

Appendix A

Transcript of Informational Hearing Meridian Energy Group - Water Permit Application Number 6858

February 18, 2017

Kimberly Fischer from the Office of the State Engineer gave a short presentation proceeding the informational hearing to define an informational hearing and provide an overview of the water appropriation process. The presentation also discussed the authority of the State Engineer and briefly discussed the hydrogeology of the Dakota aquifer. [Slides and audio recording of the presentation available upon request].

The hearing was opened up to questions on the water permitting process or on the Dakota aquifer

Unidentified Questioner: Could you go back to the next to the last slide?

Kimberly Fischer: This one?

Unidentified Questioner: No, one more back, two more, another one.

Unidentified Questioner: Where light green you say. It looks like it [Dakota aquifer] comes close to the surface as it goes to the right as I see it?

Kimberly Fischer: Yes, it's – so here [pointing to the slide] is the Missouri River, and this where it comes closer to the surface is in eastern North Dakota. And so, the travel times between - I don't know off the top of my head what the travel time is, but we are not talking – we are talking hundreds of years or thousands of years. From the travel times from here to the discharge area.

Unidentified Questioner: The reason for my question is I know that water is used in eastern North Dakota for livestock purposes.

Kimberly Fischer: Yeah.

Unidentified Questioner: They do use it for livestock, that's why my question came up.

Kimberly Fischer: And I think the water quality is different in the eastern part of the state than in the western part of the state.

Unidentified Questioner: I believe that to be true.

Kimberly Fischer: Cause it looks the parts – or the TDS [total dissolved solids] is more in the 3,000 range versus here we have 6,000 and 11,000. Any other questions?

Unidentified Questioner: You said how many gallons a minute they are pushing back into the Dakota right now of a disposal well?

Kimberly Fischer: Well, the pumping rate that I was talking about was actually for people that are pumping water out of the Dakota formation, and what I saw is it's [the injection rate] less than the pumping rates that they are getting out of the formation.

Unidentified Questioner: Do you know how much water is actually getting pushed into it from the disposal?

Kimberly Fischer: I do not know how much water, that is something that is regulated by the Health Department. [Actually, regulated by the North Dakota Industrial Commission].

Unidentified Questioner: Within a 4-mile radius right now there are 16,000 barrels of saltwater that gets pushed down into the sand as we speak.

Kimberly Fischer: Yeah and that I'm sure that's something the Health Department will consider when they are doing their – it's the –If I go back to – it's the North Dakota Pollutant Discharge Elimination System Permits Program. That is what that would be regulated under.

Unidentified Questioner: Are there any radioactive materials associated with this water?

Kimberly Fischer: I have, I've...

Unidentified Questioner: Radium 226 for instance?

Kimberly Fischer: I don't know if there is – I don't know anything about that.

Do you guys know anything . . . if there's any radium in the Dakota Formation? [Directed to Andrew Nygren and Jennifer Weier from the Office of the State Engineer]

Unidentified Questioner: Any radioactive material [inaudible]?

Jennifer Weier: Not that I am aware of [inaudible].

Kimberly Fischer: So, any other questions?

Opened up to informational hearing for anyone who wanted to submit testimony

Kimberly Fischer: Okay, well if nobody wants to say anything you can submit written comments up until February, or they have to be postmarked by February 18th.

Cecilia Montesdeoca: I just have an initial question.

Kimberly Fischer: Okay.

Cecilia Montesdeoca: Sorry, but looking through the amount of water that was appropriated for this project. I wasn't clear if there was, the number that was appropriated was for both the first and second phase of the project or just the first phase since it is a two-phase project. I wasn't sure about that.

Kimberly Fischer: I had submitted questions to SEH and they said it was for both the first and second phase.

Dan Hedrington from SEH: [inaudible]

Kimberly Fischer: Okay.

Dan Hedrington from SEH: In planning for the project, because there is a potential that someday we might be expanded we would rather get the allocation now, drill now, one well now. And so that it does ever happen in the future we don't have to go through drilling another well. They are very expensive and time consuming. So, what we want to do is we want to make sure that we have the ability to expand if the need ever arises in the future.

