**2013 HOUSE APPROPRIATIONS** 

**HB 1020** 

# **2013 General Discussion**

(Check appropriate box)

	Committee on Committees
	Rules Committee
	Confirmation Hearings
	Delayed Bills Committee
$\boxtimes$	House Appropriations
	Senate Appropriations
	Other
Date of meeting/discussion: Janu	ary 10, 2013 AM 2 - State Water Commission
Recorder Job Number: 17076	
Committee Clerk Signature	Merett Trubolt

## Minutes:

Chairman Delzer called the committee back to order. We will be doing a high level overview on water this morning.

Todd Sando, ND State Engineer and Chief Engineer-Secretary, State Water Commission: See Attachment 1.

07:20

**Rep. Skarphol**: What are you currently doing, what kind of revenue are you expecting, and what projects do you anticipate adding to your list? Would you reference page 8 on your plan (Attachment 2)?

**Sando**: Devils Lake has been the most pressing thing in the last 20 years related to flooding. We feel we have a real good solution there, with two outlets. The lake is down three feet. In Fargo, we have a \$1.8 B project that's needed for a diversion, so we'll be working closely with them and the Corps of Engineers. It will take several bienniums to build a lot of these big projects. The Grand Forks project is in good position, and it worked well in the 2009-10-11 floods, as did Wahpeton's. We're making big progress on the Red River valley. We need to get federal funding and move forward on the federal project.

**Rep. Skarphol**: How comfortable should we be that if the Fargo diversion is successful and acceptable to all of the parties involved that we won't have an issue in Grand Forks because of the speed of the water getting to them? Are we going to be creating additional problems downstream of Fargo?

**Sando**: The project has had several twists and turns. We are now looking at a 20,000 CFS diversion, which is half the original plan. They would also like to hold water upstream and let the water flow through at a regulated pace.

Rep. Skarphol: What should we anticipate to be the resolution for the upstream folks?

**Sando**: They are proposing to provide flood protection there, too, to address some of the upstream impacts.

Rep. Williams: What about the farmland that will be inundated for a lengthy period of time?

**Sando**: The water would be moved off the land in a time period that would make it farmable still. Most of the floods on the Red River of the North are spring floods that occur before agricultural season begins.

**Rep. Skarphol**: What if that isn't the reality of a situation? What is the potential solution if the water doesn't go away soon enough for those producers? Will the state be expected to compensate for that?

**Sando**: Fargo is trying to address those upstream impacts.

Rep. Brandenburg: With this diversion, people that have never been impacted by floods will be sitting in 8 feet of water in their homes with this project.

**Sando**: We're going to try to mitigate those impacts. Fargo has been going down the path of trying to buy out homes, building infrastructure related to it. The big \$1.8 B project is to go around, but at the same time they are providing money for upstream storage and upstream issues.

Rep. Skarphol: In your budget for Fargo for the upcoming biennium, what do you recommend?

Sando: \$102 M for Fargo.

**Rep. Skarphol**: Is that going to be expended or committed to a fund to defray the expenses when it is ultimately done?

**Sando**: They are anticipating being able to start building during the 2013-15 biennium, so some of it will be spent right away. They think they'll be ready to move forward with federal project.

**Rep. Williams**: In the original proposal, there were not any dams involved. Now they are talking about 2 dams to help retain the water on the farmland area.

Sando: They are looking for more upstream storage to hold more water.

**Rep. Williams**: That is one of the problems of moving from the 35 to the 20, the inundated land south of Fargo. A basic problem is that a good part of the economic development of the Fargo area is in the flood plain.

Sando: As you know, there are many issues related to major diversion projects.

17:40

Rep. Skarphol: Going to Devils Lake, it appears we have a pause in the problems there.

**Sando**: Yes, the lake is at 51.3, down three feet. With this year's snowpack and snow storms, we're not out of the woods. But things are more comfortable with the dry year we had last year and the outlets.

Rep. Skarphol: In an average spring with average snowfall, what should we anticipate?

**Sando**: Right now our average year causes flooding. It could rise a foot again, or significantly more if we have a tough winter or spring. But we are currently 6.5 feet from overflow, so we're in much better shape than last year.

Rep. Skarphol: What do you see as your investment in the Devils Lake area this next biennium?

Sando: We feel we have a good plan in place with the two outlets out the west and east end and the levy system. We are looking for \$10 M for operations. Nothing is being asked for infrastructure. We also have \$15 M for Fargo for their sulfate reductions, they are looking at a big regional water treatment plan there. During low flow periods on the Red River, Fargo uses Sheyenne River as a supplemental water supply. With the discharge from the outlets, we've been pushing sulfate levels significantly higher, so we need to do some reductions. Another issue related to Devils Lake is downstream mitigation. If we have downstream flash flooding issues, we will be impacting pasture and crop land. Last year worked really well, it was a drought year, and all of our mitigation was related to water quality. It was a good scenario last year to get water out of the lake and not cause mitigation impacts.

Rep. Skarphol: How long did the Sheyenne River run full last year?

**Sando**: The second outlet was completed in June, we had the Sheyenne running full once both outlets were running. From then on both outlets were running 600 CFS, which is full channel in the Sheyenne River.

Rep. Skarphol: Should we anticipate the same for this year, run both outlets at full capacity and push it to the optimum amount?

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**Sando**: Our goal, with the lake still at 51.3 and a possibility of a rise with spring runoff, is to push as hard as we can. We want to get below 1450, and then the next goal would be to get down to 1446.

**Rep. Skarphol**: So you want to run both outlets at full capacity till you're at least below 1450, and potentially down to 1446?

Sando: Yes, that's a very close assessment. We are also working with our downstream neighbors Minnesota and Manitoba on how hard we can run the outlets this year.

24:20

**Rep. Monson**: Is the water quality in the Sheyenne getting better, and lessening the downstream impact?

Sando: Right now when we run both outlets we blend it to meet the Sheyenne River standards. We had a hard time doing that last year and had to get an executive order form the governor to exceed standards. When we put high sulfate water in from combining the two outlets, the Sheyenne River sulfate levels elevate, then Lake Ashtabula starts to fill up with Devils Lake water. We pumped out twice the amount of water out of Devils Lake that is in Lake Ashtabula. All the water in Lake Ashtabula got pumped out and Devils Lake water came in. We had no tributary inflow this year, so Lake Ashtabula became south Devils Lake, so the water quality went down. The outlets were turned off in November, then we start having normal inflow from the Sheyenne, ground flow, and the sulfate levels will be freshening all winter long. Spring runoff will push the rest out. So the sulfate levels rise, then go back down. The issue will be around for a number of years.

27:25

**Rep. Nelson**: In a simultaneous flooding and drought situation like occurred last year, if this scenario repeats itself, how important is the Devils Lake water flow into the Sheyenne River to eastern ND water supply?

**Sando**: The drought to the south moved up to the Red River and Sheyenne River valleys, and the flows in Fargo dropped down to 58 CFS. We were discharging 600 from Devils Lake. Fargo switched over to Sheyenne River water this summer, so they were drinking Sheyenne River water basically coming from Devils Lake. It was very beneficial to Fargo.

**Rep. Nelson**: If this scenario would occur again and three more feet come off Devils Lake getting us down to 1448, and that buys us one year of water supply for eastern ND, my guess is you start to have another problem in the table, as to where the lake stabilizes. How long can Devils Lake be the supplier of east ND water supply?

**Sando**: That's the whole premise of Garrison Diversion Project and moving Missouri River water east. Devils Lake is not the long term solution for Fargo-Grand Forks. Really the Red River needs Missouri River water. Water supply is part of the discussion along with flood control.

Rep. Skarphol: You're pumping out 600 CFS. What's the natural flow of the Sheyenne?

Sando: It's an intermittent river. On average, well less than 100 CFS.

Rep. Skarphol: You said the Red River got down to 53. What is Fargo's utilization?

Sando: They would like 125 CFS, which would include Grand Forks's water also.

**Rep**. Wieland: Isn't West Fargo making application to take water out of the Sheyenne as well, in the future?

**Sando**: West Fargo's water source has been wells, and they are looking at a possible combined regional water treatment plant for Fargo-West Fargo.

Rep. Wieland: So that wouldn't add additional water requirement.

**Sando**: It would be more than adequate to meet their needs.

33:15

**Rep. Skarphol**: Looking at page 8 (Attachment 2), have the projects completed the work that was potentially funded in this biennium?

**Sando**: Regarding water supply was a tremendous first year and a half of the biennium. WAWS is a \$110 M plan we provided funding for, and they had a very good year this year. They turned the water on. They have made tremendous progress.

**Rep. Skarphol**: Are the projects on page 8 more or less completed and off the expenditure list, the dollars are committed and spent?

Sando: It's a little more complicated than that. At the beginning of the biennium, we had the flood of 2011 on the Souris and Missouri Rivers and Devils Lake, so the Water Commission had several votes and we started moving some money around to address the flood fight and recovery. SW pipeline didn't get the full amount they thought they would. What we had planned on doing we weren't able to do. We had to look at addressing immediate needs.

Rep. Skarphol: So is that on the list for the upcoming construction season?

Sando: Yes, we have \$79 M in the proposed budget for 2013-15 for SW pipe.

Rep. Skarphol: Of the \$381 M that has been expended or committed

**Sando**: We have allocated all the money. We are looking for additional spending authority because revenues are much higher. A lot of water projects can't get done in a two year period, so we're looking at carrying over several projects.

Chairman Delzer: Have you furnished a list of where you have moved the money?

Sando: We could provide that.

**Rep. Skarphol**: We understand that priorities change, but we would like to see what moved where, and what we anticipate for this next biennium.

39:30

Sando: Our list of priorities and requests is page 22 (Attachment 3).

Rep. Skarphol: Do you anticipate getting federal dollars?

Sando: We may not get that all. Local share may also change due to lack of ability to pay.

**Rep. Nelson**: It is important to note that there were projects intended to be funded for this biennium. From a practical standpoint, there are projects that could have gone to bid in this calendar year and more than likely gotten more favorable bid proposals and been completed faster. Can we afford to lose a construction season when we have the money in the bank to do this?

**Rep. Skarphol**: Is there any reason a project cannot be bid contingent upon the money becoming available?

Sando: It's a big risk. It could be bid but not awarded.

Dave Laschkewitsch, Director of Administrative Services, State Water Commission: We could go through the process, just not sign the documents. However, the contractors wouldn't be able to order their pipe and materials. They would still potentially lose the construction season.

**Rep. Skarphol**: But if someone introduces a bill and includes an emergency clause, and we pass it, the potential is there to meet the current construction season, correct?

Laschkewitsch: Yes there is.

48:05

**Sando**: Regarding our bank hang-up, the revenues are coming in a lot faster now, so we can jumpstart some of these projects. We think we could have cash on hand by June 30, but we don't have authority to spend \$140 M. We're looking to push forward \$50 M of projects now so they are designed, bid, and ready to start construction. Continued discussing Attachment 3, same as page 25 of Attachment 1.

50:50

Rep. Pollert: With possible litigation in Fargo flood control, does the \$102 M sit in an account and we have to approve it every biennium while it's in court, if there's court?

**Sando**: We have the ability to carry the money forward. A lot of that money has been going for acquisitions of homes, levy infrastructure, pump stations, etc.

**Rep. Monson**: How much of the money that we have appropriated has gone to purchasing homes, and where are they?

Sando: We're buying homes all over the state.

Rep. Grande: I thought the money set aside last time for Fargo was not for the purchase of homes, it was for mitigation only.

Sando: It opened it up that we could buy land and buildings. It had a cap of 10% for engineering costs.

**Laschkewitsch**: The legislative body worked creatively on that piece of legislation. They allowed us to participate in the cost of the property, not the homes. The community was also allowed to use what they purchased the homes for as local match. So they got 50% credit for the homes they bought. Mechanically, it worked out that we are participating in those acquisitions. However, not directly.

Rep. Skarphol: How much money do we have on account for Fargo flood protection?

**Sando**: We had \$75 M set aside. There is \$42 M that is not drawn yet. \$38 M has mainly gone to purchasing homes in south Fargo along the river. We have implemented a new policy in the Water Commission for our grant program, and it is 75% cost share for counties that had individual assistance during the 2011 flood. In the testimony there is a breakdown of those expenses. Continued with page 25 (Attachment 1) priority list, minute 57:05, concluded 1:06:40.

Rep. Skarphol: Thank you.

Chairman Delzer: We'll reconvene at 3:00. We'll stand in recess.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Education and Environment Division Roughrider Room, State Capitol

HB1020 January 16, 2013 17314

Conference	Committee

Committee Clerk Signature Shirley Glanning

# Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to provide exemptions; to provide legislative intent; to amend and reenact section 6.09.5.03 of the North Dakota Century Code, relating to the community water facility loan fund; and to declare an emergency.

Minutes: Attachments # 1-19

**Chairman Skarphol:** Called the committee to order to hear HB 1020, State Water Commission. All Committee Members are present.

**Rep. Martinson:** This is the same copy as the one we got before?

**Todd Sando, Chief Engineer for the State Water Commission**: The testimony for today is different from the January 10<sup>th</sup> testimony given to the Full Committee. This has details related to the budget and Full Time Employees (FTE).

Introduced the water commission staff See p. 2 of Attachment # 1. Continuing with Attachment # 1, P.3.

Chairman Skarphol: South West (SW) water pays back, annually

Sando: SW water owns the project

**Chairman Skarphol:** Does it not require an annual \$1M profit be made in order to generate revenue for the state of North Dakota?

**Dave Laschkewitsch, Administrative Services Division:** About \$3M per year. They pay off debt on their bonds then make the payments to the Water Commission, about \$1M above their bond payments per year.

**Chairman Skarphol:** The water rates have to pay sufficient revenue to make payments to the state of North Dakota which could be profit.

**Laschkewitsch:** Yes, based on volume it could go to \$4M. The charge is capital prepayments fee on all water.

12:09 to 16:17,

Sando: Continuing with testimony P. 16- General Water Management, funding flexibility

**Chairman Skarphol:** Going back to p. 4, carry forward. Is that money that you don't have the authority to spend?

**Sando:** We have the authority for \$125M to carry forward plus money that was authorized at about \$127M, that is overage at \$130 something, The correct amount will be provided. Continuing with P. 17 of Attachment # 1, All projects are listed on P. 11. Moving on to water funding needs in the upcoming biennium it can be found on P. 22.

Chairman Skarphol: Specifically, of the wish list, what is in your budget?

19:17 to 21:39

Sando: Continuing with P. 22 and 19.

Vice Chairman Monson: That \$772M, where does that come from?

21:57 to 36:00

Sando: It includes carry over, breakdown is in the testimony.

Continuing with testimony. Revenues from the Resources Trust Fund. P. 20.

**Chairman Skarphol:** There are three projects that have asked for special consideration, the Municipal, Rural and Industrial (MR and I) money that you asked for in December, the SW water Money and WAS.

## 37:00 to 40:50

**Sando:** Projects were prioritized so that a whole construction season would not be lost. We put together a \$50M plan to meet the flood issues plus the influx of water supply needs. We went to the budget section in November to get that approval. The \$50M was coming in and we knew we needed to start the projects.

Continuing with testimony P. 20-21.

Referring to the map, second to last page, illustrates the holes. Water to McIntosh County is now being hooked up.

**Rep. Delzer:** The emergency request is \$800M plus. How much will this reduce your need for the emergency clause for the rest of it?

Sando: That is not broken out, not prioritized.

**Chairman Skarphol:** Request Laschkewitsch to provide a break out of the emergency requests.

**Rep Delzer:** Emergency Clause is requested by other agencies to move things forward.

43:30 to 46:40

**Sando:** We can't go past that until we get the appropriation for 2013-2015.

Continuing with Funding Priorities, PP 22-23, see list p. 23

**Chairman Skarphol:** This should not have affected the decisions made for the protection.

**Sando:** The federal project is looking at a diversion of 35 miles, 20,000 Cubic Feet per Second (CFS) which requires levees through the town of Fargo. They are looking at building levees and diverting water for their flood protection.

**Chairman Skarphol:** The money that has been spent. Has it shown any preference?

**Sando:** You can only cost share \$7.5M, we could only spend 10% toward engineering so of the \$75M that was capped. They were eligible to cost share in purchasing homes..

49:37 to 55:34

Continuing with testimony P. 23

**Rep. Delzer:** If we put \$30M into this biennium, that comes off of that \$79M.

Sando: Yes, it would be \$49M.

**Chairman Skarphol**: If the line across Dunn County is completed, will it alleviate some of the load on Dickinson?

**Sando:** Yes, it would free up some. It will need to be expanded because of the tremendous growth.

Rep. Dosch: Is all of this money being paid back by fees generated?

**Sando:** It is a loan; they will repay either by loans, capital repayment, a cost share percentage, and some are putting their own money into it.

**Rep. Dosch:** In Bismarck we pay higher water rates, when is it the state's responsibility and when is it the local responsibility?

## 58:45 to 100:39

**Sando:** We weren't cost sharing very much; there is a lot more emphasis on municipal because the cities are growing. They would like to have cost sharing to get state financial assistance. They try to find money everywhere they can, but there are not federal funds available.

**Chairman Skarphol:** What is the age of the Grand Forks treatment plant?

Sando: About 40-50 years

Chairman Skarphol: We are on a replacement cycle on some of these projects

**Rep. Streyle:** Can there be a more standardized form for funding that is more fair instead of just picking what we think is the priority?

**Sando:** That is policy, we have to look at water rates, what each one is paying, it is difficult to have a policy that fits all. We try to develop a ranking system.

**Rep.**. **Streyle**: What is the unfunded liability, could you provide totals?

**Sando:** About \$5B in needs. Water supply needs are different around the state.

**Chairman Skarphol:** Are the systems that we are using affordable?

1:05 to 107:43

Sando: We give them water rates that are affordable.

Continuing with the list on P. 23.

Chairman Skarphol: Has anyone come forward and said they are not satisfied?

**Sando**: Most are satisfied, there are more territory fights, sub divisions expansions, conflicts between the city and the rural systems. There is concern about how it is being funded.

**Chairman Skarphol:** Are you the mediator?

**Sando**: No. Mediation with WAS is someone from the Ag department.

1:09:56 to 1:13:50

Mary Lee Nielson, City Commissioner for the City of Valley City: Distributed Attachment # 2 asking for by outs.

**Rep. Dosch**: Money will go to buy out of homes. The homes that you have bought out, is it typically at market value?

**Nielson:** We offer110% of the assessed value or bring in an appraised value and most were bought at the appraised value which is higher than the assessed value.

**Rep. Dosch:** If you own a house on the river, the river floods, no one is going to buy your house. We can't justify paying for a house over the market value that they probably couldn't sell.

**Nielson:** People own their houses so we paid a little above. The youngest house was 45 years old. They are old established houses.

**Senator Robinson, District 24:** Echoes Ms. Nielson's testimony. We are challenged with over \$500M. Discussing the home buyouts. Supports the funding.

## 1:19:40 to 1:22:57

Jason Sorenson, Assistant to the Public Works for the City of Minot: Distributed Attachment # 3 detailing his support for the bill.

**Chairman Skarphol:** South West (SW) water project is profiting at \$4M. Does the North Northwest Area Water Supply (NAWS) project make a similar to SW water or because of the difference in financing are they not liable for making that payment?

**Sando:** They are paying up front and there is no capital repayment..

1:24:30 to 1:34:15

Eric Volk, Executive Director of the North Dakota Rural Water Systems: Distributed Attachment.4 and addressed p. 4. Discussing also, the attached map, water rates, regional concepts, and 223 out of the 300 cities receive rural water.

**Chairman Skarphol:** Are these projects included in the list that the water commission has put forward?

**Volk:** Todd's group identified \$71M for MRand I and that included \$16M for municipal and \$55M for rural and regional. There are several tribal projects on there.

**Chairman Skarphol:** When you talk about the rural water projects starting in the east being the oldest, when were they installed? And on the percentages....

**Volk:** About 40 years ago. 72% should get water to an expansion project or to areas that don't have water and getting it to new customers. 50% should get water to a water treatment plant.

**Chairman Skarphol:** How many people will that serve so that we know the cost per customer?

1:34:21 to 1:43:47

Ken Vein, Grand Forks City Council Member: Distributed Attachment # 5.

**Vein:** Technology was not available; we want to make it as affordable as possible.

Vice Chairman Monson: Will there be good water coming from Devils Lake?

**Vein**: There were very low flows from the Red River, if this continues there will be a shortage.

1:43:47 to 1:46:29

Chris West, Mayor City of Grafton: Distributed Attachment #6.

**Chairman Skarphol:** Do you anticipate serving some of the rural entities with your new water treatment plant?

West: Not at this time, we have the capacity.

**Chairman Skarphol**: Your water treatment plant serves the city of Grafton for right now. Question for Mr. .Sando, do you have a long term vision to consolidate water, reduce the number of water treatment plants.? Is there a vision to help consolidate that?

**Sando**: We do give preference to making it a regional system, they would get a higher cost share and go to the top to get funding.

**Chairman Skarphol**: Do you have a list of the age of the plants?

**Sando**: That is more locally driven.

1:47:49 to 1:50:39

Jim Neubauer, City Administrator for the City of Mandan: Distributed Attachment #7.

1:51:20 to 2:00

**Dennis Johnson, President of Dickinson City Commission:** Distributed Testimony # 8.

**Vice Chairman Monson:** You would get SW pipeline, would you have your own water treatment?

**Johnson:** We do not have our own treatment plant.

**Vice Chairman Monson:** You would just continue with a larger number.

**Johnson:** Water purchases have increased, consumption has increased by 48%. We have no backup to SW water.

Chairman Skarphol: What kind of capability does SW water have?

