

North Dakota WATER COALITION

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Barnes Rural Water District
Cass County Government
Cass County Joint Board
City of Bismarck
City of Devils Lake
City of Dickinson
City of Fargo
City of Grafton
City of Grand Forks
City of Lisbon
City of Mandan
City of Minot
City of Valley City
City of West Fargo
City of Williston
Devils Lake Basin Joint Board
East Central Regional Water
District
Garrison Diversion
Conservancy District
Lake Agassiz Water Authority
McLean-Sheridan Rural Water
Mercer County Water Resource
District
Missouri River Joint Board
North Central Regional Water
District
North Dakota Association of
Counties
North Dakota Irrigation
Association
North Dakota Public Finance
Authority
North Dakota Rural Water
Systems Association
North Dakota State Water
Commission
North Dakota Water Resource
Districts Association
North Dakota Water Users
Association
North Dakota Weather
Modification Association
Northeast Regional Water
District
Northwest Area Water Supply
Red River Joint Water Board
Souris River Joint Board
South Central Regional Water
District
Southwest Water Authority
Stutsman Rural Water District
Western Area Water Supply

Senate Appropriations Committee House Bill 1020

Committee Hearing March 22, 2021

Testimony Provided by: Ken Royse, Chairman, ND Water Coalition

Chairman Holmberg and Members of the Committee,

My name is Ken Royse and I serve as Chairman of the North Dakota Water Coalition. Thank you for the opportunity to offer testimony in support of House Bill 1020 and state funding for water projects.

I believe most of you are aware of the North Dakota Water Coalition. Our organizational history goes back to the days of Governor Ed Schafer in the mid-1990s when he expressed a desire to hear from a unified voice from all the competing projects seeking funding from the State Water Commission for all their individual projects. Governor Schafer was interested in what project sponsors, collectively, might recommend and support for funding. This collaborative effort has led to a greater appreciation for the importance of these projects and the need for investment by the state.

We are an organization of organizations---- that is, we do not have individual members but rather we are a collection of organized groups, including water districts, regional water systems, rural water systems, joint water boards, and various state water groups. Included in our membership are the cities of Bismarck, Mandan, Dickinson, Williston, Minot, Grand Forks, Fargo, West Fargo, Devils Lake, Grafton, Lisbon, and Valley City.

Our membership all have a common interest and a common goal: to work in a collaborative manner toward identification and construction of water development projects (and that would include both surface water related projects and water delivery projects) and to send a collective and unified position on the need for water funding for all of our very critical projects to both the North Dakota State Water Commission and to the State Legislature.

In today's hearing you will hear specific project details and funding needs for a wide variety of projects. These projects will include major water management projects including the Fargo Moorhead Diversion Project, the Mouse River Flood Control Project, the Lower Heart Flood Control Protection and the Sheyenne River Flood Control Project. You will hear from the sponsors also of the large water deliver projects including the Red River Water Supply Project, the Northwest Area Water Supply Project, the Southwest Pipeline Project, and the Western Area Water Supply Project. You will also hear testimony on behalf of all the rural water systems of our state, and on behalf of the municipal water needs and on irrigation development needs and on general water management.

You will quickly note that the projects you will hear about touch nearly every corner of our State and nearly every citizen of our State. They have that in common. They

also have in common the fact that they all, individually and collectively, provide health, safety, economic, or social benefits which make our State a better place to live.

All the presenters will talk about the value of their respective projects and of the very critical need for adequate and affordable State funding assistance. Attached to my comments is water project and category summary entitled Meeting the Challenge, which the Water Coalition prepares each biennium to highlight the status, variety and need of water funding support.

Some today may request modest State involvement with some expectation of being able to access a deep pool of local contribution or Federal fund input; but many, unfortunately, will be in a position where State funding is really their only hope for achieving their goals, and fulfilling local needs.