Jan Swenson: I came assuming that we would get, that informational meant we would get information so can I ask another question. I'm Jan Swenson. I'm from Badlands Conservation Alliance, and I was taken aback when I saw the application and it was 645 gallons per minute because during all of the hearings before the Billings County Commission when Meridian was asked how much water they would use they said, estimated 100 gallons per minute. And maybe 150 gallons per minute at startup. So, it's a whole lot more, 400 gallons per minute is a whole lot more than what you stated at that time and, you know, I guess I can say just outright that BCA is opposed to this refinery in this location. But we would question why you did not explain to the Commission, why you did not explain to the public the same kinds of things that I have heard since that time about what percentage of the water can be used and how you determined the 400 and, and you know I think that we would all benefit from knowing how you made that determination.

Scott Lange from SEH: Well, this is Scott Lange here from SEH. We did say 100 to 150 gallons per minute of water is what we would need as makeup water for the site and that still is the number we are talking about. So, to get that water out of the Dakota we would need to treat, we are estimating about 400 gallons per minute to get that volume of treated water. We don't know, we got to drill into the formation and test the water. So, based on other results from people that have used the formation in other places we estimated that you would probably lose 40% or so of the volume through the treatment process. It wouldn't be able to be cleaned up enough so that's how you get to 400.

Jan Swenson: Would you lose that volume because there is so much salt in it?

Scott Lange from SEH: Dissolved solids, yes.

Jan Swenson: So, what happens with those salts?

Scott Lange from SEH: They would be disposed of in probably in about one of three ways. Onsite injection, offsite injection in another disposal well, somebody else's, or the third process could be evaporation onsite. That would probably be our least favorite choice.

Jan Swenson: Okay, I just need to iterate that at those hearings it would have been helpful to have known that. So that we could have perhaps heard a broader, had a broader discussion or

heard more detail about how you may be having those salts. How those salts may or may not be contaminated. There are other saltwater disposal wells in the vicinity. To what extent do the waters migrate? Will they contain contaminants . . .

Scott Lange from SEH: As we . . .

Jan Swenson: [inaudible]

Scott Lange from SEH: As we talked at those hearings, we take this process one step at a time. The zoning is the first step. Water appropriation and the ability to get to the water is second. How we, we've got additional folks to work through if and how ever we end up having to dispose of it. So, it is not like they won't be covered in future discussions.

Kimberly Fischer: Can I interject for just a minute? So SEH was very kind to go through and answer a lot of the questions that were asked in the original comment period. And I have a copy of the memorandum here and I can send it to anyone who is interested. I was going to include it in the recommended decision. So maybe that would be able to answer some of the questions that you have right now. And you could express your concern to the appropriate parties. Like the Health Department, it sounds like you maybe have some concerns with contaminants. This is, this hearing here would be just for the potential impact on the water resource which is the Dakota aquifer, or possibly deeper.

Unidentified Questioner: I am just curious, how far between the two zones – freshwater and the Dakota aquifer?

Kimberly Fischer: It's about 3500 feet between the base of the Fox Hills and the top of the Dakota formation.

Unidentified Questioner: How far, 3200 feet?

Kimberly Fischer: 3500 feet.

Unidentified Questioner: What kind of rock?

Kimberly Fischer: It's sh – Cretaceous shale, it's really, it's basically a clay. It's very impervious.

Cecilia Montesdeoca: Do you have any information on what the rate of the aquifers replenishment would be? So, how much we take out, how long will it take for the aquifer to replenish?

Kimberly Fischer: Yeah, I don't have any recharge rates. You know it hasn't been a problem in western North Dakota because it's been an injection zone. So, there is water being recharged, even though it is a poorer quality water that is recharging the aquifer right now. But I don't have any recharge rates for the aquifer today. That is something I could look at in the recommended decision.

Cecilia Montesdeoca: And there wouldn't be any projections on your saying that it is being recharged by less – water that is of poorer quality? Is there any information of how in the long run it is going to you know when will the poorer quality water takeover the quality water?

Kimberly Fischer: It is not really quality water though, this is considered to be briny water. And the reason why it's briny is because it does take a long time to recharge. So, I guess I don't have any answers today but that's something I could certainly look at in the recommended decision.

