

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

WATER-RELATED TOPICS OVERVIEW COMMITTEE

Thursday, April 19, 2012

Room 204, Fargodome, 1800 North University Drive
Fargo, North Dakota

Representative Curt Hofstad, Chairman, called the meeting to order at 9:05 a.m.

Members present: Representatives Curt Hofstad, Chuck Damschen, Bill Devlin, Curtiss Kreun, Kenton Onstad, Jim Schmidt; Senators Randy Burckhard, Tony Grindberg, Larry Luick, Connie Triplett

Members absent: Representatives Lee Kaldor, Jon Nelson; Senator George L. Nodland

Others present: Ron Guggisberg, State Representative, Fargo

John D. Wall, State Representative, Wahpeton

Alon Wieland, State Representative, West Fargo

Ronald Sorvaag, State Senator, Fargo

Representative Al Carlson, member of the Legislative Management, was also in attendance.

See [Appendix A](#) for additional persons present.

It was moved by Representative Damschen, seconded by Representative Devlin, and carried on a voice vote that the minutes of the February 28, 2012, meeting be approved as distributed.

FARGO FLOOD RISK REDUCTION

Chairman Hofstad said the committee is charged with overview of water issues across the state. He said the committee is holding the meeting at Fargo because of the serious water issues impacting Fargo and southeastern North Dakota.

Chairman Hofstad welcomed Mr. Dennis Walaker, Mayor, Fargo. Mr. Walaker thanked the committee for coming to Fargo and hearing the concerns of the city and the citizens of Fargo. He said the most important issue for Fargo is the Red River Diversion Project. He said the record of decision was recently signed and forwarded to Congress. He said it will take five years to complete the project. He said diversion without retention will not work. He said without flood control the growth of Fargo will cease. He said retention of the city sales tax is essential for the project.

Chairman Hofstad recognized Mr. Brett Coleman, P.E., Project Manager, United States Army Corps of Engineers, St. Paul District, St. Paul, Minnesota. Mr. Coleman presented an overview of the Fargo-Moorhead Diversion Project. A copy of his PowerPoint presentation is attached as [Appendix B](#). He said the flood stage of the Red River at the Fargo gauge is 18 feet. He said this level has been exceeded in 48 of the past 109 years and has been exceeded every year from 1993 through 2011. He

said catastrophic damages have been prevented by emergency measures with 11 disaster declarations since 1989. He said 2009 was the flood of record with flood stage of 40.8 feet. He said the emergency measures cost approximately \$70 million in 2009.

Without the project, Mr. Coleman said the Fargo-Moorhead metropolitan area will continue to be subject to flooding and will have to rely on emergency responses. He said failure of emergency levies would be catastrophic, and the expected average annual flood damage is greater than \$194.8 million and will continue to increase. He said the estimated damages from a 500-year flood are approximately \$10 billion. He said a number of alternatives were considered. He said these included no action--three diversion channels, levies, and storage.

Mr. Coleman said the Fargo-Moorhead Diversion Project, as identified in the feasibility document, calls for a 20,000 cubic feet per second diversion channel in North Dakota, 50,000 acre-feet of storage, 150,000 acre-feet of staging, 36-mile diversion, 10 miles of tie-back levees, control structures on the Red and Wild Rice Rivers, aqueduct and spillway structures on the Sheyenne and Maple Rivers, drop structures on the Lower Rush and Rush Rivers, and nonstructural mitigation for impacts in the storage and staging areas. He said the cost-benefit ratio of the project is 1.74 and will cost approximately \$1.75 billion. He said the project will result in an annual net flood risk management benefit of approximately \$74,219,000 and will have \$32 million in average annual residual damages. He said the project will have negligible downstream impacts.

Chairman Hofstad recognized Ms. Terry Williams, United States Army Corps of Engineers, St. Paul District, St. Paul, Minnesota. Ms. Williams reviewed the staging areas, upstream storage and staging, upstream mitigation, level of risk reduction, and current design efforts. Concerning the project schedule, she said, the record of decision was signed on April 3, 2012, and transmitted to Congress. She said it is anticipated that the project partnership agreement will be signed in the fall of 2012, and construction will commence in the spring of 2013. She said it is anticipated the project will be operable in the spring of 2021. She emphasized that the project still requires congressional authorization and funding.

In response to a question from Representative Carlson, Ms. Williams said the Army Corps of Engineers will continue to design the project until the

project is authorized and funded. She said the design costs are shared 50-50 between federal and nonfederal sources.

In response to a question from Representative Carlson, Mr. Coleman said the federal government has \$14 million available for the fiscal year ending September 2012 for design, and \$5 million in federal funds is included in the proposed budget for the fiscal year ending September 2013. In response to a further question from Representative Carlson, Mr. Coleman said there is a local process to keep the project moving.

Chairman Hofstad recognized Mr. Darrell Vanyo, Chairman, Flood Diversion Authority, Fargo. Mr. Vanyo reviewed local key issues and the organizational structure of the diversion authority. A copy of his PowerPoint presentation is attached as [Appendix C](#). He said diversion is the solution, but retention is an important complement to the diversion solution. He also reviewed marketability issues, the diversion authority's hardship policy, and potential agricultural impacts of the diversion.

