

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1061

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 61-03-23 and 61-04-30 of the North Dakota
2 Century Code, relating to penalties for violation of provisions for the appropriation of water; to
3 provide a penalty; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 61-03-23 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-03-23. Penalties - Civil.**

8 In addition to criminal sanctions that may be imposed pursuant to law, a person who
9 knowingly violates any provision of this title or any rules adopted under this title may be
10 assessed a civil penalty not to exceed ~~five~~twenty-five thousand dollars for each day the violation
11 occurred and continues to occur and may be required by the state engineer to forfeit any right to
12 the use of water. The civil penalty or forfeiture of a right to use water may be adjudicated by the
13 courts or by the state engineer through an administrative hearing under chapter 28-32.

14 If a civil penalty levied by the state engineer after an administrative hearing is not paid
15 within thirty days after a final determination that the civil penalty is owed, the civil penalty may
16 be assessed against the property of the landowner responsible for the violation leading to the
17 assessment of the penalty. The assessment must be collected as other assessments made
18 under this title are collected. Notwithstanding the provisions of section 57-20-22, all interest and
19 penalties due on the assessment must be paid to the state. Any civil penalty assessed under
20 this section must be in addition to any costs incurred by the state engineer for enforcement of
21 the order.

22 **SECTION 2. AMENDMENT.** Section 61-04-30 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **61-04-30. Penalty.**

2 A person who constructs works for an appropriation, or diverts, impounds, withdraws, or
3 uses a significant amount of water from any source without a permit specifically authorizing
4 such action, except as otherwise provided in section 61-04-02; who violates an order of the
5 state engineer; who fails or refuses to install meters, gauges, or other measuring devices or to
6 control works; who violates an order establishing corrective controls for an area or for a source
7 of water; who violates the terms of the permit; or who knowingly makes a false or misleading
8 statement in a declaration of existing rights is guilty of a class A misdemeanor. As used in this
9 section, "significant amount of water" means any amount of water in excess of that allowed in a
10 valid water permit, or any amount of water in excess of the needs for domestic and livestock
11 purposes where no permit has been issued. The state engineer shall inform the tax
12 commissioner of violations of industrial use permits.

13 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.