Unidentified Questioner: I'm trying to just understand what is this water going to be used for? How much of it is going to go off into the atmosphere as steam? How much is going to be pumped back into the ground?

Kimberly Fischer: Yeah and they [SEH] did answer some of those questions in the memo that they had sent.

Unidentified Questioner: Well can we just go over that now since I drove 300 miles to get here? To find that out.

Kimberly Fischer: I did bring an electronic copy and I have one paper copy that I have given away, but I can also email you this memo and it will be included in the recommended decision, but if you want I can leave it up and you can read it or you can come read it on the computer whatever you want.

Valerie Naylor: I think it would be helpful for all of us to know what that says.

Denise Aaron: I think it would be.

Kimberly Fischer: Okay.

Unidentified Questioner: Can you read it loudly, please.

Kimberly Fischer: Oh, you want me to read it, okay.

Memo provided by SEH is read – Copy of memo and audio recording of reading, including several questions directed to SEH about the refinery, available upon request.

Kimberly Fischer: Thanks for reading that. Does anybody have any questions or concerns related to the water permitting process?

Unidentified Questioner: Couldn't you just use the brine water before you inject it into the Dakota?

Kimberly Fischer: That's not a question that I can answer.

Scott Lange from SEH: It's a matter of consistency, we need water at the rate that you need the water . . . [inaudible]. And transportation costs would be very significant.

Wendy Ross: Is there monitoring done in the Dakota formation for water quality in different places and how is that adjusted for in terms of the water quality moving either worse or better with different injection occurring?

Kimberly Fischer: The Water Commission does not monitor the Dakota aquifer. I can't say for sure what the Health Department monitors. But that would be a good question for the Health Department when they have their informational hearing or they have their public meeting. I know that sometimes on the oil and gas website oil companies will test the water and that will be in the oil and gas file, because I have seen it. But not every oil company does; the Industrial Commission must not require them to do it.

Unidentified Questioner: Do they have to drill a well to begin with to get a sample to test? Or could they use the ones that have already had that [inaudible] one that already pulls water, industrial water out of the aquifer so they can just get their sample and test it?

Kimberly Fischer: Do you mean from the . . .?

Unidentified Questioner: The one you had up in that picture that was way down to the south, you said there was an industrial well that pulls water out of the same aquifer.

Kimberly Fischer: Oh...well yeah, I guess I didn't look at that specific oil and gas well to see if ... There is a water permit from the Dakota aquifer just it looks like it's about, I don't know 7 miles south or southeast of it [proposed point of diversion] and I didn't look but a lot of times in the oil and gas file you will be able to see what the water quality is, but I didn't look to see if that one had it. Because it seems like it is dependent on the company as to whether or not they test.

Scott Lange from SEH: We have, and there is enough variation in the samples drawn from the Dakota across the region that you really need to get the water at the site to know.

Dan Hedrington from SEH: And what the flow capacity or flow ability of the water is. You need to know right where they are going to develop the well.

Valerie Naylor: I have a number of questions, just to clarify. So originally Meridian had said, I think this is a water question and if not the next one is, that they would use this dry cooling system and then they said they might have to use a wet one. And it sounds like they are going to try to use as much of a dry system as possible so as not to use as much water. Is that a correct statement?

Dan Hedrington from SEH: That is correct.

Valerie Naylor: But at this time, it does not seem to be determined how much it's going to be wet or dry? Is that a correct statement? That's something you are still working on?

Scott Lange from SEH: Well, yes.

Valerie: And then my next question is if the water is injected on site would it be injected back right back into the same Dakota aquifer?

Scott Lange from SEH: To be determined.

Valerie Naylor: Okay and my third question then, is would this water permit be issued or denied in a vacuum before knowing about the discharge or how it would exactly be used? Or do those questions have to be answered first.

Kimberly Fischer: No, we do not base our water permit approval or denial on other agencies, right? [directed towards Andrew Nygren and Jennifer Weier].

[Indistinguishable question]

Kimberly Fischer: That is what my understanding is. Andrew may have – know more than I do.

Andrew Nygren: Not per say because the discharge permit would be authorized by the State Department of Health and if they are not authorized, if the company isn't authorized to take water in the first place then there is no discharge permit to consider.

