

2009 SENATE NATURAL RESOURCES

SCR 4035

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 4035

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: April 3, 2009

Recorder Job Number: 11707

Committee Clerk Signature

Minutes:

Chairman Lyson opened the hearing on SCR 4035. All members were present.

Senator Grindberg introduced the resolution and walked the committee through it. The sponsors are bipartisan and are interested in water control. The cost of fighting the flood is being estimated at \$200 million. During the last few weeks, they have been working with the Water Commission and the budgeting process for south side dike protection. It has been underway this session. The cost is estimated at about \$160 million. From a cost benefit standpoint, it behooves us to find the right solutions and avoid spending millions on fighting a flood vs. finding a solution. "Interstate concern" gets to the heart of the matter. North Dakota, South Dakota and Minnesota all need to work cooperatively.

North Dakota showed a valiant effort and North Dakota shined in the flood fight. They used 3 ½ million sand bags in Fargo, and at first they thought 1 ½ million was insurmountable. What was accomplished was amazing. It is time to resolve the issue.

Senator Anderson testified in favor of the resolution. Wahpeton escaped this time. There have been attempts to mitigate the quickness of flood waters. The North Ottawa Project in Minnesota is a huge project. It is a huge area that retains the water before it gets to the Red River basin; it is also good for wild life. After seeing that, he can see how it can be done in

other areas. Unfortunately, he thinks there are too many hoops to jump through and too many commissions. There has to be a "mighty commission" at the top with the authority to do some of these things.

Senator Fischer testified in favor of the resolution. His first flood was in 1969 and it has been going on ever since. We need to get the federal government involved. We need to get together with Minnesota and form a coalition with people on both sides of the river and with some federal input we can solve these problems. The amount of money spent over the years to protect the cities up and down the Red River would have completed what we need to do today. He also commended Dr. Mahoney and Pat Zavorol for the work done in Fargo. It was an enormous task. They followed the book and it worked.

Senator Triplett asked if he is working with people Minnesota and South Dakota to draft similar resolutions.

Senator Fischer said no, he has worked with people with from Minnesota and South Dakota for years but he has not spoken to them about drafting resolutions.

Senator Triplett asked if their legislatures are still in session.

Senator Fischer said Minnesota is, he is not sure about South Dakota. It is a good idea.

Dr. Tom Mahoney, Fargo City Commissioner, testified in favor of the resolution. They are working with Minnesota, meeting with the governor today and having a press conference today. They have contacted the congressional offices in regards to this issue and have been assured they will get into helping us out a little bit. They thanked everyone who helped fight the flood. It was neighbors helping neighbors. In 1997 they had 3 weeks to prepare for the flood, this year they had 1 week. They think the feds need to step up and put some money on the table. We need to address the river all the way down. Fargo has lost 164 homes so far, none within their dikes. The eyes of the nation are on Fargo and they have had very good

press. They appreciate the state's help. It is time for the federal government to help them out with money. After the 1997 flood, they thought there would not be another for 100 years and things did not turn out that way. We need to design a system where urban and rural concerns work together. It will take a combination of plans. We will all have to feel a little pain.

Pat Zavoral, Fargo City Manager, testified in favor of the resolution. He distributed 2 maps (attached). One shows the natural drainage of the Red River. The other shows all known drainage ditches. They are hearing there is a lot of tiling that wants to be done. They have a plan in south Fargo to retain 4000 acre feet of water within the area and it costs \$20 million. If they were to go upstream and purchase land and easements, they could store 70,000 acre feet of water for \$30 million. How can we benefit more people and small towns? Someone has to take a look at it. It is difficult for local watersheds to have agreements with each other.

They prefer to have a federal agency bring federal dollars to the table.

Dr. Mahoney said he is normally a surgeon. All the Congressional delegation wanted to come in and be around them and help them out but when it comes time to pick up the check, it becomes a challenge. This would be a marvelous stimulus project for the state and help our citizens get jobs. The feds have to pick up part of the tab. Fargo's stance was to be fairly independent and stand up as a community and not ask for handouts. To go forward, it's only fair...the state stepped up and is giving money, the city stepped up and is giving money, and the feds have to get into it. A corps project, the usual route, could take 10 – 20 years and he doesn't think the next flood is that far off. Without the cold spell, they probably would have hit 43 feet. God was good to them. They are still in the flood fight, they are supposed to have a second crest.

