

Introduced by

Representatives Schmidt, Carlson, Hofstad, Porter

Senators Schaible, Stenehjem

1 A concurrent resolution urging the United States Army Corps of Engineers to ~~forego any attempt~~  
2 ~~to charge water users in North Dakota a fee to use water from Lake Sakakawea or Lake Oahe.~~  
3 immediately cease wrongful denial of access and wrongful requirement of payment for the  
4 natural flows of the Missouri River.

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

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

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

18 **WHEREAS**, ~~tourism, recreation, and the well-being of the citizens and communities in North~~  
19 ~~Dakota depend upon an adequate and dependable source of water; and~~

20 **WHEREAS**, ~~the future development of industry and businesses in North Dakota also~~  
21 ~~depend upon an adequate and dependable source of water; and~~

22 ~~—~~ **WHEREAS**, ~~irrigation development in North Dakota depends upon an adequate and~~  
23 ~~dependable source of water; and~~ the United States Army Corps of Engineers, through the  
24 Surplus Water Report, is clearly challenging the state of North Dakota and the upper basin  
25 states' rights to access the states' natural flows; and

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

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

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

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

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

12       **WHEREAS**, any attempt by the United States Army Corps of Engineers to impose a storage  
13 fee ~~or other restriction on~~ and deny water users in the state to ~~its lawful right to use and allocate~~  
14 ~~water~~ access the natural flows of the Missouri River is misguided;

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

17       That the Sixty-second Legislative Assembly urges the United States Army Corps of  
18 Engineers to ~~forgo any attempt to charge water users in North Dakota a fee to use water from~~  
19 ~~Lake Sakakawea or Lake Oahe~~ immediately cease wrongful denial of access and wrongful  
20 requirement of payment for the natural flows of the Missouri River; and

21       **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution  
22 by certified mail with return receipt to the President of the United States; the Majority Leader of  
23 the United States Senate; the Minority Leader of the United States Senate; the Majority Leader  
24 of the United States House of Representatives; the Minority Leader of the United States House  
25 of Representatives; the Speaker of the United States House of Representatives; the District  
26 Engineer, Omaha District, United States Army Corps of Engineers; the Division Commander of  
27 the Northwestern Division of the United States Army Corps of Engineers; the Secretary of the  
28 Army; the Secretary of the Interior; the Governor; the Attorney General; each member of the  
29 State Water Commission; and each member of the North Dakota Congressional Delegation.