Valerie Naylor: Of course, but the other way around – if you would issue an authorization to take the water then what happens with the discharge permit and it is another agency that handles that, so is it possible that you would approve the permit and they would not approve the discharge?

Andrew Nygren: Then water would not be put to beneficial use and the permit would be cancelled for non-use.

Laura Grzanic: My water well is only 400 feet, that is what I use for my house and for my livestock. I am not hooked up to Southwest Water. What are your plans on protecting the shallow wells, now and in the future?

Scott Lange from SEH: Do you want me to answer that?

Kimberly Fischer: Well, we usually answer the questions in the recommended decision. But we have spoke about that a little bit. Based on the geology of the formation that they are targeting – let's go back a few here [referring to slides from the presentation] – your well is only 400 feet deep then it would be probably in the tan layer up here and they're planning on - so somewhere if you are at 400 feet deep you are probably somewhere in here [referring to the cross section slide from the presentation] and if they're planning on going to 5500 feet below land surface, it's not going to have any impact on your well. As far as water supply.

Laura Grzanic: Would you be willing to take samples to maintain water quality during the drilling process and also during the operation process? [directed to SEH]

[Side conversation between Scott Lange from SEH and Laura Grzanic – indistinguishable]

Kimberly Fischer: There are no domestic or stock wells in the Dakota formation in western North Dakota. It is only industrial use right now in western North Dakota.

Unidentified Commenter: To answer that question, in the area there we are speaking of they have already drilled, Whiting's already drilled wells within a mile of this area. And the protocol ... I worked in the oil industry for 20 years too and I am a rancher in the area. All surface waters are protected because you have to put a casing system in. The casing systems run to 3500 feet, it is all cemented. It is the deal they have been running for 50 years since they started drilling oil in our area. All surface waters have to be protected. As far as them recycling the water, I think they are taking an asset that's no good for nobody, they got to pay to get rid of it, and they are actually bringing it back and making a valuable product out of it. What we're hoping for in the community, because they said what are you going to do with the salt that comes out of it? We are hoping all of our salt for livestock in the area for the state and everything comes from Utah or wherever it comes from. There is a chance here this could be a process to take this salt, bag it, check it for safety and have it for livestock use, and salt for the state to use for highways and whatever they need to use it for. But a lot of them questions got to be answered to be safe. Is there a chemical reaction to this salt? You might have to put it back in the ground and just in that area alone, the lady's question about replenishing the Dakota zone, Whiting oil and gas in them oil wells, as you people drove down the interstate and came down here all them oil wells along the interstate that salt water is put in the Dakota zone as we speak. Whiting, I talked to Tesoro just yesterday. They put down 13,000 barrels of water in that zone that's within 5 miles of this well. So, there is not where it is going to suck the Dakota dry, the Dakota is expanding cause that's just one oil company. That doesn't include Denbury, Scout, all them guys that are outside the perimeter. So, the water will never run out. A very good question, I learned something today, I didn't realize by Fargo that the Dakota water is drinkable water. So that's why I think all them injection wells must be clearing it up in the time that it gets there. But that's what is going to happen with this water. All our surface water are protected and if I remember right all your ships and submarines and everything already have this system and process to take salt water and turn it into fresh water. I was never in the navy but I heard that is how they do it. This must not be a very new process it must be something that has been going on for years. So, I will leave it at that.

Valerie Naylor: I had a follow up or a rephrase of this person's question regarding the water testing. Does the state require any ongoing testing of water that is permitted? Or taken out of the aquifer?

Kimberly Fischer: Not from the Water Commission. I don't know, I can't speak for what the Health Department requires.

Valerie Naylor: Thank you.

Unidentified Commenter: I think NDIC profiles water you know out of each new well. The source wells I would imagine it's the same. I would think you could get that information from the North Dakota Industrial Commission.

Kimberly Fischer: Does anyone want to present testimony for the recommendation for the State Engineer, for any concerns they have that they want us to address in the recommended decision?

Cecilia Montesdeoca: All these concerns will be addressed though that were already asked?

Kimberly Fischer: As long as, well, like I said the write-up from SEH will be included in the recommendation and then all the comments that were already asked that were related to water related concerns – the impact on the water resource will be answered in the recommended decision.