Chairman Lyson closed the hearing on SCR 4035.

Senator Schneider moved a Do Pass on SCR 4035, seconded by Senator Pomeroy.

The motion passed 7 – 0. Senator Schneider will carry the resolution.

Date: 4/3/09

Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES

Senate Natural Resources Committee

Check here for Conference Committee Bill Number: 4035

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Amendment

Motion Made By Sm. Schneider Seconded By Sm. Pomeroy

Senators	Yes	No	Senators	Yes	No
Senator Stanley W. Lyson, Chairman	✓		Senator Jim Pomeroy	✓	
Senator David Hogue, Vice Chairman	✓		Senator Mac Schneider	✓	
Senator Robert S. Erbele	✓		Senator Constance Triplett	✓	
Senator Layton W. Freborg	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Sen. Schneider

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

REPORT OF STANDING COMMITTEE

SCR 4035: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4035 was placed on the Eleventh order on the calendar.

2009 HOUSE NATURAL RESOURCES

SCR 4035

2009 HOUSE STANDING COMMITTEE MINUTES

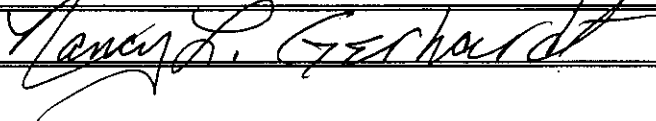
Bill/Resolution No. 4035

House Natural Resources Committee

Check here for Conference Committee

Hearing Date: 4-8-09

Recorder Job Number: 11787 & 11788

Committee Clerk Signature 

Minutes:

Chairman Porter: We will open the hearing on SCR 4035.

Sen. Grindberg: Hopefully this will be a tool in the tool chest to figure out the long term solution for the flooding. On page 1 line 16 after the words contributing tributaries insert "excluding the Souris Basin".

Chairman Porter: Did you have any changes on page 2?

Sen. Grindberg: It was just for discussion on city officials. Should clarify how that appointment was done.

Ron Roauschenberg: Governor's Office - I'm here to testify in favor of this on behalf of our office.

Rep. Al Carlson: We have 1/5 of the people live in our county, and a majority of those people were affected by the flood. In the water commission bill that's coming forward you will see a commitment by the state of 75 million dollars. 45 million dollars this biennium, 30 million dollars next biennium to address the south side flooding issue. That's not even half the problem. That only protects us to I94. When you get north of I94 we have all sorts of other problems that are not addressed because that takes a major cooperation between the 2 states.

That's why this is before you. MN, ND and even SD because of some of the water they retain

have a huge part to play in this. If we are to solve this it will take a lot of cooperation, not only from us, but from our federal delegation – fema, and the corp. These guys are going to tell you about the many processes they are trying to put into place for our city.

Rep. Blair Thoreson: I stand in support of SCR 4035.

Rep. Jim Kasper: Fargo – I support SCR 4035 and ask this to do so also.

Deputy Mayor Tim Mahoney: Fargo – We have never seen so much water ever. Since 1997 the city of Fargo did learn a little bit from that flood. We brought our dikes from 31' to 38'. As I learned if you don't have the sewers right you get into big trouble. Pressure on the sewer can blow out your sewer, then you've got damage in your water supply. We've had tremendous support from our community. Our contractor hauled enough clay in one week that they would normally haul in 1 month. The flood program has to combine a variety of things. We don't have all the drainage set up on the ND side. To do anything in the flood control plan we have to have a retention plan, we have to have a dykeing plan, some kind of drain plan, we may have to have ??????????? plan. We want to look at everything you can do. If in Fargo we dump our water out and get rid of it, now we've created problems for rural communities. That's not the best thing to do. When Grand Forks built their dykes higher, you get into a game let's build our dykes higher and higher. Reality is, it has to be a comprehensive plan to deal with the drainage, build retention. The city of Fargo has dam retention ponds.

