



WATER TOPICS OVERVIEW COMMITTEE

Monday, July 12, 2021

Bus Tour

Tuesday, July 13, 2021

Roughrider Room, State Capitol, Bismarck, North Dakota

Representative Jim Schmidt, Chairman, called the meeting to order at 8:30 a.m.

Members present: Representatives Jim Schmidt, Chuck Damschen, Jay Fisher*, Bob Martinson, Jon O. Nelson, Todd Porter, Matthew Ruby, Denton Zubke; Senators David Hogue, Michael Dwyer, Jason Heitkamp, Jordan Kannianen, Jim P. Roers, Ronald Sorvaag, Mark F. Weber

Members absent: Representatives Tracy Boe, Michael Howe, Marvin E. Nelson, and Senator Joan Heckaman

Others present: See [Appendix A](#)

*Attended remotely

COMMITTEE RESPONSIBILITIES

Ms. Claire Ness, Counsel, Legislative Council, presented memorandums entitled [Red River Valley Water Supply Project Study - Background Memorandum](#) and [Northwest Area Water Supply Project Study - Background Memorandum](#). The memorandums set forth the background and suggested study approaches for the committee's two interim studies. She also noted interim committee rules are set forth in a memorandum entitled [Supplementary Rules of Operation and Procedure of the North Dakota Legislative Management](#) which was distributed to the committee members.

REVENUE, APPROPRIATIONS, AND PROJECT SUMMARY

Mr. Chris J. Kadrmaz, Senior Fiscal Analyst, Legislative Council, presented information regarding appropriations for water projects in House Bill Nos. 1020 and 1431 (2021). He noted:

- \$540.8 million was appropriated to the State Water Commission for water projects, and \$435.5 million was appropriated to the Bank of North Dakota for the FM Area Diversion Project.
- \$317.4 million of carryover funding also was appropriated to the State Water Commission.
- House Bill No. 1431 provided bonding authority for various water projects.

Mr. Kadrmaz also presented a memorandum entitled [Resources Trust Fund - 2019-21 and 2021-23 Biennium Update](#).

Ms. Heide Delorme, Director, Administration Services Division, State Water Commission, presented the State Water Commission's project status summary ([Appendix B](#)).

Mr. Shaun Sipma, Mayor, City of Minot, presented testimony ([Appendix C](#)) regarding the status of the Souris River flood control project.

Committee members asked questions regarding the use of Minot's cost-share for the project. Mr. Sipma noted the cost-share comes from a city sales tax and is used for parts of the project in rural areas as well as in Minot.

Mr. Eric Volk, Executive Director, North Dakota Rural Water Systems Association, presented testimony ([Appendix D](#)) regarding rural water projects and funding.

Mr. Blake Crosby, Executive Director, North Dakota League of Cities, presented testimony ([Appendix E](#)) regarding municipal water projects and funding.

Mr. Joel Paulsen, Executive Director, FM Area Diversion Project, presented testimony regarding the status of the FM Area Diversion Project. He noted:

- The Red River Valley Alliance, an international group, was the winning bidder for the public-private partnership (P3) project, which is a portion of the overall diversion project.
- After the P3 project is complete, the operation and management costs will be covered by a sales tax.
- Using the P3 project model arguably reduced the overall diversion project timeline by 10 years.
- Progress is continuing on the inlet control structure and the Wild Rice control structure.
- The vast supply of materials needed for the diversion project will impact the market for the materials in North Dakota, and the project sponsors want to ensure local companies do not face shortages of materials.
- The project sponsors acquired about 500 parcels for the project, and about 90 of the parcels were acquired through eminent domain.
- Minnesota appropriated \$4 million to \$5 million, out of an anticipated total of \$17 million, for the project during the last legislative session.
- Because the Minnesota components of the project will not be constructed until 2026-27, the Minnesota Legislature will be able to appropriate the remaining amounts before that time.

Mr. Loren Dewitz, Chairman, North Dakota Irrigation Association, presented testimony ([Appendix F](#)) regarding irrigation projects and funding.

Chairman Schmidt noted two limiting factors in using the Missouri River for irrigation are the cost of power and the cost of building infrastructure to carry power for irrigation.

Mr. Dewitz noted the federal government promised to give North Dakota low-cost power for irrigation when the federal government built the Missouri River dams, but the federal government has not done so.

Senator Roers noted there is some frustration over the State Engineer's office putting irrigation permits in abeyance or deferring the permits.

Mr. Chris Bader, Director, Water Appropriation, State Water Commission, presented testimony ([Appendix G](#)) regarding irrigation regulation and permits. He noted;

- Placing an irrigation permit in abeyance allows the State Water Commission to restart the permit when sufficient water is available without requiring the applicant to reapply.
- An applicant who has to reapply would lose the applicant's priority for water rights, but placing the permit in abeyance preserved the applicant's priority.
- A deferred permit is one on which the State Water Commission has not acted and is preferable to a denied permit.
- The State Water Commission is responsible for developing a model for real-time monitoring of aquifer levels to help determine when permits must be deferred or put in abeyance.

Mr. Brent Bogar, Senior Consultant, AE2SNexus, presented testimony ([Appendix H](#)) regarding the State Water Commission governance and finance study.

Governor Doug Burgum joined the committee members for lunch in the meeting room.

Mr. Dan Jonasson, Public Works Director, City of Minot, and Mr. Bob Schempp, Chairman, Northwest Area Water Supply Advisory Committee, presented testimony ([Appendix I](#)) regarding the status of the Northwest Area Water Supply Project and activities of the advisory committee.

Ms. Merri Mooridian, Administrative Officer/Deputy Project Manager for Red River Valley Water Supply Project Administration, Garrison Diversion Conservancy District, presented testimony ([Appendix J](#)) regarding irrigation development.

Committee members noted there is concern regarding the federal law limiting each irrigator to 960 irrigated acres.

Mr. Duane DeKrey, General Manager, Garrison Diversion Conservancy District, provided testimony ([Appendix K](#)) regarding ownership of the Red River Valley Water Supply Project. He noted the Lake Agassiz Water Authority and Garrison Diversion Conservancy District both agree the Garrison Diversion Conservancy District should own the project and state law allows either the Lake Agassiz Water Authority or the Garrison Diversion Conservancy District to own the project.

Representative J. Nelson presented testimony regarding the All Seasons Project easement and funding. He noted;

- The All Seasons Project was intended to connect two water systems after a court enjoined work on the Northwest Area Water Supply Project.
- The All Seasons Project's pipeline would bring Missouri River water to the northwest part of the state as part of the Northwest Area Water Supply Project now that the injunction is lifted but requires an easement from the Turtle Mountain Band of Chippewa.
- Negotiations with the tribe stalled over a provision regarding potential enforcement of the easement, but the issue may be resolved.

Ms. Mary Massad, Manager/CEO, Southwest Water Authority, presented testimony ([Appendix L](#)) regarding the funding and status of the Southwest Pipeline Project.

Ms. Tami Madsen, Executive Director, Western Area Water Supply Authority, presented testimony ([Appendix M](#)) regarding the funding and status of the Western Area Water Supply Project.

Chairman Schmidt presented a handout ([Appendix N](#)) prepared by Senator Rich Wardner, Dickinson, and testimony regarding Senate Bill No. 2208 (2021). He noted the Legislative Management altered the optional study authorized in Senate Bill No. 2208 and tasked the Water Drainage Committee with the new study. He noted the Legislative Management decided two topics from the original study language--managing water on a basin basis and irrigation--were within the Water Topics Overview Committee's purview, and the committee would cover the topics.

No further business appearing, Chairman Schmidt adjourned the meeting at 2:15 p.m.

Claire Ness
Counsel

ATTACH:14