Wendy Ross: Is there a more comprehensive application that Meridian submitted to the State? Or is this the only thing that is [indistinguishable]?

Kimberly Fischer: The application itself is only two pages and a map prepared by a land surveyor.

Wendy Ross: So, it doesn't have any more information.

Kimberly Fischer: No, it doesn't have any more information.

Unidentified Commenter: My question is just for my own benefit. I know they are putting so many thousand gallons back in through all the injection wells and stuff, and Meridian is going to pull a couple million gallons water out a day to get their operating cooling. Could we, could that aquifer have the same problem as they are having in California where they are pulling out more than is going in and that zone will start to collapse? Cause it is just clay you know.

Kimberly Fischer: I don't know if there's been any . . .

Unidentified Commenter: Cause it's just clay.

Kimberly Fischer: . . . research on subsidence from the Dakota formation.

Unidentified Commenter: Because there's back out there you know, they're sucking the water out and its – they're – I know guys says like its dropped like 4 feet.

Kimberly Fischer: Yeah, it does, it has dropped feet.

Unidentified Commenter: I was just curious.

Kimberly Fischer: I guess there is nothing that I know of that there [inaudible] on subsidence from the Dakota formation.

Unidentified Commenter: I had a comment. So, my comment really goes to intent, and I would ask the State Engineer to consider the intent of the applicant here and whether or not it really plans to appropriate this quantity of water. Some of what I am hearing here today is, well maybe we'll appropriate some of this water right away but it might be five years until we actually appropriate the rest of it and we're not really sure. And I don't have the statute in front of me right now, but I am pretty sure that the State Engineer has the duty when it is considering the public interest to ensure that it is only granting a permit for beneficial use based upon the applicant's actual intent to use that water. The other thing that I would mention that also goes to intent, is that I think it was in your presentation that Meridian hasn't applied to the PSC for an energy siting facility certificate. And that seems like pretty strong evidence of intent that they don't plan to actually build a refinery that will refine more than 50,000 barrels per day. So, it seems like it is a changing project is what I am getting at. And the extent that you are relying on

55,000 barrels per day of production for this facility. That they're not applying for that permit, that just seems to be wrong. I would just ask that you take that into account.

Jan Swenson: I was just reading over the SEH memo and note under 1. How will water be used in the refinery? That it says additionally the use of surface water runoff is a possible source of raw water is being considered to reduce the overall cost of raw water treatment. I'm assuming that this is not a part of this application. But, would the company have to come to the State Water Commission if they were going to be using surface water runoff?

Kimberly Fischer: Yes.

Jan Swenson: And can you define for me what all surface water runoff is?

Kimberly Fischer: Well, let's see if it's in the – there is a list of definitions (in the handout provided) but I don't know if it has surface water runoff in here. Is surface water run off defined in North Dakota Century Code? Do you know? [directed at Andrew Nygren and Jennifer Weier]

Andrew Nygren: Essentially once surface water makes its way into a major drainage way or into a watershed and can be conveyed towards a stream or a river. It becomes waters of the state and therefore subject to appropriation by the State Engineer. And since it is going to be used for industrial use a water permit application would need to be submitted and it would be going through the same process that we are at today. This is only specifically for water to be withdrawn from the single source of the Dakota aquifer.

Jan Swenson: Okay.

Andrew Nygren: If for example, they found out the Dakota aquifer was not suitable for them and they chose an alternative formation like the Mission Canyon or they were utilizing both the Dakota aquifer and the Mission Canyon then two permits would be required. Because it's coming from two separate sources.

Unidentified Commenter: The Mission Canyon, is that brine?

Andrew Nygren: Yeah, it would be, it's below the Dakota aquifer.

Kimberly Fischer: In the Madison.

Andrew Nygren: Okay yeah, the Madison. So, when you are in the Black Hills driving through Spearfish Canyon and you are looking to the left and right that is the Madison formation.

Unidentified Commenter: And where on the map is that?

Kimberly Fischer: It is down here [pointing to slide from presentation]. I looked to see what the depth of the Mission Canyon was, and all I saw was that it was below 8,000 feet. So, I am not exactly sure how deep the formation is at the site.