Before I close, I would be remiss if I didn't mention that HB 1020 has been developed in tandem with HB 1431 and HB 1380. HB 1431 includes bonding authority for the Fargo Moorhead Diversion Project and the Mouse River Flood Control project; HB 1380 includes the 'pay-for' for those bonds. Bonding for these large projects frees up Resources Trust Fund dollars for these other important projects. Historically, the State of North Dakota has been very generous in its support of water projects and this year is no different. Thank you for all that you have done and continue to do to advance these important projects.

I will close my testimony with a short listing of what the ND Water Coalition believes is important in the consideration of HB 1020 and other Water funding related bills which will be discussed this session. Our Coalition believes:

1. We believe the 2021-2023 State Water Commission budget would give priority to water projects that voluntarily delayed anticipated 2019-2021 funding pending fund availability of this biennium.
2. We oppose any reduction or diversion of the 20.5 percent of oil and gas extraction tax collections deposited into the Resource Trust Fund (RTF) dedicated to water funding.
3. We support credit options through the Bank of North Dakota, Public Financing Authority, and the Legacy Fund to finance local cost share of water infrastructure.
4. We support the issuance of infrastructure bonds to cover the State share of major water projects, with bond repayments from Legacy Fund earnings.
5. We believe a portion of the Legacy Fund principal should be invested in water and other infrastructure within the State.
6. We believe the SWC should be allowed access to a line of credit that will help smooth revenue streams and avoid funding approval gaps during future biennia.
7. We support Legislative action to incorporate new revenue into the RTF from sources related to alternate energy to reduce dependence on oil and gas collections.
8. We support restoration of Tobacco Settlement payments to the Water Development Trust Fund for future water project funding.
9. We oppose cuts to water project funding requests to fit within revenue projections.

I will not read through the attached material, but please study the summary of water projects and 2021-2023 funding needs as time allows.

Thank you for this opportunity to offer this testimony, I will respond to any questions.



Meeting the Challenge XIII

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2021-23 Critical Water Needs Summary

January 2021

Meeting the Challenge XII

Fargo-Moorhead Area Diversion Project

The Fargo-West Fargo Flood Control Project (Project or FWFFC) aims to reduce flood risk to the cities and townships that make up the metropolitan area of Fargo- Moorhead. The Project provides flood risk reduction from the Red River and its North Dakota tributaries, including the Wild Rice, Sheyenne, Maple, Rush, and Lower Rush Rivers. The Diversion Channel and Associated Infrastructure will require the excavation of approximately 50 million cubic yards of earth, two aqueducts, twelve county highway bridges, four railroad bridges and two interstate highway crossings. The in-town work includes the construction of more than 22 miles of in-town levees.

2019-2021 FUNDING & PROGRESS

In the 2019-2021 biennium, the State legislature included a \$66.5 million allocation for the Project. Due to reduced state revenue projections in the Resources Trust Fund, the Project was asked to defer \$22.5 million to future biennia. In previous biennia, the state had committed \$370.5 million to the Project. With the deferred amount considered, the state's funding total is \$414.5 million to date.

Construction and land acquisition made significant progress during the 2019-2021 biennium. The U.S. Army Corps of Engineers has awarded construction contracts for two large structures and the \$58 million Wild Rice River Control Structure. In addition, over 400 parcels and 4,000 acres of land have been acquired for Project construction. Two-hundred residents have been relocated, and eminent domain actions are being used as a last resort to acquire the lands needed for construction.

THE DIVERSION AUTHORITY AND LOCAL FUNDING SHARE

The communities of Fargo and Moorhead, along with Cass County, Clay County, and the Cass County Joint Water Resources District, have signed a joint powers agreement, which created the Metro Flood Diversion Board of Authority (the "Diversion Authority"). The Diversion Authority is led by thirteen board members from the stakeholder entities, and its purpose has been to work with the US Army Corps of Engineers to build, finance, operate and maintain the Comprehensive Project to provide the Fargo Moorhead metropolitan areas permanent flood protection for flood of the Red River of the North and its tributaries.

The local share of approximately \$1.1 billion is being funded via a Cass County and City of Fargo sales tax. Voters have approved three half-cent sales taxes to be extended through 2084 to cover the local share.

