2009 HOUSE NATURAL RESOURCES

HB 1278

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1278

House Natural Resources Committee

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Hearing Date: 2-6-09

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Committee Clerk Signature Nancy L. Gerhardt

Minutes:

Vice Chairman Damschen – Open the hearing on HB 1278.

Chairman Porter – I would refer to this bill as offense. There is a bill in the senate that would once again extend the mill levy for the SW Water District for the 3rd time. When the legislature created the SW Water District they put a mill levy in place for administrative services on the entire SW part of ND. They didn't intend for it to be a permanent thing. They intended for them at some point and time to become a public utility like they should be. Ten years ago the mill levy was, actually SW Water came in and asked for it to permanent. That was taken out. They were given another 10 year extension, and now they are back again for yet again another extension on top of the SW Water District. There has to be a point and time when these things turn into perpetual property taxes that there has to be a discussion about the membership and the makeup. The city of Mandan has paid to the administrative cost of the SW Water district now for over 20 years. The citizens, myself included, the city administration, the city commission, all agree enough is enough. You can't expect the city of Mandan, who will never benefit from a drop of SW Water made in Dickenson, ND, to continue

Pay for the administrative expenses of the SW Water pipeline. We were very understanding to the fact they needed water out there. We were very understanding to the fact they needed our

population to make the mill levy work. Enough is enough. Currently this is costing the tax payers in Mandan around $ 37,000 a year. There is no beneficial use of SW Water to the city of Mandan. When we were meeting over the interim with SW Water and having discussions, we offered this as a solution to the dilemma. Carve us out. We think SW Water is a great project, we think it has got great uses in Dickinson and other parts of rural ND. It has absolutely nothing to do with the city of Mandan and it never will. We have our own water treatment plant in Mandan. We pay our own water bills in Mandan. We pay for administrative expenses in Mandan. We pay for building the fund to bond and do improvements to our water plant in Mandan. Dickinson doesn't help us, Beach doesn't help us, Medora doesn't help us, Hettinger doesn't help us, I don't see anywhere in there where it says they have to help pay for ours too. They may stop once in a while and stay at the 7 Seas. There's no special tax on them to come and stay there because they want to drink water that's made in Mandan. That expense is born by the users in the city of Mandan. Just as it should be borne by the users of the SW Water Pipeline. The reason I call this offense is because during our discussions they said they want to extend it for 10 more years. When I went to the hearing, we'd like to make this permanent. They tried that in the senate hearing. I thought that's a defensive move for us to stand up and oppose the continuation of this tax. The offensive move is for the city of Mandan just to be carved out of the SW Water pipeline. As I look at the make-up and thought about Mandan's roll in SW Water, other than money, there is no roll. Missouri River West Water currently buys water from the Mandan water treatment plant to supply some rural users. SW Water actually buys water from the city of Mandan to go down by the St. Anthony area. I'm actually a SW Water user on our land south of Mandan by St. Anthony we have SW Water. I would be more than happy to pay larger monthly fee to cover the administrative expenses, like I should, because I'm a subscribed user of that system. I don't need the rest of the city of

Mandan to pay for something I benefit from. That's not the intention of the systems, and it certainly isn't the permanent solutions to these systems. They are public utilities. There's nobody else helping pay for your electrical bill, sewer system, or for your water. It's your responsibility. You're a user of the system, it's a public utility and the systems need to step up and say everybody's bill is going up $1.00 because we are not a self sustaining, functioning utility. They put a temporary levy in place until they got their feet off the ground. Until they got enough users to are self sustaining? 20 years later they have enough users to be self sustaining. They don't need the city of Mandan any longer in this system to subsidies their system. The tax payers of Mandan have had enough. Questions?

Rep. Hunskor – You referenced a Senate bill – what is in that bill?

Chairman Porter – There is other language in that bill, but one portion of that bill is the extension of the mill levy currently in place in SW North Dakota for SW Water for another 10 years. During that discussion in that Senate hearing SW Water responded to a question saying they would really like to have this as a permanent mill levy. That would include the city of Mandan.

Rep. Hanson – How many mills do you pay?

Chairman Porter – You will have to ask the city administrator how that works. I can tell you what the tax bill was, and you'd better be sitting when you hear the answer.

Vice Chairman Damschen – Is this an across the board assessment? Is it the same everywhere in the affected area?

Chairman Porter – I'm not exactly sure that's an accurate statement. It's 1 mill, so it's the value of a mill in any particular area. If a mill is less in Oliver Co. or Hettenter Co. I would venture it is more valuable in the city of Mandan and Morton Co. than it is out in some of the

other rural areas. We can ask the mayor or city administrator what the value of a mill is in Mandan or Morton Co. right now.

Senator Dwight Cook – The 3 sponsors of this bill and the city of Mandan support SW Water. We always have. SW Water is a very valuable tool for the people of SW North Dakota. And we support SW Water. The issue here today is how we pay for it. I chair the Finance & Tax committee in the other chamber; we had SB 2193 that dealt with the extension of the mill levy that is on the calendar on the 11th order today with a Do Not Pass. Just plain eliminating this bill is the right thing to do.

- If you want to talk property taxes, you will not find a hotter place in the state of ND than Mandan. Property taxes are an issue in Mandan, and it has been for a number of years. The city of Mandan through great agony, they go through a lot of pain, sweat and hard work to come up with a budget that can possibly reduce the taxes of the tax payers of Mandan by 1 mill. 1 mill is very important to the city of Mandan and how they put together their budget.
- The city of Mandan is the only major city, and I dare say possibly the only city in ND where you have taxpayers in the city that pay more taxes to their county than they do the city. We are the only city, the only major city; we pay more taxes to our county than the city. When roads are fixed in front of my place they are special assessed. I pay property taxes to the county that fix a lot of roads in the county. It is a sensitive issue to the people of Mandan. This 1 mill is important. Carving Mandan out is probably not the right thing, it's aggressive, it's an offensive move and it's what the city wants if we can't remove the mill. Removing the mill is the right thing to do. This bill is over here and I would certainly hope you give it favorable consideration. If we defeat 2193 over there maybe this bill becomes mute.

- Tax policy is a local issue. We the legislature is not involved in tax policy. Mr. Chairman, get us out of it. Mr. Vice Chairman, get us out of it. There are 3 taxes that we the legislature we levy on our taxpayers of ND.
    1. Constitutional – 1 mil for the medical school. That's constitutional. My guess is before we go home this session; you are going to have a chance to vote on whether you want to let the people again vote as to whether or not they want to continue to levy 1 mil for the state medical school. I think it's time the citizens have that decision.
    2. Garrison Diversion – 1 mil – Counties have the opportunity to opt out of that.
    3. SW Water – This is the 3rd place where we as a legislature impose a property tax on a select group of ND property owners, and it is wrong! It is just plain wrong! We should get out of the tax business.

It's time the users of SW Water pay the tab. It would require them to raise their water prices $ .15 a thousand gallons and have the same amount of revenue. They would still have some of the most affordable water in the state. Questions?

Rep. RaeAnn Kelsch – As I look at this issue there are a lot of needs Mandan has right now. Mandan has info structure needs of their own, and they have water info structure needs of their own. You may not think $31,000 isn't a lot of money, to the citizens of Mandan it's a whole lot of money. We are paying the property taxes at the rate we are in Mandan, having that $31,000 to go toward our own water projects. Mandan is growing. Mandan is a community that is growing. As you know as a community grows you need those info structure upgrades, you need new info structures, and that is what Mandan is facing right now. I think the bottom line is, this is a fairness issue, and I think this is the right way to go with HB 1278.

Tim Helbling – See **Attachment # 1**. Questions

Rep. Nottestad – As you look at your economic engine of Mandan would you say the rural area and the types of business – Kist livestock, farm implement dealers, farm & fleet types, truck dealerships how much of your economic engine come from the rural area surrounding Mandan?

Mr. Helbling – It is getting smaller every day. With the lack of retail base we have in Mandan, we're forced to support more info structure and a lot of the trade areas are infect going to the city of Bismarck.

Rep. Nottestad – You're saying the rural impact from Morton Co. and the SW is insignificant, or really a non issue anymore?

Mr. Helbling – I'm not saying it is a non issue. They're a very important part of us. We aren't asking Morton Co. to be removed. We are only asking for the city of Mandan to be carved out of that and be removed. If you look at the graft on the back page of testimony you can see how skewed it is, the amount of subsidy coming from Mandan and Morton Co. verses what Mandan and Morton Co. are receiving. Then again we are not asking for Morton Co. is removed. We feel Morton Co. should be in and we do support that.

Rep. Nottestad – As you look at the city of Mandan, --?????????? ---- Since rural water came in, and it came in a number of years ago, have you seen an economic gain in the rural areas, therefore the city of Mandan probably benefited from it?

Mr. Helbling – I would we do have some gain, but I would also like to have you look at the city of Dickinson. They have the same thing going on their – they have a livestock sales ring, and they also get a benefit, but their citizens aren't getting double taxed like we are.

Rep. Nottestad – If that would be the case, couldn't the city of Mandan have chosen to go the same route as the city of Dickinson?

Mr. Helbling – The city of Mandan had already invested so many dollars in their water treatment plant and their facility, it wouldn't have been physically possible, or technically possible, for SW Water to combine with the city of Mandan. SW Water started in the western part of the state. So for Mandan to hook up to the SW Water it could happen, but it would be years down the road.

Rep. Hofstad – You are spending about 18 million dollars to redo your treatment plants. Could you break that down for me as far as state and federal funds? Do you have any idea where that breakdown would be?

Mr. Helbling – The majority of it is financed by the tax payers of Mandan. It is all through water consumption fees. Any improvement we do we are passing it right along to our water users. We're not asking somebody else to pay for it. The grants are so few and far between, so everything is borrowed money that the citizens of Mandan have to pay back.

Chairman Porter – The economic engine of Mandan spreads out a great distance to the south and west of Mandan where the SW Water pipeline is situated. Wouldn't the same argument then be able to be presented that Bismarck should be paying for Mandan's info structure needs, since a lot of Bismarck's retail business is engine off of the 13,000 people that live in Mandan, since you can't buy a dress shirt , shoes, etc. in Mandan Isn't that same argument related to across the river to the east?