Mary Massed, South West Water Authority, Manager and CEO: We manage the SW Pipeline project. The current treatment plant in SW Dickinson is a 12M gallon per day plant. We don't know if we could actually treat that much water. Last summer the peak day was about 10.6M gallons per day.

**Chairman Skarphol:** Raw water is coming from the lake, it is treated at Dickinson and you service Dickinson as well as the rural area.

**Massed:** We have 31 communities, 4600 rural customers, an ethanol plant, two raw water depots, two rural systems.

**Chairman Skarphol:** Provide us with a breakdown of how that water is distributed.

2:01:21 to 2:05

Randy Becker, an environmental coordinator in the reclamation field of coal mining: Distributed Testimony # 9 and spoke in favor of HB 1020.

2:05:18 to 2:09:23

Kent Albers: Distributed Attachment # 10.

2:09:33 to 2:10:12

Massed: Distributed Attachment # 11.

2:10:53 to 2:22:13

**Dennis Walaker, Mayor of Fargo:** Distributed Attachment # 13.

**Vice Chairman Monson:** In Goal # 2, give us a breakdown of the \$100M as to how much was state and how much was local?

**Walaker:** We spent about \$35.5 M out of state funds. The legislature attached strings that \$75M level had to be used for the project. The one-half cent sales tax brings in about \$1M used to fund flood protection. It is estimated we need \$240M to bring us to 42.5 feet. Our engineers said we should be able to do that in six to seven years and we may need to borrow some money. We are planning to put ring dikes out there. In 100 years much of this land is going to be flooded anyway. Everybody talks about the high hazard dam but we will regulate that so we can bring water through our community. Ring dikes are the answer, they are in place all across Canada.

**Rep. Streyle:** Why has the Minnesota option always been resisted even though it has been shown to be more cost effective?

**Walaker:** Minnesota always said no, the impacts went all the way to Canada. We are at detailed design. I don't criticize the farmer, no.

**Rep. Boe:** On Goal # 3, is the crop insurance available?

**Walaker**: No, the reason is to absorb the impacts. Diversion works. It is all a part of the process to try and satisfy everyone and we have been trying for three and a half years.

#### 2:25:51 to 2:29

James Nyhof, Mayor of the City of Oxbow: Discussed Goal # 3 and spoke in favor of building the ring levee. A study by the Corps of Engineers has been requested. This would provide 500 year flood protection. Mayor Walaker and I are friends and this is an asset to a town of 300 people.

**Rep. Williams:** Regarding the ring dikes, and asks if Mr. Nyhof is here as a citizen or as a mayor. A message was received that the city of Oxbow has not acted on this. I want to know if you have the authority to represent your council

**Nyhof**: The city of Oxbow voted unanimously to have the ring levee concept included in the Corps of Engineers study.

Rep. Williams: How high will the dikes be built?

**Nyhof:** An average of 10 to 12feet...

**Rep. Williams:** That is a lot of water backed up and will impact the land.

**Nyhof:** It will be a 10 to 12 foot levee to protect our city and the livelihood of our school district. The levee is inspected annually and is Corps approved.

**Rep. Martinson:** We all received the email, we have to ask about this. It says your testimony is not approved as mayor of the city, there is some controversy within your city council.

**Nyhof:** My testimony was sent on to the city council.

**Chairman Skarphol:** Are you saying there was a unanimous approval of the study. Was there a unanimous approval of the ring dike?

**Nyhof**: We are at the state of developing a memorandum of understanding. All residents will approve this before the construction begins. All residents will approve that and there will be a public hearing.

**Rep. Williams:** Are you a little premature in supporting the construction of the ring dike?

**Neihoff:** The residents of Oxbow have been on hold for years, we finally have an option that puts our city back on the map and gives our city a future and residents an opportunity to sell their homes. They can't get a loan or an appraisal.

**Rep. Williams:** This article came in the Fargo Forum, have you discussed with your city council whether or not you are going to support the city of Fargo here today with regard to the ring dike?

**Nyhof:** Two members did not think it was the time or the place.

#### 2:38:23 to 2:40:50

Bruce Furness, Chairman of Lake Agassiz Water Authority: Provided Testimony, see Attachment # 14.

RaeAnn Kelsch, Lobbyist for the MinDak Upstream Coalition: Spoke in favor of flood protection for the City of Fargo and distributed attachment # 15.

#### 2:43 to 2:58:08

Scott Hendrickson, Chairman of the MinDak upstream Coalition: Spoke in opposition to the Red River Basin plan. The flood plan for the Red River Basin Plan should be implemented. In Richland County and Wilkin County there will be a negative impact. To build Fargo into a flood plan using state dollars will cause Richland County land to be under water. To cover the damages caused by the Wild Rice River and Red Rivers will be extensive. This is a land grab and they have manipulated the mayor of Oxbow to go along with Fargo. There will be years when we cannot farm the 120,000 acres. Federal crop insurance will not be available on land that sells for \$7,000 to \$8,000 acres. Attorneys in St, Cloud and a lobbyist are working with us, and we haven't used a single tax payer dollar.

#### 2:58 to 3:12:19

Dennis Biewer, President for the members of the Bakke Association and Supervisor for Pleasant Township and member of the MinDake Coalition: We heard about the proposal to build a dam, a ring dike, Bakke, Hickson and Oxbow will be affected.

Described the survey distributed by the Corps of Engineers and 80% of the residents said leave us alone, we don't want flooding upstream.

Let's worry about the citizens and not about the golf courses. The Corps of Engineers has been asked to go back and do another study. Current plans will impact valuable land with 8 feet of water. Homes in Bakke cannot be refinanced because of the potential of flooding. School districts are experiencing reduction in land values because of the flood threat by 4.5 mills. Recapping the history of the plan to build the ring dike,

We believe there are areas north of Fargo.

Recess until 1:00PM 3:13:12 to 3:23:11

Jaret Wirtz, Executive Director for the Western Area Water Supply Authority (WAWSA): Provided Testimony and distributed Attachment # 16.

**Rep. Williams:** You are currently expanding the water treatment plant from 10M to 14M gallons a day. What does this cost?

**Wirtz:** The first is from 10 to 14 and was about \$13M and the second expansion is around \$22M.

**Rep. Williams:** When you go from 10 to 14 and then from 14 to 2, what does it take to get to that capacity?

**Wirtz:** We just started on the 10 to 14 and will finish it in 2014. The emergency funding is to get that 21 going to be completed in 2015.

Rep. Dosch: Will we maintain all that is being built? Will it be self-sustaining?

**Wirtz**: The original business plan was to sell industrial water to pay for it. It will be based on industrial water sales to put back money in those funds and to pay back the state.

**Rep. Dosch:** I would like to see some of the projected revenues, are we at a break even.

Chairman Skarphol: Has WAWSA been audited?

**Wirtz:** No. We have contacted a firm and they said it would be later this summer because they have a big workload.

**Vice Chairman Monson:** What happens if you can't maintain that amount of water that you have to sell?

**Wirtz:** We have talked about the future of this talking to Mr. Ness and Mr., Helms. We know that the need is out there. The business plan says we can make it, there may be competition that could jeopardize that. We are taking on more debt but project no problem making those payments.

**Vice Chairman Monson:** Referring to P. 7 of the Testimony, what happens if the supply goes below that green line?

**Wirtz**: We have our contingency plans. The system was built for domestic so industrial will have to be curbed. Rain would help.

Rep. Streyle: Is this new money to cover cost overages? Who are you accountable to?

**Wirtz:** The new money that we are requesting now is for new infrastructure, above and beyond what is in the ground; more distribution lines, more infrastructures to serve the residential people. We do have oversight from the State Water Commission, a member sits on our WAS board, review plans and specs.

**Chairman Skarphol:** If this goes into default, it goes to ownership by the State Water Commission. That is the way the legislation was written. Requesting the audit requirements from Peterson.

Rep. Boe: You have signed a letter of engagement with an audit firm.

Wirtz: We have contacted them about initiating an audit.

**Chairman Skarphol:** What is the effect of the increasing population? Charges to the domestic user will not be as high as to the industrial user, elongating your repayment possibilities.

**Wirtz:** We had a 10 year payback and a 20 year payback. We are confident that we can meet either one. The system was designed for domestic use to meet peek demands.

**Chairman Skarphol:** What is your anticipated daily use once you have all the areas you have planned for this next year, communities that will be connected?

**Wirtz:** 10-11M gallons per day in Williston, allowing about 13M per day, referring to chart p. 7. Ray and Tioga (R and T) are limited by their water permit for domestic water sales.

**Chairman Skarphol:** What part is industrial and what part is domestic?

Wirtz: Warm months are more for domestic, because of lawn watering.

Chairman Skarphol: Do you see usage from R and T growing, referring to man camps?

**Wirtz:** Crew camps some are on Ray and Tioga (R and T). It is up to those boards if they want to use them. Letting them know that we are going to be short water in 2013 but in '14 R and T is suggesting they will have water for the temporaryl housing units in that area.

**Chairman Skarphol:** Can you advise members of WASWA to provide a report on all camps who want to be tied in? Is there anyone who opposed to WAWSA who wishes to speak?

## 3:41:26 to 3:53:26

Robert Harms, Lobbyist Independent Water Providers: Distributed testimony, See attachment #17, 17a and 17b. Speaking in opposition to providing money to WAWSA. The

Amend Attachments 17a and 17b were explained. It was planned that it was to be for domestic use only. We should not endorse the fastest project.

**Chairman Skarphol:** Does South west water have provisions on any other project as to who they can sell water to?

**Sando:** The biggest issue is what type of water permit they have, industrial versus municipal. Any limits are based on the permits that they have. A comparative analysis will be provided.

Rep. Williams: What is the rational for limits on water for industrial use?

**Harms:** Our suggestion is not to limit industrial water sales but to limit the use of these funds. WAWSA is going to build the depots, don't allow them to take more public money and build more infrastructure for industrial water sales.

**Chairman Skarphol:** What is the difference between this project and any other? WAWSA is going to pay every dime they get back.

Harms: For example, South West Pipeline pays most of their money back to the state of North Dakota, with a small capital repayment structure. They don't sell their water to the oil and gas industry to finance their operation and WAWSA intent is to do that. This is necessary to serve the people of northwestern North Dakota, using the \$80M for the intended use. Do not develop this for sale to industrial water users.

**Rep. Martinson:** You do not want state money to compete against private companies.

**Harms:** Rep. Martinson nailed it on the head. All water in North Dakota starts as public water and the constitution provides it to be appropriated for the best use for the people of North Dakota.

**Rep. Boe:** If the group that you are representing fully used their permits, what percent growth would they see?

Mike McBride, an independent water provider representing 20 landowners: Spoke in opposition to the industrial sale of the water. The \$79M that is requested, we support it under the condition that it be used for municipal and rural development but we do not support it if it is used for industrial water such as sourcing treatment, transmission storage, metering or dispensing of industrial water. See Attachment # 17 P. 5. Everyone should have clean drinking water. Our investment will be at risk if that \$80M is used for the transmission of industrial water.

#### 4:03:33 to 4:07:56

**John McCreary**, **J Mack Resources**: Provided Testimony, Attachment # 18. We provide industry and oil field services and spoke in opposition to the WAWSA project. Companies that have higher needs are going longer distances and delaying on secondary recovery projects.

## 4:10:59 to 4:28:43

**Dale Behan, Rancher and Independent Water Provider:** He owns a ranch in McKenzie County, a vocal opponent of WAWSA, explaining his position in four points.. They take private land and roll over it. WAS cannot be trusted, they are dishonest. There is no oversight. The oil companies do not need WAS for their water needs.

**Harms:** In answer to Rep. Boes question "How many permits or what kind of water supply do the independent water providers have?" In 2011 we used in North Dakota 9,000 acre feet for the oil and gas industry, 7,000 for fracking. We have all the permits to supply that water.

10s of thousands of water permits are in the queue pending before the Corps of Engineers. Encourage \$89,000 of grant money to WAWAS to spend those fund to serve the people of north western North Dakota.

## 4:32 to 4:43

Joe Belford, Devils Lake Downstream Program Coordinator: Ramsey County thanks the water commission and the legislature for support for roads and all that had to be done to get through the dilemma. We got about three feet and about 30,000 acres of land back for the people in southern Towner County.and north Ramsey County.

**Chairman Skarphol:** With regard to the Devils Lake Basin and the roads that were inundated, how much is under water?

**Belford:** They are still in pain in Churchs Ferry area, Minnewaukan area and Spirit Lake Nation. We got back a very small percentage as to what we have lost. The Grahams Island road had to be raised three times, Highway 5720 was raised several times and it is done.

**Chairman Skarphol:** Will you provide us with information with regards to the roads that are still in need?

Vice Chairman Monson: What is an ideal level for what the level of the lake should be?

**Belford:** The system in place will take the lake down to 1452. We would like to take it down to 1446 to get a lot of the deeded land back and the roads.

**Vice Chairman Monson:** What is the future quality of the water coming out of Devils Lake through the outlets and the need for downstream treatment?

**Belford:** A pipeline to Fargo is in the mill, now is the time to complete the Garrison Project to pump water to Fargo. The towns to which water has been pumped were damn happy to get it.

**Chairman Skarphol:** Can the pumps take it down to the '46 level? OK, it is yes.

## 4:38:20 to 4:46:22

Mark Bittner, Engineer for the city of Fargo. Regarding the Fargo flood control project, speaking in behalf of himself. We would like to mend fences with our neighbors, priorities

are such that the goals that the mayor described are appropriate but not necessarily such that he stated.

The improvements that we are making in town are important. With regard to Oxbow, they said it was all or nothing. We need support for funding to continue our activities for the diversion projects. With 42' river stages the mayor indicated, that is not to the level of the Corps new 100 year discharge. It is an expensive project but we need 100 year protection. We feel that we can build consensus if we sit down and talk about it directly across the table rather than discuss it in public meetings like this.

Discussing farmland, we need to have the rights to store water in staging areas. Your support for flood protection in Fargo is extremely important; it is difficult to get it from the Federal Government.

**Chairman Skarphol:** Those of us in oil country think that Fargo is important. And we will support you.

**Rep. Williams:** You are asking for \$102M for the Fargo Diversion. Do we know what we are funding?

**Bittner:** Yes we do. We need to get that retention built, but retention is not the solution by itself. A lot of that land is in the flood plains. We need to address that through a basin through Fargo.

**Rep. Williams:** Originally the dike was further north, now it is further south with a proposal of ring dikes. How many of those sections were there in the original plan. How many dams were there in the original plan?

**Bittner:** There were no dams in the original project. The intent was to have an overflow into the bypass. Discussing impacts and the need to establish retention that was close to Fargo and that is where the dam came into being. The downstream and upstream impacts could be defined and mitigated. Buying out homes could be quantified. Retention will be part of the solution, but not the whole solution. The Corps and we are studying the impacts. Some properties should not be where they are, acquiring the land will be a problem where there are homesteads and ring dikes may be the solution.

Chairman Skarphol: There is not a solution that all of us have bought into. If there is no other testimony, the hearing is adjourned.

## 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Education and Environment Division Roughrider Room, State Capitol

HB 1020 January 30, 2013 17982

Committee Clerk Signature		

**Conference Committee** 

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to provide exemptions; to provide legislative intent; to amend and reenact section 6.09.5.03 of the North Dakota Century Code, relating to the community water facility loan fund; and to declare an emergency.

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Attached testimony # 1-3

**Chairman Skarphol:** Called the Committee to order, stating that all members are present. He began the hearing by thanking the Corps of Engineers for coming and give us answers on the Red River Valley diversion, and calling Col Price to the podium.

#### 1:30 to 3:38

**Col. Michael J. Price, US Army Corps of Engineers, St. Paul District:** Provided testimony, See Attachment # 1, the Corps has put \$30M into study and design. It has been funded by the President's budget over the past 3 years.

## 4:15 to

Aaron Snyder, Program Manager: A review of the money from the national prospective for design: about \$15M nationally, \$5M went to this project, this is about 33% of the entire nation's budget for projects in this phase. The commitment is there, using Power Point, Attachment # 1 showing that it will provide benefits to 200,000 people. Flooding is the big problem. Generally we underestimate the damages that could occur. With a 100 year flood event in Fargo-Moorhead you would be looking at about \$6B in damages, a 500 year flood event it would be \$10B. Loss of life would be around 200 individuals in a 100 year flood. 500 year flood could be at 600 individuals. There has not yet been a catastrophic flood event in Fargo. Fargo has many miles of levees and citizens need to stay in place to make sure the levees stay in place.

Rep. Delzer: What is the level for a 100 year and a 500 year flood?

**Snyden:** 42.4' for a 100 year and in excess of 46 for a 500 year. We are in close coordination with FEMA. FEMA is using the Corps model from 2003 and does not incorporate any of the large flood events since 2003. The agencies are in agreement and with our without this project, the flood elevations through Fargo Moorhead will increase.

**Rep. Streyle:** Why can't Fargo achieve the 100 year flood level if Moorhead is there already?

**Snyden**: Fargo is generally 4' lower than Moorhead. Moorhead is in a better position to achieve flood protection with levees. In Fargo, it is impossible. You would have to ring levee the entire community, around West Fargo and deal with complications from the Sheyenne and the Maple Rivers plus major technical issues. By meeting Corps or FEMA standards you could not reach certifiable 500 year level of protection for the community.

**Chairman Skarphol:** Dikes to 42.4' is the 100 year level.

**Snyden:** Building levees higher stages the water higher, so when you get that flow through you have to build your levees even higher. It just won't work.

**Chairman Skarphol:** If the current levees go to 42.5', what does that translate into for the downstream communities, ei Grand Forks? Does that action adversely affect upstream impacts?

## 11:20 to 12:24

**Snyden**: Yes, we cannot achieve 100 year protection with levees alone. Continuing with power point pp. 4-5.

**Chairman Skarphol**: Does the map represent, Attachment # 2, what you are referring to? If it is, can you delineate exactly what it is you are referring to in the plan that exists?

### 12:48 to 13:41

**Snyden:** Moving on to P. 6 and explaining the map, Attachment # 2 sides 1 and 2.

**Chairman Skarphol**: The embankment you are referring to is the portion that will cause the 50.000 acre reservoir.

**Rep. Grande:** Staging area, is that what will fill in with water in that embankment.

**Snyden:** Describing the impacts of the staging area. We look at each case to see if there is an impact. And they will be compensated for. The farther north you are the deeper it will be, increasing the water from approximately 8' from existing conditions. Referring to the Map Attachment # 2. The proposal as it is would impact about 251 residential structures, 347 nonresidential structures and 32,500 acres of land, which provides about \$200M annually to the nation a 200,000 individuals in the community.

**Vice Chairman Monson**: What is Minnesota doing on their side about this?

**Snyden:** There is a plan to form a levee around Comstock, Minnesota. It will be a small ring levee round the community.

Rep. Williams: Why are you moving it so far south? Referring to P. 5

**Snyden**: Referring to map, Attachment # 2. It has been shifted after an analysis showed that it would minimize impacts. There is a diversion channel down at Horace that provides some benefits to the south of West Fargo, our alignment has to swing the inlets to get to that diversion. If we were to go farther north, then Horace would be impacted. We shifted it further after an analysis showed that if we go farther north more homes are impacted and land owners. This plan impacts fewer land owners and fewer residences.

**Chairman Skarphol:** We are in favor of protecting Fargo. We need to understand what it is that has been done for decision making.

**Col. Price:** This was not only a Corps study but included every agency that is involved with water management, counties, both states and local entities. This is one of the largest entities and sponsors involved in this plan.

**Chairman Skarphol:** Have you been involved since the Maple River Dam and do you recognize the benefits that have accrued due to that?

**Snyden:** Yes, the general consensus it is a good dam, it retains about 50,000 acres of water. It is a dry dam, the farmers are still able to use their land, they received compensation for damages. This project is similar to the Maple River Dam, it is just the magnitude.

**Rep. Grande:** Referring to the map, Attachment #2, why couldn't you put it at county road 46 area? Describes the experience of having a house on the right side of where the dikes would go up but four blocks on the wrong side of this one. Why does there have to be a wrong side?

Snyden: No matter where we draw the line, the farther south we go the more impacts there will be. The storage where we put it is in the most effective place. Referring to map Attachment # 2. It is designed for the most catastrophic flood. The reason for the storage is to protect the downstream impacts. The diversion provides the benefits for the project but there will be downstream impacts, it is in the most effective and efficient place. In the southern part of the basin you are impounding water, that levee has to be as low as possible and as short as possible. The farther north we go the higher we have to go, we have to design for the most catastrophic flood. We have to build up to the land elevation. By going south we increase the length of the embankments that would require more water storage. Cass County gets almost all of the impacts of this project right now and all of the impacts.

Impacting people is an emotional issue, we don't want to impact anyone but provide the greatest benefits.

**Rep. Grande:** All the different rivers you are going to cross, how will you get everyone to agree and how and when that will be done and the impacts that will ensue.

**Snyden:** We are designing from the north to the south. The Rush River would drop into the diversion. The Maple River structure, the diversion will flow under that and the existing river will flow on top. We merge and coordinate with Fish and Wild life, FEMA, environmental protection, regarding the flows so that it is not a huge impact to the

environment. Water will not be allowed in to provide flooding in this area. The same thing will be done with the Sheyenne River, mass flows will be taken out and dumped into the diversion channel. Versions like this exist in Nebraska, Germany and our engineers are confident. There will be a physical model that will be located in the St. Paul area.

**Vice Chairman Monson:** If you were to do this diversion on the Minnesota side there are no rivers, how much study was given to diversion on the Minnesota side?

**Snyden:** The only benefits from Minnesota are on the Maple River and the Rush. Referring to Attachment # 2, the Map.

The cost is \$60M for each structure. Minnesota diversion does have downstream impacts. The Corps goes through a rigorous economic and environmental analysis and coordination. The Corps supports that the North Dakota Diversion is the best plan. Minnesota would have downstream impacts.