Red River Valley Water Supply Project (RRVWSP)

The Red River Valley Water Supply Project (RRVWSP) is a plan to safeguard water for North Dakota communities and rural water systems in times of drought by delivering water from the Missouri River to central and eastern North Dakota through a buried pipeline. Upon completion, the RRVWSP will benefit half of the state's population by providing an emergency water supply during droughts.

During the 2019 Legislative Session, Senate Bill 2020 included intent language for the State Water Commission (SWC) to provide up to \$13 million for the RRVWSP to initiate construction of Phase 1 of the project if four conditions were met, and provide up to \$17 million more in the 2019-21 biennium. The SWC informed the Budget Section Sept. 15, 2020, stating the project met all four conditions, which resulted in a release of \$43 million for the project. The SWC received a request for \$16.4 million for RRVWSP costs associated with the Missouri River intake, transmission pipeline, Sheyenne River discharge structure, property acquisition, and planning, and the remainder of the \$43 million available for the project was deferred. Four state permits for the RRVWSP were received during the interim, half the necessary easements were secured for the project corridor, and construction is anticipated to be completed by 2023. The RRVWSP sponsors will request \$50 million in the 2021-23 biennium for construction costs.

Bids have been approved for construction of the Missouri River wet well near Washburn to supply a pipeline for the project.

In December 2020 the Bureau of Reclamation issued a Final Environmental Impact Statement for the use of a portion of the McClusky Canal for the Eastern North Dakota Alternate Water Supply.

Mouse River Flood Protection Project

The Mouse River Enhanced Flood Protection Project spans the entire length of the Mouse River in North Dakota. Construction is underway on several reaches of the project. Within Minot, Phase MI-1 is nearing completion, and Phases MI-2 and MI-3 were recently completed. Portions of Phase MI-4 are currently under construction.

Within Burlington, Phase BU-1A constructed a new bridge across the Mouse River on Ward County Road 10, which eliminated a hydraulic bottleneck on the system. The first levee segment in Burlington (Phase BU-1B) is currently under construction and is anticipated to be completed in 2021.

Additional phases within or near the City of Minot are being designed, and construction of the western levee segment at Minot, known as the Tierrecita Vallejo levee, is anticipated to be constructed beginning in the spring of 2021. Phase MI-5 of the project in Minot is currently being designed and will be ready to bid in late 2021.

If sufficient funding was available to construct the entire \$1 billion project, it is estimated that the project would be completed in seven years. In the 2019-2021 biennium, a total of \$82.5 million was appropriated, but due to State budget shortfalls, the Souris River Joint Board voluntarily de-obligated \$33 million of the \$82.5 million total.

Sheyenne River Flood Protection

In the fall of 2011, Valley City began developing investment strategies for permanent flood protection. This flood protection

consists of a combination of clay levees, floodwalls, and property acquisitions. Funds for Phase 1 of the City's project were approved during the 2013 N.D. Legislative Session. Phase 1 of the project, protecting residential property and Valley City State University, was completed in the fall of 2016. The second phase focused on protecting the I94 Business Loop, Valley City's Main Street, and one of the City's Distribution Power Substations. Phase 2 work was completed in 2020. Phase 3 is protecting the City's Sanitary Master Lift Station and was also completed in 2020. Preliminary and design engineering work is ongoing for future phases of Permanent Flood Protection. Valley City is currently looking at a 10- to 15-year timeline for the overall completion of future phases of the permanent flood protection project.

Devils Lake Outlet Operations

Devils Lake continues to be an important aspect of water management in the state. Record high lake levels over the past quarter century have impacted the region and future lake-rise continues to be a concerning possibility. Two pumped outlets lower the risk of flooding by gradually transferring water from Devils Lake to the Sheyenne River. The outlets have a maximum combined discharge capacity of 600 cubic feet per second and their operation is managed according to downstream water quality and quantity limitations. As of Dec. 2020, the outlets have removed over 1.3 million acre-feet of floodwater.