Pat Zavoral: See **Attachments # 1 & 2** – In 2006 we experienced a 37' flood which was a summer time flood was caused by 6" of rain between Fargo and Wahpeton. Then in 2009 we had 3 weeks of cold weather that slowed everything down. We got lots of snow. Our fear is that someday we are not going to have 3 weeks of cold weather to slow things down. We will be at 45' and we can't protect ourselves at 45'. We can protect ourselves at maybe 43', but not 45. MN looks at us with a certain amount of disdain. They don't want to participate in a lot

of things we suggest should be done. We're not locked in any particular idea, other than to suggest there should be some federal authority. The federal authority could oversee some of the other federal programs that are going on. We don't think if there is a federal program or federal authority they ought to pay the landowners upstream from us to hold the water back. Is it the waffle plan? Maybe it's part of the waffle, is it additional reservoirs? In each instance we think if we had a federal authority MN would have to look to it, ND and in some degrees SD. They would be able to assist in bringing more than just more than the corp. of engineers, more than just FEMA to the tables and we start looking at how to retain this water. We think the south side flood protection would protect us from water on the land. The bigger picture is we need to widen the river through the city, we need to widen our drains that are holding some of that water back, and we just can't hold the water back and put it in the river because we're going to be affecting everybody. We need to figure ways to widen the river, how to stop the river at the river's edge, and whether we are going to do a diversion or retain water upstream. Part of the south side plan calls for 4,000 acre feet of retention within the protected area. Those 4,000 acre feet will cost 20 million dollars. We've already had a preliminary study that said if you were to go upstream someplace and did retention, either in small ponds or some reservoirs we could ?????? 70,000 acre feet for 30 million dollars. If we went upstream to Abercrombie Pristine, Oxbow, Dixon and in some of the rural subdivisions we would have seen 1 foot less of river rise if we would have had that 70,000 acre feet held upstream. The idea of going outside the city boundaries seems like something we've got to pursue. How we do it is a suggestion here. We'd like to modify what we've suggested here today. What has been suggested is the governors recommend to the president the representation on this. We think it ought to be 4 members from ND, 4 members from MN and 1 member from SD. That would be one suggestion as you deliberate on this you might want to take into consideration. We

strongly support what Rep. Carlson said – the governor ought to make the suggestions and the president simply confirm those suggestions. There is some concern about, what happens if MN objects to this Missouri River Project that's being floated through these halls that will come at a future date. 1st we've got to stop the water, then we'll talk about getting the water into the valley, but that's a discussion for another day. We know it is just a resolution, but we thought the appropriate place to start was with the legislature. We know the governors have talked about supporting it. We're going to seek similar legislation in MN. We talked to all the congressional delegation in ND and they say if we can get the support, we're going to put it in. It is our request you approve this resolution.

Tim Mahoney: The other part of that resolution is sometimes people want to take advantage of ND because we have so much money in the bank. The second issue is for the south side project is ready to go to shovel next spring if we can push this through as fast as we can.

Rep. Hanson: If you put the waffle plan in, is it on both sides of the river south of Fargo or north of Fargo?

Tim Mahoney: If we get federal authority, yes, they will look at that south of Fargo.

Rep. Hanson: My second question is: Are the dykes on the MN side higher than the ones on the ND side?

Pat Zavoral: On average the Red River Valley the banks in MN are 10' higher. That's always been an issue. About 2 years ago there was an agreement between the two states that, if you get a cut bank project and divert water back into the Red, you could have a rise of 8" on the river to accommodate those dykes. Today, now with what we are dealing with in Fargo/Moorhead, MN has indicated they will accept a "zero" rise in the Red River. We have to deal with a dykeing project that will be developed that won't allow a 1" of rise in the Red River.

Rep. Hofstad: As you developed this idea, and looking at a regulatory agency or board, have you considered or thought about the other agencies involved with water? Involving them and enlisting their ideas and help? You've got a water resource board, you've got federal regulatory boards that deal with water. Is part of the plan to involve those agricultural interests in this process also?

Tim Mahoney: Very much so.

Rep. Hunskor: Excluding the Souris Basin what is the reason?

Tim Mahoney: I believe we wanted to exclude the Souris Basin because the water group has something going on in that area already.

Chairman Porter: In the current flood going on today how much money has been spent?

Tim Mahoney: We estimated overall cost 200 million.

Chairman Porter: The 200 million is actual dollars plus commerce on top of that.