**Chairman Skarphol:** The upstream impacts would be nearly as significant to the same areas?

**Snyden:** The analysis has not been done. The alignments are different so you wouldn't have to stage it as high.

**Col. Price:** The North Dakota version is the preferred plan because it provides greater amounts of benefits. We didn't fully scope the downstream impacts and we would have had to take time to mitigate the impacts.

**Chairman Skarphol:** Fargo-Moorhead and Cass and Clay counties were not the only ones impacted. Was there input from Richland and Wilkins Counties sought?

**Snyden:** A public meeting was held at Bennett Elementary school in Fargo. Two Public meetings were held for Richland and Cass County Boards with information on how they were impacted by this project. Two public meetings were held in Kindred and got input. The folks were well represented.

Chairman Skarphol: When was the Bennett School meeting held?

**Snyden:** October 2010. The decision within the Corps was made that the downstream impacts were unacceptable in August of 2010. (38:34) Continuing power point PP. 5-

**Chairman Skarphol:** 33,000 staging area what kind of time frame are we anticipating there will be water on that property and is there intention in the plan to tile to facilitate the soil drying up?

**Snyden:** It was made up of farmers looking at placement of tiling. (40:06) Staging area continuing with P. 6

**Chairman Skarphol:** Looking to the future, what is the Corps' responsibility to individuals who want to expand their farmstead?

**Snyden:** First the buyout plan with anything at greater than 3' of water. We don't want residences on islands. It is an individual negotiation on what their plans are, how they want it configured. Impacts vary among farmers. With direct impact there will be a buyout but it is a negotiation.

Chairman Skarphol: We are dealing with the unique ones.

**Snyden:** The Corps hopes to offer a reasonable and fair compensation and minimize the number of individuals impacted. In most areas throughout the nation where there have been impacts, more than 90% of people agree to the terms of the negotiation.

Vice Chairman Monson: What is the cost of compensating and who pays tht bill?

**Snyden:** The total cost of the project is \$1.78B including all of the lands and all of the construction. The cost of the lands is \$250M which is variable on market demand. It would be a cost share for the project. In reality, it is a local responsibility to do it but all the costs that they put into it get credited or matched by the federal government.

**Rep Streyle:** On the cost share number the \$3-4 billion; I've never seen a project being even close to what the original estimate was. Are we really talking \$3-4 billion if this thing gets built?

**Snyden:** Highly doubt it, we added a 25% contingency on top of being conservative. \$2B for a fully funded allowing for cost inflation, time duration.

**Vice Chairman Monson:** Cost share? For every entity, what is the cost share?

**Snyden:** In this project, the federal share is going to be about 45% and local 55%. That is how the benefits shake out. Numbers that have floated around are 90-10 or 93% North Dakota and 7% Minnesota. North Dakota gets 90% of the benefits, Minnesota gets 10%.

**Vice Chairman Monson:** When did you put that number together on some of the best farm land in North Dakota? How up to date are your numbers?

**Snyden:** About 18 months ago, recent analysis shows that we over estimated. We are not impacting the best use of the land; the best use of the land is farming. The tiling concept goes in to allow the farmers to farm the land. Largest impact will be to the physical structures such as farm buildings.

**Vice Chairman Monson:** How do we make the tax base whole?

**Snyden:** The impacts do not affect the tax role. You could see a small reduction in the value of that land but that depends on the actual impacts to the farm.

From the Corps perspective, it is a transfer into a nearby area for most people. It is just a transfer to wherever they might go, it stays within the nation.

**Rep. Williams:** This is a 45-55 split on a \$2B project. Breckenridge has a three mile diversion and it works like a charm. It was originally going to cost \$21M and it now costs at \$39M and it is not complete.

**Snyden:** That project has already saved \$133M because we had the flood of record come through there when it was constructed. You spent \$40M, half was federal money, \$20M on the state level has been spent between the two states. The project has been a great investment for everyone.

**Rep. Williams:** We need to know what the cost is going to be, this year it is \$102 '. How many biennium's will we need to come up with \$600M to help the city of Fargo.

**Snyden:** The Corps has learned a lot and combined them from all of the projects. We are trying to be conservative. Locally you are looking at around \$1B total for the project \$1M, North Dakota share of \$9M some of which comes from Cass and Clay counties. The voters approved the taxes to help support this project. About \$4-5M is what the state would be looking for.

**Rep. Williams:** Roscoe, Minnesota and the Corps have put a lot of money into it and it is not complete and doubled in cost. I hope you are right otherwise we are going to be on the hook for a lot of money.

**Snyden:** In Roscoe we did not take a bunch borings to see what below the surface was, now we put borings everywhere so we know what is under the ground.

Rep. Williams: You need a reauthorization on the Roscoe project to complete it.

**Snyden:** It has been submitted to congress for reauthorized, it is a good project. We wait for congress to appropriate it and the administration is in favor of it.

**Col. Price:** It has great federal support, it protects 200,000 people and it is a worthy project, it has tremendous support from congress. The sooner we start building the more accurate our cost will be.

Vice Chairman Monson: This project is not funded or authorized yet, we are being asked to commit our share of the funds. What are the assurances that the federal funding will come forth.

**Col. Price:** It is in the president's budget for design without authorization. Congress has to write the water resource development act and get that passed to authorize this project.

**Snyden:** If it is in the President's budget it is an amazing thing to have happen. It has been targeted throughout the Corps as an example of how things can be done. It is supported at all levels.

Chairman Skarphol: A number of projects, in terms of size, is this largest. Rank them.

**Snyden:** Winnipeg is larger and the cost is... Grand Forks upper \$380M, Roscoe is \$40M, Wahpeton-Breckenridge area is \$60M. Fargo is five times bigger than Grand Forks-East Grand Fork

**Vice Chairman Monson:** Concerns that just because the President has proposed it and puts it into an agency budget, doesn't mean that it is being passed by Congress

**Col. Price:** If we got a budget passed by Congress, we build our work plan short of the President's budget. This year we got \$5M out of the President's budget and that is what we are operating on without an approved budget from Congress.

**Rep. Boe:** Winnipeg Diversion being the largest, built in the '60s, how often has it been used?

**Col. Price:** Used many times, and has saved that city. The reason they expanded is because it was the city and they were on the brink of failure. The people within the protection don't know it is there. They are able to stage above what is called state of nature. They have a lake.

**Chairman Skarphol**: If you were in our shoes, and there were \$102M available to spend, how would you recommend it be spent? Do we require that the dikes in Fargo be raised to 42.5'?

**Col. Price:** The Governor and the State Water Commission have a plan for our state. There are many communities to worry about how that money is spent throughout the state.

**Chairman Skarphol:** The \$1.2M for this project is specific in the Water Commission's budget. What would it cost to raise the dikes to 42.5?

**Snyden:** It wouldn't have to be at 42.5' everywhere in the city of Fargo. We have talked about raising portions, particularly those that need a flood wall.. Once the highest level is in place, the highest flows through town would be 40'. That would mean that you need 42' for a number of areas but not in all the places. We are looking through Fargo at \$60M for the Front Street levee. When we do our budget submittal, capability depends on what the locals have ready for us. We need to be able to match step by step and if there is no money there for us to match to, we ask congress for less just because we have no match.

We want to be able to ask them for what we believe we would need technically and we want to be able to ask congress for \$100M to \$200M a year.

**Chairman Skarphol:** Could you provide us with a cost estimate to do the 42.5' in the stages that you foresee to give us some advice without telling us anything proprietary?

**Snyden:** The \$60M range from what we would be looking at?

**Vice Chairman Monson:** Is that the \$60M that would build the dike, then is it a 55-45 match? We as a state don't have to kick in this whole million.

**Snyden:** The \$60M plus goes into the overall project pot and we divide it at the end of the day.

**Vice Chairman Monson:** You said that you are neutral but I was told that the city of Fargo hired you.

**Col. Price:** We have not been hired, we have been asked to assist them in providing flood protection for the city of Fargo-Moorhead and design the project for the local sponsors.

Chairman Skarphol: Your responsibility is to everyone, this is the Corps recommendation.

**Snyden:** Fargo had a major problem they couldn't solve on their own. They asked us for help and we are in charge of everything, we make every recommendation. This is the Corps' recommendation. Fargo gives input but we don't always go along with that input.

Vice Chairman Monson: Are they providing you with funding of any sort?

**Snyden:** We received funding during feasibility in the form of cash payments but we have not received anything in design. We are functioning totally on federal funding.

**Vice Chairman Monson:** The money they provided you had no influence on what project you picked or ....

**Col. Price:** Following a study, we determine if it is a federal interest and determine if there is a nonfederal sponsor. It is cost share between the Corps and the local entity. We cost share the feasibility study and everything beyond that is cost share.

**Rep. Streyle:** This hasn't been approved. This project will be funded by the state of North Dakota, there isn't going to be any money from Minnesota or from federal funds.

**Snyden:** We follow policy on every decision and we make it so rules have to be followed. This project flew through the policy, the rules, it is a high priority, congress needs to approve it.

**Col. Price:** Right now as we sit here there is no project, there has been no federal authorization.

**Chairman Skarphol:** You have had a limited amount of money to do limited amount of work on it, at around the \$5M figure, correct?

**Snyden**: We are on track for everything in 2013. We got \$12M, which is exactly what we wanted. We are extremely efficient and we are doing everything we needed to do even with limited resources.

**Rep. Streyle:** The best option for us is to take that \$1.2M, build the whole city of Fargo up to 42.5' and just fund the whole thing ourselves.

**Col. Price:** The sponsors have developed a list of project features and prioritized them. I would ask Fargo what their priority of work would be.

Rep. Delzer: Does work begun before it is approved count as a match?

**Snyden:** Yes, to allow work to begin before congress does authorize it and after the Corps approved, which has happened in this case.

**Rep. Delzer:** Whatever the city of Fargo pays or what we do is considered in this match.

**Snyden:** Yes as long as we sign this agreement prior to that work. I can get an agreement signed with the sponsors in 90 days.

Rep. Delzer: If you got everything you wanted how long would this take to build?

**Snyden:** The current estimate is eight and a half years for construction and we are on schedule from what we assumed in the feasibility studies.

**Rep. Delzer:** If there are delays by nature does that affect the eight and one half years.

**Snyden:** We went into the contingency factors of 26% on the total cost of the project to account for some of those uncertainties. We extended it out to eight and a half years to account for delays in funding and other issues that might come up.

**Chairman Skarphol:** You are three years down the road with what you have accomplished for a 100 year flood. Will that 26% contingency give you enough flexibility to provide you with enough flexibility to stay on schedule?

**Snyden:** If it were to happen today I would say it has not effect on our implementation of the project except to motivate people a lot more to get this done.

Rep. Williams: You have received money from Fargo, where does it come from?

**Chairman Skarphol:** We will get that information from the city of Fargo.

**Rep. Delzer:** Who signs your commitments?

**Snyden**: City of Fargo and City of Moorhead, our sponsors, then the Col. signs that commitment.

**Vice Chairman Monson:** What is a good starting point, it would have to be what is most urgently needed.

**Snyden:** That would be a good starting point. It wouldn't require a lot of sandbagging, it is actually an emergency levee that the Corps constructs typically.

**Rep. Delzer:** If signing the commitments was done, what about doing that and they back away from the diversion in the end?

**Col. Price:** We have a cost share agreement if they don't agree, the work stops.

**Rep. Delzer**: There is a lot of support for flood protection but maybe not for this diversion in this legislative body. Does the city of Fargo contract the state of North Dakota to anything?

**Snyden:** Lack of funding slows things down. It is important to get the levees up to the level they need to be at but that is a small level of protection for a major community. The diversion protects Fargo.

**Rep. Delzer:** If Fargo - Moorhead signs something without the state saying they are going to be a part of it, does that contract the state of North Dakota to anything?

**Col. Price:** Nothing is signed unless they have funding. When we do feasibility agreements, they have to show that they have the capability to raise the funds. The counties can work as fast as they want as long as they have the funding

**Snyden:** Our contract is with them, it is their responsibility to find the funding. If they don't have the funding the project just goes slower. Regardless of how the funding goes, the federal government will be committed to this project moving forward, it is a good project.

**Chairman Skarphol**: If we decide that these dikes get raised to your suggested level, it is our commitment, then you are willing to match the \$62M. If we don't agree to that, the project is stalled until further funds come forward. The Corps needs a match to go forward.

**Rep. Delzer:** It is the history of the Feds to appropriate some money then pulling out, appropriates money then pulls out.

**Col. Price:** There is history that the Federal Government pulls out money. The Corps could reprogram projects between projects at one time but we can't do that anymore. If Fargo gets dollars then there are dollars to construct.

**Chairman Skarphol:** If we decide as a legislature that these projects get raised to 42.5' and we spend \$62M to do that, that is our local commitment. Then you have willingness to spend \$62M if you get it available to match that. If we don't go any further than the project stops until someone steps forward with additional money. The local participation would have to be there before the Corps expends any more funds. A match is needed, only that amount is spent and no more.

**Rep. Delzer:** Is there any history of the feds taking 5% or 10%

**Col. Price:** Regarding sequestration, we could discuss that later.

**Snyden:** The diversion is what provides the benefits but the diversion also has impacts and those can only be put downstream or up stream. We had impacts in excess of two feet and these are less than what we are proposing upstream. The downstream impacts would have gone to Canada and affected every community downstream, many acres, about 4500 structures downstream. The way we mitigated for those downstream impacts was by

implementing upstream storage. It is an upstream storage project. Referring to the Map, Attachment # 2. The blue area would flood in a 100 year event without us doing anything. The red area is additional acres impacted. Now we are talking about impacting about 800 structures, approximately 387 of those are residential homes. It eliminates all of the downstream impacts.

#### 15 Minute break

**Snyden:** Referring to Power Point Slide #9-,

**Vice Chairman Monson:** Referring to slide # 10, What is the gray spot in the middle?

**Snyden:** Probably a road, a place where there is no water. Continuing with slides #'s 10-11.

Chairman Skarphol: What is that line at the top, referring to Map, and slide #11.

**Snyden:** This was water that was lined up at the top and it can't get through. Upstream impacts, continuing with slide # 12, Richland County impacts. it will be impacted very infrequently.

**Chairman Skarphol**: The line on the map slide # 11 that crosses just before the dot, what is the significance?

**Snyden**: That was a previous alignment for the diversion. The analysis showed that if we were to move it further north we would impact even more people. Continuing with Slides # 13-

**Chairman Skarphol**: Where the green line is at the top of the flood area on slide # 10, is that the county line? The most severely impacted people are the ones in Cass County.

**Snyden:** Almost all are in Cass County; there are three residential structures in Richland and two in Wilkin. Everything else is in Cass and Clay counties. The counties that get all the benefits also have all the impacts. We do not transfer impacts from one county to another county. Originally a buyout was proposed but we were told that if you can't save us all buy us all. We then agreed on a ring levee as a feasible solution. We went back to the communities in December, got some more input, we could give them a ring levee system, provide them with the highest level of protection any community has, a 500 year protection. The reason we would build it so high is so that it would match the elevation of the southern embankment. To avoid the perception that there is a difference, we want those elevations to be the same. The Corps would still support a buy out if the communities of Bakke, Hickson and Oxbow don't agree.

**Rep. Grande:** The concept of ring levees, if Oxbow wants to expand and to grow does it become land locked, how can they grow?

**Snyden**: Yes, the levee would limit the ability to grow in the future. They need to ask, do they want a buyout or exist as a community. Continuing with Slide #s 14-26 to 1:52:54.

**Rep. Streyle:** Ring dikes, snow fall have they proven to work in elsewhere this type of climate?

**Snyden:** They work extremely well, we know how to build these levees, and we have not had a failure in the Red River Basin. We will add extra height, width, very safe.

**Rep. Streyle:** What is the height of those already in place compared to this one?

**Snyden:** 8' to 12 ' high, if you go throughout the basin you see a number that are 8' to 12' high. Fargo will have more levees of a higher height than you would see in Oxbow, Bakke, Hickson.

**Vice Chairman Monson**: If we do the minimum would that require us to put ring dikes around Bakke, Oxbow or would that not have any effect at this time? What do we need to do to protect the others?

**Snyden:** They would not have any additional impacts until the diversion is completed. Diversion is beneficial to any community that is at risk moving forward.

Vice Chairman Monson: Who will make the decisions as to priorities?

**Snyden:** This is a federal project; The Corps of Engineers has complete authority in making all decisions unless congress would direct us otherwise. The Colonal Signs all the projects. If no one can decide, buyout is an option.

**Col. Price:** We will not make the decision for Bakke, Oxbow and Hickson. The local communities have made the decision to have the ring dikes around them.

**Vice Chairman Monson**: You are ready to go to work on them in August of 2013. If Fargo Moorhead gets the money, or you get the authorization, what is the first phase?

**Col. Price:** We have designed the phases for each one.

**Snyden:** Because the need for documentation has not been finalized, we don't have designs for in town levees or Oxbow levees, they have to start design on those, the design on those features will be ready in the spring of 2014. The only feature ready to construct is outlet Reach One. Because the input documentation has not been finalized we don't have designs for Intown levees or Oxbow levees.

**Vice Chairman Monson:** If we said we want to put \$60M into the project to build the dikes, that doesn't fit into your plan?

**Col. Price:** In town levees, that is one of the mitigation features Snyden talked about and it is one of the features of the project.

**Chairman Skarphol**: Could you provide us with a sequence of construction projects?

**Snyden:** Going back to Slide # 8, we will have most of the design packages by the end of 2013.

**Chairman Chairman Skarphol:** If we have \$102M ready to spend and you have \$62M for the in town levees, and the sequence of design are in order. If modifications were to occur, would the Reaches continue?

Snyden: The design to Reach 7.

**Chairman Skarphol:** Is there a cost associated with each one so that you could furnish to us? Give us a time frame.

**Vice Chairman Monson:** If south bank was not completed, will the other Reaches have any affect?

**Snyden:** Once you connect to the Maple River, you get some good benefits. Residual benefits will be realized and Fargo-Moorhead will not have an impact until you make the connection down to the Red and Wild Rice Rivers.

**Terri:** Reach 1 was determined so that it would pick up during 29' and 30' and provide benefits with construction of outlet Reach 1.

Rep. Grande: At which Reach are you on drain 27. Rose Coulee.

**Snyden:** We will not cut off any drains, 27 will start north out of the project, it will not be cut off. There will be small connecting channels and they all dump and tie into drainage.

Chairman Skarphol: Request numbers on an enlarged map is to be provided.

**Vice Chairman Monson:** Would you object if we request the language that says that the money must be spent on dikes downtown?

**Snyden:** We anticipate that occurring. We are a few months ahead of the game here.

**Chairman Skarphol:** Asking for clarification on Reach 1.

**Snyden:** Critical path is the way to go with a four year construction plan. Reach 3, and you can invest as much as you can on the Maple River structure.

**Chairman Skarphol:** Are the reaches highly objectionable?

**Snyden**: Only the upstream staging, with or without the project it will flood in a 100 year flood.

Chairman Skarphol: Would we build any of these Reaches?

**Snyden:** Without the upstream storage the project cannot function.

**Col. Price**: We have heard that they do not object to permanent flood protection or any diversion for Fargo. They object to upstream storage.

**Chairman Skarphol:** Their interpretation of that might be more expansive.

**Col. Price:** We have reduced impacts and farmers will be able to farm all the agriculture land in the storage area the majority of the time.

**Chairman Skarphol:** Reaches 1-4 get built and then it stops, there are benefits to those Reaches within and will not mean wasted money

**Rep. Streyle:** Since you have control of the project and though ND has imminent Domain, should some of these ring dikes fall by the wayside, is there any discussion about you using the federal authority to do that?

**Snyden**: We would have the federal authority to do that. The number one option will be to come to agreement. Yes, the authority would be there.

**Terri:** Speaking of appreciation for the public involvement and offering willingness to answer any questions that come forward?

**Snyden:** We have met with the North Dakota Farm Bureau many times earlier on. We are working towards addressing the concerns that they have. Their concern is on the farming impacts. There are proposals to tile and what is farm land now will likely remain farmland in the future even if it is in the staging area. Will there be a decrease in production? Possibly but we can't say how likely it would be. There likely will be no change.

**Chairman Skarphol**: If they were unable to farm their land what is the option for them?.

**Col. Price:** We would provide a Flowage easement which is a payment to the land owners.

**Snyden:** It is a onetime payment up front for allowing the water on the land. That is where the Risk Management agency comes in. The changes are very remote that there will be an impact with that, the Fargo-Moorhead area could self-insure that and make payments or we can buy flood insurance that would compensate in that circumstance.

**Chairman Skarphol:** Onetime payments for damages are very distasteful to a surface owner. Give consideration to an adjustment. Find a better methodology to deal with that.

**Vice Chairman Monson**: Gates and other ditches, how does that work? It may not be used more than once every 15 years.

**Snyden:** The gates will be up when there is no flood and the river will flow naturally. Maybe every ten years. On average it could happen once every ten years. We are going to extend the duration a little bit, when they stretch into May they have a real problem. Spring floods to farmers are not that big of an issue. It should be extremely rare for them to have a lost year.

**Col. Price:** Thanking the Committee for allowing us to bring science based facts, taking out all of the emotion and incorporating the emotions as we move forward. The view is a successful outcome for the Fargo-Moorhead Diversion Project. Although my headquarters is in St. Paul, I spend the majority of my time working in the state of North Dakota all along the Red River, Devils Lake, and we have a great relationship with the Governor's office, State Water Commission and all of the State agencies and organizations regarding water.