Unidentified Commenter: Actually, I have one more question, if I may? If Meridian, if they basically bring the water up and put it back down in the same formation. Do they, does that

actually, how does the State Engineer treat that do you treat that as beneficial use or is that? Basically...it is being put straight back in.

Kimberly Fischer: You have to be using the water for it to be beneficial use. So, I guess as long as it is being used for something it will be considered beneficial use.

Jennifer Weier: There, well other, there are other power plants in the state that have cooling water as their beneficial use. They have permits for that use I think, so that would be a similar thing I guess. If they are putting it back in the source, but they are using it beneficially while it is at the surface.

Kimberly Fischer: Any more questions or comments?

Ruth Malm: I don't know if anyone else is frustrated but I can't hear anything. I will chip in a few bucks for a microphone for the water department if necessary, but this is ridiculous. I am a teacher and they have a little microphone, I am sorry but I had that side comment there. My name is Ruth Malm and I live in Stark County. I believe that this decision to locate a refinery at the Fryberg location is a disaster and would lead to irrevocable and negative consequences. Theodore Roosevelt's vision to preserve the wilderness and spirit of the wide-open spaces of the high plains and badlands required that we take responsibility and protect this land for our children and grandchildren. We have an arid climate in western North Dakota. We do not have the immense volume of water that this facility will require. Keeping our aquifers vibrant and clean is critical to our farmers and ranchers. I have concerns our aquifers could be compromised. I request the water commissioners provide free sampling for them so the water department has a baseline. How would our North Dakota water sources be protected? Also, the refinery development would be destructive to wildlife and livestock. Scientist suggest that the noise, bright lights, and dust are destructive to the reproductive process. Animals that are insecure do not reproduce normally. The refinery would create pandemonium in wildlife. Tourism is a major source of revenue in western North Dakota. To put a refinery of this magnitude this close to the park is criminal. A crime against the people, and a crime against the ecosystem. Having grown up in this area, my family would often take Sunday drives to the park, enjoying picnics, hikes, swims in the river, watching the buffalo and deer. Dad always drove slowly as we left the park. None of us were in a hurry, our spirits had been refreshed by the beauty and serenity of the badlands. This proposed refinery would desecrate the area. Vacationers seeking to find a sense of peace and get away from the civilization and pollution, would feel repulsed at the diesel smell, shocked at the smashed deer on the roads. The refinery would also hurt the local economy as land values would lower for local residents due to the smell, lights, noise. The cost of living would go up a few people would have great jobs for maintenance and security. Otherwise, we would be left with abandoned housing and a depressed economy. I am concerned for the health and safety of the local folks. We need to protect the land and water for our children and grandchildren. This is an inappropriate location and would have disastrous consequences.

Denise Aaron: Hi I'm Denise Aaron from Belfield, North Dakota. Thank you for this public meeting. I'm opposed to this refinery. I lived in Minnesota almost all my life. As a child, my parents took us on vacations to North Dakota and the Theodore Roosevelt National Park. I loved

it. When I had young kids myself, we also came to North Dakota. I'm opposed to this oil refinery because it will deplete the aquifer. The aquifer cannot replenish for 1,000 years. People need clean water. To destroy the water we need is awful. To destroy the beauty of nature is awful. This is so great to live by the Theodore Roosevelt National Park. Don't wreck it with this refinery. I'm opposed to this oil refinery. Stop this now.

Kimberly Fischer: Does anybody – Okay go ahead.

Unidentified Commenter: Just one observation [inaudible] . . . we won't see any decline in land values due to the development of the potential refinery, especially in light of all the other development that has taken place in our backyards. Let's keep it in perspective here a little bit. This refinery is not going to do anymore detrimental value to local property values, versus what we have seen already in regards to the oil industry. It'll stay stable.

Valerie Naylor: I have a procedural question. Are we in the question and answer or are we in the hearing and testimony phase?

Kimberly Fischer: Well it is supposed to be the hearing phase but it's still question and answer.

Valerie Naylor: So how do you know which is which for your records?

Kimberly Fischer: I guess, all the questions that are answered or all the questions are asked that we can answer will be answered in the recommended decision. Anything based, anything on the water permit, or the Dakota formation or your concern about the impact on the water resource will be answered in the recommended decision. And the transcript will be available for your information.