Mr. Helbling – Yes, that same argument could be made. You all know the property tax situation in Mandan – our taxes are high. We are looking at anything under our control. We've been cutting it. Now we are looking things that are out of our control and aren't

fair. We feel this is not fair. If you look at the Bismarck, Mandan trade Mandan, by population, Mandan makes up about 25% of the trade area. Yet we only collect about 11% of the sales tax generated in our trade area. That is just another reason why we need to look at every mil, every dollar makes a big to the city of Mandan and to its residents. If we were talking huge dollars to these water users, $ 1.00 per year, is roughly $ .09 per month we are asking to be transferred to the SW Water users. When we're telling our residents we need to increase your rate by $7.50 a month. It just isn't fair.

Rep. Drovdal – To me this is more than just whether you should be paying a mil levy to SW Water. It goes to the question of actually carving Mandan out of the county.

1. Can you list examples where we have carved cities out of the county for special taxes or for not having to pay special taxes?
2. You have a sales tax in Mandan, what % of that sales tax is paid for by nonresidents and what how much would that be? The city of Mandan votes for your county commissioners, as do all cities vote for their county commissioners, so you have a vote on your county commissioners.
3. How many of the county commissioners are residents of the city of Mandan.
4. You have imposed territory integrator outside the city of Mandan, I don't know if you have, but if you have, do those people you've imposed that on do they have a vote on who's sitting on the city council of Mandan or are taxed in Mandan?

Mr. Helbling – As far as the exterritorial zoning goes no those people do not have a voice.

- The city voters for their county commissioners.
- Probably only 1 lives in the city of Mandan.

- There are several taxes that the tax structure is different for the city and county. The library tax the city is carved out of that, provides their own tax money to the library. There are different taxes where the city and county are broken out.
- I don't have the figures with me today as far as how nonresidents of Mandan pay sales tax in Mandan.

Kelvin Hullet – Bismarck/Mandan Chamber of Commerce – Didn't sign in – We want to support this piece of legislation. Questions

Vice Chairman Damschen – Further testimony in favor of HB 1278. Opposition?

Duane Bueligen– See **Attachment # 2**. Questions?

Chairman Porter – 10 years ago we heard this same testimony, different face, same sheet of paper. We only need 10 more years and we're done, 10 more years and we're done. How many more years do you need? Now you're saying 10 more years and you're done.

Mr. Bueligen– We don't know that, it depends on the funding we get. We're ready to go as soon as we get the funding to finish the project.

Chairman Porter – So the 10 years isn't really an accurate number then. You think it's going to be a lot longer than that don't you?

Mr. Bueligen – We don't know that like I said. It depends on the funding we receive.

Chairman Porter – The 12 million dollars that went into the project had nothing to do with this mill levy. This mill levy is only for the administrative functions of the project. It has nothing to do with building out the info structure. I don't understand your coloration back to the 12 million when they are 2 separate things.

Mr. Bueligen – I'm not capable of answering, but there are people in this room that could give you that answer.

Rep. Keiser – You've raised the issue that people pay taxes in Mandan, could you tell me what proportion of people that visit Medora are from Stark County or any county out there – what %.

Mr. Bueligen – I wouldn't know.

Rep. Keiser – Would it be 10%?

Mr. Bueligen – I don't know.

Rep. Keiser – 20%?

Mr. Bueligen – There are people here that could probably answer that.

Rep. Keiser – So it might be a majority actually of the people that go there are outside of those counties.

Mr. Bueligen – I think, Medora, that uh

Rep. Keiser – In Dickinson, how many cars are sold at Dan Porter Motors outside of that county?

Mr. Bueligen – I don't know. You're asking me things I have no way of knowing.

Rep. Keiser – There are significant numbers.

Rep. Keiser – If that's an argument – it goes two ways.

Mike Dryer – See **Attachment # 3**. ND Water Users Association – My testimony is an outline of what you, the legislature, have created in ND in terms of water development and management. At the local level we have water resource districts. Each county has one. You provided them a funding base of 4 mils. In fact there's a bill in the legislature to increase that because they feel their 4 mils is inadequate for the many projects they do. At the county level, some counties have more. Cass County has 4, Beautneau County has 3, but most counties have just 1 water resource district. Their base is a 4 mill levy. That is what they use for cost sharing. At the regional level you created 2 entities. What you've done for those two is, you've given them a 1 mill levy. They use that 1mill levy for the base of operations, engineering, and

studies, whatever it might be. At the local level, water resource districts can form what they call joint boards. They can form together with other counties and work together. They have the authority to levy an additional 2 mills. You have the 4 mill county levy, the 2 mill joint levy, which is used for cost sharing, engineering, studies, construction, whatever, and the 2 regional authorities you have created, the Garrison and SW have a 1 mill levy. At the state level you have a state water commission, which is the governor, the commissioner of Agriculture, and 7 appointed members by the governor. Those 9 people set policy and allocate the funds the legislature appropriates for water development. Rep. Hofstad was a member of the water commission for a time, so he can give you inside information about the state water commission. That is what you have. You have a state agency that allocates the funds and sets policy. You have 2 regional entities, SW Water Authority and Garrison. At the local level you have these counties that have this 4 mill levy + an additional 2 for projects. I was just at another hearing where a witness said he was from Page, ND, and Page didn't get any benefits from the 1 mill levy they paid to Garrison. You have to understand what we are trying to do is build a water info structure in ND that provides job opportunities, employment opportunities, increase tax revenues, quality of life. It isn't just am I getting, as a township or a personal benefit from this mill levy, but is my state or region stronger? Are we creating more opportunities, are we strengthening our state so young people can stay here? What all of want to do in terms of economic development can be accomplished. It's a bigger question than does Mandan get benefits. The reason the previous speaker mentioned 12 million is because he was trying to point out that county received 12 million dollars of benefits. Everybody in the county shares in that. That is what you created as a legislature. We've had tremendous success in ND. Fortunately the legislature has been very supportive of water development. You've created the resources trust fund, which is 20% of the oil extraction taxes, and that is

the source of revenues for water development in ND. You've created also the water development trust fund which is 45% of the tobacco revenues. That goes toward water development. Most of the funding, we've completed the Devils Lake outlet, which is a 28 million dollar project. We completed the Grand Forks flood control, major info structure, and 400 million dollars worth of info structure in Grand Forks. Most of that was federal and state funds. The city and the locals provided for that. We've completed the ??????? Project. We've spent 170 million dollars on the SW pipeline project. We're building the Naas project. As long as ND exists we'll have the vision, and hopefully be able to implement providing water to eastern ND through the Red River Valley water supply project. We also have a current crisis in NW ND because of the oil industry, where we don't have enough water to not only provide for the fracturing of oil wells for the drilling of the oil wells, but also for the labor force. Whether that crisis subsides just a little bit because of the prices of oil, we don't know. We do know there's a serious crisis. We've provided money to Stanley and Ray through the water commission. When I say we – the water commission has done that. We've been able to address that water related need. All this happens with the state and federal funding we have, but at the local level you have these mill levy's that are critical to move these things forward. The 2 regional's that have a 1 mill levy, the locals that have a 4 and a 2 mill levy, and then I would also point out, if you look at the statutes, what the legislature did when they created the SW Water Authority, because nobody likes to pay taxes and pay property taxes, and property taxes are an issue. What the legislature did was say OK, counties can levy 4 mils, ?????? Boards can levy 2, and Garrison and SW can levy 1. That's a total of 7 if you happen to be in a county that has all those, then the SW, we're going to reduce the West River board's mill levy because there is a West River Joint Board, we are going to reduce their mill levy from 2 to 1. In the SW the maximum mill levy is 6 mills, not 7. The West River joint board can levy 1,

Devils Lake can levy 2, the Red River board can levy 2, the Serius River board can levy 2, but the West River joint board can only levy 1. Then the SW Water Authority can levy the other mill. That's what you've created. We feel like it is an excellent to move water development, water management forward. If you look at the outline I presented to you – funding – we have all of these needs. We feel like we are making good progress, but we need to keep all this together so we keep moving forward. Questions?

Rep. Keiser – I want to check some numbers that I quickly calculated, I could be wrong. We heard testimony that approximately 15% of the revenues through the mill come through Mandan. And yet, if I take the 12 million and divide it by 170 they are getting 7%. That 12 million really represents 7%. They receive a 7% benefit. Is that correct or not?

Mr. Dwyer – The city of Bismarck pays the majority of the mill levy for the Burleigh co. water board. It's a 4 mill levy. How many people in Bismarck, you have McDowel Dam, you have all the things they do. Most of what water resource districts do is in the rural areas. Does it benefit the cities? Of course. Is it a right %? We have a county form of government. Does it come out right in terms of %? What % of levy does Beulah in Mercer Co.? Should they stay in? That's a question I really can't answer. You could look at 100 examples of where it may not be exactly right, but this is how we've set it up to be able to move water development forward.

Rep. Keiser – I don't know you were there when this was first set up. What was the original agreement? That was made to participants? What was said verbally at that time? That we are going to do this for 10 years and then it will be gone?

Mr. Dwyer – Are you talking about the mill levy?

Rep. Keiser – The mill levy.

Mr. Dwyer – I actually drafted the legislation. In the 1980's we had a West River joint board that levied a mill to move the project forward. When it was authorized by the legislature in 198, which is the same year the resources trust fund was created, and at that time it was 10% of the oil extraction tax, and in 1993 it was increased to 20%. It was strictly politics. The intent was it be a permanent mill levy just like Garrison's. There's 2 regional authorities, each of them would be supported by a permanent mill levy. There was opposition so it was changed to a temporary. How did we pick the date? In 1983 we had another oil boom and 10% of the oil extraction tax was going to provide 20 million dollars a biennium and we were going to finish the SW pipeline in 10 years. That was what we all thought. It was a 100 million dollar project at the time. Then in 1987 oil prices had gone down and we were getting about 3 million a biennium. That is part of the reason it's taken so long as there was a number of biennium's where construction was maybe 3 million, 4 million, 6 million. We go out and dig the sign ups and there were 26 cities or 24 cities that signed up. Once we start building, all the other cities wanted in. That adds cost because you are going to provide pipe that goes to that city. We went right by the city of New England because they didn't sign up, then they had trouble with their treatment plant and they wanted in. That cost extra money. At that time it we were going to be done in 10 years. Originally we were going to have a permanent mill levy. The legislature changed it to temporary. When we extended it we based it to the end of construction.

