

19. THAT of the 2.5 c.f.s. that is estimated to be consumed by the crop for the lands taken out of production, 1.5 c.f.s. will be diverted by the Town of Granger through the Westvaco Pipeline, the other 1.0 c.f.s. will remain in the stream system to cover conveyance losses and amounts to forty percent of the total water consumed.

20. THAT the change in points of diversion in this case amount to a distance of approximately 95 river miles downstream. For the reach of the Green River involved, a 0.2 percent conveyance loss per mile, as testified to by the petitioner's engineer, is not unreasonable. The calculation of 0.2 percent per mile for 95 miles results in an overall conveyance loss of approximately 19 percent which will remain in the stream according to the petitioner's proposal and as demonstrated by the evidence stated above.

21. THAT by making the above stated allowances for return flows and conveyance losses, the proposed transfer of water rights will not injure any other appropriators in the use of their appropriations from Cottonwood Creek and the Green River.

22. THAT in the experience of the Board of Control, the irrigation season in the area from which the water rights in this case are to be transferred typically was from the beginning of June to the end of August (approximately 92 days--not the 114 days requested by the petitioner). See the Order of the State Engineer In the Matter of the Green River Development Company, et al, recorded in the State Engineer Miscellaneous Records Book 12, page 126 (Finding of Fact 91 on page 172, or page 47 of the decision). Although the evidence from the hearing on the Green River Development Company Case held in January, 1980, tends to show an earlier period of irrigation, the testimony from the hearing on this case supported the later diversion period of June through August for the lands involved in this water rights transfer.

23. THAT the petitioner demonstrated through the testimony of its Mayor and the presentation of a consent from FMC that it has the right to use the Westvaco Pipeline to convey the 1.5 c.f.s. of water rights proposed for transfer.

24. THAT the lands to be taken out of production are to be subdivided for development of an industrial park, for which water rights of the nature involved in this petition are not needed.

25. THAT it is in the best interest of the Town of Granger and the people of Wyoming, that this petition be granted.

#### CONCLUSIONS OF LAW

1. The State Board of Control has jurisdiction both to consider the petitioner's request for change of use and for change of point of diversion and means of conveyance and to prepare and to promulgate the Order hereinafter set forth disposing of said petition. However, the Board does not have jurisdiction to consider any remaining dispute over the amount of money to be paid by the Town of Granger to the Green River Development Company for assessments since December 31, 1982, in regard to maintenance of the Green River Supply Canal.

2. Notice of these proceedings was given to all interested persons as required by law. All persons failing to state a protest of the petition prior to consideration of this matter by the State Board of Control are now foreclosed from doing so.