**Chairman Skarphol:** Thanks for coming. Addressing Snyden, You have ongoing conversations with those affected by the storage area and they do have access to you with conversations that are pleasant or unpleasant. Make sure that we have contact with you in the even we have further questions.

Tomorrow we have Water Commission and next week we do have a joint hearing scheduled with the Education Committee along with the rapid enrollment.

**Rep. Martinson:** Thanks for inviting these folks here. I was skeptical but I learned more today that was beneficial to making a decision on this than any other time. This was a very good presentation. It is nice to get some factual stuff.

**Snyden:** Referring to Attachment # 3, not discussed, has some information on distributed storage. It is very detailed, more scientific and with engineering jargon.

**Chairman Skarphol:** Could we schedule something later in the event we would want you to come back? Response was yes.

**Rep. Martinson:** We should tell the Senate Appropriations that when they get the bill that they need to have these folks in.

**Chairman Skarphol:** It might be beneficial to have a joint meeting. **Meeting adjourned.** 

#### 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division Roughrider Room, State Capitol

> HB 1020 January 31, 2013 Job 18067

	Conference Committee	
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	190	

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to provide exemptions; to provide legislative intent; to amend and reenact section 6-09.5-03 of the North Dakota Century Code, relating to the community water facility loan fund; and to declare an emergency.

Minutes: Attachment 1, 2, 3

Chairman Skarphol called the committee to order and noted all members were present. He called for testimony from those who had not yet had the opportunity to speak, no one came forward. Yesterday, we spoke with the Corps of Engineers about the Fargo diversion project; is there any discussion on that issue? We're all interested in protecting Fargo. The Corps is very convincing that they believe they have the right plan. My sense is we're willing to commit to in-town levees being completed, 42.5. Beyond that, there's some discussion about what we want to commit to. Some people in Fargo don't want to take all the land to create that big ditch. Whether the cause of a flood event is snowmelt or rain could make a difference.

**Rep**. **Monson**: There are some statutes that state we cannot spend more than the appraised value to do buyouts. We were told that people were bought out at more than appraised value. People wonder how that was done, and if state money was being used and the law broken. We may need to tighten up in the future.

Chairman Skarphol requested information from the city of Fargo.

07:25

Dennis Walaker, Mayor of Fargo: We can furnish information. We can talk about the acquisition; the biggest cost is the increase in agricultural land. When we started talking about this, land value was \$3000-\$4000; now it's \$7000-\$8000. You will finish your session before we get the President's budget. When March comes I have no idea where we're at. What is important is to build this to 42.5 feet. The Corps' plan has taken two years of significant study. Everyone is concerned about storage on their land. \$25M is requested to research projects. You have to understand what retention means, it is a 1.4 reduction in stage. With the diversion we're talking 10-12 feet. My concern about a summer event, the most devastating to the farmers, is it's not going to happen if the diversion is built. We have

most devastating to the farmers, is it's not going to happen if the diversion is built. We have had what we call a 'hidden flood' in the valley, because after everybody cleaned up their debris you couldn't see any impact of what happened. We do need the state's help; this has been the goal.

**Chairman Skarphol**: It's our understanding that if we appropriate \$100M that would qualify as a local match. If you're getting \$5M from the Corps, it would take them 20 years to catch up. We all agree that 42.5 is where we need to go. We will get additional information from the Corps to help us make a decision. This is an eight year project at minimum.

**Rep**. **Williams**: Of the money that we appropriated last time for Fargo's flood protection, how much was spent, and how much Fargo money went into that?

Walaker: About half of the appropriations were spent. Every expenditure right now goes through Cass County. The real question is what can you do with the land you purchase? FEMA allows no structures to be built, not even a dike. To make it easier, we have been using local sales tax money to purchase a lot of this property. We have to go to the attorneys. When you are buying as much property as we're purchasing within the city of Fargo, 500-600 residential properties over the last 20 years, you need some kind of incentive. We want the people to stay in the community. We have had good progress to date, and no loss of population. The problem is the cheap properties are gone. The majority of land that needs to be purchased was in the flood plain regulations when we joined up back in the 70s. City administration feels everything should be voluntary, we shouldn't use eminent domain to purchase property, and we haven't yet. The negotiation process is difficult. We have to borrow funds to complete the project and purchase the homes. What people have to understand is, without a staging area for the diversion there is no project. The only way the staging area works is to reduce impacts upstream. People are concerned about the worst case scenario.

21:50

Chairman Skarphol: Distributed Attachment 1.

Rep. Streyle: How much FEMA money is available?

**Walaker**: FEMA is an agency that comes in three days after an event, and provides you with recovery. My experiences have been good and bad, but it has gotten better. FEMA is not involved in this. They did set the new flood plain, but that does not bring us to what the Corps says. There is a process during an event that you can use FEMA money for purchase of property, but you can't do anything with it.

Rep. Streyle: So if the money is there we don't want it because then it allows no development.

Mark Bittner, City Engineer, Fargo: We do not use FEMA funds for acquisition of property anymore; we use it for infrastructure improvements. In the 2009 event, there was about \$100M available statewide for mitigation projects, and we submitted applications on \$30-40M of that. We will hear sometime in March if we were granted those funds. These go

through the division of emergency management. Those funds will be applied to the in-town levees portion of this project, and we anticipate we possibly could get \$50M.

**Chairman Skarphol**: If you were to get the \$102M with the caveat you could use it to fix intown levees, if you got \$50M from FEMA you would not need to use as much of the state funds for that purpose.

**Bittner**: We have \$250M of need for in-town levees to go along with the diversion, so ultimately we will need more than the \$100M to finish off the project.

**Rep. Streyle**: I don't understand. The Corps said \$60M, now we're saying \$250M, \$50M could potentially come from FEMA, what is actually needed? I fully support getting it to 42.5, we need to do that.

**Bittner**: The local improvements that are compatible and needed as far as providing overall protection for Fargo include more than just the \$60M the Corps has allocated for three or four areas along the river. We have many more areas than that which the Corps is not participating in.

30:30

**Chairman Skarphol**: Why doesn't the Corps feel the same urgency for these other areas that you do?

**Bittner**: The issue is what is the appropriate level of protection that we are trying to achieve. Our plan is to move forward with the local improvement plan as quickly as possible, because we believe the federal funding will be slow to arrive and not in the amounts we need. We are proceeding with some things locally that are not part of the Corps project. There are some items that the Corps does not think are cost beneficial.

**Chairman Skarphol**: When you talk about additional costs for dikes, they may potentially be outside of the city of Fargo?

**Bittner**: The current plan is for in the city. We need to work with Cass County to extend the line out.

**Chairman Skarphol**: If we are going to fund another \$250M in diking costs that are not in the Corps project, we will need a much more explicit explanation of what that means.

**Keith Berndt, Administrator, Cass County**: We are taken aback that we keep hearing about flood protection for Fargo. Cass County participates dollar for dollar with the county-wide sales tax. The FM diversion is under the jurisdiction of our joint powers authority, which the county commissioner chairs. While we continue to partner with the city of Fargo, the project is not a Fargo project, it is a Cass County project. Please bear in mind that the diversion is needed county-wide and protects a very large percentage of the population of the county that lives outside of the city of Fargo. We would like not to be forgotten.

**Chairman Skarphol**: We were told yesterday that \$62M would dike things, and now you're saying there is much more. That's fine, but we will need some reassurance as to how it will all come together.

**Rep. Grande**: Information from the Corps said the use of levees in town to 35 feet at Fargo gauge; can you explain the difference between that and the 42.5?

Berndt: The current diversion project, as it's designed, during a 100 year event would allow 35 feet of water through the city of Fargo. However, a 35 foot levee through Fargo would not remove anything from the flood plain. We are very concerned about the upstream impacts. If only dikes were in use through town, the capacity of the river channel simply would not handle the larger flood events and you would have water backing up. What a diversion channel does is adds additional capacity.

**Rep. Grande**: Are we building levees and dikes to 42.5 or 30?

**Walaker**: At 30 feet the water will reach 2<sup>nd</sup> Street downtown, our lowest area. The Corps did a study, and they didn't think it met cost-benefit ratio for the entire area. We are conducting a study now for \$88,000 to see what the alternatives are. That's part of it, going from concept to reality. Two years ago, the estimated cost as a community to protect our city at 42.5 feet was \$250M. This was Fargo only and had nothing to do with the diversion. That's what we're starting now, as money becomes available. The 35 feet was, instead of diverting all water into the diversion, to reduce the staging level on the rural property. This is an ongoing process.

**Rep. Williams**: We are all concerned for Fargo, and Cass County and Richland County. If this committee would give you \$60M, and tie it to inner-city diking, how much would that hamstring you?

**Walaker**: We had asked the water coalition for \$75M, and when they said they would have more money available, we went to \$102M. If there aren't too many strings attached to the process, we will attempt to spend that money so it doesn't carry on to another biennium.

45:05

**Chairman Skarphol**: We agree with saving the city and saving jobs. We need you to provide us with a nice chart that sets out your priorities, so we can see the differences between that and the Corps. (Asking Todd Sando) I know there is a baseline mapping project, is that complete in the Red River Valley? That might help us get a better picture.

**Todd Sando, Chief Engineer, State Water Commission**: We have been involved with LiDAR mapping for the area. We can make a lot of use of that type of information. There are maps available that can help you with elevation, inundation, etc.

Chairman Skarphol: We want to do the best thing for Cass, Clay and Richland Counties.

**Bittner**: Regarding the costs we will incur in the next biennium, we will be borrowing approximately \$55M in the next 6 months, whether or not we get the \$102M from you. We do need the \$100M to keep going.

52:08

Craig Hertsgaard, Joint Powers Authority (JPA): JPA is an organization between Richland County (ND) and Wilkin County (MN). Once the organization was formed, another 35 members joined. We are concerned about the upstream impacts of the proposed diversion project, primarily due to the 12 mile dam on the south side that holds back about 200,000 acre-feet of water that would cover 50,000 acres. It's very serious for us. We do not oppose flood control for Fargo. We support funding for the levees and protection within the city limits. We do oppose a diversion plan that includes a dam and reservoir. There are several issues involved, including how to address this as a basin-wide approach, and how to protect the small area within that basin. We feel need for the dam and reservoir is because the current plan chooses to protect area outside of the current developed area for city protection, about 20,000 acres on the south side that is undeveloped in a relatively rural area, that in a 100-year flood would store up to 100,000 acre-feet of water in the natural flood plain. If the protection were limited to the city of Fargo, similar to what the Army Corps proposed with the MN plan, the downstream impacts could be managed with basin-wide retention.

**Chairman Skarphol**: The Corps told us that distributive retention doesn't really work. You have to push it further and further back, and as you do that, you impact 240,000 acres. They said it doesn't give them the kind of control that's necessary to put the land back into production as quickly as their proposed solution does.

Hertsgaard: The Corps often says retention will not solve flood control problems in the Red River valley. You can't replace a diversion with retention. We aren't trying to say that. We maintain that the retention can be used to offset the downstream impacts caused by taking that area out of the flood plain. The Corps wants control right at the site of the dam. So when they do their estimate, they talk about doubling the amount if you move it away, so instead of 200,000 acre-feet of storage you may need at the dam, they talk about 400,000 acre-feet of storage away. A study was completed a year ago that identified retention sites in the Red River valley, and they identified 257,000 acre-feet of storage distributed throughout the valley that would offset the impacts of the diversion, to the south, southwest, and southeast of Fargo. We've talked to the Corps about this study, and they do not want to look at retention as an integrated part of the project and deal with individual retention sites. They feel their best engineering solution is to put it right behind the dam. But the amount of land being taken out of flood plain for future development for Fargo is the natural storage flood plain that could cut the size of the retention necessary in half.

**Chairman Skarphol**: The Corps said to us that as they move the dam farther south they affect fewer residents.

**Hertsgaard**: We're saying no dam and no reservoir is necessary at all, if they would take less land out of the flood plain. The Corps is saying they can move the dam four miles north, but they still want that retention area. They're still considering a dam and a reservoir as part of the project.

**Chairman Skarphol**: Our discussion yesterday was that raising the in-town levees to 42.5 feet was an absolute, we need to do that. When I asked them the next thing they would do, they said Reach One. Do you agree that can provide value to that area if that full diversion

project is not completed? Reaches are segments of the diversion that they recommend be built. The Corps has 12 or so that they refer to. Reach One is the northernmost segment.

**Hertsgaard**: The FEMA 100-year flood level in Fargo is 39.5 feet. The 42.5 foot level is a number the Corps came up with, based on more recent history and projected climate change. Once you get to 42.5 feet, the next step is what is a reasonable amount of flood protection for our region and our community?

**Chairman Skarphol**: I was not under the impression that getting the in-town dikes to 42.5 feet gave them 100-year protection, but that it is one of the needed components.

1:03:50

**Bittner**: I agree we need to work with our up- and downstream neighbors. We are looking at options that may allow us to reduce the staging area. Ring dikes offer additional opportunity to protect properties without removing them.

**Rep. Dosch**: Could you provide a plan with costs and time frames, and who pays for it. It would help to have a whole picture.

**Bittner**: We can provide that. In rough numbers, the costs are \$1.8B for the federal project, and local in-town improvements are \$250M.

1:11:20

**Chairman Skarphol**: Western Area Water Supply Authority (WAWSA) is another controversial topic. AE2S provided us some more information, see Attachments 2 and 3. Went through Attachment 2, with additional clarifications from **Sando**.

1:16:25

**Rep. Grande:** Were these expected expenses?

Steve Burrian, AE2S, representing WAWSA: In 2011 when we presented the original business plan and its supplement to the legislature, we had population projections that were prepared by professors at Minot State, which was the basis for the time, and these were used to prepare water demand projections, then an infrastructure plan. Now, we realize those population projections were woefully inadequate. 2-3 years ago we were planning for 48,000 people by 2035. Given new work done by NDSU, we have determined we need to plan for 99,000 people by 2025. We thought the entire project would cost \$150M; with the new population numbers, the estimated project cost is \$350M. The rate of growth of the population will impact how much money we need and how quickly.

Explaining the Business plan, See Attachment # 3, P. 4

**Chairman Skarphol**: What do you attribute the difference in the estimations being so far off?

**Burrien**: The new population growth projections.

**Chairman Skarphol**: Did that give you some direction as to the fact that you needed to be considering a much wider distribution of the rural water system that we are going to have to develop? Is that part of how that happened?

**Burrian**: When the plan was being developed, we sent out letters of interest and had user meetings. When people saw that this project was going to be a reality, we had more farmsteads that became interested. Plus we had a lot of developers and oil industries that paid to enlist as part of the project. That's where we got that list of 15,000. It's bona fide people that either showed up at the meetings or sent back the commitment of interest letter.

**Chairman Skarphol:** After that letter of commitment, did an analysis then indicate that the cost associated with servicing those people would be the \$79 million, or some significant portion of that?

**Burrian:** Partially. The board then authorized us to do is take the \$150 million original plan and look at what it takes to serve all of this population. We came up with the total cost estimate of \$350 million. From that we subtracted the 110 and then met with the board in a process to see what we needed to prioritize. We came up with the \$40 million from the last session and the additional 80 which was compromised down to 79 to hit the things that would justifiably be a priority from 2013-2015.

**Rep. Streyle:** Some of the storage tanks are leaking and were constructed inadequately. Is that true? Secondly, explain the fee structure on the engineering side. Thirdly, was any of this new money to plug some of the budget shortfall in the previous? Or is this new money strictly for new project lines?

Burrian: The WAWSA has obligated \$112 million. We've had 11 sets of plans and specs that were done. We've had 11 bid openings and we've awarded 15 contracts. We do have some problems on the project as they developed. The problems are not unusual. There is a large reservoir called Indian Hill that was bid prior to this by McKenzie County Rural Water Resource District and that tank has had some leak problems. The tank at Wild Rose, which was also constructed as part of this project, also has had some leak problems. In regards to engineering fees, we need to be competitive and each of our engineering contracts is negotiated using standard procedures. We have two types of contracts; one is lump sums, which have been negotiated where the scope and fee is very specific, and one is hourly to a max, where the authority only pays for the hourly time that we are on the project. Engineering fees need to be paid up-front to design the project. We've done a comprehensive capital accounting for the project where we track the project cost. The original \$150 million project is envisioned to cost \$165 million.

**Rep. Dosch**: I understood the project to be for domestic water purposes. Is domestic only a fraction of it? Is this a commercial project?

**Burrian:** The project is designed to meet the peak day demands of the domestic customers. In doing that, we knew the expense of the project would be more than what could be handled by the local customers. WAWSA is going to have the same difference between average-day and peak-day, that all of the extra capacity could be sold to someone

else. The industrial sales would help pay for the project. None of the infrastructure is designed for industry except for the depots.

**Rep. Dosch**: You are asking for a zero interest loan and a grant. The bulk of your sales is for commercial. Are you competing with the private sector?

**Burrien:** The water industry in western ND is about \$100 million a year industry. During the last session, they knew if they asked for the entire amount to be a loan, they would have to capture an even greater market share of the industrial sales.

**Rep. Dosch**: Currently, you don't operate under the umbrella of the state water commission, correct? And would you have a problem if you were?

**Burrien:** We have very prescriptive requirements when working with state agencies. The overall plan for WAWSA has to be approved by the state water commission.

**Chairman Skarphol:** Would you do anything differently than under the current governance model?

**Burrian:** It would be the same. All of our plans and specs have to be approved by the water commission. The ND Department of Health also has to approve every set of plans and specs. Lastly, because the loans were administered by the Bank of ND, there were requirements for approvals from the water commission and to provide regular financial statements.

**Rep. Streyle:** Are there any plans for additional depots? Are they currently running lines right now? Was there a bid process for the engineering or were you granted the contract?

**Burrien:** There were 22 depots in the original plan. We've curtailed that to 12 depots; six existed already, four were newly constructed in 2012, and there are plans for two more depots. We're not sure if we are going to construct them. Yes, the pipeline from Williston to Ray is currently being constructed. Once HB 1206 was approved, the authority had to issue a Request for Qualifications, which was distributed to engineering firms and put in a public notice. Because it was an RFQ, there were no bids quoted. We were the only firm that responded to that Request for Qualifications.

**Rep. Dosch:** Is there any economic feasibility study done when looking at providing domestic water service to these areas?

**Burrien**: The state uses a process of what the cost per user will be. We have inherent feasibility.

**Rep. Dosch**: Who makes that decision? How does the \$45 threshold compare to the average threshold?

**Burrien**: The threshold used by the state water commission is \$40,000. Regarding the \$45 for a water bill, there is usually a minimum component and a volumetric component. I believe rural water bills are \$80-\$100 per month.

**Chairman Skarphol**: In the original proposal, the concept was that it would be funded by 80% commercial usage and 20% domestic. With the population increase, will those percentages shift significantly?

**Burrien**: The paradigm is difficult. The more user base we get, the more successful we'll be in paying that with a greater proportion of domestic revenues.

**Chairman Skarphol**: Would it not result in a decreased competitive situation with the independent water producers?

**Burrien**: As we build that capacity, more will be used up. We would have less latent capacity to sell. Secondly, we need to be less aggressive on the sales because our breakeven point would shift.

**Rep. Dosch**: What is the anticipated life of a water line and the pumping stations?

**Burrien**: The assets have a mixed life. The pipeline asset should last beyond our lifetimes. The concrete could approach 100 years. Steel tends to corrode sooner, so 20-25 years for the steel parts exposed to water. The mechanical systems would be 15-25 years. Some of the electrical controls would probably be 10-15. The majority of your investment is concrete and pipe which have the long asset value.

Chairman Skarphol adjourned the committee.

## 2013 HOUSE STANDING COMMITTEE MINUTES

## **House Appropriations Education and Environment Division** Roughrider Room, State Capitol

HB 1020 February 11, 2013 Job 18688

☐ Conference Committee		
Knotie Hetzles		
Explanation or reason for introduction of bill/resolution:		
State Water Commission		
Minutes:		
Chairman Skarpol: Opens		
<b>Rep Streyle:</b> We need to force them into developing policy. At least have a cost analysis on this project.		
Chairman Skarpol: I agree.		
<b>Rep Dosch:</b> You need policy first so you know what you're doing. Is the State granting the money? Loaning?		
Chairman Skarpol: Maybe we should an in depths analysis during the interim of how to develop those policies.		
Rep Grande: Because of DL outlets now we being asked to do several others, why GF, hasn't that been treated several times?		

Chairman Skarpol: Explains water coming from DL is extremely high in sulfates, these sulfates are moving from DL(5:16)

**Rep Grande:** Is the water being treated when it comes out of DL?

Chairman Skarpol: No.

Rep Grande: Budget 2011 / 2013 NAWS?

Chairman Skarpol: NOS is a project from Minot, where Minot paid 35% of the costs and the State Water Dept and the Federal Gov't in some fashion paid the balance

Rep Grande: Is it new that they want water treatment in Minot. I don't want to change the mission 20 years down the road. It's all over, shouldn't we have some continuity?

Chairman Skarpol: Dilemma that we face. (10:26)

**Rep Grande:** I have a bit of a problem with Canada worrying about what we are sending to them and not replicating.

**Rep Streyle:** It is not just Minot; it's the NW area project. Obviously Fargo needs water it might make sense in the next biennium one there, ship it everywhere and make the one time investment.

**Chairman Skarpol:** NW Area Water Supply is what it is. The fact is that it might ultimately resolve it; the federal courts have been playing with this for several years without resolution.

Chairman Skarpol: Rep Carlson's amendment?? (14:40)

Rep Streyle: I believe it had a cap on it also, correct?

Chairman Skarpol: Correct.

**Rep Dosch:** When you say to raise the dikes, does that mean land purchases, home purchases, and easements?

**Chairman Skarpol:** There was a provision that said 10% of the dollars could be used for land purchases, engineering, but not for homes.

