

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### WATER-RELATED TOPICS OVERVIEW COMMITTEE

Tuesday, October 9, 2012  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Curt Hofstad, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Curt Hofstad, Chuck Damschen, Bill Devlin, Curtiss Kreun, Jon Nelson, Kenton Onstad, Jim Schmidt; Senators Randy Burckhard, Tony Grindberg, Larry Luick, George L. Nodland, Connie Triplett

**Member absent:** Representative Lee Kaldor

**Others present:** See [Appendix A](#)

**It was moved by Senator Burckhard, seconded by Senator Luick, and carried on a voice vote that the minutes of the July 16-17, 2012, meeting be approved as distributed.**

#### NORTH DAKOTA WATER COALITION

Chairman Hofstad recognized Ms. Jean Shafer, Executive Director, North Dakota Water Coalition. Ms. Shafer presented a summary ([Appendix B](#)) of coalition subcommittee meetings and process. She reviewed the background of the coalition and development of the funding priorities plan and water policy/water funding policy guidelines. She said the 2013-15 coalition funding priorities ([Appendix C](#)) were developed based upon estimated 2013-15 revenues of \$375 million. In addition, she said, the funding subcommittee had developed additional options based upon an increase of \$125 million in revenues totaling \$500 million. Major funding initiatives, she said, include Devils Lake; Fargo flood control; general management and flood control; irrigation; Missouri River flood control; municipal, rural, and industrial water supply; Northwest Area Water Supply Project; Red River Valley Water Supply Project; Sheyenne River flood control; Souris River flood control; Southwest Pipeline Project; weather modification; and the Western Area Water Supply. She said the funding subcommittee recommendations were presented to the full coalition on September 10, and the full coalition voted to adopt the presented outline of cost-share priorities totaling \$375 million as put forth by the subcommittee. However, she said, at a meeting on September 17 of the State Water Commission, it was announced that the projected revenues were going to be higher than previously expected--closer to \$500 million. She said the Governor and the commission adopted a motion to ask the coalition for supplemental funding requests for 2013-15 if additional revenue becomes available above and beyond the \$375 million. She said the commission

supports the concept of optional funding so it can work with a budget amount of \$375 million and look at supplemental funding priorities above and beyond that total if the revenues are greater. Therefore, she said, the funding subcommittee met again on October 8 to discuss options for supplemental funding options for an additional \$125 million in addition to the \$375 million figure.

Chairman Hofstad recognized Mr. Eric Volk, Executive Director, North Dakota Rural Water Association. Mr. Volk reviewed rural and regional water system projects ([Appendix D](#)), their estimated cost, and funding requests. He said the total estimated cost of the identified projects is \$85,691,633, and the funding request is \$62,707,225.

In response to a question from Representative Hofstad, Mr. Todd Sando, State Engineer, reviewed the prioritization of water, flood, and drainage projects. He said the State Water Commission believes it has adequate funding for anticipated water projects for the 2013-15 biennium. However, to ensure adequate funding, he said, the commission caps rural flood control projects at \$500,000 and has adopted cost-share policies for various types of projects. A copy of the commission's cost-share policies, procedures, and general requirements is attached as [Appendix E](#), and a copy of the commission's water supply cost-share policy is attached as [Appendix F](#).

Representative Kreun said projects that do not meet minimum criteria are not included in the funding process.

Chairman Hofstad recognized Mr. Pat Zavoral, City Administrator, Fargo. Mr. Zavoral discussed Fargo flood control. He said the total cost of the project is \$1.8 billion with \$800 million coming from federal funds. He said it is hoped Minnesota will contribute \$100 million, and the state will cover 50 percent of the remaining \$900 million cost. For the next biennium, he said, the project will be seeking between \$100 million and \$200 million, and the amount specified at this point is \$106 million.

#### STATEWIDE WATER DEVELOPMENT GOALS

At the request of Chairman Hofstad, Committee Counsel reviewed a bill draft [[13.0167.01000](#)] relating to statewide water development goals.

Representative Hofstad said the bill draft is a roadmap for developing water projects as the state

moves forward. He said it is also an opportunity for the Legislative Assembly to get involved in the project prioritization process.

Representative Schmidt said the statewide water development goals do not include a reference to the nine counties impacted by 2011 Missouri River flooding. Although he did not have an amendment ready, he said, if the bill draft is recommended, he would propose that these nine counties be included in the statewide water development goals.

Representative Kreun said for the 2013-15 biennium statewide water development goals, water treatment should include water treatment plants for municipal as well as regional capacity and use.