Funding for Devils Lake Outlet Operations is used to manage operate and maintain the outlets, monitor the discharge, and to provide mitigation. Outlet Operations are funded from the General Water portion of the SWC budget.

Southwest Pipeline Project

Encompassing more than twenty percent of the state, more than 15,000 square miles, the Southwest Pipeline Project (SWPP) is the foundation of economic development, quality of life, quality of place and the future growth of southwest North Dakota. Managed by Southwest Water Authority (SWA), the SWPP delivers award-winning, quality water to nearly 60,000 residents through 5,300 miles of pipeline, to 7,300 rural locations and 33 communities. Raw and potable water from the SWPP is being utilized by 21 contract customers, 22 raw water customers, Missouri West Water System and South Dakota's Perkins County Rural Water System. Current construction includes design and easement acquisition for main transmission expansion, strategic hydraulic improvements and limited rural signup campaigns to serve those on the waiting list to meet the growing water needs in the region.

By December of 2020, SWPP's customers had returned over \$78 million back into the state's Resources Trust Fund.

Northwest Area Water Supply

The Northwest Area Water Supply (NAWS) is delivering drinking water to areas in north central North Dakota. The project has been in development for at least 18 years but was interrupted by lawsuits initiated by Manitoba and Missouri which were resolved in 2017. Contracts have been awarded for several portions of the project, and construction continues on several phases of the project. The project is funded by the

Municipal, Rural, and Industrial Water Supply Program, which is a federal grant program administered by the SWC and Garrison Diversion Conservancy District; a local cost-share from Minot; and state funds.

The Western Area Water Supply Project (WAWSP)

The Western Area Water Supply Project (WAWSP) utilizes water from the Missouri River in Williston, treats it at the Williston Regional Water Treatment Plant, and then transports it to cities and rural areas in all or parts of Burke, Divide, McKenzie, Mountrail, and Williams Counties in northwestern North Dakota. The WAWSP's service area is forecast to reach 125,000 people by the year 2038, according to a 2014 study completed by the North Dakota State University Department of Agribusiness and Applied Economics. The Western Area Water Supply Authority (WAWSA) has already constructed more than 1,400 miles of transmission lines and rural water distribution networks, as well as pump stations, reservoirs, and other critical infrastructure, in order to serve an estimated 60,000 people in the service area.

The WAWSP Business Plan is a first-of-its-kind public-private partnership in North Dakota. In order to repay its loans, WAWSA is selling the system's unused water capacity to the oil industry to pay for a significant portion of the project's estimated \$469 million cost.

General Water Management

In addition to the many large-scale water management projects, there are dozens of smaller local water management projects that benefit individuals, road infrastructures and local communities. The State Water Commission provides support for these water management projects by cost-sharing with local entities, primarily water resource districts. Joint water boards also play a key role in these local water management projects. Projects that receive cost-share assistance from the state include: rural flood control, snagging and clearing, channel improvements, recreation projects, dam certification and repairs, planning efforts, special studies, and other water management projects.

Irrigation

There are about 300,000 acres of land under irrigation in North Dakota, the least of any of the western states. Irrigation development has been limited to 2,000 acres or less annually during the past decade likely due to generally adequate precipitation, favorable government programs, and the high investment costs for most irrigation development. High-value crops could greatly enhance the profitability and perhaps the expansion of irrigation in the state; studies have shown that irrigation can generally improve profits by a ratio of 3:1 over most dryland crops under average conditions.

About 5,000 acres have been developed along the McClusky Canal beginning in about 2010. This development is enhanced by a cost share program with the state and a reduced power pumping rate authorized by the Dakota Water Resources Act of 2000. A 2012 study completed by the North Dakota Irrigation Association found potential for the irrigation development of about 550,000 additional acres in North Dakota.

Rural Water Supply

Regional/rural water systems provide a safe, reliable, high-quality, and affordable water supply to North Dakota residents, farms, industries, subdivisions, and communities. In order to meet the growing statewide water needs, Garrison Diversion Conservancy District, the State Water Commission, the four Tribal Nations, and the North Dakota Rural Water Systems Association are working cooperatively to solve water quality and quantity problems.

