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Letter from Representative Burdick to William Langer Regarding Garrison Dam Land Acquisition, January 26, 1954

Usher L. Burdick
United States House of Representatives

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USHER L. BURDICK
AT LARGE, NORTH DAKOTA

HOME ADDRESS:
WILLISTON, N. DAK.

COMMITTEE ON
THE JUDICIARY

Congress of the United States
House of Representatives

Washington, D. C.

January 26, 1954

Honorable William Langer
Senate Office Building
Washington, D. C.

Dear Bill:

In the Budget Message over one million dollars is provided for the land buying program of the Army Engineers at Garrison Dam. This means that they intend to keep right on buying land for the purpose of building dikes around the irrigation plans and the city of Williston. Last year an amendment in the Senate stopped all activity above 1840, and that should be continued. Young was all right on that last year but Senator Russell is against it. As a result Young is now luke-warm. He promises me he will again attempt to put in this limitation, but I am afraid the fight has been taken out of him.

Congress ought not to make an appropriation for dikes that have never been authorized. Congress has no information about what service these dikes will be, built upon the quicksands of the Missouri River. This information should be supplied before we go "headlong" into a huge expense that may be entirely useless. The debacle of the Army Engineers in Burma and Africa should be a warning to the infallibility of these headstrong men.

The Engineers themselves have stated that they have no intention of putting up the actual elevation more than 1830, but that in flood times it will be higher. If the dam is built on the theory of flood control, the reservoir must be emptied ready for spring flood; and at the same time the reservoir must be kept full for power development. You don't have to be an engineer or a Ph.D. to understand that both purposes cannot be carried out at the same time.

The land buying program, therefore, should be kept within an elevation of 1840, at least until Congress is given full information about the practicability of building these dikes.

Senator Langer

January 26, 1954

You will recall that when this project was authorized that Senator O'Mahoney of Wyoming put in an amendment that said in effect, "the building of this reservoir shall in no way interfere with the present or future uses of the waters of the Missouri, west of the Fifth Principal Meridian." This Meridian runs through about where Rugby, North Dakota, is located. Therefore, if the irrigation uses and city uses of the water are disturbed at Williston, the organic law is violated.

The proponents claim that Congress authorized the Secretary of the Army to issue an order of taking on any of these lands when he thinks it is necessary. The order is issued without notice to the land owner, and when he wakes up the next morning he finds his lands have been taken. The same day agents of the Engineers appear on the farm and demand rent from the owner. No day in court has ever been granted him and under the Constitution, land cannot be taken WITHOUT DUE PROCESS OF LAW. Anyone without being a lawyer knows that this proceeding is not Due Process of Law.

It is on that theory that suits have been started, and before these lands are flooded, the question will be taken to the Supreme Court of the United States, and I confidently believe the position of the land owners will be sustained.

Do your best to keep this limitation in the appropriation -- the same as last year.

Sincerely,

Usher L. Burdick, M. C.