Chairman Porter - When you were drafting this particular piece of legislation, what was the discussion on why Dickinson has 2 voting members on the board and Stark Co. has 1 and everybody else only has 1 by counties. No other cities have representation on the board.

Mr. Dwyer – When SW Water Authority was first set up, there were 2 members elect from each county and 3 from the city of Dickinson. The reason is that Dickinson receives about 2/3 of the

water supplied by the SW Water pipeline project. We tried to create something that met constitutional mandates in terms of 1 person 1 vote. We tried to balance something that meet constitutional mandate, but at the same time provided that representation. Then later on the legislature changed that to 1 person per county and 2 from the city of Dickinson. We did have a meeting with the city of Mandan prior to backing this legislation and said would you like us to propose representation from the city of Mandan on the SW Water Authority? The answer was no so we didn't. That was the other bill, not this bill, sorry.

Chairman Porter – When you look at the makeup of the counties in SW Water there were some added later on, some were added from the beginning. What's the value of a mill in each one of the member counties to pay toward this administrative function?

Mr. Dwyer – Of course, Morton Co. is the highest. Stark Co. with the city of Dickinson is the next highest.

Chairman Porter – Do you have dollars for us?

Mr. Dwyer – I don't.

Chairman Porter – Can you get that for us.

Mr. Dwyer – Of course. I think Mary might have that.

Chairman Porter – The lobbyists for water users across the state and with this fractionalized system that has been created with 2 permanent or semi permanent districts, why don't we go to a system where it's 1 mill across the state, put into a state fund, and decided how it is distributed based on the need of the area rather than fracturalized it like we are doing it. Mandan could apply for administrative dollars to help run their water treatment system, Bismarck could apply for dollars, Sioux Co. could apply for dollars, etc. instead of having a system where you are taking money from the city of Bismarck into Garrison and there will never be a beneficial user to that system.

Mr. Dwyer – There is 2 questions there.

1. The city of Bismarck does pay a mill into the Garrison Diversion district, but Burleigh Co. has received several million dollars for its rural water info structure. As well as a number of recreational opportunities in Burleigh Co. Burleigh Co. does get benefits and so does Bismarck. As far as the mill levy, there is 2 regional entities. The constitution prohibits a state wide mill levy except for UND's medical school. UND's medical school has a 1 mill levy and the constitution prohibits state wide mill levies. The Garrison Diversion project is primarily an eastern ND water info structure. It makes sense for those counties to be together, elect a representative from each county to join together and make decisions for them that way.
2. SW Water Authority is a 12 county, where each county elects 1, the city of Dickinson has 2 and they make decisions on the order of construction, if someone doesn't have pressure in Dunn Co. they have to deal with that. All those things of managing a big water info structure project.

Chairman Porter – There is a movement afloat in the Senate to get rid of the Garrison Conservancy because the other model works better.

Mr. Dwyer – I attended that hearing before this hearing and the sponsor of that bill introduced a hot house amendment that didn't eliminate Judiciary, but instead called for a legislative overview committee called the Garrison program. We support that because up until 2003 there was a legislative overview committee of Garrison, it was repealed by the legislature in 2003, infect the sponsor of the bill to eliminate Garrison was the sponsor of the bill to repeal the overview committee. The hog house amendments propose the overview committee be reinstated. We support that. We want legislative oversight of what we are trying to accomplish in terms of water info structure. The project going to the east has many issues were opposed

by the state of Missouri, opposed by the state of Minnesota, by Canada , we have principal supply works that's in place, and should we lose those, we think we should, but you have a local group in the eastern part of the state called Lake Agasees Water Authority that consists of cities and rural water systems that provide the local input as to what they want. We need that, but we definitely need legislative oversight, because we want legislators to know what we do and how we are doing it and how you are providing the funding.

Chairman Porter - Do you offer an amendment to include SW Water in the legislative over site?

Mr. Dwyer – We didn't think of it. That's good idea, we want you to know how were trying to move complete water info structure for economic growth and quality of live.

Rep. Pinkerton – Why can't this be run like a utility?

Mr. Dwyer – The concept is because a utility doesn't get state money to build their info structure, to provide service to members. They are a for profit company. The SW Water Authority has 171 million so far to provide water info structure for SW ND. The idea is, it's not just a benefit for those people getting the water, but it is a benefit for the whole SW. There are homes that were vacant, every farm is occupied, and we have a good clean water supply. It helps the schools, you have the ethanol plant, you have employees living in Mandan, and all throughout the SW. The concept the legislature created with Garrison and SW is that it is a little bit of a utility, but because everybody benefits, there is going to be a 1 mill levy in both of these, and in local counties there is going to be a local levy. In SW ND we have a new issue, with this oil industry there's not enough water for either the labor force or the water needed to fracture these horizontal wells. You develop an energy policy and have a water study that's a part of that. The bill in the senate that extends the mill levy for the SW Water Authority for the

next 10 years. Expands the authority to deal with this energy issue in SW ND, so it goes beyond just being a utility.

Rep. Pinkerton – Like the REC's, which you know, they had money to help start them, but once they had money to help start them. Once they were running, don't they run like a utility and made a vital product and the user pay for the cost of the use of the facility? They don't come back to the state and ask for money.

Mr. Dwyers – REC's never have gotten state money. They have gotten Federal grants and loaned to build their info structure, and they still do. USDA has a rural development division and they still for growth. They provide funding through the federal government. That's the force of nuking for those utilities

Rep. Hanson – What is the average cost per mo for a family in Mandan and Dickenson?

Mr. Dwyers – I'm going to refer that? I don't know.

Rep. Hunskor – The 1 mill used for administrative costs, I would assume initially would take more money for administration than as we move through the years? How has that amount varied?

Mr. Dwyers – The definition of administrative costs is engineering, legal, studies and so forth. The total administrative budget is about 500,000 and the mill levy provides about ½ of that. We hope to have construction completed in about 10 years. Just 2 months ago we had way higher hopes of funding than we have today. The governor's budget proposes 104 million dollars for water. We had a 12 million dollar allocation for the SW pipeline and we hope to get some stimulus money for the SW pipeline. Our latest information there is some budget projections next week.

Chairman Porter – Based on your last answer, measure 3 is going to have an impact on the bonding and water resources. Inaudible

Mr. Dwyers – We had a vigorous debate on that. We had people that's support of measure 3. Because we had such strong sentiment on both sides not related to money, it was difficult. During the time we had this debate oil was $150 a barrel, and we were looking at having as much money as we could possibly spend on construction. We had people who felt like it would be inappropriate for the water committee to oppose a measure to get people to quit smoking. In the end we decided not to take a position of measure 3.

Jim Boehm – Thanks to the city of Mandan for helping SW Water. There are probably 100 + users with water from SW that probably never had it. I'm not against the city of Mandan, I'm in Morton Co. That's Mandan's benefit is originally from Missouri West Water. They put in 100 + million dollars for the water treatment plant. They benefit by the purchase of water which in 2008 was $ 257,552 dollars. That definitely was a benefit to the city of Mandan. How much do we spend in the city of Mandan? I spend the majority of my dollars $200,000+ in Mandan which is sales tax. Mandan does benefit from it. Grand Forks – flood control – we all paid to that – do we benefit? I don't. We are all in this together as a state. Sometimes we benefit, sometimes we don't. Questions

Chairman Porter – This model was established as a water utility and should be a self sustaining utility. Tape became inaudible.

Vice Chairman Damschen – Any further testimony in favor of HB 1287? Opposition

Loren Myron – SW Water Commission –

Ken Albers – I oppose HB 1278 – See **Attachment # 4**. Questions?

Don Albers – I'm here today in opposition of HB 1278 – See **Attachment # 5**.

Rep. Keiser – What's wrong with running this like a utility?

Mr. Albers – We would like the city of Mandan stay in until the SW Water pipeline is completed. Tape is inaudible.

George Saxowsky – Missouri West Water – The question today is what is the benefit to the city of Mandan? The rural residence around Mandan have been growing emencly. I have to say that is a direct result of the rural water systems that have been put in around Mandan with the help of Mandan to supply water. Missouri West is the largest purchaser of water from Mandan. We even supply water to some of the residence of the city of Mandan that the city of Mandan could not reach. The thing that Missouri West needs is SW needed to help us. The pocket areas around Morton co. we could not have done it without the assistance of SW. We are still going to need to expand Missouri West Water pipeline system. The other day at Mandan commission meeting they were doing studies on finding industrial sites around Mandan. We are hop full Missouri West will be able to work with Mandan if we need to expand to these points. Missouri West needs SW's assistance to continue.

Chairman Porter – How much money does Missouri West get from SW?

Mr. Saxowsky – I couldn't answer that.

Chairman Porter – Does Missouri West have the ability to place county wide? City wide? Area wide?

Mr. Saxowsky – No. We are trying to be a utility.

Chairman Porter – You run as a utility model water supplier.

Mr. Saxowsky – Correct.

Loren Myron - See **Attachment # 6**. I believe Missouri West Water & SW Water will marry up.

Chairman Porter – When was the last time SW Water was audited?

Mary Massad – Every year.

Chairman Porter – If you look at the entire mill levy and divide it by the number of users, how much would each user's water bill go up if the mill levy across the region went away?

Mr. Myron – I don't know. True it would be minuscule, but it is the message you send. We are yet to finish Oliver, Mercer and northern Dunn. We aren't done with the initial project. We're here asking for the mill levy extension because of that.

Chairman Porter – How many total users are thee in the SW Water pipeline?

Mr. Myron – I don't know.

Chairman Porter – How many water bills do you send out each month?

Mr. Myron – About 3300.

Chairman Porter – You don't know how many bills you send out each month?

Ms. Massad – The 3300 + ????? + City of Dickinson.

Chairman Porter – The city of Dickinson is just 1 bill?

Ms. Massad – Yes 1 customer– their population is 35,000. We bring water to a metered place and they disperse it from there.

Tape is inaudible.

Jim Boehm – I didn't understand a question. It was does Missouri West receive any tax funds? Missouri West does not directly receive any tax funds. The Morton Co. water board does receive a tax mill.

John Klein – Mercer Co.'s paid its mill levy since the beginning of SW Water. So has Morton and Oliver Co's. We are still waiting for water. I signed up in 1993 and we are still waiting. We need the mill levy to keep on going. Whether we finish in 10 years depends on funding. In 1985 I had to go onto dialysis it took 2 industrial size softeners to get the water to the point I could use the water for dialysis. We've been waiting all this time.

Jim Boehm – One thing that wasn't brought up, the city of Mandan water treatment plant needs worked on the city of Mandan rates goes up. The rates will also go up for the rural residents at the same rate.

Vice Chairman Damschen – Further opposition for HB 1278? We will close the hearing.

Further attachments were handed in see **Attachment # 7, 8, 9 & 10**.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1278

House Natural Resources Committee

☐ Check here for Conference Committee

Hearing Date: 2-12-09

Recorder Job Number 9378

Committee Clerk Signature Nancy L. Gerhardt

Minutes:

Chairman Porter - HB 1278 – I passed out an amendment I drafted. It was apparent the committee wasn't leaning my direction when it came down to carving Mandan out of the SW Water Authority. In my discussions with the city of Mandan, and just for the information of the committee, the bill that extends the mill levy passed the senate and is on its way to the house. The city of Mandan basically said, if you are going to keep us in it we would appreciate having a member on the board of directors. So, section 1 and 2 adds 1 more member to the SW Water authority from Mandan. See **Attachment # 1 & 2.** On attachment # 2, you will see the city of Mandan represents a larger portion of the total mills generated than any other county other than Stark. Another thing the amendment does, on page 2, on the bottom, section 5, will give them 30 years on the mill levy and at that point it goes back to the voters of each county to decide if they want to extend that in the future.

Rep. DeKrey – I move the Porter amendment.

Rep. Hofstad – 2nd

Chairman Porter – I have a motion from Rep. DeKrey and a 2nd from Rep. Hofstad Discussion?

Seeing none - all in favor 11 Yeas Opposed 2 Nays Motion carries.

Chairman Porter – The repealer is what goes into effect in 20 years. That is all the mill levy information inside the existing code. It repeals that in 2020. Without a vote of the electors it would force them to go to a public service model.

Chairman Porter – We have an amended bill in front of us.

Rep. Hofstad – I move a Do Pass As Amended.

Chairman Porter - I have a motion from Rep. Hofstad for a Do Pass As Amended.

Rep. Myxter – 2nd

Chairman Porter – A 2nd from Rep. Myxter. Discussion?

Rep. Drovdal – I don't know how bad, we haven't had a hearing on this, Mandan doesn't get any water out of there, and the only reason I can see you are putting a member on the board is to raise cane. I don't know why we would want to put somebody on just to cause problems, we have enough problems. This is a considerably big change. I'm going to resist this.

Chairman Porter – Any further discussion? Seeing none the clerk will call the roll on a Do Pass As Amended.

Yes 10 No 3 Absent 0 Carrier Rep. Hofstad

Prepared by the Legislative Council staff for
Representative Porter
February 10, 2009

VR
2/12/09
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1278

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 61-24.5-04, 61-24.5-07, and 61-24.5-08 of the North Dakota Century Code, relating to members of the board of directors of the southwest water authority; to repeal sections 61-24.5-10, 61-24.5-11, 61-24.5-12, 61-24.5-13, and 61-24.5-14 of the North Dakota Century Code, relating to property tax levies within the southwest water authority; and to provide an effective date.

SECTION 1. AMENDMENT. Section 61-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-04. Board of directors - Officers - Meetings - Compensation. The authority must be governed by a board of directors who must be chosen in accordance with this chapter. One director must be elected from each county within the authority, ~~and~~ two directors must be elected in the city of Dickinson, and one director must be elected in the city of Mandan. The director from Stark County may not be a resident of the city of Dickinson. The director from Morton County may not be a resident of Mandan. The board shall elect from the directors a chairman, vice chairman, and secretary. A majority of the directors constitutes a quorum for the purpose of conducting the business of the board. The board shall meet at the time and place designated by the secretary. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative council under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

SECTION 2. AMENDMENT. Section 61-24.5-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-07. Election of city directors of the southwest water authority. Any person who is a resident and qualified elector of the city of Dickinson or Mandan who aspires to the office of director of the southwest water authority shall, at least sixty days and before five p.m. on the sixtieth day before the election, file with the city auditor a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election, except that the petition for the first election must be signed by not less than two hundred qualified electors. Signers of a petition must reside within the corporate limits of the city, and each signer of the petition shall include with the signer's name the signer's mailing address. The petition must include the candidate's name, post-office address, and the title of the office of the southwest water authority for which the candidate is seeking election.

The petition must be accompanied by an affidavit substantially as follows:
STATE OF NORTH DAKOTA)
) ss.
City of ~~Dickinson~~ _____)

I _____, being sworn, say that I reside in the city of ~~Dickinson~~ _____ and State of North Dakota; that I am a qualified elector therein; that I am a candidate for the office of director of the Southwest Water Authority to be elected at the municipal election to be held on _____, _____, and I request that my name be printed upon the election ballot as provided by law, as a candidate for the office.

_____

Subscribed and sworn to before me on _____, _____.

_____
Notary Public

Upon receipt of the petition the city auditor shall without fee place the name of the aspirant on the election ballot as a candidate for the office of director. The candidate or candidates, depending on whether one or two directors are being elected, receiving the highest number of votes are elected. The provisions of chapter 40-21 govern the election of directors from the city of Dickinson or Mandan for the southwest water authority.

SECTION 3. AMENDMENT. Section 61-24.5-08 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-08. Term of office of directors - Oath of office - Bonds. Members of the board of directors of the authority hold office for a term of four years, until a successor has been duly elected and qualified. If the office of any director becomes vacant by reason of the failure of any director elected at any election to qualify or for any other reason, the director's successor must be appointed to fill the vacancy by the board of county commissioners of the county in which the vacancy occurs, or by the governing body of the city of Dickinson or Mandan, as appropriate. A director appointed to fill a vacancy shall hold office for the unexpired term of the director whose office has become vacant, and until a successor has been elected and qualified.

Members of the board of directors elected from a county must be elected at the primary election and assume office on the first Monday in July following their election. Members of the board of directors elected from the city of Dickinson or Mandan must be elected at the municipal election and assume office on the first Monday in July following their election.

In 2002 all directors' terms are deemed to have expired, and each county shall elect one director to serve on the board of directors and the city of Dickinson shall elect two directors to serve on the board of directors. In 2002 one director from the city of Dickinson and directors from Adams, Billings, Dunn, Grant, Oliver, and Slope Counties must be elected for two-year terms and in 2004 and thereafter must be elected for four-year terms. In 2010 the director from the city of Mandan must be elected to a four-year term. All ~~other~~ subsequent directors elected ~~in 2002~~ must be elected for four-year terms.

Before assuming the duties of the office of director, each director shall take and subscribe to the oath of office prescribed by law for civil officers. The authority treasurer must be bonded in an amount as the board may prescribe.

SECTION 4. REPEAL. Sections 61-24.5-10, 61-24.5-11, 61-24.5-12, 61-24.5-13, and 61-24.5-14 of the North Dakota Century Code are repealed.

SECTION 5. EFFECTIVE DATE. Section 4 of this Act is effective on January 1, 2020, unless before that date a majority of qualified electors within the southwest water authority voting on the question approve the continuation of the property tax levy for support of the southwest water authority."

Renumber accordingly

Date: 2-12-09
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1278

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ As Amended

Motion Made By Hofstad Seconded By Myxter

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson	✓	
Vice Chairman Damschen	✓		Rep Hunskor	✓	
Rep Clark		✓	Rep Kelsh	✓	
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal		✓	Rep Pinkerton	✓	
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Nottestad		✓			

Total (Yes) 10 No 3

Absent 0

Floor Assignment Hofstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1278: Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (10 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1278 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 61-24.5-04, 61-24.5-07, and 61-24.5-08 of the North Dakota Century Code, relating to members of the board of directors of the southwest water authority; to repeal sections 61-24.5-10, 61-24.5-11, 61-24.5-12, 61-24.5-13, and 61-24.5-14 of the North Dakota Century Code, relating to property tax levies within the southwest water authority; and to provide an effective date.

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City of ~~Dickinson~~ _____)

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Subscribed and sworn to before me on _____, _____.

Notary Public

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SECTION 5. EFFECTIVE DATE. Section 4 of this Act is effective on January 1, 2020, unless before that date a majority of qualified electors within the southwest water authority voting on the question approve the continuation of the property tax levy for support of the southwest water authority."

Renumber accordingly

2009 SENATE FINANCE AND TAXATION

HB 1278

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1278

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/18/2009

Recorder Job Number: 11161

Committee Clerk Signature

Minutes:

Chairman Cook: Opened the hearing on HB 1278. (Explained the bill as no other sponsor was available)

1.22 **Jim Neubauer, City Administrator, City of Mandan:** Testified in support of the bill. We were in support of carving the city of Mandan out of Southwest water, but as a compromise we fell this would be a way to get some representation on the board of directors.

Chairman Cook: If there is not the political will up here to get the city of Mandan out, then hopefully you can at least get a voice on the board?

Jim Neubauer: That would be an accurate paraphrase of our position.

Chairman Cook: Further Testimony?

Michael Dwyer, Lobbyist: Testified in a neutral capacity on the bill. While we certainly support having Mandan represented on the board of directors, I think it would enhance the overall efforts to provide water supply in southwest North Dakota with Mandan being part of that discussion, the repealers require a vote by county. The twelve counties that are effected, before this mill levy can be extended again, we oppose that. On the House side we had some discussions with Representative Porter and it is my understanding that he is willing to agree that it would be better if sections 4 and 5 were removed. (See Attachment #1 for information in

testimony) We are opposed to sections 4 and 5 but we are in favor of Mandan being on the board.

5.56 **Senator Triplett:** Questioned the handout and what the columns meant.

Mike Dwyer: Explained what the columns meant.

Vice Chairman Miller: So right now going down to 2020 the mill would stay on and then after 2020, if this is enacted, then you would have to vote by county to reauthorize it?

Mike Dwyer: Yes. May I point out that you as a legislator set a lot of mill levies? You passed one out to increase the soil conservation district mill levy from one to two mills. Water resource districts have a mill levy, but none of those require a county vote.

Chairman Cook: We don't set the mill levy; all we do is give the county commission the authority to set the mill levy.

Mike Dwyer: You do set the maximum. It is a local issue and this is an elected board the same as county commissioners.

Senator Dotzenrod: As I understand you are opposed to section 4 and 5; so how would that work if they were implemented? If you had this election in 2020, and you put the measure on the ballot, it would be the same measure in all of the counties. So those counties that would have their work done would probably say they don't need it anymore and would probably vote no. I am thinking that it would be more likely that if your work is all done and your county is all finished you would have less interest in continuing the mill. I am a little concerned about the outcome county to county depending on how much of the project is left to be done.

Mike Dwyer: That is exactly our concern.

Chairman Cook: What is this one mill to be used for?

Mike Dwyer: It still would be used for administrative purposes.

Chairman Cook: Further testimony? (no) Closed the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1278

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/23/2009

Recorder Job Number: 11374

Committee Clerk Signature

Minutes:

Chairman Cook: Reopened the discussion on HB 1278. See Attachments #1a and 1b for additional testimony in regards to the bill and see Attachment #2 for amendment proposed.

Vice Chairman Miller: Moved the amendments.

Senator Hogue: Seconded.

A Voice vote was taken: Yea 7, Nay 0, Absent 0.

Chairman Cook: Discussion? (no)

Vice Chairman Miller: Moved a Do Pass As Amended.

Senator Triplett: Seconded.

Chairman Cook: Discussion? (no)

A Roll Call vote was taken: Yea 7, Nay 0, Absent 0.

Senator Miller will carry the bill.

Date: 03/23/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 1278

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amendments Attach #2

Motion Made By Senator Miller Seconded By Senator Hogue

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	.		Sen. Arden Anderson	.	
Sen. Joe Miller – Vice Chairman	.		Sen. Jim Dotzenrod	.	
Sen. David Hogue	.		Sen. Constance Triplett	.	
Sen. Dave Oehlke	.				

Follow favor

Total (Yes) 7 No 0

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 03/23/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. : 1278

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended AS

Motion Made By Senator Miller Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller – Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue	✓		Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 7 No 0

Absent 0

Floor Assignment Senator Miller

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1278, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1278 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "; to repeal sections 61-24.5-10, 61-24.5-11, 61-24.5-12, 61-24.5-13, and" with a period

Page 1, remove lines 4 and 5

Page 3, remove lines 20 through 25

Renumber accordingly

2009 TESTIMONY

HB 1278

Attachment 1

House Natural Resources Committee
H.B. 1278
Testimony of Tim Helbling, Mayor, City of Mandan
Friday, February 06, 2009

Mr. Chairman, members of the Committee, my name is Tim Helbling, I am the Mayor of the City of Mandan.

I am here in support of House Bill 1278, which removes the City of Mandan from the Southwest Water Authority.

One mill tax levy was authorized by the 1991 Legislature on 12 counties in southwestern North Dakota, including Morton County and the City of Mandan. The purpose of the levy was to promote water delivery to the 12 counties and the funds were to be used for administrative purposes only.

This levy was set for 15 years and thus was to expire in 2006.

In 2001 Southwest Water Authority was able to convince the Legislature to extend the one mill levy through 2010. The Morton County Commission, along with the cities of Mandan, New Salem, Flasher and the Morton County Water Resource District all took positions in opposition to this extension. No entity was in opposition to the existence of this levy through 2006; however, it was felt extending the tax at that time was premature.

We did not have issues with the original tax that was introduced in 1991 and supported its sunset fifteen years later, 2006. The funds raised by the mill levy were to be used for administrative purposes only; we understand it takes a considerable amount of time for planning and to get a board of directors set up.

However, how long do you ask taxpayers outside your delivery area to continue to pay for your administrative costs? First 15 years, then an extension for another 5 years was approved in 2001. Thus the citizens of Mandan have been supporting the administration of Southwest Water Authority for 20 years. And now they are asking us for another 10. If Senate Bill 2193, which extends this levy for another 10 years, passes, I fully expect Southwest Water will be back again for another extension, again saying the project is not yet complete. We heard this in 2001 and now we are hearing it again.

And if one of the reasons for extending this levy is as advanced by Mary Massad, Manager and CEO of the Southwest Water Authority in a Bismarck Tribune article on February 3, 2009, who was quoted "I don't think it's fair for water users to pay for costs they didn't have to pay for before" holds true, this levy will never go away.

As I look back at testimony provided to the 2001 Legislature, the City of Mandan was in the process of spending nearly $5 million dollars to upgrade our treatment plant due to EPA guidelines. City of Mandan will spend an additional $13 million dollars on improvements that have taken place during the summer of 2008 and into 2009 on our water treatment, delivery, and storage system. Citizens of Mandan will have the burden of over $18 million dollars in new debt to finance.

Why, should the citizens of Mandan also have to continue to pay for the administrative costs for two water treatment facilities? Would love to ask citizens of Dickinson to help pay for our system, but that isn't right and we all know it. So why is Southwest Water Authority continuing to ask us to?

Representatives of Mandan have met on several occasions with Southwest Water Authority members to discuss and voice our concerns over the continuance of the one mill levy. We suggested that it is now time for the users of Southwest Water to pick up the administrative costs to operate their system.

With 35,000 customers of southwest water, carving out Mandan would only add $1 per year to their water bill.

I find it ironic that the water utility rates for the citizens of Mandan have increased over the past two years by $7.50 per month, and when representatives of Mandan met with southwest water officials a few months ago **no** increases were planned for rates for 2009, and in fact no increases were made in their rates in 2007 or 2008.

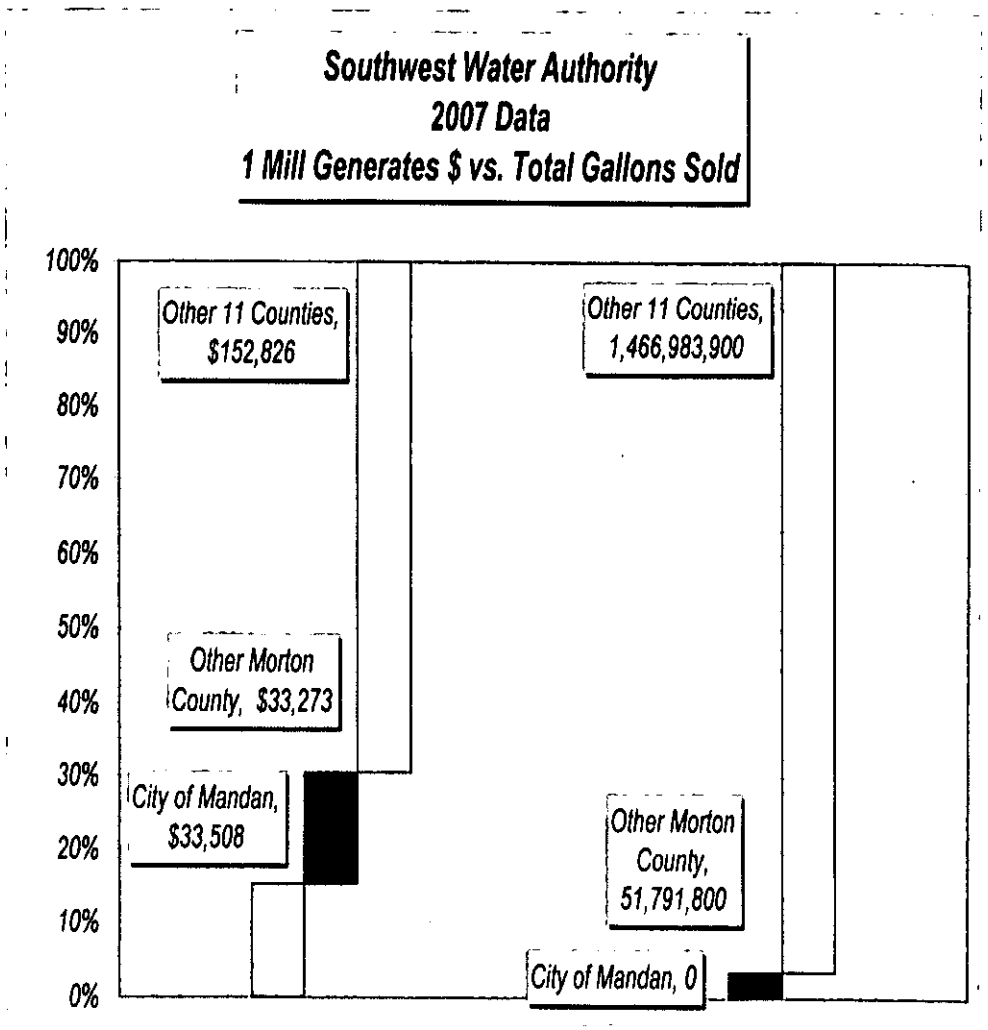
In 2007 the one mill levy throughout the 12 counties raised approximately $219,000 for Southwest Water Authority. The City of Mandan's share would

amount to $33,500 that represents 15% of the total. Compare this to the total water used in the Southwest Water Authority system in 2007: System wide water = 1.5 Billion gallons and that used in Morton County, 52 Million gallons or 3.5%. Something is amiss.

We do not have a large contingent of folks here to lobby you as opposed to the many representatives of Southwest Water, I am here simply asking you to carve out the City of Mandan from this levy. We have a water treatment system our citizens are paying for and now it is time for Southwest Water customers to do the same, and it would only cost Southwest Water customers $1 per year.

I, in now way, want my testimony to be construed that the citizens of Mandan do not support water development in the southwestern part of North Dakota. We know that Mandan is an integral part of this trade area. However, I could stand before you and tell you that Bismarck is also part of this trade area probably to a much larger extent than Mandan.

I am asking you for your support on House Bill 1278. Thank you.


Southwest Water Authority
2007 Data
1 Mill Generates $ vs. Total Gallons Sold
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Other 11 Counties, $152,826
Other Morton County, $33,273
City of Mandan, $33,508
Other 11 Counties, 1,466,983,900
Other Morton County, 51,791,800
City of Mandan, 0

Attachment 2

February 3, 2009

Dear Mandan City Commission:

We are the members of the Southwest Water Authority board from Mercer and Oliver County. Like our neighbors, we are still waiting to receive Southwest Pipeline water.

We are extremely disappointed that Mandan is seeking to remove itself from the Southwest Water Authority. During the time that the Southwest Pipeline spent almost $12 million in Morton County, Mandan was in the Southwest Water Authority and paid its mill levy like everyone else. Now that your county has water, you are seeking to remove yourself from the Authority. Had we known, we could have requested that the $12 million spent in Morton County be spent in Oliver County or Mercer County instead. Perhaps Morton County should repay the $12 million so that we can get water sooner.

We shop in Mandan, we buy our supplies in Mandan, and we eat in Mandan restaurants. Along with the many other people who have strengthened your trade area because they have Southwest Pipeline water, we help Mandan become a better community. We pay sales tax in Mandan, which is used for infrastructure and services within the city of Mandan. It is interesting to us that while you are seeking to remove Mandan from the Southwest Water Authority mill levy, you are not proposing that those of us outside of your city limits be exempt from your sales tax.

It is anticipated that remaining construction for the Southwest Pipeline will be complete in the next 10 years. We are seeking an extension of the mill levy to help finish this critical water supply project for all of southwest North Dakota, which is beneficial to the city of Mandan.

If Mandan gets out of the Southwest Water Authority, why shouldn't the city of Beulah also get out of the Southwest Water Authority, or the city of Bowman. In fact, why should any city have to pay county mill levies for the services in the county. In fact, why should any family who doesn't have children pay a school district mill levy.

We have a county form of government, and when you are in the county, you participate in the activities that support the county, because it benefits everyone in the county. Those of us in Oliver and Mercer County paid the mill levy while water was being delivered to residents throughout Morton County. We ask that you support this local cost-share by staying in the Southwest Water Authority until the Southwest Pipeline is complete and everyone has water.

Sincerely,

Duane Bueligen

John Klein by JLK

Duane Bueligen, Oliver County

John Klein, Mercer County

Attachment 3

January 20, 2009

WATER SUMMARY: 2009 Legislative Session

I. Water Governance

A. State: State Water Commission and State Engineer
B. Regional: Southwest Water Authority and Garrison Diversion Conservancy District
C. Local: Water Resource Districts/Joint Water Boards/Rural Water Systems

II. Functions/Duties

A. State Water Commission/State Engineer
   1. Water Development/Water Infrastructure
   2. Water Permits
   3. Drainage Permits
   4. Weather Modification
B. Water Resource Districts (Water Managers)
   1. Surface Water
   2. Local Contracts/Projects
C. Rural Water Systems
D. Southwest Water Authority
   1. Southwest Pipeline
   2. Other Water Supplies (Energy)
   3. Local Representation (County Directors)
E. Garrison Diversion Conservancy District
   1. Maintain Federal Facilities
   2. Irrigation
   3. Oakes Test Area
   4. Recreation Facilities
   5. Federal Contracts/Bureau of Reclamation
   6. M,R&I Funding/Contracts
   7. Red River Valley Water Supply
   8. Devils Lake Outlet Maintenance
   9. Wildlife Features
   10. Local Representation (LAWA and County Directors)

III. Funding (HB 1020)

A. Resources Trust Fund, Water Development Trust Fund, General Fund, Federal
B. Water Infrastructure Needs

Devils Lake	NW Oil Impact MR&I
Flood Control (Fargo)	Northwest Area Water Supply (NAWS)
General Water Management	Red River Valley Water Supply
Irrigation	Southwest Pipeline
Missouri River Management	Weather Modification
MR&I	

C. Water Coalition
D. Local Contribution
   1. Water Resource Districts: 4 mills/Special Assessments
   2. Joint Water Boards: 2 mills
   3. GDCD and SWA: 1 mill

IV. Water Legislation Issues

A. Funding (Additional Funds?)
B. Red River Valley Water Supply/Garrison
   1. Funding Plan Revision
   2. Bonding Authorization/GDCD (SB 2298)
C. Southwest Water Authority (SB 2193/HB 1278)
   1. Mill Levy Extension/Mandan
   2. Energy Water Issues
D. Energy Issues
   1. HB 1322/1352
E. Water Resource Districts
   1. Compensation: $45 to $100 (SB 2251)
   2. Mill Levy: 4 to 8 mills (SB 2252)
   3. Indemnity (SB 2256)
   4. Quick Take (SB 2255)
   5. Flood prone areas (SB 2253)
   6. Maintenance of federal projects (SB 2254)
F. Irrigation
   1. Irrigation Repair Parts (HB 1289)

Attachment 4

Testimony of Kent Albers to House Natural Resources Committee
Kent Albers, Oliver County Commission

Good morning, Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today.

My name is Kent Albers. I farm in Oliver County and serve on the Oliver County Commission. I am here today to oppose House Bill 1278.

I am a lifelong resident of Oliver County, and have operated a farm there for 37 years. In the late 70's, Southwest Water Authority conducted a membership drive in Oliver County to determine the level of interest in a rural water delivery system. Local citizens understood the value of good water and were enthusiastic. As I remember it, my wife and I, and my parents signed up and purchased memberships at that time. That was about 30 years ago.

Today in Oliver County, we are close to receiving good water as the Southwest Pipeline Project moves into the later stages of completion. Interest in finishing the project is stronger than ever, but it will take several more years to complete.

I believe the coalition that exists as Southwest Water Authority must remain intact. Mandan has asked to be cut out. They need to reconsider. Oliver County is a strong trade area for Mandan.

I'll use my own family as an example. We patronize businesses such as auto dealers (5 vehicles in 2 years), farm machinery dealers (several pieces of equipment), a sale barn, tire dealer, gas stations, doctor, lawyer, barber, grocery store and restaurants. These come to mind quickly, but I'm sure there are more. I want to emphasize this is business done specifically in Mandan, not in a wider trade area, and this is only one small example.

Mandan paid the mill levy while the project was constructed in Morton County. The pipeline project doesn't stop at the county line. The trade area doesn't stop at the county line either. The city of Mandan has, and will continue to, benefit from the rural water project.

Please hold the coalition together to complete the project, and provide good water for everyone. Please oppose House Bill 1278.

Attachment 5

Testimony of Don Albers to House Natural Resources Committee
Don Albers, Former Oliver County Commission Chairman

Good morning, Mr. Chairman and members of the committee. My name is Don Albers. I am from Center, Oliver County, North Dakota. I am here today in opposition of House Bill 1278.

I am a retired Rural Mail Carrier who served 15 years on the Center Public School Board and 16 years on the Oliver County Commission. I have been active in the city and county promoting economic development and growth of our rural county. I am testifying today to remind Mandan and the other larger cities of North Dakota, the value of supporting our smaller rural communities. In this case, the city of Mandan is asking to be taken out of the Southwest Water Authority.

Agriculture is still our major business in North Dakota, and without it large and small communities would not survive. Banks, insurance offices, hospitals, medical, dental, chiropractic clinics, farm equipment, auto and parts dealers, fuel suppliers, grocery stores and livestock sales are just a few businesses that are located in large cities and supported by our farmers and smaller rural communities. These residents also pay the Mandan city sales tax.

Our rural areas provide jobs for residents of the larger cities. Take Oliver County, for example. According to the numbers supplied in 2007 by the Minnkota Power Plant and the BNI Coal Company, they had 288 employees. Eighty-two (82) employees live in Morton County, seventy-two (72) in Burleigh County, twenty (20) in Mclean County, nine (9) in Mercer County and one hundred five (105) in Oliver County. The Mandan School District is still receiving coal impact monies. In the past four years, the Mandan School District has received over $400,000 from the severing or mining of Oliver County coal.

It is my personal opinion that it would *not* be beneficial for the city of Mandan to withdraw from the Southwest Water Authority. The benefits Mandan now receives from the rural communities of Southwest Water Authority far outweigh the amount they are currently contributing.

It is my hope that the city of Mandan will continue to support and contribute to the Southwest Water Authority. Please oppose House Bill 1278. Thank you for allowing me to testify.

Attachment 6

Testimony of Loren Myran to House Natural Resources Committee
Loren Myran, Chairman, Southwest Water Authority Board of Directors

Good morning, Chairman Porter and members of the committee. My name is Loren Myran. I am the Chairman of the Southwest Water Authority. Red Trail Energy is a 50 million gallon ethanol facility located in southwest North Dakota.

Benefits to southwest North Dakota – Red Trail Energy:

- Employs 41 full-time and two part-time employees
- Pays approximately $2.4 million in salary and benefits annually

Economic Impact on Morton County:

- 18 employees, 43 percent, live in Morton County
- 10 employees, 24 percent, live in the city of Mandan
    - These 10 generate $600,000 in wages and benefits annually

Mr. Chairman and members of the committee, Red Trail Energy would not exist without the Southwest Water Authority and the Southwest Pipeline Project. The economic benefits provided to southwest North Dakota, and in particular, the city of Mandan, by Red Trail Energy greatly impact the area. Red Trail Energy employees and their families living in rural Morton County and the city of Mandan greatly contribute to the community of Mandan by paying city taxes and stimulating the overall economy. I ask that you please oppose House Bill 1278.

Attachment # 7

Testimony by William Ongstad, farmer, on HB 1278

To the House Natural Resources Committee
9:00 am Friday, February 6, 2009

Mr. Chairman, members of the committee: My name is William Ongstad. I farm 10 miles east of Harvey. I urge you to vote no on this HB 1278 permitting the city of Mandan to withdraw from the Southwest Water Authority.

My wife and I have 5 children all now beyond the age of public schools. We wish to withdraw from paying the school tax portion of our real estate taxes. That is logical to me since I do not receive a direct benefit but you would not let me withdraw from school taxes. You should not permit Mandan to withdraw from the SWA.

The papers say North Dakota receives more than a dollar from the federal government for each tax dollar North Dakota sends in to the government. What if New York or some state that pays in more than they receive wanted to withdraw.

Mandan is lucky that they are located on the Missouri River and are so close to good water. Many people in this state are not so lucky and do not have good water available. We in the rural areas help the cities by paying city sales taxes and do not receive direct benefit from the city sales taxes. Mandan will benefit by supporting the SWA, which will make it possible for people to live in Mandan's trade area and they may come to Mandan to support businesses there.

This HB 1278 would be an unwise precedent and I urge a do not pass from the committee.

Thank you.

William Ongstad
4135 25th St NE
Harvey, ND 58341
Cell 701-341-2937
bill.ongstad@gmail.com

Attachment #8

SB 2193 & HB 1278

Mandan is the largest community in Southwest North Dakota and should play a key role in development of that region of the state. Development of highways, agribusinesses, energy, and water projects will improve the quality of life for citizens in that region. Why should the city of Mandan be exempt from supporting a countywide project that benefits its neighboring communities and rural residents when they are the primary beneficiaries of having the county seat located in their community? Such is the case with SB 2193 and HB 1278, which provides for a one mill levy to support county wide water projects in not only Morton County but eleven other counties in southwest North Dakota. The county seat has an annual budget of about 15 million and employs about 160 people, a significant number of those employees (about 90%) reside in or near the city of Mandan generating a significant amount of revenue for the city.

The city of Mandan contends they should not be required to pay the one mill because they do not directly receive water or benefits from the Southwest Pipeline Project (SWPP). However, it is noted that the SWPP indirectly purchases water from the Missouri West Water System (MWWS), which purchases its water from the city of Mandan for their customers as well. Economy of scale tells us this helps keep water rates low for both rural and city customers. While the city claims they should be exempt from this tax, one could argue that rural customers who shop in Mandan receive little benefit for the city sales tax applied to their purchases. Inequities in taxes are an age-old argument, but in most cases there are trade-offs. Merchants such as Kist Livestock, agribusinesses, and automobile dealers as well as others are primary beneficiaries of a very large trade area that extends well beyond the border of Morton County. We have a family ranch 50 miles southwest of Mandan that does a significant amount of business in Mandan. I have personally purchased vehicles and two campers from Mandan merchants. SWPP supplies a significant amount of water to the oil patch in western North Dakota. Water is a key element in recovering oil. With the Tesoro Oil Refinery in Mandan's backyard, they very well know the importance of energy development in western North Dakota.
It's no secret energy development in Western North Dakota plays a key role in our state's economy.

The city of Mandan also contends they do not have the option of receiving water service from the SWPP. That simply is not the case. They could pursue the same course of action as the city of Dickinson did by transferring the operation and maintenance of their water treatment plant (WTP) to SWA. SWA would then become responsible for processing water and providing service to Mandan and the surrounding rural areas. Ownership of the WTP would remain with the city of Mandan just as ownership of the Dickinson WTP remains with the city of Dickinson. Mandan would continue to be responsible for the operation and maintenance of their own water distribution system just as all other communities receiving service from SWA.

Mandan is not the only community within the jurisdiction of the Southwest Water Authority (SWA) not receiving SWPP water. Those communities see the benefit in supporting the rural residents surrounding their communities and continue to support the project. They fully understand the impact of providing quality water to rural families and livestock, especially during the recent drought.

It is noted SB 2193 will expand current responsibilities of SWA to include support for all water projects in Southwest North Dakota as well as statewide projects striving to improve the efficiency of speaking with one voice rather than individual communities and counties pursuing water projects. It is noted that the city of Mandan has received grant money either directly or indirectly from the water community. For example, their water treatment plant has received grant money from the water community, either directly or indirectly because of rural water distribution, for renovation and upgrades. It is also noted that Morton County has received a significant amount of money (11 million) to build infrastructure required to deliver water to several communities and a significant amount of rural customers resulting in the need to purchase water from the city of Mandan. This includes infrastructure for several subdivisions located near the city. Quality water definitely influences the location of development. Simply ask Oliver County which is still patiently waiting for its share of quality water. They note you can tell exactly where the county line is by observing the location of family residences receiving quality water from MWWS.

Mandan is specifically zeroing in on the SWPP and fails to recognize the key role SWA plays in the development of water projects other than SWPP. It is important to note a significant number of water projects such as Crown Butte Dam, Sweet Briar Dam and Harmon Lake provide recreational opportunities for city residents. Other projects include Missouri River Bank Stabilization, flood control and irrigation projects that either directly or indirectly benefit Mandan. Morton County seems to have fared quite well when it comes to water projects and to continue to do so will need the full support of Mandan as well as all other residents in Morton County.
For example, it is quite possible that sometime in the near future Missouri West and SWA will merge in an effort to more efficiently serve the residents in Southwest North Dakota. It is anticipated that Mandan would play a key role in such a merger by continuing to provide quality water to areas surrounding Mandan. If they choose to reject such a proposal it will be necessary to build a separate water treatment plant driving up costs for both city and rural residents. Wouldn't it make a lot more sense to work together to either upgrade or build a new WTP to serve both the city and rural residents?

The SWA board of directors is made up of one elected member from each of the twelve counties located within their service area and two elected members from the city of Dickinson. The city of Mandan was offered but rejected membership to the board. This option is still available. The revenue generated by the mill levy is applied to board and administrative expenses as prescribed by the North Dakota Century Code. None of that revenue is applied to construction or actual day-to-day distribution cost of delivery of water to the customer. As noted, SWA plays a key role in development of water projects other than SWPP

In conclusion the question that needs to be asked, is the city of Mandan willing to support its rural customers (including communities) in exchange for the support they receive from those customers or do they prefer to divorce themselves from the rural sector of the county? Based upon what I have read concerning proposed legislation Mandan seems adamant in their demand to have the mill levy waived for their community. This seems to be very unfair to the remaining communities and rural residents in Morton County as well as the other eleven counties that pay the mill levy. I certainly feel the inclusion of the city of Mandan along with their support is very important for future water development in Morton County as well as other counties in Southwest North Dakota.

Attachment # 9

Missouri West Water System

To: Mary Massad, Southwest Water Authority
From: Mike Kemnitz, Missouri West Water System
Date: 2/4/2009
Re: Mandan City, MWWS Water Sales Activity

In response to your inquiry about water sales to MWWS by the City of Mandan during 2008.

175,966,300 gallons were purchased during 2008.

$257,538.39 was paid for this water.

$1,027,650.61 was paid to the City over the past five years.

Southwest Water purchased **10,061,300** gallons from MWWS of the 2008 totals. That usage resulted in **$14,789.67** being paid to the City through MWWS.

Attachment #10

Testimony of Loren Myran for House Natural Resources Committee
Loren Myran, Chairman, Southwest Water Authority
February 6, 2009, 9:00 a.m.
HB 1278

Good morning Mr. Chairman and members of the committee. My name is Loren Myran. I am the Chairman of the Southwest Water Authority. I am speaking against House Bill Number 1278 which would remove the city of Mandan from the Southwest Water Authority effective December 31, 2008.

The legislature created the Southwest Water Authority to provide for the supply and distribution of water to the people of southwestern North Dakota and to provide for the future economic welfare and prosperity of the people of the state. It is appropriate that a regional water authority be supported by all citizens within its boundaries. This would include the city of Mandan. There are direct as well as indirect benefits to the city of Mandan. By enhancing the quality of rural life in Morton County the city of Mandan benefits within its trade area. Southwest Water Authority purchases water from the Missouri West Water System to serve portions of Southwest Pipeline Project customers in Morton County. This water comes directly from the city of Mandan.

The Southwest Pipeline Project has spent more than $11 million in Morton County to provide regional water service to more than 260 rural residents. The Southwest Pipeline Project also serves the communities of Hebron and Glen Ullin in Morton County. The Southwest Water Authority has also supported funding for the Missouri West Water System in the form of federal dollars through the MR&I program.

Exempting those that do not directly benefit from the Authority would set a precedent for others who feel they do not receive a direct benefit from Southwest Water Authority. This could include both cities and rural areas not being directly served by the Southwest Pipeline Project.

I would urge you to vote no on House Bill 1278. Thank you.

SOUTHWEST WATER AUTHORITY

MILL LEVY INCOME

COUNTY	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	1995 to 2008	% Of Total	Actual Thru 01/15/09	BUDGET 2009
ADAMS COUNTY	$6,737.22	$6,245.47	$6,344.60	$6,772.54	$7,066.68	$7,389.83	$7,284.70	$7,405.85	$7,838.11	$7,634.34	$7,562.52	$7,991.10	$8,009.83	$8,503.46	$102,786.45	4.56%	$2,329.28	$8,000.00
BILLINGS COUNTY	$6,989.55	$6,352.30	$6,415.99	$5,722.14	$5,707.61	$5,388.98	$5,585.92	$5,662.18	$5,674.36	$6,430.95	$6,419.75	$6,393.55	$6,658.58	$7,498.60	$86,900.46	3.86%	$2.74	$7,000.00
BOWMAN COUNTY	$7,761.05	$6,908.64	$7,018.34	$7,939.17	$9,199.13	$8,502.24	$9,868.10	$8,776.42	$9,372.94	$10,977.84	$10,887.02	$11,522.21	$11,612.07	$14,937.02	$135,282.19	6.00%	$4,163.10	$13,500.00
DUNN COUNTY	$10,764.31	$10,436.74	$10,816.58	$10,798.84	$11,154.77	$11,247.80	$12,000.03	$12,442.36	$12,565.48	$13,148.59	$13,215.77	$13,796.85	$13,935.65	$14,280.37	$170,604.14	7.57%	$0.00	$14,000.00
GOLDEN VALLEY COUNTY	$4,478.29	$4,691.48	$4,940.01	$4,783.19	$5,377.15	$5,614.92	$5,761.01	$5,826.11	$6,191.70	$6,208.34	$6,257.48	$6,465.42	$6,415.75	$6,885.25	$79,896.10	3.54%	$2,001.87	$6,500.00
GRANT COUNTY	$7,017.52	$7,405.51	$7,561.21	$7,883.06	$8,731.93	$8,800.63	$8,868.17	$9,167.74	$9,276.45	$9,117.29	$9,096.99	$9,301.71	$10,383.34	$9,641.94	$122,253.49	5.42%	$0.00	$10,500.00
HETTINGER COUNTY	$7,117.24	$7,509.66	$7,883.85	$6,543.57	$8,930.52	$8,537.51	$8,552.95	$9,038.27	$9,441.26	$9,452.68	$9,543.94	$9,954.06	$10,566.28	$11,064.80	$124,136.69	5.51%	$0.00	$11,000.00
MERCER COUNTY	$13,582.53	$13,824.95	$14,177.96	$14,718.91	$17,830.16	$17,970.16	$19,782.99	$20,772.11	$21,202.66	$21,034.57	$21,330.65	$21,842.80	$23,343.86	$22,701.54	$264,115.85	11.72%	$4,898.95	$23,500.00
MORTON COUNTY	$38,092.68	$62,335.95	$41,981.78	$42,105.27	$47,420.15	$44,876.44	$50,268.06	$51,971.58	$50,560.24	$57,402.15	$59,081.84	$66,220.23	$66,509.58	$72,046.09	$750,872.04	33.32%	$0.00	$70,000.00
OLIVER COUNTY	$4,369.82	$4,443.96	$4,338.65	$5,365.63	$4,653.80	$4,792.47	$4,904.07	$5,034.64	$5,337.38	$5,296.31	$5,295.86	$5,537.05	$5,956.07	$6,820.18	$72,145.89	3.20%	$0.00	$7,000.00
SLOPE COUNTY	$3,471.75	$3,644.00	$3,969.06	$3,929.96	$5,111.34	$5,128.66	$5,211.56	$5,297.98	$5,429.11	$6,054.35	$6,007.44	$5,458.82	$6,475.85	$6,601.19	$71,791.07	3.19%	$2,037.75	$6,500.00
STARK COUNTY	$24,008.23	$24,675.36	$26,822.40	$28,137.09	$32,225.42	$33,862.54	$35,354.19	$36,115.47	$39,521.98	$36,096.96	$42,223.95	$45,238.07	$49,740.14	$55,090.70	$509,112.50	22.59%	$16,515.02	$55,500.00
TOTAL	$134,390.19	$158,474.02	$142,270.63	$144,699.37	$163,408.66	$162,112.18	$173,441.75	$177,510.71	$182,411.67	$188,854.37	$196,923.21	$209,721.87	$219,607.00	$236,071.24	$2,253,825.63	110.47%	$31,948.71	$233,000.00
Morton County % of Total	28.34%	39.34%	29.51%	29.10%	29.02%	27.68%	28.98%	29.28%	27.72%	30.39%	30.00%	31.58%	30.29%	30.52%	33.32%	30.16%	0.00%	30.04%
Mandan 51% of Morton Cty	$19,427.27	$31,791.33	$21,410.71	$21,473.69	$24,184.28	$22,886.98	$25,636.71	$26,505.51	$25,785.72	$29,275.10	$30,131.74	$33,772.32	$33,919.89	$36,743.51	$382,944.74	$0.17	$0.00	$35,700.00

HB1278

Attachment #2 2-12-09

#1a

"Where The West Begins"

CITY OF MANDAN

MANDAN CITY HALL - 205 2nd Avenue NW
MANDAN, NORTH DAKOTA 58554
701-667-3215 • *FAX: 701-667-3223* • www.cityofmandan.com

CITY DEPARTMENTS

ADMINISTRATION	667-3215
ASSESSING/BUILDING INSPECTION	667-3230
BUSINESS DEVELOPMENT	667-3485
CEMETERY	667-6044
ENGINEER/PLANNING & ZONING	667-3225
FINANCE	667-3213
FIRE	667-3288
HUMAN RESOURCES	667-3217
LANDFILL	667-0184
MUNICIPAL COURT	667-3270
POLICE	667-3455
PUBLIC WORKS	667-3240
SEWER TREATMENT	667-3278
SPECIAL ASSESSMENTS	667-3271
UTILITY BILLING	667-3219
WATER TREATMENT	667-3275

March 18, 2009

Senator Dwight Cook
District 34
1408 17th Street SE
Mandan, ND 58554-4895

Re: Mandan Participation in Southwest Pipeline Project

Dear Senator Cook:

As you are aware, earlier in the current Legislative Session, House Bill No. 1278 was introduced to amend and reenact Section 61-24.5-03 of the North Dakota Century Code, relating to removal of the City of Mandan from the Southwest Water Authority. Subsequently, House Bill No. 1278 was engrossed to amend and reenact Sections 61-24.5-04, 61-24.5-07, and 61-24.5-08 of the North Dakota Century Code, relating to members of the board of directors of the Southwest Water Authority; and to repeal sections 61-24.5-10, 61-24.5-11, 61-24.5-12, 61-24.5-13, and 61-24.5-14 of the North Dakota Century Code, relating to property tax levies within the Southwest Water Authority jurisdiction. Although this legislation has not been finalized, if passed as presently written, the City of Mandan will obtain a seat on the Board of Directors of the Southwest Water Authority, and we believe that with this opportunity, it is in the best interest of the citizens of the state of North Dakota to develop the most cost effective and efficient means of providing safe and dependable water to all Southwest Pipeline Project users.

The Mandan Water Treatment Plant (WTP) is presently a 12 million gallon per day (MGD) regional facility, serving the City of Mandan as well as Missouri West Rural Water, which we understand delivers a portion of their water to Southwest Water Authority. The source water for the Mandan WTP is the Missouri River, which has proven to be an exceptional source. Our treatment process is very similar to the existing facility that is operated by Southwest Water Authority in Dickinson, with pretreatment, cold lime softening, filtration, and chlorine and chloramine disinfection, producing a finished water quality nearly identical to water treated at the Dickinson Water Treatment Plant. With a portion of the system already in place, and the long-held intent of both the North Dakota State Water Commission and the Garrison Diversion Conservancy District to regionalize surface water treatment facilities, it is unquestionably prudent to consider

serving a larger portion of the Southwest Water Authority system with the latent capacity available in the Mandan WTP rather than to construct another new treatment facility (as currently proposed near Zap). To this end, it is evident that the existing Mandan WTP is strategically positioned on the east side of the Southwest Water Authority service area, and has the capability and capacity to provide congruent water for service and expansion of the Southwest Pipeline Project.

As such, the City of Mandan is respectfully requesting consideration from the Southwest Water Authority to enter into a water purchase agreement whereby the City of Mandan would supply drinking water to the eastern portion of the Southwest Water Authority's service area. We would appreciate the opportunity to meet with you in the near future to discuss this matter further. Please feel free to contact me at (701) 663-9538 or Mr. Jim Neubauer, City Administrator at (701) 663-3215.

Sincerely,

Tim Helbling, President Board of City Commissioners

cc: Governor John Hoeven
North Dakota State Water Commission, c/o Dale Frink, Chief Engineer - Secretary
Garrison Diversion Conservancy District, c/o Dave Koland, General Manager
Representative RaeAnn G. Kelsch, District 34
Representative Todd Porter, District 34
Senator Kent Conrad, United States Senate
Senator Byron Dorgan, United States Senate
Southwest Water Authority Board of Directors

#19

Cook, Dwight C.

From: Todd Porter [tporter@maas-nd.com]
Sent: Wednesday, March 18, 2009 10:02 AM
To: Cook, Dwight C.
Subject: Water bill

Sen. Cook;

I appreciate you allowing me to provide written testimony related to the SW Water bill.

I had agreed to testify in favor of removal of the tax repeal and leave Mandan with a board member.

Thanks for getting this to your members.

Todd Porter

Sent using BlackBerry

#2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1278

Page 1, line 3, replace the semicolon with a period, and remove "to repeal sections 61-24.5-10, 61-24.5-11, 61-24.5-12, 61-24.5-13, and"

Page 1, remove lines 4 and 5

Page 3, remove lines 20 through 25

Renumber accordingly

#1

March 12, 2009

PROPOSED
NORTH DAKOTA WATER COALITION
FUNDING PLAN

1. Fargo's short-term priority is flood control.

2. Red River Valley Water Supply Project must move forward.
   a. Tasks: Operational Plan, Permits, Pre-final Design, Financial Planning, Right of way Options

3. Funding Objective for Fargo Flood Control Project

2009-2011	$55 million
2011-2013	$20 million
	$75 million

4. 2007-2009 Carryover

a.	Red River Valley Water Supply	$ 9 million
b.	Fargo Flood Control	$14 million
		$23 million

5. Allocation of Estimated 2009-2011 Revenues

Devils Lake	$ 2,000,000	$ 2,000,000	$ 2,000,000
Devils Lake Flood Control	$10,000,000	$10,000,000	$10,000,000
Flood Control - Fargo	$35,000,000	$12,000,000	$22,000,000
General Water Management	$10,500,000	$ 5,000,000	$11,300,000
Irrigation	$ 1,000,000	$ 1,000,000	$ 1,000,000
Missouri River	$ 500,000	$ 500,000	$ 500,000
M,R&I	$10,000,000	$ 4,500,000	$ 5,000,000
NW Oil Impact M,R&I	$ 5,000,000	$ 2,000,000	$ 2,000,000
NAWS	$12,000,000	$ 5,000,000	$ 5,000,000
RRVWSP	$ 5,000,000	$ 3,500,000	$ 4,000,000
Southwest Pipeline Project	$12,000,000	$ 6,000,000	$ 8,000,000
Weather Modification	$ 700,000	$ 700,000	$ 700,000
	$104,000,000	$52,200,000	$71,500,000

6. Additional Funding*
   a. State Water Commission Operation - General Fund
   b. Tobacco Funding SB 2063
   c. General Fund - $3 million Carryover? Other?
   d. Permanent Oil Tax Trust Fund

7. Red River Valley Water Supply Project Long-Term Funding Plan**

a.	2011-2013	$110 million
b.	2013-2015	$110 million
		$220 million

*HB 1305 appropriates additional $2.1 million for R&T Water Supply

** Resources Trust Fund not sufficient.