**Rep Dosch**: On the original, is that for this new money?

**Chairman Skarpol**: As I recalled I believe it is for the new money as well. Break (17:00).

Chairman Skarpol: Discussion on amendment

Rep Grande: Is that new language?

**Chairman Skarpol:** Section 8 and 9 is new language.

Rep Grande: We keep referring to Fargo flood control and shouldn't it be Cass County.

**Chairman Skarpol:** Rep Carlson needs to clarify this for us and section 12 is also unclear. Again I think we should wait until further action on this because Rep Monson and Rep Williams are not here.(25:08)

**Rep Dosch:** At what point do we inject the need to be policy?

**Chairman Skarpol:** Water committee or legislative committee?

Rep Dosch: I'm not sure we want to start getting into saying what projects should be going. But development of the policies for what is going to be the states policy on funding

municipal water supplies? And future pipeline development, as far as granting, funding, loaning?

Chairman Skarpol: I agree with you, we need to begin to put language on paper to evaluate, do you want to initiate that process keeping in mind that various water projects come from bottom up.(28:20)

Rep Dosch: Policies moving forward not going back.

Chairman Skarpol: We need to visit with the appropriate counsel get this written down.

Sheila Sandness: Correct.

**Chairman Skarpol**: Take a look at the green sheet; first four items are removals or change in funding?

**Sheila Sandness**: (31:55) I think that is a large number of projects that are anticipated.

**Chairman Skarpol:** So is that the engineering costs?

**Sheila:** That would be contract for professional fees for engineering.

**Chairman Skarpol:** We should get a break down for that.

**Rep Streyle:** There will be no bonds left on any of these projects then, no debt once this occurs?

Chairman Skarpol: Correct.

**Rep Grande:** Where do we keep the equipment, how does it get moved all over for these various projects?

**Chairman Skarpol**: I believe it replacing old equipment, good question, we need to get specifics.

**Rep Grande:** Other funds with huge amounts of dollars in it? What is other fund and is it replenishable thing?

**Chairman Skarpol:** Resources trust fund (36:07) and the development fund.

Chairman Skarpol: Water Department trust fund 45%, 45% goes to common schools

Rep Grande: Water trust funds still get tobacco funds?

Chairman Skarpol: Correct.

**Sheila Sandness**: (37:50) Goes through the percent's.

**Chairman Skarpol:** So that's 20% of the 6.5% tax that we have on oil that is going to the resources trust fund.

**Rep Grande**: Are we spending all of the money out of that?

**Chairman Skarpol**: The grey Book or yellow book, shows how it's going to be spent?

**Rep Grande:** The money left in there, will that be spent?

**Chairman Skarpol**: Page 23 is showing what the water commission is recommending that the dollars be utilized.

Chairman Skarpol: The book dated Jan 16, on page 23.

**Rep Dosch**: (41:55) Why isn't the operating funds taken out of there, why do we have general fund money? I think this should run just like an insurance department that is self-funded.

Chairman Skarpol: I am not sure I disagree, that is something this committee can certainly do that

**Rep Dosch**: I think that would make sense.

**Chairman Skarpol**: (43:00) Ending balance and anticipated revenues?

**Sheila Sandness**: That is correct, that is based on the executive forecast for revenue.

**Rep Grande:** There is an explanation on resource trust fund in the white Jan 10 book that we got in the overview.

**Chairman Skarpol: They have 3** FDE's that they are asking for here, the green sheet 14, 15, and 16. (45:10) What is the committee's opinion on this?

**Rep Grande:** What were they going to be used for?

**Chairman Skarpol**: Water resource engineered to address the increase in water permit applications, water resource project manager position to address the backlog of conditional water permit inspections. And an engineering tech position to support the operation of the DL outlet.

Rep Grande: Is that their salary plus benefits?

**Sheila Sandness:** Yes, for salary and benefits.

**Chairman Skarpol:** For two years.(47:00)

Ms. Peterson: Part of that is annual and sick leave, so about 30% would be for benefits.

**Sheila**: Salary amounts for the 3 positions are for the biennium, the technician is \$75,600, the water resource engineer II is \$120,000, and the water resource project manager is \$102,000. Those are the salary amounts without benefits.

Chairman Skarpol: For two years?

Sheila: Correct.

**Chairman Skarpol:** The total budget for operations is not really reflected on here, what is the total operating cost that is paid for in general funds, 17 million?

Sheila: Right.

**Chairman Skarpol**: Is that what Rep Dosch is referring to, that you believe should come out the resources trust fund as opposed to the general fund?

Rep Dosch: Yes.

**Chairman Skarpol:** Ms. Sandness, please mark that down as something that we will be discussing.

**Rep Dosch:** 14 and 15 I understand the backlog but there again, I think we should also address that this should be a one-time funded positions, and eventually they have to get caught up with the number of water permits you can actually issue for any given area. Are there new permits constantly being issued that we require full time people to handle that? On number 16 do we really need a full time engineering tech? (51:30)

Chairman Skarpol: I think the commission needs to come back in to talk about some of these issues.

Rep Streyle: I agree, not sure what they have over there currently as far as their technology. I handed out an amendment in regards to the WAWS, we also need to talk about that.

**Chairman Skarpol**: Let's wait until we have the water commission present, to have a level of expertise here. (56:00)

**Rep Streyle**: We do need more clarification on what the plan is going forward, I think 12 is sufficient for the number they have out there at this time.

**Rep Boe**: Are we question the amount of water depots they have, or the amount of volume they can supply?

**Chairman Skarpol:** More about the number of locations today, the amount of water supply will change. Maybe we should adding language in here that says the state water commission should develop a policy with regards to the utilization of aquifer water for industrial use as opposed to surface water.

**Rep Streyle:** That is fine, back to the permit deal, there are people trying to start water well, and I keep hearing how the process takes so long and not knowing if they should dump it all in right away with some of the concerns with WAWS and where they are going. We are slowing down the market with all of the unknowns.

Chairman Skarpol: closed.

## 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Education and Environment Division Roughrider Room, State Capitol

HB 1020 February 13, 2013 18972

☐ Conferen	ce Committee
Explanation or reason for introduction of b	pill/resolution:
Minutes:	Handouts 1,.2

Chairman Skarphol: Have you put language of any kind together?

**Rep. Dosch:** I believe it was handed out, this the first time I've seen them. I have one forthcoming also.

**Chairman Skarphol:** I don't know the terminology I asked for some language and this is what was suggested to me. The Water Commission provided that language to me. (hand out 1 from Chairman Skarphol) Just the underlined part is the new language the other verbiage was existing.

Rep.Dosch: Where is this verbiage now, it is in WAWS?

**Chairman Skarphol:** 61-40-06 is part of the WAWS authorization. It is the authorizing language for WAWS. It may be more appropriate to put something like this elsewhere. Did everyone get a copy of 1003? This is the amendment I had prepared to relative to the Water Commission and water related overview committee.

**Chairman Skarphol:** What do the committee members think about that particular perspective? I think we need to be involved in some fashion.

Rep. Dosch: This doesn't put any legislators on it. It just involves the state water commission.

**Chairman Sharphol:** This is the water related overview committee, the members are appointed by the chairman of legislative management. It is a legislative committee.

Rep. Monson: Page 1 line 3, what is that committee?

**Chairman Skarphol:** He read the bill, it is a legislative committee.

Rep. Dosch: Where does the water coalition enter into this?

**Chairman Skarphol:** The water coalition is a quasi-governmental entity is formed by various water interest groups who pay a membership to belong and they have driven the priority list.

**Rep. Dosch:** Under this committee that in existence, does the water commission recommend to the committee and then does the committee work with the State Water Commission to come up with this list?

**Chairman Skarphol:** That is one we were thinking of doing but this is relative only to WAWS. My sense is the committee would rather have a more general set of directions for the water commission than just relative to one project, is that a correct assumption Rep. Dosch? You want policy developed by water commission that's relative to all projects not just that one.

**Chairman Skarphol:** I think if we want to do this right we say they need to develop policies that include recommendations as to what type of value engineering reviews are appropriate. Do we want them to develop policies so we can review and decide whether or not we need to direct them differently?

**Rep. Dosch:** Get some policy so that if someone comes to them and says we want you to finance our municipal water system, they go to polices and say well under these we can or we can't. So there is uniformity on how municipalities are being treated.

**Rep. Streyle:** Read the list of members on the water related overview committee.

Chairman Skarphol: What are wishes of the committee on 1003?

Chairman Skarphol: Do we want us to be part of that prioritization process?

Rep. Streyle: I think this committee should have more input than the water coalition.

Rep. Grande: I move 1003.

**Chairman Skarphol:** We have a motion for 1003 to be adopted, second by Rep. Streyle, Discussion, voice vote, all in favor, I, opposed, motion carried.

**Chairman Skarphol:** I think we should also have an amendment to the water commission's budget that's been suggested at 1001 that was prepared for Rep. Carlson. This amendment is designed to ensure or try to ensure.

Chairman Skarphol: Not sure how we can guarantee anything with regard to the utilization of these dollars but we can get more specific with this amendment as to what they cannot do.

Rep. Williams: (18:08) Shared his concerns.

Chairman Skarphol: (19:40) Went over the amendment. (handout 2)

**Shiela Sandness, LC:** (21:20) This is a confusing amendment. We had to amend 2011 session laws which already amended 2009 session laws.

**Chairman Skarphol:** The restrictions being put in here are pertinent to the 45 million that was appropriated in this section 7 which some may be carried forward and available to the city of Fargo. We're saying they cannot use those dollars that have been carried forward for these purposes explicitly prohibited here.

Shiela Sandness: Correct

**Rep. Monson:** Does anyone know how much money is left here?

**Sheila Sandness:** Are you wondering how much is left of the combined 75 million, the water commission provided it.

Chairman Skarphol: We had to ask the city of Fargo for some of that information?

**Sheila Sandness:** (23:56) That had to do with the appraised value of the home versus the purchase value of the homes.

Chairman Skarphol: So we don't have a good list of the utilization of state dollars?

Sheila Sandness: We have a breakdown of reimbursements. (25:25) She lists them.

Chairman Skarphol: Does the removal of that language limit their ability to use that as a match?

**Sheila Sandness:** Yes, that was the point of removing that language.

**Rep. Monson:** They've done 26.5 million so we have given authority in '09 and '11 through session law for a total of 75 million and they have spent 35.6 million for this project and Fargo has kicked in the same amount.

**Sheila Sandness:** The reason we are amending that because in that session law we allow them to continue into the next and subsequent biennium this funding.

Rep. Monson: The oldest money is spent first?

**Sheila Sandness:** It doesn't identify the oldest money is spent first. Appropriations in '09 and '11 were identical there is no difference in the funding. The language was identical.

**Rep. Williams:** In '09 we appropriated 45 million, correct, in'11 we added 30 million, with what they have spent there is money remaining. They spent 35.6 million in state money so the remaining 71.8 million was local money.

Sheila Sandness: Yes, the other 35 million would be local money.

**Rep. Williams:** (29:54) Question on amendment. If this amendment states that the money can only be used for what's in paragraph section 7, can state money and use it for the stated items and use their own money for dikes outside the city of Fargo?

**Sheila Sandness:** They still have to come up with a match on this money.

Rep.Grande: Doesn't language in section 12 stop the issue your concerned with?

Rep. Williams: In some cases Mr . Carlson does not know the full ramification.

**Chairman Skarphol:** We're not saying they can't build ring dikes with money other than state dollars. Not explicitly prohibiting it and I'm sure we can however we could put some provisions in here that would discourage it by saying utilization of local funds for purposes of building ring dikes would require a 3x reduction in their state funds available. There has to be a mechanism we could create to accomplish that.

**Chairman Skarphol:** We need to say in here that the plan must be completed and recommendations brought to the legislature.

**Chairman Skarphol:** Committee members we have to do what we think it right with regard to this. At the very least I hope we are willing to adopt these amendments.

**Rep. Dosch:** Moved motion to approve amendment 1001 to HB 1020, second Rep. Grande.

Rep. Williams: I would like to see it passed.

**Chairman Skarphol:** We can add language to strengthen but for the moment we would have the amendment itself on the table.

**Rep. Monson:** So section 6,7 and 8 all have same stipulations on how it can be spent for anything but dwellings.

**Chairman Skarphol:** Because of the overstrike on the last sentence on both section 7s, purchase of dwellings can no longer be used as a match. Correct Sheila?

Sheila Sandness: Correct.

**Chairman Skarphol:** So section 8 does have the same stipulations as the changes to the two section 7s?

**Rep. Monson:** If we put this amendment on we are looking at approx. 140 million dollars of state money to use?

Sheila Sandness: Yes, if looking at what they have left.

**Chairman Skarphol:** (40:04) He read from amendment. Where do we restrict them to utilizing that 100 million only for purposes of raising the dikes in Fargo to 42.5? Rep. Williams: I am in favor of pushing this.

**Chairman Skarphol:** We have a motion for 1001 that we're discussing. Anything else relative to this amendment and then we will continue possibilities. Clerk will take roll on 1001.

**Chairman Skarphol:** What does committee think with regard to restricting the utilization of state dollars to raising the dikes within Fargo to no more than 42.5 feet and that all construction must be limited to being within the city limits or immediately adjacent to. If we limit any of the state dollars for that purpose are we being overly restrictive or do we want to do that in an effort to force the issue in the Senate negotiations.

**Rep. Dosch:** How does that dovetail into the Corps plan?

**Chairman Skarphol:** We could state it so money could only be utilized to raise dikes within the city limits of Fargo to 42.5 feet and for those things that would not be in conflict with the Corps plan within the city limits.

**Rep. Grande:** I object. The Corp has not looked at or approved three flood walls that are going to be needed.

**Chairman Skarphol:** How do we word it to ensure the city can utilize the dollars in the fashion the city thinks is appropriate that would not be in conflict with the Corps plan?

Rep. Williams: I don't think we're conflicting with that, this is restricting state dollars.

**Chairman Skarphol:** Who is the wordsmith to help us put into language that would represent what the wished of this committee are? Do we want to try and get verbiage that is more reflective of the wishes of this committee?

**Sheila Sandness:** You want language that protects Fargo to 42.5 feet but I am still confused about the Corp.

Chairman Skarphol: We don't want dollars to be used in a fashion that would allow for the initiation of the Fargo diversion. We want to prohibit the dollars from initiating any action that would imply a long term commitment to the current diversion plan. In other words the dam or water retention facility, we don't want them to utilize any of this money for permanent structure that would retain water.

**Sheila Sandness:** The project would be to protect Fargo to 42.5 feet however no funding could be used for any project that would provide preliminary work on a diversion project? What if it is a dual project?

Chairman Skarphol: That is the dilemma.

**Rep. Martinson:** When you say you can't use state money for this then they can use city money for that and then replace the city money with state money so if you want to stop them from doing what you're taking about you need to be very specific in telling them that.

**Sheila Sandness:** How about something that basically allows them to protect Fargo to 42.5 feet as long as the project does not advance a diversion project?

Rep. Williams: That is as a good thought, don't know what diversion means.

**Rep. Martinson:** Suggest they visit with lawyers upstairs.

**Rep. Dosch:** (54:16) Could we also have the amendment drawn up to move this from general fund dollars to special fund?

**Chairman Skarphol:** We talked about funding the operations of the state water commission from the water resources trust fund as opposed to general funds, is that all right? We'll have that amendment drafted too. Everybody voted yes on that amendment it was proposed by Rep. Dosch and second by Rep. Martinson. Motion passed.

**Sheila Sandness:** I had one other note about a possible amendment that had to do with a requirement to audit bidding and bid award policies was there any thought to that or anything additional on that?

**Chairman Skarphol:** We're not done with the discussion as to how we're going to word all the things we want that way.

#### 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Education and Environment Division Roughrider Room. State Capitol

HB 1020 February 15, 2013 19064

☐ Conference	ce Committee
Explanation or reason for introduction of b	oill/resolution:
Minutes:	

**Chairman Skarphol:** Called to order. The language that is on amendment 1005, on the bottom of the page, you read in section 7 some new language at the very bottom we want to put on as an amendment. I 'm not sure if we should adopt this full amendment, are the provisions in 01 and 03 incorporated into here?

Adam Mathiak, LC: I am not certain about that.

**Chairman Skarphol:** I'll entertain a motion to add the new language in section 7 of section 7 on the bottom of page 1 of amendment 1005 with addition of beginning about in the middle of second from the bottom of the new language where it says no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control projects.

**Rep. Martinson**: Just add it in there; you don't need a motion for that. Make it part of the amendment your proposing.

**Chairman Skarphol:** I 'm saying I want the amendment to read ring dikes and water retention structures that is not on there in the print, associated with the Fargo flood control project.

**Chairman Skarphol:** Does that sound reasonable to the committee and if so do I have a motioin to add this language.

**Chairman Skarphol:** We have not adopted this amendment, but we have adopted 1001 and we want to do that to ensure that it gets incorporated into the amendment that is going to get prepared.

**Chairman Skarphol:** Rep. Williams moves, second by Rep. Streyle. Any discussion with regard to the amendment? What we're doing is adding that language to what we already amended on this bill. Clerk will take the roll. Alright, committee members thank you.

#### 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Education and Environment Division Roughrider Room, State Capitol

HB 1020 February 19, 2013 Job 19183

☐ Conference Committee	
David Hanson	
Explanation or reason for introduction of bill/resolution:	
State Water Commission	

Handout 1

Chairman Skarphol: Opens HB 1020. Amendment handed out.

Minutes:

**Rep George Keiser:** Gave an overview of the action taken over the WAWS project from last session. (ended 8:30)

Chairman Skarphol: Do you recall any discussion about other than the \$40 million?

**Rep Keiser:** There was discussion. They said that their business plan was based on so many domestic applications. The actual number of domestic applications that have been made at this point in time have been about ten fold what the original business plan was. If you want to service those domestic account then the original proposed budget isn't going to need it. You're going to have to do something where they are going to have to find a revenue bond or some other source of funding if the state wants them to go forward.

**Rep Grande:** Industrial and domestic sales, what was the plan and how does it fit into today's plan?

**Rep Keiser:** I cannot answer for the 79 million.

Rep Grande: How do I differentiate between the two?

**Rep Keiser:** The pay back is moving to 2036. The payback period is no different than previous Water Commission projects.

**Rep Grande:** What was the difference between industrial and domestic sales in the original business plan?

**Rep Keiser:** The original business plan had a greater number of depots in it. They were asked, working through the Water Commission, to work with the private water owners when appropriate, not required, to reach some degree of agreement relative to the number of

depots. The actual number of depots implemented are fewer than what were proposed in the original business plan.

**Chairman Skarphol**: Was there a ratio of domestic and industrial water suggested that was going to be sold by Western Area water that would meet the repayment requirements?

Rep Keiser: I do not recall.

**Rep Streyle:** They plan to go to 12, is that sufficient? Should there be language in there they cannot go to 30 or 35?

**Rep Keiser:** That is what needs to be analyzed. (17:13)

**Chairman Skarphol:** The proposal is 79 million; 40 loaned and 39 grant. I think the perception for the Water Commission is that based on what they've been told that could conceivably meet the needs if they got the grant segment.

Rep Streyle: Any money they get from us shouldn't they pay federal back first?

**Rep Keiser:** There is a schedule of the structure paybacks. And we've got the state being paid back.

**Chairman Skarphol:** Its two different entities Western Area Water is not subject to the federal loans. That's a different entity that is subject to those federal loans.

Rep Keiser: Explained that we were trying to protect the Bank of North Dakota assets first.

**Rep Dosch:** What was the deciding factor when you elected not to put WAWS under the State Water Commission?

**Rep Keiser:** We said to the Water Commission you can have this if you want it, but you have to be online in two years.

Chairman Skarphol: The origin of this project was local, there is a lot of competition between these communities.

**Rep Keiser:** The Williston Water Treatment Plant is now part of the WAWS group.

**Rep Grande:** What is the verbiage in there that links it together?

**Rep Keiser:** We did not put any language in about boundaries.

**Chairman Skarphol:** As it stands today this project cannot service a significant area of this region, because of the inability to get to that area based on what dollars they have available. This project was to connect the cities without a great deal of money invested in rural aspect of this.

Chairman Skarphol: (23:40) Reviews adopted amendment.

**Rep Dosch**: Reviews proposed amendment. We really don't have any specific policies in place.

Rep Grande: Are you forcing individuals into a meter grid in their homes?

**Rep Dosch**: It is necessary to be able to monitor usage.

**Rep Grande**: That is too much control, I am not in favor of my home being monitored in any way.

**Rep Dosch**: This is dealing with the water permits that are issued by the Water Commission to monitor their permits and the water used under those permits.

Rep Boe: There is probably not the infrastructure to do all of that collection of data.

**Rep Dosch:** They shall develop and adopt policies, is what the language is, I believe it is broad enough.

**Chairman Skarphol**: Is it your intention that this ties to irrigation?

**Rep Dosch**: If you're going to issue a permit then it should be monitored.

**Chairman Skarphol**: I have some issue with the irrigation. Would it be appropriate that we have some language in here to indicate the State Water Commission participates?

**Rep Dosch:** The purpose is to find that out in advance. There is concern that these pipeline projects will be paid back and how. (ended 39:50)

**Rep Monson**: I think you just answered my question in your last statement or two there. My thought is we should always have an idea how much these are going to cost and what benefit you get. If the people are willing to pay for it, then its up to us to figure it out.

**Rep Dosch:** That is what we know up front.

Rep Streyle: Moves the amendment.

Rep Martinson: Second.

Discussion (ended 44:45)

8-0-0 Motion carried.

Rep Streyle: Motion to move IT

Rep Dosch: Second.