Valerie Naylor: Of the entire meeting?

Kimberly Fischer: Yes.

Valerie Naylor: Thank you.

Wendy Ross: The National Park Service, Theodore Roosevelt National Park will be submitting comments and a recommendation to you based on some of the answers to the questions today. I want to change my testimony so I will submit a letter. If we do have further questions for Meridian is it okay if we contact the company?

Kimberly Fischer: Their address is a matter of public record so-

Scott Lange from SEH: We have been very open with communications between you and your department and we intend to continue that. We don't have a reason to not.

Wendy Ross: And February 28th is the?

Kimberly Fischer: February 18th, 10 days from today it has to be postmarked.

Unidentified Commenter: That's sent to the water engineer's office?

Kimberly Fischer: The Office of the State Engineer.

[Inaudible question]

Kimberly Fischer: Oh yeah, sorry I do, I have the address right here (on the last slide).

Valerie Naylor: My name is Valerie Naylor and I am here representing the National Parks Conservation Association. Listening to all these questions from people who are in favor of the project and opposed to the project. Seems like the answers are almost always the same and that is we don't know yet, and we don't have that information yet. And I understand that from my previous question that this process is very separate from some of those others. Like what will happen to the waste water, how is the project is cooled all of that. And that different agencies handle different things. I understand how the government works. The problem is that the whole is more than the sum of the parts and if you just do everything piece meal nothing is ever really an issue until the whole thing happens. I mean, it is like anything, one cookie is not a problem but if you eat 700 of them, you know it is not so good. So, you have to really look at it as a whole and maybe with some of the smaller requests for water for some of the other uses like livestock uses and such it doesn't really matter cause there is really no major impact from those and you can grant a water permit for a certain amount of water without looking at those other issues but for something industrial, this close to a national park. Where a lot of people have concerns and where it's a lot of water being used and a lot of other issues related to that water such as where it will go and where it will be injected, I think we need a lot more answers to those questions even if they are really questions for other departments before a permit is issued to take this water from the ground. Thank you.

Denise Aaron: I totally agree.

Leo Schneider: I am Leo Schneider mayor of Belfield. The client had come to us last fall already and asked about lagoon water and we told them the city council that the water would be available for them if they need it. So, it would be one of the sources. And they would have to run a pipeline and they understand that. And I am for it and I think a lot of the citizens of Belfield are for it. And this meeting I thought was about the water not about stopping the refinery. The refinery, that was all done earlier. If I gotta listen to more of that other, I'm walking out. Thank you.

Unidentified Commenter: If people don't like the way the government works, they should change the government. Because the government is in pieces, one at a time, you can't take the whole without going through each agency. This is just one part of it, right?

[Inaudible comments]

Unidentified Commenter: I have a question. I am not sure how to put this but, do you regulate quantity or quality of water?

Kimberly Fischer: Quantity.

Unidentified Commenter: Just the quantity?

Kimberly Fischer: Just the quantity.

Unidentified Commenter: You do not regulate quality?

Kimberly Fischer: The Health Department is in charge of quality.

Unidentified Commenter: Okay, thanks.

Unidentified Commenter: And just to clarify, disposing of the water is under the Department of Health?

Kimberly Fischer: Yes.

Unidentified Commenter: And to clarify, none of the water would be deposited in the Heart River or a tributary?

Kimberly Fischer: I have a hard time believing the Health Department would allow that to be.

Unidentified Commenter: Okay.

Kimberly Fischer: And like I said I talked to the Health Department and they are planning on having their own informational hearing, after the application is complete.

Ruth Malm: And to clarify, would Meridian be responsible for cleaning up the Heart River if accidentally it were to be polluted?

Kimberly Fischer: That would be a question for the Health Department.

Ruth Malm: Thank you.

Jan Swenson: [indistinguishable] When you said that if the State Water Commission were to grant a permit and there were a period of time between when it was granted and when it was put to beneficial use. Is there a limit on that? Is there a term length?

Andrew Nygren: Yes, every permit that is granted, isn't a straight, isn't a water right. What it is, is a conditional water permit that protects that permit holder. Gives them the priority to use that water, establishes their priority to use the water. However, you only get a water right upon use of the water. So, if you don't put that water to beneficial use by what is called the beneficial use date, then that permit is subject to cancellation.