Rep. Nottestad: When you look at that 200 million are you putting into that the personal debt the families are going to have to go into as a result of what was lost? That is absolutely huge. Sometimes you will never know what the actual amounts would have been.

Tim Mahoney: We learned from Grand Forks in a way. In audible

Chairman Porter: The talk was some of the pressure was relieved from the first crest because of the overland flooding on the MN side, and then MN in this whole current event actually sustained more property damage because of their system than what Fargo within their system. Has it been kind of equal on property damage, or has there been a noticeable

Tim Mahoney: The city of Fargo you have more property because of the size of population in that area. In our county – both sides – both have sustained considerable damage. We think what actually saved us on this flood is the cold spell. If we had not had the weather change, we would have sustained much worse damage. I think ND was hit harder.

Pat Zavoral: In '97 MN didn't sustain as much damages in the lower part of the Moorhead area like we did in the Breckenridge and East Grand Forks. This time they did because in Moorhead they didn't move their sanitary systems away from the river like we did on the ND side. They are going to have some more serious info structure problems to deal with because of that. One of their representatives came up to me and said ND caused most of the flooding and went on about all the snow here. Some way we have to get a handle on this thing. We not only have to contain water, we have to build the dykes, widen the river, we have to have these green spaces, and we have to make sure we don't flood. We have a long way to go.

Chairman Porter: Is there a functioning committee between Clay County and Cass County and Fargo and Moorhead dealing with floods and those issues now?

Pat Zavoral: We meet with the South Side Flood Protection, but we included everybody in Clay County, MN, including the water shed boards, the city of Moorhead and property owners, so they would be included for 5 years. Our sense is that if we get the bigger plan that committee will stay in place. But, there is no designated body.

Tim Mahoney: South Side Flood Project would draw from the river all the way up and down. Inaudible.

Chairman Porter: In the South Side Flood Project, the project we're talking is strictly info structure built in ND?

Tim Mahoney: There is a channel that would go through the . . . Red River that is on the MN side as well. It would channel when the river gets to a certain height to off load some of the water in those . . . most is on the ND side.

Rep. Clark: What's left to do in Fargo?

Pat Zavoral: From about 6th Ave. north all the way up to the airport. We've had a preliminary study done with our engineering firm as part of the south side study just to give us an example.

We need to widen the river, we need to take care of some of those houses that are in the oxbows. We either have to put additional channels underground or would have to buy some homes and do some things. We will have to build some dykes in some areas. The north side's a little different. It's better protected. It's a little higher. We're still going to have to build some permanent retaining walls.

Rep. Clark: What's the elevation of the Veteran's Hospital dykes there?

Pat Zavoral: It's good to 45'. It's wide enough to put sandbags in front of it.

Chairman Porter: Did you have any prepared amendments?

Pat Zavoral: We just talked about it. These were just formulated in the last 2 days in talking with the Governor's office.

Chairman Porter: Just so I'm straight on your recommendation were 4 members from ND, 4 members MN, and 1 from SD.

Pat Zavoral: Recommended by the governors and confirmed by the president.

Chairman Porter: Any further questions? Further testimony in support of SCR 4035? Opposition? Seeing none we will close the hearing on SCR 4035.

Rep. DeKrey: Move the Mahoney Amendment.

Chairman Porter: So everybody's clear on the motion, it would be to make the board 4/4/1 and recommended by the governors and confirmed by the president. On the front page on line 16 would include the language after the language after the word "tributaries" – "excluding the Souris Basin".

Rep. Nottestad: 2nd.

Chairman Porter: We have a motion and a 2nd – all in favor – Unanimous Voice Vote – opposed – none – motion carries.

Rep. DeKrey: Move Do Pass As Amended.

Chairman Porter: We have a motion from Rep. DeKrey for a Do Pass As Amended.

Rep. Keiser: 2nd.

Chairman Porter: And a 2nd from Rep. Keiser. Any Discussion? It can go on the consent calendar. All in favor – Unanimous Voice Vote – opposed – none – motion carries.