Voice vote carried

Chairman Skarphol: I would encourage that we give consideration to the concept of requiring budget section notification of any anticipated redistribution of these dollar amounts during the interim. If the Water Commission wants to move money from one of these categories to another they must at least report to and get permission from budget section, except in the case of a natural disaster that requires immediate action. Does that sound logical and reasonable to the committee?

**Rep Monson:** It sounds logical and reasonable. My question is who determines when it is a natural disaster? Do we leave that up to the Water Commission to determine?

Chairman Skarphol: Do we have definition that would be appropriate for a natural disaster?

Sheila Sandness Legislative Council: I would have to double check.

**Sheila Peterson OMB:** In order to receive FEMA dollars in a disaster a presidential declaration is required.

**Rep Boe:** What are these funds used for?

**Chairman Skarphol:** There are some limited resources available through the Department of Emergency Services.

**Sheila Peterson:** It seems that there is 22 million put in there each biennium from the oil taxes.

**Rep Monson:** I don't want to tie their hands to the point where they can't do prevention and stop flood damage by being able to react. We need to leave them a little flexibility.

**Rep Dosch:** Is it that they first need to obtain budget section approval or do they have to just report any movement of the money?

**Chairman Skarphol:** My recommendation is if there is not a natural disaster they would have to get approval. If there is a natural disaster they would do it and then report on the changes.

**Rep Dosch:** Then we need to define what is a natural disaster.

**Rep Grande:** If we are waiting for the Federal Government to sayl whether or not that was a disaster, then we may as well not put anything into it.

Rep Dosch: Could we use significant event?

**Chairman Skarphol:** The amendment would be that should the Water Commission feel compelled to change the priority list as configured in their testimony they would be required to report to and get budget section, unless there is a significant event that requires more immediate action.

**Rep Monson:** I think that it is difficult to say what is a significant event. That is probably pretty loose with words, we are better off stating a dollar amount.

**Rep Boe:** What if we just had them report to the budget section where they took the money out of and then we have final say of where it came out of? We can reconfigure the list after the fact.

**Rep Monson:** If they did move it and they report to budget section and we, as the budget section, decided that wasn't what we thought they should have been doing we would have the authority to move it back to where we wanted it.

Chairman Skarphol: I'm not sure that budget section would have that authority necessarily, unless we grant it to ourselves.

Rep Martinson: I think we should put a dollar amount on it.

Chairman Skarphol: The emergency exceeds the dollar figure?

**Rep Martinson:** What is the concern here?

Chairman Skarphol: Talked about the 2011 Flood. (59:15)

Chairman Skarphol: Is the committee comfortable with the current priority list?

**Rep Dosch:** I don't see a problem with them reporting to the budget section any changes and then question them at that time.

**Rep Dosch:** Makes a motion that if there is significant change in allocations, report to budget section for the change priority projects list.

Rep Streyle: Seconds.

Voice Vote carries.

**Rep Dosch:** How do we say that there is a project that can't be funded. I would like to see separate votes on these issues.

**Chairman Skarphol:** The Water Commission would need to come back and address each one of these issues.

**Chairman Skarphol**: The committee had some questions about the 30 million or 15 million for Fargo water supply. Could you give a summary of what that will be used for?

**Michele Klose-State Water Commission**: the 15 million is a continuation of the water treatment plant improvements in Fargo and so there had a been a pilot plant study completed and this is to partially address the higher sulfates that are coming in through the

Sheyenne River from the Devils Lake project so we were looking at improvements to the Fargo treatment plant was that 15 million.

Chairman Skarphol: Has there been an initial investment made?

**Michele**: This investment is the initial investment of the 15 million pilot plant study was a smaller project funding.

**Rep. Dosch**: There have been other requests from other municipalities wanting help with payment. Could you comment on that?

Michele: This is unique project. (1.06.20)

**Rep. Dosch**: Will that be the total states participation in that or are we looking at additional moneys?

**Michele**: This is actually the second 15 million that we are putting into the treatment plant this biennium and we also provided 15 million to into the treatment plant. So, this is the final phase of that. I believe this is a portion of the project related to the sulfate treatment plant.

**Chairman Skarphol**: It would seem that they were caused by actions taken to alleviate a problem in another area of the state that's impacted Fargo and therefor there was a responsibility felt to mitigate that affect?

Michele: Yes.

Rep. Dosch: That does answer my question.

**Rep. Williams**: You mentioned that this is the second payment. How much is the total project cost?

**Michele**: This is around half the project. The total project is around 60 million that they're completing.

Chairman Skarphol: Who is paying the other Half?

**Michele**: The City of Fargo is paying the other half.

**Chairman Skarphol**: So, it's a 50/50 arrangement

Michele: Yes.

Chairman Skarphol: Would you give us a summary of the water supply program?

**Michele**: Gives a summary of the water development program. (I:10:45)

**Chairman Skarphol**: So the 71 million with the exception of the Western Area Water supply...could you tell us which ones are comprised of 71? Are these mostly rural or small town projects?

**Michele**: There are some larger ones that have been mentioned earlier. You do get requests for specific funding.

**Chairman Skarphol**: You have \$293, 937,941 of that amount you plan to fund \$71million dollars worth and which ones of those you get funded are dependent on where they are to be completed?

Michele: Yes

**Chairman Skarphol**: So, your utilization of the 71 million is fully flexible within the confines of this list.

**Michele**: Yes. There may be other projects that come up through the year.

Chairman Skarphol: But you don't give us status as to whether they are shovel ready on this list?

Michele: Not specifically on this list.

Rep. Dosch: I'm trying to determine what the 50/50 match or involvement in the state?

**Michele**: Some of those we actually do look at water rates or the ability to pay side to determine the local cost share and what is going to be the matched by the State Water Commission.

**Chairman Skarphol**: Do you have a cost per user?

**Michele**: I don't have that number with me. We do look at that water rate. You need to separate the costs. (1:18:14)

**Rep. Streyle**: Explained an amendment that was adopted earlier and asked how long it would take to adopt and implement the policies for the projects?

**Michele**: Explained the general cost share policies. (1:20:53)

**Rep. Dosch**: So, you don't think it will take much time to adhere to the amendment?

Michele: Yes.

Chairman Skarphol: Do you have written policies that you can give to the committee?

Michele: Yes.

Chairman Skarphol: How active is the Water Overview Committee in discussing your policies?

**Michele**: This last summer they several meetings in different locations.

**Vice Chair Monson**: Would it be fair to say they that in some cases your policies differ on individual basis?

**Michele**: Explained different the factors in different regions of the state. (1:26:33)

**Vice Chair Monson**: I think what I'm hearing you say is that these things are unique and that it is difficult to put in one policy.

**Chairman Skarphol**: It's difficult to put into words some of the that you are trying to describe to people.

Rep. Dosch: That is what I'm trying to get at. What is our policy?

**Michele**: In the Fargo and Grand Forks are both dealing with the sulfate issues and that where we got to the 50/50 cost share. Typically we haven't worked on treatment plants unless they were related to impacts from a different project.

Dave Laschkewitsch-SWC: You are looking at the requests from locals, not the commission' actions or approvals.

**Chairman Skarphol**: When did the Bismarck project take place?

**Rep. Dosch:** Just this past year or eighteen months.

**Chairman Skarphol**: It was a result of the same river event that Mandan has suggested is the cause of theirs or not?

Rep. Dosch: Yes. Bismarck's started before.

**Chairman Skarphol**: How do resolve that perceived inequity?

Rep. Dosch: Moving forward we need to have some policies and procedures in place.

**Michele**: We do advise our commissioners that if we have not done treatment plants in the past we let them know that this is not typically what we would do.

**Rep. Boe**: Is that out of the 71 or on top of it?

**Michele**: It's just advancing those projects. So, it's not going to add to the 71 million.

**Chairman Skarphol**: That number was 23 million, correct?

**Michele**: The 20 million in southwest and then around 11 and a half was for the other three would be reduced by those amounts.

**Laschkewitsch**: It is my expectation that very little of the actual dollars are likely to be spent in this next biennium. The majority of what you approved will carry over into the next biennium.

Chairman Skarphol: The 40 million is not included in 515 million?

Laschkewitsch: Yes.

Vice Chair Monson: Asked if this is the only budget that contains weather modification in it

Michele: It is part of our agency.

**Chairman Skarphol**: Would you talk about the application for Western Area Water?

**Michele**: Explained the backround for the application. (1:38:30)

**Chairman Skarphol**: You said there was some emphasis on the rural areas. Tell us what the other emphasis is if any.

**Michele**: A portion of that funding is trying to way you do water treatment plants improvements from 14 million gallons per day to 21 million gallons per day.

Chairman Skarphol: But that's in the 40 million that was going to be bank loaned authorized by 1140, correct?

**Michele:** That actually hasn't been clear. We haven't seen anything in the Bank of North Dakota loan.

**Chairman Skarphol**: My perspective is that they needed that money for the Williston plant and they needed that money as early as possible in order to purchase that equipment so that it could be installed and online in 2014. Can you give an opinion how you view the utilization of those dollars? Are they strictly rural development or are there opportunities for industrial use?

**Michele:** There are three proposals on each House and Senate side we don't know how that funding is going to be tied carried forward.

Chairman Skarphol: What was the Water Commission's view?

**Michele:** Read the SWC report.

**Chairman Skarphol**: So, there was not an anticipation of the industrial use utilization, but rather to fulfill the anticipated needs of the municipal and rural development, right?

Michele: Yes.

**Rep. Dosch**: Has an analysis been made for the repayment of the entire project? They has started selling and supplying water. How long have we been doing it thus far and do you have any current numbers?

Michele: Explained business plan. (1:44:00)

Rep. Streyle: Do we know if this cash flows?

Michele: The 110 was loaned out by the Bank of North Dakota. (1:49:12)

**Rep. Streyle:** If access to the lake is granted and plus other privates get involved That naturally going to drop the price of water which is going to make this harder to cash flow. If it's strictly for rural water I'm thinking most of that is going to be grant, because the price of water through supply and demand it's going to make this hard to cash flow.

Chairman Skarphol: Who's at risk with regard to the cash flow? Is it not the domestic water users in that region that could be subjected to higher water rates if the financial viability of this gets called into question? Is that a correct assessment?

**Michele:** Yes. You do have water rates in the business plan right now. The rural residents and the communities are paying the operation and maintenance costs of the system. The water rates are not paying capital repayment costs. All the oil revenues that are projected to come in is fully planned to pay back the loan. Those water rates are fairly low when you look at other water systems across the state because a lot of them have the capital repayment having to be payed by those domestic users. (1:53:35)

**Rep. Streyle:** They could try to use those protections to try to stop or slow that down. Which I don't think is right.

**Chairman Skarphol**: In response to that point. There has to be an assumption that WAWS Board is which shows some responsibility with insuring the water rate is as cheap as possible to offset the accumulation of that money. Is it not true that the turbulence in the lake caused by half of the inflows would not create some pretty significant needs on the part of using reservoir water, because of the need to filter that water for fracking?

**Michele:** (1:55:30) There are water needs that WAWS would not be able to meet the industrial needs. (1:57:11)

Rep. Streyle: Where is the excess cash going to go?

**Michele**: We will know more in six months and a year. The board has the ability to set the water rates. What they are trying to do is keep the rates the same reduced rates that they are today for those domestic users. (1:58:44)

**Chairman Skarphol**: Do you not reevaluate the financial feasibility of that project at that before you move forward with that commitment of dollars?

Michele: We would.

**Chairman Skarphol**: Just because it's listed doesn't mean they are going to get it without going through some procedures in order to have it granted?

Michele: Absolutely.

**Chairman Skarphol**: Am I not correct in stating that this project has already provided \$9 million in revenue that has been utilized to help defray some of the cost associated with building a project as well?

**Michele**: They did have the revenues already available.

**Chairman Skarphol**: It would seem to indicate that this project has the ability to generate a cash flow of some significance.

**Michele**: That is the expectation.

Chairman Skarphol: I anticipate that the oil industry is working very hard to find new technologies to frack without water.

**Rep. Streyle**: What's the total amount of federal debt that is being held by the water authorities for Williams and McKenzie counties?

**Chairman Skarphol**: Those projects were financed previously and are on a repayment schedule that was generated not based on industrial water sales, but on previous financial plans that are not relevant to this project and its financial viability.

Rep. Streyle: Aren't they tied together?

**Michele**: Explains how those existing debts are arranged and being paid.

**Rep. Streyle**: So, basically they are one and the same then?

Chairman Skarphol: WAWS is an authority comprised of different members.

**Michele**: Yes. Explained the how the WAWS system functions. (2:06:10)

**Rep. Dosch**: The Southwest Pipeline was built over decades and WAWS was built in two years. What if we did not fund the other \$79 million of this project and gave this a couple years to play itself out?

**Michele**: If you did not provide additional funding you would lose the benefit of the rural expansion. It will determine what can proceed.

**Rep. Dosch**: Where does it end? Do we have a moratorium if we fund this other 79 million? What controls do we have in place? Do we have any in place? Or how do we know that they won't build another twelve pumping stations with this money?

**Michele**: I think when the Water Commission put together a budget we were looking at having some of that treatment plant taken care of as well as those domestic needs with the 79 million and that's what we had presented. You have options of the level and timing of funding and how you want the project to move forward.

**Vice Chair Monson**: If we didn't put in the 71 million we would be shutting off the rural expansion?

**Michele**: There is some level of that too. If you are not building out the rural then you are not expanding the domestic water sale.

**Chairman Skarphol**: Is it inappropriate to use that money to build rural development in this region of the state?

Michele: Yes.

**Vice Chair Monson**: Are we adding money to this or are we shifting it from other projects and jeopardizing those by putting this into a form of a grant?

**Chairman Skarphol**: If this passes as is, does the State Water Commission have the ability to make that entire 79 million a grant if they think that it is the appropriate way to act?

Michele: Yes.

Motion made do pass as amended by Monson and seconded by Boe.

**Chairman Skarphol**: So, the Water commission's analysis may be that 39 million is appropriate for a grant and 40 million as a loan and we leave that discretion with you to make that recommendation to the Water Commission ultimately moving forward.

**Vice Chair Monson**: What would prompt you to do that if there were other projects you had planned on granting that were not ready?

**Laschkewitsch**: We have 79 million allocated in our budget regardless of whether it goes out as loan or grant. If you change that allocation that won't change anything for any other projects planned.

**Chairman Skarphol**: If the water project falls into default, then the State owns it?

Laschkewitsch: That is correct.

Rep. Grande: Did we adopt 1001?

**Chairman Skarphol**: We adopted 1005 which includes all of 1001 and any additional language relative to the inability of political subdivision to expend funds for ring dikes or water retention structures.

**Rep. Streyle**: I don't see what the issue would be. I would support granting it with some strings saying that it shall be used exclusively for municipal and water supply needs only.

**Chairman Skarphol**: Legislative intent is very important. The Supreme Court does make ruling that on discussions heard on the House floor. If you say that's all grant money and that puts it on the same ratio as NAWS this project was designed with the intent to create a new model for water projects, not to perpetuate the old model, but the new model. So that anytime we do come short of money for a water project that there has been a new one created which does require the repayment of water dollars appropriated and utilized, so that in essence create a revolving fund for water projects.

Rep. Streyle: This would still only bring the state direct support 35%.

**Martinson**: We should be granting them just enough so that they can cash flow with what they have.

The roll was taken and the motion carried. 7-1-0

Chairman Skarphol closed the hearing.

### 2013 HOUSE STANDING COMMITTEE MINUTES

# House Appropriations Committee

Roughrider Room, State Capitol

HB 1020 2/22/13 Job #19399

☐ Conference Committee

Committee Clerk Signature Z Mae Kuch

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the state water commission; relating to the community water facility loan fund; and to declare an emergency.

#### Minutes:

You may make reference to "attached testimony."

**Rep. Skarphol:** Introduced amendment .01006. The committee felt that since there was \$515 million in this budget for water projects that any additional revenue that would flow into the water resources trust fund should at least have some degree of oversight. In the amendment where it says page 2, line 21 that is where in the bill we put the provision that says any additional revenue going into the water resources trust fund over what is appropriated in this bill must have budget section approval to be expended. Based on that there should be after this amendment \$98 million left in that fund at the end of 2015 fiscal year. Currently at the end of this biennium there is \$265 million. It would be a \$167 million less if projections of revenue are correct.

Section 6 references Section 7. The reason it does that is Section 7 is part of session law. We have to reference Section law from 2009. We wanted some additional qualifications on the money that we appropriated, that \$45 million to the Fargo flood control projects. (Read from bottom of page 1 of amendment and top of page 2.)

(04:25)

Chairman Delzer: When it says it can be used for the purchase of right-of-ways, it can't be used for the purchase of the house. In the last session they used this money to buy the land and some of their money to buy the house. Is that still available to them?

**Rep. Skarphol:** We addressed that, the overstruck language right at the top of page 2, it says "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost sharing with the state." That is the provision that gave them the authority to buy the dwellings and use them as a match. By overstriking it we take away their ability to do that.

On the next section the same language is overstruck. Again it takes away their ability to do that. That is in Section 7 of Section 7 amendment on top of page 2. The same language is

in that section as in the previous section but this applies to the money we appropriated in 2011 which was \$30 million for a total of \$75 million that has been appropriated in 2009 and 2011 for the Fargo flood control project. Of that total \$35.6 million has been spent. There is approximately \$40 million remaining from the money appropriated in those two sessions. By the actions of our amendments we are saying no ring dikes, no water retention structures. We do give them full authority within this legislation to spend the money to raise the dikes to 42.5 feet.

Section 8 on page 2 appropriates \$100 million for the Fargo flood control projects. It has the same provisions as in the previous sections.

Section 9 is legislative intent. "It is the intent of the 63<sup>rd</sup> legislative assembly that the total Fargo flood control project funding to be provided by the state not exceed \$325 million to provide flood protection for the city of Fargo to the 42.5 foot level to the extent possible, flood protection for areas along the Red River north and south of Fargo. It is further the intent of the legislative assembly that funds appropriated by the legislative assembly for Fargo flood control not be used for a river diversion flood control project."

That was the discussion we had because we did not believe there was enough resolution to the issues surrounding the Fargo diversion. We did not want to commit to building structures that could be unnecessary as a result of a change in the plan prior to the Corp having enough money available to do anything. We were advised that the Corp has been appropriated \$5-8 million per year. That won't do much to build that big ditch. We wanted a plan that everyone had endorsed. There is still a lot of angst in many communities over the project.

(08:46)

Chairman Delzer: There are a number of us that felt all we ever committed to Fargo flood control in total would be \$300 million. Now this shows \$325. Is that for total Fargo flood control or is that just for diking? Does this leave the language open that we should be paying more for the diversion if it is ever accepted? I understand that the legislature can't lock future legislatures. But we can put the language in there what this legislature feels.

(9:28)

**Rep. Skarphol:** The \$325 million was an amount selected by our majority leader. Our committee didn't have any discussion about changing it. We felt if he was comfortable with that number, we were comfortable with that number. The next session can change it.

**Chairman Delzer:** Is that what we mean to be covering for everything in Fargo? Or is it just meant for the dikes? You're saying this legislature is saying no dike at all.

**Rep. Skarphol:** Section 9 says "not to exceed \$325 million to provide flood protection for the city of Fargo to the 42.5 foot level, and to provide, to the extent possible, flood protection for areas along the Red River North and south of Fargo." Pretty all inclusive in my mind.

**Chairman Delzer:** As far as that goes, yes, but I'm not sure it's quite solid enough. So we mean \$325 million for flood control in Fargo.

**Rep. Skarphol:** That is the maximum number we are going to go to.

Section 10: Legislative intent of the funds appropriated in the water and atmospheric resources line. \$11 million is for the Red River valley water supply project for the biennium 2013-15.

(11:36)

Section 12: The state water commission shall study the use of ring dikes as part of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in the Fargo area on flood protection for areas north and south of Fargo. The state water commission shall provide periodic reports to the legislative management on the findings. The information we have been getting has been from the City of Fargo and the Corp. We felt it was important that the state water commission have a larger involvement in that and be the source of information to us.

Section 13: The state water commission shall study water supply needs in the Red River valley, including projected costs of projects to meet water supply needs and the potential state commitment to supply water to the Red River valley. The commission shall provide reports.

Section 14: Our committee became very concerned about where the hardware in some of our agencies is located and whether or not it was secure. This section says that the state water commission shall transfer all appropriate information technology hardware to the state information technology department secured data center during this biennium. That data center is located by the cafeteria. It has security that is not available in the state water commission building. We did the same thing with the language for the PSC, Attorney General. We think it is appropriate that hardware be located in a more secure area.

Section 15: The state water commission shall report to the budget section any changes made to the state water commission priority projects list presented to the 63<sup>rd</sup> legislative assembly within 90 days of the state water commission approving the change for this biennium. They have always had the authority to do change but they didn't have to report to anyone until the next budget cycle.

Section 17: The committee shall review the process of prioritization of water projects and prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities. We feel we have had very little participation in the establishment of the priority list. We need to be more involved in how water dollars are going to be spent in this state. I remember when we were lucky to have \$10 million for water projects and we bonded most everything we had. Today we have \$550 million in here to spend.

(15:18)

Chairman Delzer: Was there any discussion about increasing the size of that committee?

**Rep. Skarphol:** We did not, but that's a possibility if we so desire. It has 13 members from both the House and Senate. It also says the schedule of priorities shall be included in the final report to legislative management.

Resumed amendment explanation.

Section 18: After some discussion, our committee thought it was important that we have a little more information available about the policies and planning the state water commission envisions. The new language in Section 18 sets out some parameters that we would like to begin with and put in place. Technology is also addressed here. The permitting process was a little disturbing in our performance audit of the water commission in that they have been "babysitting" the permit holders. There are over 4,000 permit holders across the state. On an annual basis an individual goes in and prints 4,000 permit renewals and spends time on weekends, etc. getting them addressed and sent out. Permit holders should send in their reports on an annual basis without having the water commission spoon feed them.