Jan Swenson: And what is the length of time there?

Andrew Nygren: Typically, it is three years.

Jan Swenson: And if it was partially used? Okay, in this instance, we are talking about 400 gallons per minute. The first phase and moving into the second phase is one to five years. So how does that work with? I mean if they are not using their total 400 gpm by the end of three years. Do they have to come back to you? Or what happens?

Andrew Nygren: They do have to come back to us, they can request an extension of time to put water to beneficial use and the State Engineer will consider it at that time. They have to, upon submitting that request, cite over-riding circumstances that have arose that don't allow for the complete appropriation to be put to beneficial use.

Jan Swenson: Can they make a request for a change in the use?

Andrew Nygren: You mean, say if someone wanted to take industrial use and use it for municipal use?

Jan Swenson: No, if they wanted to use 2/3 of it for refinery and 1/3 of it for something else that was industrial.

Andrew Nygren: The water would be appropriated under industrial use, so it could be used for an industrial purpose. I'm hesitant to say how exactly the State Engineer would deal with that though specifically. Whether or not there would be split with the permit or something else, I honestly can't tell you.

Jan Swenson: Okay thanks.

Unidentified Commenter: Could you give us a timeline of what is going to be happening? What are you doing now with this permit? What . . . are there further hearings scheduled or will there be sometime? When do you expect to have the decision made as to whether the permit will be given?

Kimberly Fischer: There is never a specific date as to when we are going to have a decision.

Unidentified Commenter: Approximately.

Kimberly Fischer: Okay, so now people have until February 18th to submit comments, that they would like us to consider in the recommended decision. And then after that we will work on the recommended decision. It goes through an internal review process, and after the State Engineer approves the recommended decision, that recommended decision will be sent to all of the parties of record. And anybody who would like a copy today of electronically (recommended decision) like I've said just leave us your email address and you can get a copy of [the] recommended decision. And then parties of record can request more information on the recommended decision, or they can request an adjudicative hearing if they don't agree with the recommendation made by the State Engineer. But an adjudicative hearing would have to be [occur if] there was something wrong with the analysis based on the impact to the water resource. So, I know there are a lot of concerns about the refinery that aren't related to the impact on the water resource. Things that the Health Department regulates, that is something the State Engineer does not have any authority over.

Unidentified Commenter: You said that, when you started, that Meridian has not submitted a completed application. Is that . . .?

Kimberly Fischer: As of Monday, when I talked with the Health Department.

Unidentified Commenter: So, you are not doing anything, all that you just said will start, when they get their application in? [indistinguishable]

Kimberly Fischer: No, that's the Health Department. The Health Department has not received a completed application.

Unidentified Commenter: For the water?

Kimberly Fischer: For the air permitting and they also have the discharge permit. So, but the water permit application is complete; it can be evaluated as soon as this comment period closes.

Unidentified Commenter: If we comment on this to you, and it is something the Health Department monitors, not you, will you pass that on to the Health Department, or do we need to write to the Health Department?

Kimberly Fischer: You need to contact the Health Department.

Unidentified Commenter: Do you have any cross talk between your two departments? It seems to be totally separate.

Kimberly Fischer: Water quantity and water quality have been separated, based on North Dakota Century Code. The only things that the State Engineer can regulate are the things given to the State Engineer under North Dakota Century Code. So, water quality concerns are something that have to be directed to the Health Department.

Laura Grzanic: Who is the person in the Health Department to contact?

Kimberly Fischer: For air quality concerns, it is David Stoh, and for water quality it was Marty Heraldson, and the Public Service Commission, I talked to Patrick Fahn.

Unidentified Commenter: You covered everything but when is it going to be awarded? You did everything to recommended decision but you stopped there.

Kimberly Fischer: So, after the recommendation is sent out to the parties of record, they have 30 days, there will be another 30-day comment period and at the end of the 30-day comment period that is when people can request more information or an adjudicative hearing. So, if there is no adjudicative hearing it would be issued after the 30-day comment period ended.

Unidentified Commenter: Thank you.

Kimberly Fischer: Does anybody else want to say anything before we close this meeting? [long pause] Alright, well thanks everyone for coming.