April 8, 2009

VR
4/9/09

PROPOSED AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4035

Page 1, line 16, after "tributaries" insert ", excluding the Souris Basin,"

Page 2, line 11, remove the third "the"

Page 2, line 12, replace the first "of" with "selected by the Governors of the states of Minnesota, North Dakota, and South Dakota with" and after the second "members" insert ", four from Minnesota, four from North Dakota, and one from South Dakota"

Page 2, line 14, replace "President to consider recommendations from public officials such as the governors" with "Governors to select the board members representing"

Page 2, line 15, remove "of the states of Minnesota, North Dakota, and South Dakota;"

Renumber accordingly

Date: 4-8-2009
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4235

House Natural Resources Committee

Check here for Conference Committee

Legislative Council Amendment Number 0101

Action Taken Do Pass Do Not Pass As Amended Adopted Amendment

Motion Made By DeKrey Seconded By Nottestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hanson	✓	
Vice Chairman Damschen	✓		Rep Hunsakor	✓	
Rep Clark	✓		Rep Kelsh	✓	
Rep DeKrey	✓		Rep Myxter	✓	
Rep Drovdal	✓		Rep Pinkerton	✓	
Rep Hofstad	✓				
Rep Keiser	✓				
Rep Nottestad	✓				
<u>Unanimous</u> <u>Voice Vote</u>					

Total (Yes) 13 No 0

Absent 0

Floor Assignment Voice Vote - Carries

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

Date: 4-8-09
 Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4235

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 DeKrey Seconded By Kei

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	✓				
<i>Unanimous Voice Vote</i>					

Total (Yes) 13 No 0

Absent 0

Floor Assignment DeKrey

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

*Consent
Calendar*

REPORT OF STANDING COMMITTEE

SCR 4035: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4035 was placed on the Sixth order on the calendar.

Page 1, line 16, after "tributaries" insert ", excluding the Souris Basin,"

Page 2, line 11, remove the third "the"

Page 2, line 12, replace the first "of" with "selected by the Governors of the states of Minnesota, North Dakota, and South Dakota with" and after the second "members" insert ", four from Minnesota, four from North Dakota, and one from South Dakota"

Page 2, line 14, replace "President to consider recommendations from public officials such as the governors" with "Governors to select the board members representing"

Page 2, line 15, remove "of the states of Minnesota, North Dakota, and South Dakota;"

Renumber accordingly

2009 SENATE NATURAL RESOURCES

CONFERENCE COMMITTEE

SCR 4035

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 4035

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: April 21, 2009

Recorder Job Number: 12074

Committee Clerk Signature

Minutes:

Chairman Erbele called the meeting of the conference committee to order. All members were present. (Senators Erbele, Freborg, Triplett, Representatives Clark, Nottestad, S. Kelsh)

Senator Erbele asked the House members to explain their amendment.

Representative Clark said they heard in testimony that the resolution included the Souris River Basin and the thought was it would detract from the resolution. They also included in the resolution that the governor would provide the names of those who would serve on the 9 member board. The board would include 4 members from North Dakota, 4 members from Minnesota and 1 member from South Dakota, rather than 3 from each state.

Senator Triplett said she has many concerns about the resolution. She has no concern about removing the Souris River Basin reference. She is concerned about asking the federal government to take over the issue, to say we are giving up on handling it ourselves with our neighbors across the river. There was not much opportunity to consider the resolution in committee. It appeared on the chairman's desk as a delayed bill at 4PM, was scheduled for the next morning at 9 AM with instructions to get it out before the deadline. The committee did not have an opportunity to work it. In light of a recent vote on the Senate floor, yesterday, mostly along party lines, reminding the federal government of the 10th amendment, it seems

peculiar to be asking them for help in this case. It is inconsistent. Although she voted for this resolution initially, now that she sees the will of the legislature is to tell the federal government to leave us alone, we should change the overall format of the resolution. The resolution should encourage our governor to enter into an interstate compact with the governors of Minnesota and South Dakota and not get the federal government involved. On another issue, if water quality is included in the bill, we should involve the Canadians, because of their interest in water quality issues. If the purpose of the resolution is only flood control, there is no need to involve the Canadians. Regarding the actual language of the bill, on the second page, the amendments change the intent of the resolution. Rather than asking for recommendations from various groups, it now prescribes what groups should be represented on the board. If that is the intent of the resolution, the list is incomplete. From a grammatical perspective, that is how the House amendment reads. She asked what the House was trying to say when they adopted the amendment.

Senator Erbele asked for input on the language in the amendment.

Representative Nottestad said the concern was we want the governor to have the say, not to come from individual groups. He is not enamored by this resolution. He feels personally we are advocating control of the entire Red River Valley by doing this. But if this is how it's going to be, the governors of the three states should have input as to who is going to serve on these committees. The House Natural Resources Committee felt strongly it should come from one person and that North Dakota and Minnesota should have more representatives on the committee.

Senator Triplett asked if they intended to change the notion that the governor was to seek

recommendations from the groups listed or the governor was to select board members

representing those groups. They are two really different concepts. If they meant to select board members from the groups, the list needs a lot of work.

Representative Clark said the House did not change that part of the bill.

Senator Triplett said they made significant changes; they removed the phrase "to consider recommendations". Maybe it was unintentional.

Senator Erbele asked if she was referring to line 14 on page 2.

Senator Triplett said yes.

Representative Clark said the original intent was for the President to pick the members of the board.

Senator Triplett said yes, but the language from the 100 version was "president to consider recommendations from public officials such as...." It never said what groups the members were to represent. The list is missing the water boards and academics to name a few. The grammar and language needs work.

Senator Erbele said he understands what she is saying; there is difference between recommending and representing.

Representative Nottestad said the governor should have access, it is inferred. He understands what she is saying.

Senator Triplett said she would prefer "select qualified members "to serve on the board.

Senator Erbele asked if the House members would agree to that change.

Senator Triplett said on page 2 line 15 after "to select", delete everything down to line 19 and pick up "qualified members to serve on the board".

Representative Clark said it is a minor issue.

Senator Erbele said it is word smithing.

The committee reviewed the proposed wording.

Representative Clark said it was a list where qualified members could come from. It does not give him heartburn to change it. If you feel we are tying the governor's hands by specifying certain groups for the board, he would be ok with changing it.

Representative S. Kelsh said the point is, we are not enacting legislation, it is a resolution. He is fine with it. It could be an endless list of recommendations.

Representative Clark asked if the Senate is prepared to accede to the House amendments and further amend.

Senator Erbele said if the committee could reach general agreement on this issue, they should move on to the other issues and ultimately draft a single amendment to handle all the issues.

The next issue would be water quality vs. flood control.

Senator Triplett said the impetus of the resolution was flood control. Do we want the federal government to take over control of water quality in the basin? She realizes she should have brought this up when the resolution was being considered by the Senate Natural Resources Committee.

Senator Erbele said if we are talking about water quality, Canada would want to weigh in.

Senator Triplett said they always have. It gets into the whole water supply issue. There is a huge federal component to that. The state water commission still has some interest and control over water quality issues in the basin. She is not willing to concede all our state authority.

Representative Nottestad asked if we are here to resolve the amendments or rewrite the bill. This should have been done in committee.

Senator Erbele said that is true but we do have an obligation to bring a good bill to final

passage.

Senator Triplett said she can see Representative Nottestad is peeved with her for bringing this up and asked why he thinks it's a good thing to offer to concede all water quality issues to the federal government.

Representative Nottestad said he doesn't like the bill and would have voted against it.

Hopefully, the Senate would have done some fixing as the House tried to. At this point, how much further should we go?

There was discussion of making the resolution so bad it would be defeated.

Representative Clark said the intention was to bring in the deep pockets of the federal government to help resolve the water issues in the Red River Valley. The federal government is already involved in water quality in the valley with the Devils Lake outlet that puts water into the drainage basin. Canada has already made their wishes known in regards to that. It is not the intention of the House to make it such a bad bill it won't pass.

Senator Erbele said he appreciates what Representative Nottestad said about working on the amendment. Many times totally new bills come out of conference committees and he would prefer to make it a good resolution. He is struggling with the water quality portion. He asked the committee to lay that portion aside and move onto the interstate compact.

Senator Triplett said it would be more like a hog house amendment. Having lived through the 1997 flood in Grand Forks, and having the Corps of Engineers and FEMA take over the town for a number of years, it is not a fun experience to have the federal government in charge of every drop of water flowing past one's house. We are offering to give up quite a bit.