**It was moved by Representative Kreun, seconded by Senator Luick, and carried on a voice vote that North Dakota Century Code Section 61-01-26.2(8)(e) as contained in the bill draft be amended to include state support for upgrading and expanding water treatment plants for municipal and regional capacity and use.**

Senator Triplett said she would like the record to reflect that she opposed the motion because of lack of discussion. She said the language "to the extent funds are available" on page 1, line 7, should be deleted and replaced by "an appropriation".

**It was moved by Senator Triplett, seconded by Representative Nelson, and carried on a voice vote that "to the extent funds are available" be replaced by "an appropriation" on page 1, line 7, of the bill draft.**

Senator Nodland requested the record reflect he was opposed to the change.

Chairman Hofstad recognized Ms. Karlene Fine, Executive Director, Industrial Commission, who reviewed [Appendix G](#) concerning state-administered loan programs for water-related projects. Ms. Fine said the state revolving loan fund has two programs--the clean water state revolving fund and the drinking water state revolving loan fund. In addition, she said, the Legislative Assembly has established a community water facility revolving loan fund which is administered by the Bank of North Dakota.

**It was moved by Representative Kreun, and failed for lack of a second that the bill draft relating to statewide water development goals be approved and recommended to the Legislative Management.**

## RESOURCES TRUST FUND

At the request of Chairman Hofstad, Committee Counsel reviewed a bill draft [\[13.0189.01000\]](#) relating to allocation of funds from the resources trust fund by the State Water Commission.

Representative Hofstad explained that the rationale for the bill draft is to provide a procedure for allocation of funds from the resources trust fund.

Senator Nodland said the bill draft is beneficial in that it requires the State Water Commission to develop policies to maximize long-term funding for water development and water management.

Representative Schmidt said one factor that should be included is a cost-benefit analysis for each project approved for funding by the State Water Commission.

Representative Damschen said the bill draft should specify a division between a grant and cost-share requirement.

Senator Luick said the allocation of funds should identify a portion of the funds to be used for energy conservation projects.

Representative Damschen said the bill draft should include more specific guidelines in developing the policies for allocation of funds from the resources trust fund.

Representative Devlin said that the bill draft has not had a sufficient hearing or public input to be approved for recommendation to the Legislative Management.

**It was moved by Senator Grindberg, seconded by Senator Burckhard, and carried on a roll call vote that the bill draft relating to allocation of funds from the resources trust fund by the State Water Commission be approved and recommended to the Legislative Management.** Representatives Hofstad, Kreun, and Onstad and Senators Burckhard, Grindberg, Luick, and Nodland voted "aye." Representatives Damschen, Devlin, Nelson, and Schmidt and Senator Triplett voted "nay."

## IRRIGATION

At the request of Chairman Hofstad, Committee Counsel reviewed a bill draft [\[13.0213.01000\]](#) relating to the Water-Related Topics Overview Committee, irrigation districts, and irrigation project financing. Committee Counsel said since the bill draft had been prepared, the Director of the Legislative Council recommended the designation that the Water-Related Topics Overview Committee consist of 13 members be deleted as the requirement restricts the flexibility in appointing members to the committee.

Chairman Hofstad recognized Mr. Michael Dwyer, Executive Director, North Dakota Irrigation Association. Mr. Dwyer said when the irrigation study was approved, it was felt that the state's irrigation laws were in need of a major overhaul. However, he said, as the study progressed, it was learned that many irrigation districts operate under the old existing laws, and any change may be detrimental to their operation. Thus, he said, the association is only recommending several small changes to the state's irrigation laws. One change, he said, is to clarify that a majority of the members of an irrigation district board constitutes a quorum for the transaction of business. Another change, he said, is to allow irrigation districts to enter into contracts with the Garrison Diversion Conservancy District. Finally, he said, the bill draft relating to conservancy district irrigation special assessments, enacted by the Legislative Assembly in 2011, is being amended to require that plans and specifications must be certified by a registered professional engineer. He said the association is also

recommending the conservancy district irrigation special assessments legislation be made permanent.

In response to a question from Representative Hofstad, Mr. Dwyer said the reason the Legislative Assembly enabled the Garrison Diversion Conservancy District to establish irrigation special assessments was because the conservancy district had the financial resources to develop larger irrigation projects than could be undertaken by individuals or small localized irrigation districts. Also, he said, irrigation promotes economic development in that it allows producers to produce higher-value crops with the attendant economic benefits than they otherwise could.

In response to a question from Senator Luick, Mr. Dwyer said there are other areas along the McClusky Canal that may be eligible to use the Garrison Diversion Conservancy District's irrigation program.

