

North Dakota Water Appropriation

2007 RRBC Annual Conference

January 25, 2007



Dale L. Frink
North Dakota State Engineer

North Dakota: A Prior Appropriation State

- **Water belongs to the state**
- **First in Time - First in Right**
- **Use It Or Lose It**
- **Some type of works required**
- **All use, except domestic and livestock, requires a permit**

Criterion for Issuance of a Conditional Permit

- 1. Rights of prior appropriator will not be unduly affected**
- 2. Proposed means of diversion is adequate**
- 3. Proposed use of water is beneficial**
- 4. Proposed appropriation is in the public interest**
 - Harm to other persons**
 - Effect on fish, game, recreational opportunities**
 - Intent of the applicant**

Instream Flow

- **Instream flow not legally a beneficial use**
- **Other western states permit instream flow, but priority date still controls**

Conservation

- **No specific state requirement**
- **Regional systems: cost-effective means of achieving conservation**

Miscellaneous Points & Thoughts

- **Red and Missouri Rivers not allocated**
- **ND Red upstream of Fargo - fully appropriated**
- **Allocation of the Red River very difficult**

Thank you!