(18:28)

**Rep. Kempenich:** I am a permit holder. Your vision is that they will send out a postcard now?

**Rep. Skarphol:** Our vision is you will get one more permit form to fill out, and after that you should be mature enough to know that the first of the year you need to send it in.

Chairman Delzer: I would think you could put some forms online.

**Rep. Brandenburg:** I'm a permit holder, too, and fill out my dad's. You need a notice or something. What is the procedure?

**Rep. Skarphol:** I was a defensive of the folks that have irrigation permits, but my committee was not. When we talked about electronic metering, they weren't willing to exclude irrigators. So it may not be necessary for you to file a permit form because they may know how much water you use on a daily basis.

**Rep. Brandenburg:** So do we have to have an electronic meter, too? Those are about \$2500/well.

**Chairman Delzer:** This doesn't say do it, it says put together ideas on how to do it.

**Rep. Kempenich:** You're looking at intent here. I think the State of ND might have enough money to send out 4000 postcards.

Rep. Skarphol: Resumed discussion of amendment. We'll go briefly to the money. (22:00) The most significant thing we did to this budget is that years ago we talked about whether to fund the administrative costs out of the general fund or out of the water resources trust fund. In this budget the administrative costs were funded out of the general fund. The committee felt that since we were getting the kind of resources for water, based on revenue from oil tax, that it would seem logical that we could save those general fund dollars and fund the cost of administrating this agency out of the water resources trust fund.

On the bottom of page 4, the House changes remove \$17,779,644 from the General fund. It transfers it to the water resources trust fund in the statement of purpose of the amendments. At the top of page 5 you can see specific things that were done to the budget.

(23:50) We did not see any items on the green sheet that needed to be addressed.

**Chairman Delzer:** There was bonding that we used to do with the tobacco money. In one of the discussions they were planning to pay that off. Is that in here and how much is it?

Rep. Skarphol: \$75 million

Chairman Delzer: It's on the green sheet #5.

Chairman Delzer: What are the capital payments for the \$90,000?

**Rep. Skarphol:** Some of the bonds can be paid off; some of them have to be defeased because of the configuration of the bonds. There are around \$11 million that have to be defeased.

Chairman Delzer: What do you mean by defeased?

**Rep. Skarphol:** (25:16) Bond agreements can be configured in different ways. Some agreements will allow you to pay them off in advance. Others will not. They want that set rate of interest for the period of time in the agreement. By "defeased" they want to take the money, set it aside in a special account that will pay off those bonds over a period of time so they are off the books. The money is guaranteed to go to those bond holders over the lifetime of that bond. It is the exact amount of money needed to cover those bonds.

**Chairman Delzer:** Is that a third party that controls that money?

**Rep. Skarphol:** It is not in the Water Commission. It is a special account.

**Chairman Delzer:** That should do all the bonding that we have that is the state's responsibility.

**Rep. Skarphol**: That's correct. We will no longer have bonded water projects from the State Water Commission.

**Rep. Bellew:** This is an enormous budget. I've never seen a list of the projects that they are going to do.

**Rep. Skarphol:** Devil's Lake flood control \$10 million, Fargo flood control \$100 million, Mouse River flood control \$61 million, Sheyenne River flood control \$12 million, general water management \$33 million, irrigation \$5 million, Northwest Area water supply \$14 million, Red River water supply \$11 million, Southwest Water \$59 million, Water Supply program \$71 million, Western Area water supply \$79 million, Weather Modification \$1 million.

Rep. Monson: It is on page 22 in the blue book.

**Rep. Wieland:** The amendments concerning Fargo, it makes reference to the fact that the city of Fargo, Cass County, and Cass County joint water resource district must approve any expenditures. Is that new language?

Rep. Skarphol: Yes it would be.

Rep. Wieland: Who did the approving prior to this?

**Rep. Skarphol:** The reason the language is in there, it was rather ambiguous.

Chairman Delzer: Did the water commission have the final say or did the city of Fargo?

**Rep. Skarphol:** The City of Fargo would have the final say. I don't think there was a lot of feedback to the water commission.

**Sheila Sandness, Legislative Council:** The reason that is underlined is because that language was added in 2011. When you are looking at the amendments, because it is an amendment of the language previously amended you're seeing the amendments made in 2011 along with the 2013 amendment. When it was originally passed in 2009, that language wasn't in there. In 2011 some of that language was added.

**Rep. Skarphol:** When we asked for information about what had been purchased with the dollars we appropriated, it wasn't easy to that information. In fact we don't have all the information as to what the city of Fargo authorized to be purchased. The Water Commission didn't get the information. Maybe we should ask for more of a reporting of how the money is utilized.

Rep. Skarphol: Moved amendment .01006, seconded by Rep. Monson.

**Rep. Glassheim:** In the amendment on page 3 where it says "No public funds may be used for construction of ring dikes or water retention structures", does that mean no state funds? Are we prohibiting use of any public funds in there?

**Rep. Skarphol:** It is the intent of our division of appropriations that ring dikes shall not be built until there is a plan that adequately meets the desires of a larger population than it does today.

Voice vote on amendment carries.

Rep. Streyle: I have a proposed amendment, .01007.

**Rep. Skarphol:** North Dakota's oil extraction tax has pumped a lot of money into water. We talk about changing that tax. A percentage of the money from the oil extraction tax goes to the resources trust fund, the common schools trust fund, to the legacy fund, and to the general fund. Any reduction in that tax will result in less funds going into those funds including water.

Chairman Delzer: I'd like to add that this is a big budget, and it is doing a lot for the state for water, but it's a pretty loose budget. I would hope at some point we can get a better handle on this.

**Rep. Skarphol:** There is that need for flexibility, and I don't know what the balance is between that need and our need for more certainty.

(36:44)

**Rep. Kempenich:** These are multi-year projects. One of the issues is, where are we as far as the project goes. Fargo's scope keeps changing. That's one of the frustrations.

**Rep. Streyle:** Amendment .01007 tries to provide a little oversight and slow it down a little. There has been no independent audit to see what the actual demands and needs are of the rural systems. Further it says no more industrial expansion.

Rep. Streyle: Moved the amendment, seconded by Rep. Dosch.

**Chairman Delzer:** I have asked for an explanation of the set up for the WAWS project last time with repayment, the loan process, and what we've done so far.

(40:22)

**Rep. George Keiser, District 47:** When we set up the WAWS project last session, we created a new business model. We provided an RTF loan for \$25 million with 0% fixed interest. It was the first money in. The second money in was a BND loan for \$50 million with a variable rate. The third money in was a General fund loan of \$25 million at 5% fixed. The fourth money was the RTF loan for \$10 million at 5% fixed. The fifth money in is HB 1140.

The first money out was the BND loan of \$50 million. The second money out was the \$40 million included in HB 1140. The third money out was the General fund loan. The fourth money out was the RTF loan. The fifth money out was the other RTF loan.

Continued explanation of loans.

**Chairman Delzer:** How was it set up to be repaid? With water depots, correct?

**Rep. Keiser:** That is the new business model. Traditionally when the State Water Commission has done a project, there is a long term development over 15-20 years. We as a legislature decided we wanted water in the basin within a very short time period. We set a goal of two years. The entire principal of this project was that the residential could never carry the financing during this repayment schedule. It did require commercial revenues to support the financing for the WAWS project. This is an entirely different business model.

Chairman Delzer: Wasn't there also an outcry for water for the industrial side?

**Rep. Keiser:** There were two issues. One, the impact on the aquifer. The second issue, the immediate demands in the basin that could not be met without the development of this project.

Chairman Delzer: That was the set up for HB 1140 this time.

**Rep. Keiser:** HB 1140 this time completed the commitment that was made in principal last session. Last session they requested \$150 million for the package. After reviewing it, we said we'll give you \$110 million to get it going. We cannot commit the funds for future legislatures but we are in principal committing to the additional \$40 million to finish phase I which is the water treatment plant in Williston and to finalize the plans presented last session.

Chairman Delzer: That is what 1140 does?

Rep. Keiser: Yes.

**Chairman Delzer:** Any of the new money in 1020 would deal with an expansion over and above what was talked about last time?

Rep. Keiser: That is correct.

**Rep. Skarphol:** In your discussion on HB 1140, was there any concern about the project as it has been done, expressed by anyone on the committee? Or did they feel the project was advancing successfully and the \$40 million was appropriate?

Rep. Keiser: This project has surpassed every expectation.

**Chairman Delzer:** One of the reasons we asked for this is because this has been worked on by the policy committee quite a bit. I see this amendment as dealing with policy that to my understanding is being dealt with in a number of bills on the Senate side already. I am concerned about adding this on because it is a policy issue and it sets a priority before we had a chance on our side to discuss those bills. I don't think I will support this motion to further amend.

(49:50)

**Rep. Kempenich:** I have some concerns about some things that were brought up. The industrial side of WAWS was a means to an end for municipal water. I don't think this amendment would be the way we want to go.

Rep. Skarphol: I would hope the committee would resist this amendment. It seems to imply there is something not done properly. Every project ever done for water has some blemish or imperfection. This one had issues with leakage--but nothing in excess of the ordinary. It has been extremely successful. The process at the Water Commission is unique. When a project is brought out from the top down, they bid it and a number of engineering firms do a Request for Qualification. They don't bid the project. They bid their services by talking about what kind of expertise they have. There is a ranking the Water Commission goes through to evaluate the qualifications of the entities that apply. It is not

necessarily based on the cheapest price. They decide on the expertise of the firm. In this case this project was unique in that it was from the bottom up as opposed to the top down. That means that the communities got together and decided they needed a project to take care of water needs in northwest North Dakota. They spent their own dollars to do the work and bring a proposal to the Water Commission and ask for funding. They had several million dollars invested in the work. When the Request for Qualification went out on this project, nobody bid with the exception of the firm that had several million dollars invested. During the conference committee the Water Commission was asked if they wanted to take over the project. They refused because it couldn't get done quickly enough. With that I hope the committee would resist the amendment.

**Rep. Nelson:** That having been said, in Section 8 of your amendments, you do add a provision that no more than 10% of the funds can be used for engineering and legal planning for the Fargo flood control project. How does the Western Area Water Supply project fit with the engineering firm? Do they fit within those parameters?

**Rep. Skarphol:** I can't answer that. That's a different scenario, because the limitation that was wanted there was to insure that the money wasn't used other than for those specific purposes.

(54:57)

**Rep. Nelson**: Not that that is a huge issue in this particular bill, but we did have that come up in the Water-related Topics Committee last interim. As we look for more accountability from the water projects in the state, the accounting of those expenditures should be part of it.

**Rep. Skarphol:** The Water Commission accepted the Request for Qualification of the engineering firm that is doing this project. They made the decision that it was appropriate to charge whatever was submitted in that RFQ.

**Rep. Nelson:** I just want to know if there is an accounting mechanism when they report back on this first phase of WAWS.

**Chairman Delzer:** I don't know that there's anything in place right now, but the Senate bill probably addresses that.

**Rep. Skarphol:** The State Water Commission Deputy Director has told Western Area Water is the most scrutinized project they have. They have had more reports submitted on this than on any other recent project. If anyone wants that information, it is available.

**Rep. Streyle:** The point of this amendment is very simple. All it is saying is "Do what you said you are going to do." It provides a little oversight, provides audit and verification. These are loans upon loans upon loans with no payments until 2015.

**Rep. Skarphol:** Reads from amendment. In my mind that is to slow up the project. The Water Commission will continue to monitor what activities are being suggested to move forward.

(58:59)

**Rep. Kempenich:** I think this amendment brings up some questions, but I don't think this is where we want to deal with it. There are other bills on the Senate side. Called the question

Voice vote fails on amendment .01007.

**Chairman Delzer:** I would like to take a look at the makeup of the water management committee. I think we should add a few people. I think four more legislators should be on there.

**Rep. Skarphol** moved to further amend and include the language that would add four more members to the Water-related Topics Overview Committee.

Seconded by Rep. Brandenburg.

**Rep. Kempenich:** I am assuming that is for all water use, private and public, commercial and municipal.

**Chairman Delzer:** I think when it was first put together it dealt with the Devils Lake Basin and the Red River. It is taking on a different role now.

Rep. Kempenich: The water is free. It is the infrastructure that costs the money.

Voice vote carries on amendment.

**Rep. Skarphol**: There are 3 FTEs added to this budget. One of them is a water resource engineer to address the increased water permit applications. One is to address a backlog of conditional water permit inspections. One is an engineering technician to help operate the Devils Lake outlets.

(1:03:39)

**Rep. Hawken:** Are the additional people going to be from both chambers and bipartisan?

**Rep. Delzer:** That is up to management.

Rep. Skarphol: Moved HB 1020 as amended as Do Pass.

**Rep. Monson:** Seconded the motion.

A Roll Call vote was taken: Yes 19, No 2, Absent 1.

Do Pass as amended carries.

Representative Skarphol will carry the bill.

Prepared by the Legislative Council staff for House Appropriations - Education and Environment Division
February 20, 2013

Fiscal No. 1

712 125/13

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

- Page 1, line 2, after the third semicolon insert "to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to the development of policies and procedures of the state water commission;"
- Page 1, line 2, replace "section" with "sections"
- Page 1, line 3, after "6-09.5-03" insert "and 54-35-02.37"
- Page 1, line 3, after "Code" insert "and sections 6 and 7 of chapter 46 of the 2011 Session Laws"
- Page 1, line 3, after "fund" insert ", the water-related topics overview committee, and Fargo flood control project funding; to provide for legislative management reports"
- Page 1, line 7, remove "out of any moneys in the general fund in the state"
- Page 1, line 8, remove "treasury, not otherwise appropriated, and"
- Page 1, replace lines 14 through 18 with:

"Administrative and support services	\$3,229,873	\$679,627	\$3,909,500
Water and atmospheric resources	498,413,774	323,925,584	822,339,358
Accrued leave payments	<u>0</u>	325,774	325,774
Total all funds	\$501,643,647	\$324,930,985	\$826,574,632
Less estimated income	486,648,448	339,926,184	826,574,632
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, replace lines 8 and 9 with:

"Total special funds	7,771,773	288,200
Total general fund	\$0	\$0"

- Page 2, line 15, replace "general" with "resources trust"
- Page 2, line 21, after "appropriated" insert ", subject to budget section approval,"
- Page 2, after line 30, insert:

"SECTION 6. AMENDMENT. Section 6 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

#### SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING -

**EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. TheseExcept as otherwise provided, these funds may be used only for land purchases and construction; including right-of-way acquisition costs and

may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may not be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost sharing with the state.

**SECTION 7. AMENDMENT.** Section 7 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

#### SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING -

**EXEMPTION**. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium beginning July-1, 2011, and ending June-30, 2013. Any funds not spent by June 30, 2013, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost sharing with the state.

### SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.

Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section.

SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that total Fargo flood control project funding to be provided by the state not exceed \$325,000,000 to provide flood protection for the city of Fargo to the forty-two and one-half foot level, and to provide, to the extent possible, flood protection for areas along the Red River north and south of Fargo. It is further the intent of the legislative assembly that funds appropriated by the legislative assembly for Fargo flood control not be used for a river diversion flood control project.

SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 6, insert:

"SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD CONTROL. During the 2013-14 interim, the state water commission shall study the use of ring dikes as part of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in the Fargo area on flood protection for areas north and south of Fargo. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

SECTION 13. STATE WATER COMMISSION STUDY - RED RIVER VALLEY WATER SUPPLY. During the 2013-14 interim, the state water commission shall study water supply needs in the Red River valley, including projected costs of projects to meet water supply needs and the potential state commitment to supply water to the Red River valley. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

SECTION 14. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER. The state water commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 15. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO THE BUDGET SECTION. The state water commission shall report to the budget section any changes made to the state water commission priority projects list presented to the sixty-third legislative assembly within ninety days of the state water commission approving the change for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 14, insert:

"SECTION 17. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. (Effective through November 30, <del>2013</del>2014) Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. During-the

2011-12 interim, the The committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects and prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities. The committee consists of thirteenseventeen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees and include the schedule of priorities with its final report to the legislative management.

(Effective after November 30, 20132014) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.

**SECTION 18.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

## State water commission - Project development and financing.

The state water commission shall adopt policies regarding the development and financing of projects as follows:

- Municipal project funding and financing, including water treatment plants.
   The state water commission shall develop and adopt policies relating to the circumstances under which a project qualifies for a grant and when the project qualifies for a loan.
- Pipelines. The state water commission shall develop and adopt policies relating to:
  - Pipeline expansion;
  - b. Public and industrial use of water;
  - c. Cost analyses of future project development, and
  - d. Ongoing maintenance cost of current and future projects.
- Technology. The state water commission shall develop and adopt policies relating to the use of technology, including the use of technology for permitting and electronic metering."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - House Action

Executive Budget	House Changes	House Version
\$4,042,784	(\$133,284)	\$3,909,500
823,096,248	(756,890)	822,339,358
	325,774	325,774
\$827,139,032 809,359,388	(\$564,400) 17,215,244	\$826,574,632 826,574,632
	\$4,042,784 823,096,248 	Budget Changes \$4,042,784 (\$133,284) 823,096,248 (756,890) 325,774 \$827,139,032 (\$564,400)

General fund	\$17,779,644	(\$17,779,644)	\$0
FTE	90.00	0.00	90.00

### Department No. 770 - State Water Commission - Detail of House Changes

	Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>3</sup>	Changes Funding Source for the State Water Commission 4	Total House Changes
Administrative and support services	\$2,160	(\$86,252)	(\$49,192)		(\$133,284)
Water and atmospheric resources	. 12,314	(492,622)	(276,582)		(756,890)
Accrued leave payments			325,774		325,774
Total all funds Less estimated income	\$14,474 2,026	(\$578,874) (81,489)	\$0 0	\$0 17,294,707	(\$564,400) 17,215,244
General fund	\$12,448	(\$497,385)	\$0	(\$17,294,707)	(\$17,779,644)
FTE	0.00	0,00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of administrative and support services line funding from the general fund (\$49,192) and a portion of the water and atmospheric resources line from the general fund (\$225,468) and from other funds (\$51,114) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>4</sup>This amendment removes funding from the general fund and provides funding for the operations of the State Water Commission from the resources trust fund.

#### In addition, this amendment:

- Adds sections to the bill to amend 2011 Session Laws and 2009 Session Laws, previously
  amended in 2011, related to Fargo flood control funding. The amendments change legislative
  guidelines for Fargo flood control project expenditures.
- Adds sections to the bill to provide that of the funds appropriated to the State Water Commission
  for grants and projects for the 2013-15 biennium, \$11 million is for the Red River Valley Water
  Supply Project and \$100 million is for Fargo flood control projects and that total Fargo flood
  control project funding to be provided by the state not exceed \$325 million.
- Adds sections to the bill directing the State Water Commission to study the use of ring dikes as
  part of a flood protection plan for the city of Fargo and water supply needs in the Red River
  Valley.
- Requires the State Water Commission to adopt policies regarding project development and financing.
- Increases the membership of the Water-Related Topics Overview Committee and directs the committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management.
- Requires the State Water Commission to move information technology hardware to the Information Technology Department secure data center.
- Requires the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the 2013 Legislative Assembly.

Requires Budget Section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium.

 The section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium.

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# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1020

House _Education and Environme	nt Divisio	n		Com	mittee
☐ Check here for Conference C	ommitte	ee			
Legislative Council Amendment Nur	nber _				
Action Taken: Do Pass	Do Not	Pass	☐ Amended ☐ Add	opt Amer	ıdmen
Rerefer to Ap	propria	tions	Reconsider		
Motion Made By Rep Granc	le	Se	econded By Rep - SAr	ey1e	
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol			Rep. Clark Williams		
Vice Chairman David Monson			Rep. Tracy Boe		
Rep. Bob Martinson					
Rep. Roscoe Streyle					
Rep. Mark Dosch					
Rep. Bette Grande					
Total (Yes)		N	o		
Absent/					
Floor Assignment					
If the vote is on an amendment brief	fly indica	ate inte	nt <sup>.</sup>		

adoption of 1003 Voice vote motion carried.