Chairman Hofstad recognized Mr. John Leininger, Chairman, Board of Directors, Garrison Diversion Conservancy District. Mr. Leininger urged the committee to remove the sunset clause from 2011 House Bill No. 1318. A copy of his written comments is attached as [Appendix H](#).

Chairman Hofstad recognized Mr. Steve Knorr, Sawyer. Mr. Knorr discussed irrigation and the McClusky Canal mile marker 7.5 irrigation project. A copy of his written comments is attached as [Appendix I](#).

Chairman Hofstad recognized Mr. Rick Anderson, Immediate Past Chairman, Garrison Diversion Conservancy District. Mr. Anderson also urged the committee to remove the sunset clause from House Bill No. 1318. A copy of his written comments is attached as [Appendix J](#).

Chairman Hofstad recognized Mr. Bill Ongstad, Director, Garrison Diversion Conservancy District. Mr. Ongstad also urged the committee to remove the sunset clause from House Bill No. 1318. A copy of his written comments is attached as [Appendix K](#).

In response to a question from Senator Triplett, Mr. Ongstad said the Legislative Assembly providing funds for irrigation through the State Water Commission is not a gift of state property and does benefit the entire state of North Dakota by perfecting the state's claim to Missouri River water and allowing producers to grow higher-value crops which benefits those individuals supplying inputs as well as the state as a whole. He said support for irrigation is similar to other economic development efforts sponsored by governmental entities.

**It was moved by Representative Kreun, seconded by Senator Luick, and carried on a voice vote that the language in Section 1 of the bill draft providing that the committee consists of 13 members be deleted.**

Senator Triplett said the committee should consider extending the Garrison Diversion Conservancy District irrigation special assessments legislation for another two years while the issue is

studied further. With the committee's focus on Minot and Missouri River flooding, she said, the committee has not had sufficient time to fully review the consequences of removing the sunset provision.

In response to Senator Triplett's comments, Senator Luick said not removing the sunset to make the legislation permanent will deter investment because of uncertainty.

Representative Onstad said the state recognizes the importance of irrigation and has worked to promote irrigation. He said it is in the best interest of the state to promote irrigation projects and the legislation should be made permanent.

**It was moved by Senator Triplett, seconded by Representative Damschen, and carried on a voice vote that the bill draft be amended to extend the expiration date of Garrison Diversion Conservancy District irrigation special assessments for a period of two years.**

**It was moved by Representative Nelson, seconded by Representative Onstad, and carried on a roll call vote that the bill draft, as amended, relating to the Water-Related Topics Overview Committee, irrigation districts, and irrigation project financing be approved and recommended to the Legislative Management.** Representatives Hofstad, Damschen, Devlin, Kreun, Nelson, Onstad, and Schmidt and Senators Burckhard, Luick, and Triplett voted "aye." Senators Grindberg and Nodland voted "nay."

## **SOUTHWEST WATER AUTHORITY**

Chairman Hofstad recognized Ms. Mary Massad, Manager/CEO, Southwest Water Authority, Dickinson. Ms. Massad discussed ([Appendix L](#)) the Southwest Pipeline Project. She said the Southwest Pipeline Project serves more than 48,000 people in southwest North Dakota. She said the population of southwestern North Dakota and water use for both residential and industrial purposes is increasing rapidly. She said the Southwest Pipeline Project has identified \$78,225,000 in expenditures for the 2013-15 biennium. She said the remaining items for the Southwest Pipeline Project total \$57,850,000. Through September 30, 2012, she said the Southwest Water Authority has repaid \$31,696,460.48 in the form of capital repayments. She said total funding for the Southwest Pipeline Project has been \$205.94 million as of December 31, 2011. She said funding sources include state funding, grants, and bonds repaid by water users.

Representative Kreun noted that the city of Grand Forks had undertaken several significant water infrastructure projects without state aid. Perhaps, he said, with the growth in population and resources in southwestern North Dakota, the time has come to reassess the area's ability to fund and repay the features of the Southwest Pipeline Project.

In response to Representative Kreun's comments, Senator Nodland noted that the city of Dickinson is financing its new waste water treatment plant from

assessments, and it is not part of the Southwest Pipeline Project.

**It was moved by Senator Luick, seconded by Senator Burckhard, and carried that the Chairman and the staff of the Legislative Council be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.**

No further business appearing, Chairman Hofstad adjourned the meeting at 2:20 p.m.

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Jeffrey N. Nelson  
Committee Counsel

ATTACH:12