Projects for the 2021-2023 biennium include expansions of Agassiz, All Seasons, Cass, Dakota, East Central, McLean-Sheridan, Missouri West, Northeast, South Central, Southeast, Stutsman, Turtle Mountain Public Utilities, Upper Souris, and Walsh Rural Water Systems. Without assistance, many systems could not

reasonably afford to bring water to people who desperately need it, or systems could not comply with complex water quality regulations and mandates.

Municipal Water Supply

Municipal water projects sustain water infrastructure requirements of water demand and quality through one-time capital investments, with an affordable local and state funding partnership. Municipalities support a strong, growing state economy while providing critical water infrastructure projects. These projects not only serve municipal and industrial customers, but can also serve rural water customers through current and future water supply regionalization partnerships. A look into the future shows a critical need to replace transmission lines as those lines are long past their useful life and beyond repair.

2021-2023 Project Inventory Results (State Cost-Share Needs)

Knowing it is challenging to accomplish all the projects with current projected revenues, the North Dakota Water Coalition recommends the following objectives and policies to meet the critical water needs of our state:

- We believe the 2021-2023 State Water Commission (SWC) budget should give priority to water projects that voluntarily delayed anticipated 2019-2021 funding until the next biennium.
- We oppose any reduction or diversion of the 20.5 percent of oil and gas extraction tax collections deposited into the RTF dedicated to water funding.
- We support credit options through the Bank of North Dakota, Public Finance Authority, and the Legacy Fund to finance local cost-share of water infrastructure.
- We support the issuance of infrastructure bonds to cover the State of North Dakota's share of major water projects, with bond repayment from Legacy Fund earnings.
- We believe a portion of the Legacy Fund principal should be invested in water and other infrastructure within the state.
- We believe the SWC should be allowed access to a line of credit that will help smooth revenue streams and avoid funding approval gaps during future biennia.
- We support Legislative action to incorporate new revenue into the RTF from sources related to alternative energy that would reduce oil and gas tax collections.
- We support restoration of Tobacco Settlement payments to the Water Development Trust Fund for future water project funding.
- We oppose cuts to water project funding requests to fit within revenue projections.

Project Funding

The current revenue forecast for the Resources Trust Fund (RTF) is an estimated \$269.1 million in the 2021-2023 biennium. With needs greater than revenue, additional funding sources, including the issuance of infrastructure bonds, need to be considered.

The Water Coalition members agree that the 2021-23 state cost-share funding needs for water projects totals \$645 million, which are summarized from a list of more than 300 projects submitted during preparation of the State Water Development Plan. These water investments are critical and justify state funding for the next biennium.

Project Purposes (Millions \$)	Project Needs (Millions \$) (Prioritized According to State Water Commission Policy)		
	High Priority	Moderate Priority	Low Priority
Flood Control (Total = \$268.8)	\$178.3	\$53.1	\$37.4
F-M Area Diversion	\$66.5	-	-
Heart River – Mandan	\$13.0	-	-
Mouse River Enhanced Flood Control	\$76.0	-	-
Other Flood Control	\$11.8	\$4.3	\$0.3
Valley City	\$11.0	-	-
Water Conveyance	\$0.0	\$48.8	\$37.1
General Water (Total = \$49.7)	\$0.0	\$48.9	\$0.8
Rural Water Supply (Total = \$74)	\$3.9	\$41.6	\$28.5
Water Supply (Total = \$252.5)	\$160.0	\$9.2	\$83.3
Municipal	\$0.0	\$9.2	\$83.3
Northwest Area Water Supply	\$41.5	-	-
Red River Valley Water Supply	\$50.0	-	-
Southwest Pipeline Project	\$32.5	-	-
Western Area Water Supply	\$36.0	-	-
Grand Total (\$645)	\$342	\$153	\$150

2021 and Beyond

Water needs are clearly greater than our resources. We must work hard to “Meet the Challenge” and “complete North Dakota’s water infrastructure for economic growth and quality of life.”