Date:	13	Fe	61	3
Roll C	all Vot	e#: _	E	2

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

House Education and Environme	nt Divisio	on		Com	mittee
☐ Check here for Conference C	Committe	ee			
Legislative Council Amendment Nur	mber _		001001		
Action Taken: Do Pass	Do Not	Pass	☐ Amended ☒ Add	opt Amen	dment
Rerefer to A	opropria	tions	Reconsider		
Motion Made By RCP DOS	ch	Se	econded By Rep G	rand	<u>e</u> _
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol	V		Rep. Clark Williams	V	
Vice Chairman David Monson			Rep. Tracy Boe	V	
Rep. Bob Martinson	V				
Rep. Roscoe Streyle	V.				
Rep. Mark Dosch Rep. Bette Grande	V				
Trop. Botto Grando	V				
Total (Yes)		N			
Absent					
Floor Assignment					
If the vote is on an amendment, brief	efly indica	ate inte	nt:		
on amend	me	nt (	1001 carries		

Date: Feb	15.	2013
Roll Call Vote #:		

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1020

House _Education and Environme	nt Divisio	on		_ Comr	mittee
☐ Check here for Conference C	Committe	ee			
Legislative Council Amendment Nur	mber _	0	005		
Action Taken: Do Pass	Do No	t Pass	☐ Amended ☐ Adop	pt Amen	dmen
Rerefer to A	opropria	tions	Reconsider		
Motion Made By Rey Wa	illion	MS Se	econded By Rep J	Frei	yle
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol	V.		Rep. Clark Williams	V	
Vice Chairman David Monson	V	Ţ.	Rep. Tracy Boe	1/	
Rep. Bob Martinson	V				
Rep. Roscoe Streyle	V				
Rep. Mark Dosch	V				
Rep. Bette Grande	V				
Total (Yes)		N	o		
Absent	)				
Floor Assignment					
If the vote is on an amendment, brie	efly indica	ate inte	nt:		
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Date: _	2-1	9-1	3	
Roll Ca	Vote #			

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House Education and Environme	ent Division	on		Com	mittee
Check here for Conference	Committe	ee			
Legislative Council Amendment Nu	ımber _		.01004		
Action Taken: Do Pass	Do No	Pass	☐ Amended      Add	opt Amer	ıdmeı
Rerefer to A	ppropria	tions	Reconsider		
Motion Made By	-	Se	econded By <u>Martin</u>	son	
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol	X		Rep. Clark Williams	X	
Vice Chairman David Monson	X		Rep. Tracy Boe	X	
Rep. Bob Martinson	X				
Rep. Roscoe Streyle	X				
Rep. Mark Dosch	X				
Rep. Bette Grande	X				
Total (Yes)		N	o		
Absent					
Floor Assignment					
If the vote is on an amendment, bri	efly indica	ate inte	nt:		

Date:	2-19	-13	
Roll C	all Vote #: _	2	

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1020

House Education and Environme	nt Divisio	on		Com	mittee
Check here for Conference C	Committe	ее			
Legislative Council Amendment Nur	mber _				
Action Taken: Do Pass	Do Not	Pass	☐ Amended ☒ Add	opt Amen	ıdment
Rerefer to A	ppropria	tions	Reconsider		
Motion Made By	le	Se	econded By	h	- 17.
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol			Rep. Clark Williams		
Vice Chairman David Monson			Rep. Tracy Boe		
Rep. Bob Martinson					
Rep. Roscoe Streyle					
Rep. Mark Dosch					
Rep. Bette Grande					
Total (Yes)		N	0		
Absent					
Floor Assignment					
If the vote is on an amendment, brief	efly indica	ate inte	nt: Voice Vot	е	

Motion to move IT

Date:	2-19-	-13	
Roll Ca	all Vote #:	3	

# 

House Education and Environme	ent Division	on		Com	mittee
☐ Check here for Conference	Committe	ee			
Legislative Council Amendment Nu	umber _				
Action Taken: Do Pass	] Do No	t Pass	☐ Amended	opt Amer	dment
Rerefer to A	Appropria	tions	Reconsider		
Motion Made By		Se	econded By <u>5treyl</u>	le	
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol			Rep. Clark Williams		
Vice Chairman David Monson			Rep. Tracy Boe		
Rep. Bob Martinson				-	
Rep. Roscoe Streyle				-	
Rep. Mark Dosch Rep. Bette Grande	-				
Rep. Bette Grande	1				
Total (Yes)		N	0		
Absent					
Floor Assignment					
If the vote is on an amendment, br	iefly indica	ate inte	nt: Voice Vote		
In the event that					
Priority	list.	Cha	anges must rep	ort t	0
budget si	ection				

Date:	279.	-13	
Roll Ca	Vote #:	4	4350

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. \_\_\_/020\_

House Education and Environmen	nt Divisio	on		Com	mittee
☐ Check here for Conference C	ommitte	ee			
Legislative Council Amendment Num	nber _				
Action Taken: Do Pass	Do Not	Pass	Amended Ado	pt Amen	dment
Rerefer to Ap	propria	tions	Reconsider		
Motion Made By Monson		Se	econded By Bou		
Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol	/		Rep. Clark Williams	/	
Vice Chairman David Monson	/		Rep. Tracy Boe		
Rep. Bob Martinson	/				
Rep. Roscoe Streyle	1				
Rep. Mark Dosch		/			
Rep. Bette Grande	/				
Total (Yes)		N	o/		
Absent					
Floor Assignment					

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

Date:	2	22	13	Sta G
Roll Call V	ote #:			

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1020

House Appropriations				Com	mittee
Check here for Conference Co	ommitte	ee			
Legislative Council Amendment Num	ber _		.01004		
Action Taken: Do Pass	Do Not	Pass	☐ Amended ☐ Adopt A	mendme	nt
Rerefer to App	oropriati	ons	Reconsider		
Motion Made By Lep. Skarp	hol	Se	econded By Rep. Mo.	nson	
Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					
Total Yes		N	0		
Absent					
Floor Assignment					
If the vote is on an amendment, brief	ly indica	ate inte	nt:		

voice vote carrier

Date:	21	221	13
Roll Call	Vote	#: _	2

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 1870

House Appropriations				Com	mittee
☐ Check here for Conference Co	ommitte	ee			
Legislative Council Amendment Num	ber _		01007		
Action Taken: Do Pass	Do Not	Pass	Amended X Adopt Ar	nendme	ent
Rerefer to App	propriati	ons	Reconsider		
Motion Made By Lep. Streylo		Se	econded By Rep Dosch		
Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					
Total Yes		N	0		
Absent					
Floor Assignment					
If the vote is on an amendment, brief	ly indica	ate inte	nt:		

voice vote fails

Date:	2	22	13	
Roll Call	Vote #:	3		

# 2013 HOUSE STANDING COMMITTEE ROLL CALL VOTES BILL/RESOLUTION NO. 10 20

Action Taken:	Do Pass Rerefer to App		ons	☐ Amended ☐ Adopt A ☐ Reconsider		ent
Motion Made By	Lep. Skarphol		Se	econded By Rp. Brander	burg	
Represent	tatives	Yes	No	Representatives	Yes	No
Chairman Delzer				Rep. Streyle		
Vice Chairman Ken	npenich			Rep. Thoreson		
Rep. Bellew				Rep. Wieland		
Rep. Brandenburg						
Rep. Dosch						
Rep. Grande				Rep. Boe		
Rep. Hawken				Rep. Glassheim		
Rep. Kreidt				Rep. Guggisberg		
Rep. Martinson				Rep. Holman	-	
Rep. Monson				Rep. Williams		
Rep. Nelson						
Rep. Pollert					_	
Rep. Sanford Rep. Skarphol						
Rep. Skarpiloi						
Total Yes			N	0		
Absent						
1036111						
Floor Assignment						
f the vote is on an a	mendment, brief	fly indica	ate inte	nt:		
				alated		
	0		1	to water, overvie		

Date:	2	22	13	
Roll Call V	ote #	4		

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House Appropriations				Com	mittee
☐ Check here for Conference C	ommitte	ee			
Legislative Council Amendment Nun	nber _				
Action Taken: 🛛 Do Pass 🗌	Do Not	Pass	X Amended Adopt	Amendme	ent
Rerefer to Ap	propriati	ons	Reconsider		
Motion Made By Rep. Skuph	1	Se	econded By Rep. Morron		
Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson		X
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch		X			
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X	9	Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson Rep. Holman					
Rep. Monson	Rep. Monson X Rep. Williams X				
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				1
Total Yes19		N	0 2		
Absent					
Floor Assignment Leg	. Ska	rphol			

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

Module ID: h\_stcomrep\_36\_013 Carrier: Skarphol

Insert LC: 13.8149.01008 Title: 02000

#### REPORT OF STANDING COMMITTEE

- HB 1020: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (19 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1020 was placed on the Sixth order on the calendar.
- Page 1, line 2, after the third semicolon insert "to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to the development of policies and procedures of the state water commission;"
- Page 1, line 2, replace "section" with "sections"
- Page 1, line 3, after "6-09.5-03" insert "and 54-35-02.37"
- Page 1, line 3, after "Code" insert "and sections 6 and 7 of chapter 46 of the 2011 Session Laws"
- Page 1, line 3, after "fund" insert ", the water-related topics overview committee, and Fargo flood control project funding; to provide for legislative management reports"
- Page 1, line 7, remove "out of any moneys in the general fund in the state"
- Page 1, line 8, remove "treasury, not otherwise appropriated, and"

Page 1, replace lines 14 through 18 with:

"Administrative and support services	\$3,229,873	\$679,627	\$3,909,500
Water and atmospheric resources	498,413,774	323,925,584	822,339,358
Accrued leave payments	0	325,774	325,774
Total all funds	\$501,643,647	\$324,930,985	\$826,574,632
Less estimated income	486,648,448	339,926,184	826,574,632
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, replace lines 8 and 9 with:

"Total special funds	7,771,773	288,200
Total general fund	\$0	\$0"

- Page 2, line 15, replace "general" with "resources trust"
- Page 2, line 21, after "appropriated" insert ", subject to budget section approval,"
- Page 2, after line 30, insert:

"SECTION 6. AMENDMENT. Section 6 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. TheseExcept as otherwise provided, these funds may be used only for land purchases and construction; including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may

net be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the sixty-five percent funding requirement contained in Senate Bill-No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost sharing with the state.

**SECTION 7. AMENDMENT.** Section 7 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING -**EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium beginning July-1, 2011, and ending June-30, 2013. Any funds not spent by June 30, 2013, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost sharing with the state.

### **SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING -**

**EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section.

SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that total Fargo flood control project funding to be provided by the state not exceed \$325,000,000 to provide flood protection for the city of Fargo to the forty-two and one-half foot level, and to provide, to the extent possible, flood protection for areas along the Red River north and south of Fargo. It is further the intent of the legislative assembly that funds appropriated by the legislative assembly for Fargo flood control not be used for a river diversion flood control project.

SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY. Of the funds appropriated in the water and atmospheric resources line item

in section 1 of this Act, \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 6, insert:

"SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD CONTROL. During the 2013-14 interim, the state water commission shall study the use of ring dikes as part of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in the Fargo area on flood protection for areas north and south of Fargo. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

SECTION 13. STATE WATER COMMISSION STUDY - RED RIVER VALLEY WATER SUPPLY. During the 2013-14 interim, the state water commission shall study water supply needs in the Red River valley, including projected costs of projects to meet water supply needs and the potential state commitment to supply water to the Red River valley. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

SECTION 14. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER. The state water commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 15. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO THE BUDGET SECTION. The state water commission shall report to the budget section any changes made to the state water commission priority projects list presented to the sixty-third legislative assembly within ninety days of the state water commission approving the change for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 14, insert:

"SECTION 17. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. (Effective through November 30, 20132014) Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. During the 2011-12 interim, the The committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects and prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities. The committee consists of thirteenseventeen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees and include the schedule of priorities with its final report to the legislative management.

(Effective after November 30, 20132014) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.

**SECTION 18.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

### State water commission - Project development and financing.

The state water commission shall adopt policies regarding the development and financing of projects as follows:

- Municipal project funding and financing, including water treatment plants.
   The state water commission shall develop and adopt policies relating to the circumstances under which a project qualifies for a grant and when the project qualifies for a loan.
- Pipelines. The state water commission shall develop and adopt policies relating to:
  - Pipeline expansion;
  - b. Public and industrial use of water;
  - Cost analyses of future project development; and
  - Ongoing maintenance cost of current and future projects.
- Technology. The state water commission shall develop and adopt policies relating to the use of technology, including the use of technology for permitting and electronic metering."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - House Action

	Executive Budget	House Changes	House Version
Administrative and support services	\$4,042,784	(\$133,284)	\$3,909,500
Water and atmospheric resources	823,096,248	(756,890)	822,339,358
Accrued leave payments		325,774	325,774
Total all funds	\$827,139,032	(\$564,400)	\$826,574,632
Less estimated income	809,359,388	17,215,244	826,574,632
General fund	\$17,779,644	(\$17,779,644)	\$0
FTE	90.00	0.00	90.00

### Department No. 770 - State Water Commission - Detail of House Changes

	Corrects Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Provides Separate Line Item for Accrued Leave Payments	Changes Funding Source for the State Water Commission 4	Total House Changes
Administrative and support services	\$2,160	(\$86,252)	(\$49,192)		(\$133,284)
Water and atmospheric resources	12,314	(492,622)	(276,582)		(756,890)
Accrued leave payments	-		325,774		325,774
Total all funds	\$14,474	(\$578,874)	\$0	\$0	(\$564,400)
Less estimated income	2,026	(81,489)	0	17,294,707	17,215,244
General fund	\$12,448	(\$497,385)	\$0	(\$17,294,707)	(\$17,779,644)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of administrative and support services line funding from the general fund (\$49,192) and a portion of the water and atmospheric resources line from the general fund (\$225,468) and from other funds (\$51,114) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>4</sup>This amendment removes funding from the general fund and provides funding for the operations of the State Water Commission from the resources trust fund.

In addition, this amendment:

- Adds sections to the bill to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to Fargo flood control funding. The amendments change legislative guidelines for Fargo flood control project expenditures.
- Adds sections to the bill to provide that of the funds appropriated to the State Water Commission for grants and projects for the 2013-15 biennium, \$11 million is for the Red River Valley Water Supply Project and \$100 million is for Fargo flood control projects and that total Fargo flood control project funding to be provided by the state not exceed \$325 million.
- Adds sections to the bill directing the State Water Commission to study the use of ring dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red River Valley.
- Requires the State Water Commission to adopt policies regarding project development and financing.
- Increases the membership of the Water-Related Topics Overview Committee and directs the committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management.
- Requires the State Water Commission to move information technology hardware to the Information Technology Department secure data center.

Requires the State Water Commission to report to the Budget Section within 90 days
of any changes made to the water project priority list presented to the 2013
Legislative Assembly.

 Requires Budget Section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium. **2013 SENATE APPROPRIATIONS** 

HB 1020

### 2013 SENATE STANDING COMMITTEE MINUTES

# **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 March 8, 2013 Job # 19656

Conference	Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; relating to the community water facility loan fund, the water-related topics overview committee, and Fargo flood control project funding.

Minutes:

Testimony attached # 1 - 14

**Chairman Holmberg** opened the hearing on HB 1020. All committee members were present.

Todd Sando, North Dakota State Engineer; also Chief Engineer-Secretary to State Water Commission.

Testimony attached # 1 - Executive Summary of the Water Commission Testimony

Testimony attached # 2 - ND State Water Commission Main Testimony

Testimony attached #3 - ND 2013-15 PLAN Water Development

Testimony attached # 4 - ND Strategic Plan 2013-15

Testimony attached #5 - North Dakota Water, Special Edition 2011

He said they would like to have an amendment added and Chairman Holmberg said to present it at the subcommittee level.

Todd Sando - reading from Executive Summary

(21:03) **V.Chairman Grindberg**: When you talk about a loan, are you referencing SB 2233 - it's in the revolving loan fund - or are you referencing other loan options?

**Todd Sando**: That would be a real possibility - to use what's in 2233.

**V.Chairman Grindberg**: With the numbers you shared in projections, would that 10%, as the bill is written in 2233, account for those numbers going offline into a revolving loan fund as part of your overall plan?

**Todd Sando**: Related to this master plan for legislative intent for all water projects, which is 2233, there's a portion for a revolving loan fund. That was all crafted after the executive budget came out. It's not in the executive budget and what I'm summarizing today. There's

Senate Appropriations Committee HB 1020 March 8, 2013 Page 2

\$100M of unobligated in the resources trust fund based on what their revenue projections are to coming into the resources trust fund for 2013-15.

(22:31) **Senator Carlisle**: Under the #4, does that include Burleigh & Morton County, part of the 9 county consortium from the special session?

**Todd Sando**: Yes, they are included. If Burleigh Co. had submitted projects, they would fall under general water management.

(24:00) **Senator Krebsbach** What impact will the judges' decision as of yesterday, have on the NAWs project? Will this further impact the ability to get this water to the eastern part of the state where it's needed?

Todd Sando: The questions related to the Northwest Area Water Supply project, we are right now in the middle of litigation in Washington DC with the province of Manitoba and the State of Missouri. It's a very unfriendly judge that we're dealing with in Washington and we've been able to do some build out to the north of Minot, but we could not build onto the water treatment plant in issues related to the intake and Lake Sakakawea. Most recently, the judge has even gotten tougher on the issues. This could impact the amount of money that we'll be spending on the NWAWS. The Bureau of Reclamation is doing supplemental EIS looking at biota transfer to Canada and the issue of depletions of the Missouri River how it impacts the other states. That draft EIS is going to be out in June. After that we'll be able to go before the judge and get a ruling. We will probably be in an unfavorable situation and will need to be appealed, so we'll be tied up in court for a couple years yet. We feel we'll be successful in the end and be able to move forward with the NAWS project. It is impacting getting water outside the Missouri River basin up to Minot and north central North Dakota and going to eastern ND too.

(27:08) **V.Chairman Grindberg** explain the funding for water treatment in Dickinson & Killdeer. Are those demands a result of the impact on oil? What is the original purpose of SW water was. I think we're meeting the needs but there's a difference here under the title of SW water versus what the City of Dickinson needs and also Killdeer with the impact of oil, correct?

**Todd Sando**: Correct. This number of \$79M in the last two years has just been an explosion with oil development. There are many more people in Dickinson and Killdeer. Dunn County is growing very fast. The water needs are way above and beyond what the original SW pipeline scope. It is oil impacted. Most of the things we're looking at, except for providing water to rural farmsteads, now we need to upsize our treatment plants. We're looking at another intake location and it's all related to the oil boom and population growth in SW North Dakota.

Chairman Holmberg named the subcommittee: Senators Grindberg, Holmberg and Robinson.

### **Diversion Authority -**

Senate Appropriations Committee HB 1020 March 8, 2013 Page 3

## (32:12) Sheyenne River Flood Control-

# Mary Lee Nielson, Sheyenne Valley Growth Alliance

Testified in favor of HB 1020.

Testimony attached #6 - Sheyenne River Valley

# (37:01) Red River Valley Water Supply

# Ken Vein, Lake Agassiz Water Supply

Testified in favor of HB 1020.

Testimony attached # 7 - Testimony by Ken Vein, Chairman, Garrison Diversion Conservancy District

## (41:20) F-M Diversion -

# Darrell Vanyo, F-M Diversion Authority Chair

Testimony attached #8 - Flood Diversion Authority

Asked the senators to repeal the amendments that were added to the bill.

(48:44) V.Chairman Bowman questioned why the amendments were added and Darrell Vanyo stated that he would like the amendments deleted. Mr. Vanyo added that section 9, the restriction for the diversion should be taken out and the restriction not to exceed should be taken out.

**Senator Mathern**: In terms of overall appropriation, what is your thought about the appropriated amount in this bill? Mr. Vein stated they are ok with the funding of the \$100M.

### (53:20) Aaron Snyder, Corps of Engineers

(Speaking from the Corps of Engineers section of testimony #8)

(59:32) **Chairman Holmberg** asked if that protects I-29 in its annual flooding.

Answer: It would definitely protect the flooding around the Interstate 29 and that area.

**Senator Gary Lee**: If that affects the interstate, does that take federal dollars to make that happen?

**Aaron Snyder**: It's included as a cost of the Corps project. Generally, relocations, which tend to be roads, are a local responsibility so we are working with the local sponsors in that construction contract. It's a cooperative effort between the Corps of Engineers, local sponsors and the other federal agencies that need to be included.

Senator Gary Lee: If the road needs to be raised, that's a shared cost?

**Aaron Snyder**: Yes, it's included in the \$1.78 billion.

**Senator Gary Lee**: The federal dollars come from the Corps? Answer: Yes.

**Senator Robinson**: Just a point of clarification, you mentioned 42.5 feet and we've also heard discussion about 39. Would you clarify the differential between the 39 and 42?

**Aaron Snyder**: There are really two levels here. Once the diversion is in place, we will need levees through town up to an elevation of 39 feet to minimize the impacts to the upstream areas - to the agricultural communities. That's included as part of the federal Corps of Engineers project. For local sponsors, the City of Fargo and the counties, they would need to have a higher elevation for the larger flood events. Our project provides about a 100 year level of protection. If they would like to get to a higher level of protection, they would need to build higher levees in conjunction with the diversion channel.

**Senator Gary Lee:** It seems that the 50 year, 100 year, 500 year flood level is a moving target. It seems like its changed a lot and now you say that the Corps and FEMA are getting on the same page. What are the determinations that have been employed to make that 50 or whatever the flood record was for Fargo?

**Aaron Snyder**: It's really a statistical analysis that's used. Right now FEMA is using a model from 2003 which misses the major flood events of 2009, 2010, 2011. The Corps of Engineers is using a model from 2012 that includes all of those flood events. Those were major flood events and that's why you see it's a moving target.

**Senator Gary Lee**: So you've dismissed the history of what has happened over the last hundred or five hundred years?

**Aaron Snyder**: No. We've included the entire about 110 years of record. The Corps has looked at it two ways. We looked at it from the traditional period of record and also we pulled an expert panel together that looked at it from 1942 to present. The results from those two data sets are very similar. We did go forward with the extra panel from 1942 to present. But FEMA has indicated that either one of those approaches is appropriate.

(1:04:20) **Senator Robinson**: In your modeling and projections, have you taken into consideration the potential of a major rainfall event in the midst of high water?

**Aaron Snyder**: We've looked at major rainfall events and it all depends on where the rainfall event does occur. Obviously, if a rainfall event occurred right on the top of Fargo and Moorhead, it could still be devastating from an internal drainage perspective. However, if it were to occur south of the project, the project would be able to operate and provide benefits to the metro area.

**Senator Robinson**: Has there been any allowance put in place in your planning to compensate for such an event? If we look at the extreme example, is that based on flooding only? Do those projections allow for 3-4 inches of rain or not?

**Aaron Snyder**: The projections do allow for some rainfall, for a big flood event within the area. I believe it's a 10 year 10 day event or a 100 year 10 day event so we do take internal drainage into account when we look at a project and the benefits.

**V.Chairman Grindberg**: On slide 13 where you describe the upstate staging area, and the last bullet where you're further mitigating ring levees around Oxbow, Hickson, