

April 10, 1981

LB 243

SENATOR HOAGLAND: Now, Senator Schmit, I just passed out a two and a half page memorandum for Mr. Williamson on Nebraska Natural Resources Commission stationery and he indicates that the bill as written would apply retroactively to put on the shelf, the Oliver Reservoir project and the Willow Creek project. Now is it my understanding that your amendments would no longer give the bill retroactive effect so that those two projects would be cancelled?

SENATOR SCHMIT: No, first of all the bill would not cancel those projects. Secondly, the amendments that I have drawn that would raise the requirement from 50% maximum recreational benefits to 75% maximum recreational benefits would remove the problem for the Willow Creek project because I also provide for a maximum structure size of five hundred acres. I exempt the structures over five hundred acres so that would exempt that structure. The Willow Creek project can proceed, or pardon me, the Oliver project can proceed under any conditions. It is not going to change. The only thing that might be changed is that they would have to negotiate with the landowner, they can either negotiate with the landowner for a sale of the property or they can negotiate for an easement and the landowner has agreed to provide an easement which is exactly what other adjoining landowners have done in that area. It seems a little bit ridiculous that several landowners can negotiate an easement with a Natural Resource District and the other landowner is precluded from having an easement.

SENATOR HOAGLAND: So what you are saying is that with respect to the Oliver Reservoir project the Natural Resource District's eminent domain authority would be taken away by effect of this law but that the owner that has been objecting so far would voluntarily grant an easement.

SENATOR SCHMIT: I am saying that the owner would be in a position to negotiate the easement with the Natural Resource District. The Natural Resource District would not have authority to condemn property in the Oliver project area.

SENATOR HOAGLAND: Now do you know whether the owner is going to be willing to negotiate with the NRD over that?

SENATOR SCHMIT: The owner has indicated willingness to negotiate and provide an easement.

SENATOR HOAGLAND: But if he refuses to provide the easement or if the NRD will not pay him the money he wants, he will still be in a position to hold up the project. Won't he?

SENATOR SCHMIT: No, the project would not be held up, Senator, because it is not that important to the entire project. They