Chairman Hofstad recognized Mr. Gregg Thielman, Project Manager, Houston-Moore Group, Fargo. Mr. Thielman reviewed Red River Basin and Fargo-Moorhead diversion hydrology. A copy of his PowerPoint presentation is attached as [Appendix D](#).

Chairman Hofstad recognized Mr. Craig Whitney, Fargo-Moorhead Chamber of Commerce. He said flood protection is the region's top priority. He said the frequent flood events have a paralyzing effect on the region's community, and the 2009 flood cost approximately \$70 million. He urged the state continue to support its efforts to remove flooding as an issue in North Dakota.

Chairman Hofstad recognized Mr. Dennis Millirons, President, Sanford Medical Center, Fargo. Mr. Millirons said in 2009 Sanford Medical Center was evacuated, leading to insufficient medical services in the region. If Sanford Medical Center is out of commission due to flooding, he said, it would be devastating and cost tens of millions of dollars. He said Sanford Medical Center has no preference concerning which plan should be implemented to alleviate flooding, but that flood control is vital.

Chairman Hofstad recognized Mr. Don Morton, Site Leader, Microsoft Corporation, Fargo. Although Microsoft does not have the life or death issues faced by Sanford Medical Center, Mr. Morton said Microsoft is impacted by flooding. He said that although Microsoft is committed to Fargo, flooding does impact the company as it is looking for additional commercial space to lease. He said a vibrant community is essential for Microsoft as it helps recruiting. In 2009, he said, the Microsoft campus closed for 10 days. He said Microsoft successfully negotiated the closure but cannot go through this type of event year after year.

Chairman Hofstad recognized Mr. Paul von Ebers, President and CEO, Blue Cross Blue Shield of North Dakota, Fargo. Mr. von Ebers said not only is Blue Cross Blue Shield the largest health insurance

company in the state, it administers programs for the federal Medicare program in 18 states. He said Blue Cross Blue Shield employs 2,000 individuals in Fargo, located in two flood-sensitive facilities. Because of Blue Cross Blue Shield's national presence, he said, a flood event in Fargo disrupts the provision of health care across the entire western United States. He said Blue Cross Blue Shield has three bids pending before the Centers for Medicare and Medicaid Services (CMS). He said CMS has two issues--whether Blue Cross Blue Shield can hire enough people in Fargo due to the low unemployment rate and whether Blue Cross Blue Shield can maintain operations in another flood. Thus, he said, flood protection will be very important in securing these federal contracts.

NORTH DAKOTA WATER COALITION

Chairman Hofstad recognized Ms. Jean Schafer, Executive Director, North Dakota Water Coalition. Ms. Schafer reviewed the development of funding needs and priorities for the upcoming legislative session. A copy of her testimony is attached as [Appendix E](#) and a draft of the 2013-15 Water Coalition funding priorities outline is attached as [Appendix F](#). She said the preliminary draft identifies \$299 million of priorities for the 2013-15 period.

Chairman Hofstad suggested that up to 10 percent of the water development trust fund should be set aside as a revolving loan fund for future water project development.

RED RIVER VALLEY WATER SUPPLY PROJECT

Chairman Hofstad recognized Mr. Bruce Furness, Chairman, Lake Agassiz Water Authority, Fargo. Mr. Furness reviewed the Red River Valley Water Supply Project. He said the impetus for the project began in 1992 with concern for long-term water supply for the city of Fargo. However, he said, despite intense local efforts, approval for the project has not been forthcoming, and the Lake Agassiz Water Authority is exploring moving forward with a local and state plan without federal participation.

Chairman Hofstad recognized Mr. Steve Burian, P.E., Chief Executive Officer, Advanced Engineering and Environmental Services, Inc. (AE2S), Grand Forks. Mr. Burian said he was representing the consulting firm of Black & Veatch, and AE2S is the consulting engineer for the Garrison Diversion Conservancy District. He gave a PowerPoint presentation ([Appendix G](#)) on the summary and findings for the Red River Valley Water Supply Project alternatives comparison. He said Black & Veatch considered multiple potential alternatives--two of which emerged. He said the two final alternatives under consideration are a route from Washburn to Baldhill Creek and the other is route from Bismarck to Lake Ashtabula along the Interstate 94 corridor. He said the estimated total project cost for the Washburn to Baldhill Creek alternative is \$781,400,000, and the

Bismarck to Lake Ashtabula estimate is \$804,400,000. However, he said, there is no significant advantage between the two routes based on costs alone. He said the Bismarck alternative has slightly lower operating costs due to reduced treatment and less pumping expected and a "higher profile" corridor. He said the Washburn alternative has equal or slightly lower capital costs, a less-congested corridor, a completed federal environmental impact study for a majority of the route, right-of-way options secured on 76 percent of the required route, completion of 83 percent of the preliminary design, identification of the required permits, and access to the McClusky Canal. In conclusion, he said, the Washburn alternative utilizing the previous preferred alternative route is more advantageous and slightly more economical than the Bismarck alternative.

Chairman Hofstad recognized Mr. Furness. Mr. Furness concluded that although water supply has been displaced by flood risk reduction, over the long term, water supply is extremely important for North Dakota.

In response to a question from Representative Carlson, Mr. Burian said the plan would take approximately six years to construct.

In response to a question from Representative Damschen, Mr. Furness said approval from the Secretary of the Interior is required.

FARGO FLOOD RISK REDUCTION

Chairman Hofstad recognized Mr. Tom Waters, Program Manager, FM Diversion Program Management Consultant, Fargo. Mr. Waters reviewed the federal process and postrecord of decision analysis for the Fargo-Moorhead metro area flood diversion project. A copy of his PowerPoint presentation is attached as [Appendix H](#). In summary, he said, following the record of decision, the project is submitted by the assistant secretary of the Army for Civil Works to Congress, followed by congressional authorization, followed by congressional appropriation and funding. In conclusion, he said, the project is ready for authorization and funding.

Chairman Hofstad recognized Mr. Martin Nicholson, Principal, FM Diversion Program Management Consultant. Mr. Nicholson presented an integrated decision and funding model for the project. A copy of his PowerPoint presentation is attached as [Appendix I](#). He said the estimated cost without an escalation factor is \$1.781 billion, and the estimated costs including an escalation factor is \$2.008 billion. He said the initial funding scenarios demonstrate the diversion project is locally affordable if there is bank or other cash float during construction, long-term financing is met through bonds or a bank loan, special assessment districts of benefited properties are created or the current sales tax is continued into the future, and construction costs and schedule are aggressively managed.

Chairman Hofstad recognized Mr. Perry Miller, Chairman, Richland-Wilkin Joint Powers Association, Wahpeton. Mr. Miller said the Richland-Wilkin Joint Powers Association opposes a dam and reservoir as part of the Fargo diversion proposal, and its position is supported by the North Dakota Township Officers Association. An information sheet distributed by Mr. Miller is attached as [Appendix J](#).

Chairman Hofstad recognized Mr. Craig Hertsgaard, Walcott Township Board and member, Richland-Wilkin Joint Powers Association, Kindred. Mr. Hertsgaard said the diversion will prevent new development in southern Cass County and northern Richland County. He said conditions that protect upstream and downstream interests should be included in the proposal. In summary, he said, it is possible to devise a project that helps, rather than harms, the region.

In response to a question from Representative Onstad, Mr. Hertsgaard said the plan, including his recommendations, would result in approximately \$500 million of savings over the recommended plan.

Chairman Hofstad recognized Mr. Chad Engels, Moore Engineering, West Fargo. Mr. Engels reviewed the North Dakota Wild Rice River watershed study. A copy of his PowerPoint presentation is attached as [Appendix K](#). He said the study is a joint effort of the Richland County Water Resource District and the Southeast Cass Water Resource District. He said the conclusions of the study include that the historic record of Wild Rice floods shows a repeating pattern of similarity with one exception, that the 1997 flood was significantly different and was not typical; that modeling shows the upper Wild Rice watershed does not contribute to the Red River crest at Fargo because of timing; that the Wild Rice retention modeling shows strong potential for local benefits within Richland County; and that Wild Rice retention modeling shows minimal benefit to the Red River at Fargo.

In response to a question from Representative Schmidt, Mr. Engels said the study has not determined the economic benefits of the proposed dams.

Chairman Hofstad recognized Representative Carlson. Representative Carlson said drainage in Wilkin County, Minnesota, must be taken into account when reviewing flood retention projects in North Dakota.

Chairman Hofstad recognized Mr. Lance Yohe, Executive Director, Red River Basin Commission, Moorhead, Minnesota. Mr. Yohe presented the Red River Basin Commission's long-term flood solutions for the Red River Basin. The report is on file in the Legislative Council office, and a report summary is attached as [Appendix L](#). He said the report includes long-term flood solution recommendations, conclusions and recommendations for action, and a funding timeline for project implementation costs along the Red River of the North and its tributaries. He said the biggest risks are flooding in Fargo,

Moorhead, and Devils Lake, and how to spend the required money effectively.

IRRIGATION

Chairman Hofstad recognized Mr. Michael Dwyer, Executive Director, North Dakota Irrigation Association. Mr. Dwyer reviewed irrigation development and irrigation districts in North Dakota. A copy of his presentation is attached as [Appendix M](#). He said the next step is for the irrigation association, conservancy district, State Engineer's office, and the Legislative Council staff to begin the process of revising the state's irrigation laws. He said it appears that one of the issues that makes the irrigation district board of directors reluctant to take on the development of a proposed project is the amount of money involved and the complexity related to modern-day irrigation development.

In response to a question from Representative Damschen, Mr. Dwyer said state matching funds are only available for supply works and not privately owned pivots. However, he said, the Bank of North Dakota has implemented an irrigation Ag PACE fund to buy down interest for irrigation projects.

No further business appearing, Chairman Hofstad adjourned the meeting at 3:15 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:13