recordable contract?

The recordable contract referred to is a contract filed by excess land owners in which agreement is reached on the disposition of the excess irrigable acres within a specified time. This time usually coincides with the development period (usually ten years after water is made available) established for the project. The contract is normally filed with the water users organization before the initial water delivery, with a copy furnished to the United States government.

After the filing of the contract, the excess land is eligible to receive water during the development period for the period of time so specified in the contract. In the contract, the excess land owner agrees to dispose of his land within the period specified at a price established by an appraisal committee. If improvements have been added after the date of the initial appraisal and prior to the disposal of the excess land, the owner may request a reappraisal.

How does the Anti-Speculation Act help the farmer?

The history of every Reclamation project before the passage of the Anti-Speculation Act was that speculators realized a land boom was on the way and bought up large tracts of dry land as cheaply as

possible with no intention of cultivating it. A rosy picture was painted to the actual farmers, who were forced to pay high land prices. This burdened them to such extent that they could not pay the water charges, high interest, and payments, and they had to abandon the land. This occurred on many of the projects, including the Shoshone project in Wyoming, where land prices increased 5,000%. Since the enactment of the Anti-Speculation Act, speculation has been controlled and the farmer has had little difficulty in meeting his obligation.

What lands will be purchased by the government for this project?

Rights-of-way for canals, laterals, and drains across land patented prior to the 1890 act, west of the 100th meridian and all land patented east of the 100th meridian will be negotiated for and purchased. All land in reservoir areas will be purchased. Special legislation will be requested of Congress authorizing purchase for all needed rights-of-way for the Oahe Unit, including that lying west of the 100th meridian and patented after 1890.

How is land acquired?

In determining a fair price for rights-of-way and reservoir areas, the usual practice is for the government to make an appraisal and then negotiate with the owner for the sale price. The appraisal is based upon the going price of similar land in the area at the time of purchase.

In purchasing land for rights-of way, reservoir areas, etc, ownerships are sometimes split, which creates conditions that make the unit more difficult and expensive to operate. When this occurs, severance allowances are permitted and included in the negotiations for the sales price. Usually the facilities for crossing canals, laterals, and drains to meet farm and livestock needs are provided at no cost to the landowner. Rights-of-way and structures are also provided where canals, laterals, and drains cross township, county, and state roads. These are part of project costs.

Who determines the number of irrigable acres on each farm included in the district?

The Bureau of Reclamation, after extensive surveys and soil tests by soil technicians, makes the determination.