Representative S. Kelsh said the testimony was from City of Fargo officials and it was about flood control, there was little mention about water quality. The testimony related to bringing all

the jurisdictions together in terms of flood control. The House heard this the very same afternoon they passed the resolution about the 10th amendment which was ironic. There is a

role for the federal government to play in bringing those jurisdictions together. Again, this is a resolution. We are asking the federal government for help because we had an emergency. Representative Nottestad said as a Grand Forks County Water Resource Board member, he would have some real concerns about a group of 9 people having veto power over everything that pertains to the Red River. The water boards up and down the valley are serving the needs of the local people.

Representative Clark said he agrees with Representative Kelsh, the intention was to bring in the federal government as a final authority. The water boards have never worked together. The citizens of Grand Forks did not object when the federal government brought their resources to bear during the 1997 flood. No one objected when they brought their resources to bear during this flood. We do need the federal government. Again, it is a resolution and

nothing will come out of it.

Senator Erbele said the committee has agreed today to delete the language on page 2 lines 15 – 19. We have not accomplished anything with the water quality issue.

Senator Triplett said she thinks she has heard some consensus on the water quality issue from Representative Kelsh. Could we delete every reference to water quality and leave it as a flood control resolution?

Representative Nottestad said he has no problem with that change, it is about flood control.

Representative Clark asked if the committee left out the flood control references, could we also leave out the Canadians.

Senator Triplett said yes.

Representative Clark said he is OK with taking out the water quality.

Senator Erbele said the third whereas is just a statement.

Senator Triplett said it is a slap in the face of the Water Commission.

Representative S. Kelsh said when we talk about retention, we talk about water quality. He doesn't think it's a slap in the face of the Water Commission. The implication doesn't need to be read into the resolution.

Senator Erbele said we will have the amendment drafted and review it at our next meeting.

Senator Erbele adjourned the meeting of the conference committee.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 4035

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: April 23, 2009

Recorder Job Number: 12148

Committee Clerk Signature

Minutes:

Senator Erbele called the meeting of the conference committee to order. All members were present.

Senator Erbele said one issue the committee has discussed is the words "water quality" on page 1. He spoke with the sponsors who assured him they had discussed the language with the Health Department and the Water Commission and they are fine with it. He appreciates Representative Nottestad's comments that the conference committee should limit its work to the amendment and he is right. He suggested the conference committee not deal with any changes to page 1. On page 2, the committee has discussed how specific we want to be with naming the groups and entities. This is a resolution that came to us rather quickly and moved through both chambers quite quickly. Senator Triplett made some excellent comments at our last meeting about the potential difficulties of the resolution. If this were a bill rather than a resolution, and we were charged with moving forward with the Red River Valley Water Authority he would want Senator Triplett on our team. In his experience, however, he has never seen action occur based on a resolution. In view of that, he would be willing to entertain a motion.

Representative Clark said he would resist any efforts to rewrite the draft. People from his community testified at the hearing and were present when the amendments were made. He owes it to them support the amendments.

Representative Nottestad moved the Senate accede to the House amendments, seconded by Senator Freborg.

Senator Triplett said it is still appropriate to discuss the differences between the House and Senate versions. There is a serious difference between the two. We should either remove the list or go back to the Senate version. It is perfectly legitimate conversation for the conference committee.

The motion passed 5 – 1. Representative Clark will carry the resolution to the House floor; Senator Schneider will carry the resolution to the Senate floor.

Senator Erbele dissolved the conference committee.

Date: 4/23/09

Roll Call Vote #: 1

2009 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. **SCR 4035** as (re) engrossed

Senate Natural Resources Committee

Check here for **Conference Committee**

- Action Taken
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House Amendments
 - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ pages(s) 1375 --

Unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

Motion Made By Rep. Nottestad Seconded By Sen. Freborg

Senators				Y	N	Representatives				Y	N
				e	o					s	o
				s							
Senator Erbele Chair				✓		Rep. Clark				✓	
Senator Freborg				✓		Rep. Nottestad				✓	
Senator Triplett					✓	Rep. S. Kelsh				✓	

Vote Count 5 Yes 1 No 0 Absent

Senate Carrier Sen. Schneider House Carrier Rep. Clark

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

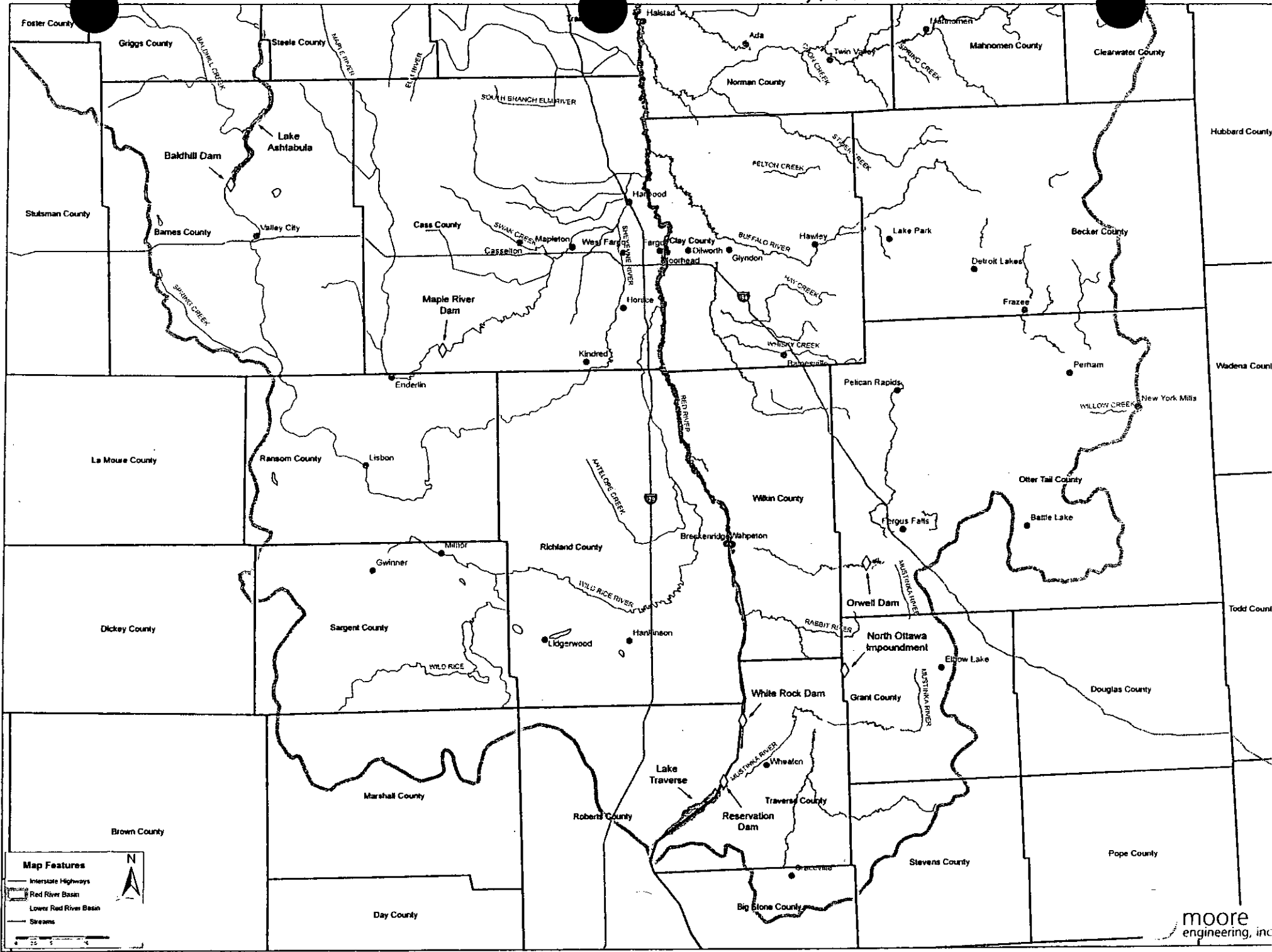
Statement of purpose of amendment _____

REPORT OF CONFERENCE COMMITTEE

SCR 4035: Your conference committee (Sens. Erbele, Freborg, Triplett and Reps. Clark, Nottestad, S. Kelsh) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 1375 and place SCR 4035 on the Seventh order.

2009 TESTIMONY

SCR 4035



Attachment # 2

