

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE CONCURRENT RESOLUTION NO. 3019
(Representatives Schmidt, Carlson, Hofstad, Porter)
(Senators Schaible, Stenehjem)

A concurrent resolution urging the United States Army Corps of Engineers to immediately cease wrongful denial of access and wrongful requirement of payment for the natural flows of the Missouri River.

WHEREAS, the Pick-Sloan Project, as authorized in the Flood Control Act of 1944, as amended, provides major flood control benefits, recreational benefits, water supply benefits, hydropower benefits, and navigational benefits for the downstream states of Iowa, Nebraska, Missouri, and Kansas through construction of large reservoirs in the state's lying upstream from these states; and

WHEREAS, the Pick-Sloan Project reservoirs have been in place for many years, thus providing downstream states in the Missouri River Basin all the benefits promised in the Pick-Sloan Project; and

WHEREAS, the state of North Dakota lost more than 500,000 acres of valuable river bottom lands as a result of construction of the Missouri River reservoirs and the Flood Control Act of 1944, causing an annual loss of millions of dollars in economic gross product and an additional annual loss in personal income as well as other serious impacts to individuals, political subdivisions, and North Dakota's Indian nations; and

WHEREAS, the United States Army Corps of Engineers, through the Surplus Water Report, is clearly challenging the state of North Dakota and the upper basin states' rights to access the states' natural flows; and

WHEREAS, the Flood Control Act of 1944, as amended in 1958, limits any repayment requirement by any water user for a term not to exceed 50 years; and

WHEREAS, in contradiction to the Dakota Water Resources Act of 2000 and the 1958 Water Supply Act, the United States Army Corps of Engineers is forcing reimbursement of nonreimbursable costs by withholding review of future easement applications; and

WHEREAS, before the dams were constructed, the Missouri River provided ample water; and

WHEREAS, the natural flows of the Missouri River, even during the lowest flow periods, were and continue to be more than plentiful for the needs of North Dakota; and

WHEREAS, the natural flows of the Missouri River through Lake Sakakawea and Lake Oahe are not, and should not be, considered stored water; and

WHEREAS, any attempt by the United States Army Corps of Engineers to impose a storage fee and deny water users in the state to access the natural flows of the Missouri River is misguided;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-second Legislative Assembly urges the United States Army Corps of Engineers to immediately cease wrongful denial of access and wrongful requirement of payment for the natural flows of the Missouri River; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution by certified mail with return receipt to the President of the United States; the Majority Leader of the United States Senate; the Minority Leader of the United States Senate; the Majority Leader of the United States House of Representatives; the Minority Leader of the United States House of Representatives;

the Speaker of the United States House of Representatives; the District Engineer, Omaha District, United States Army Corps of Engineers; the Division Commander of the Northwestern Division of the United States Army Corps of Engineers; the Secretary of the Army; the Secretary of the Interior; the Governor; the Attorney General; each member of the State Water Commission; and each member of the North Dakota Congressional Delegation.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate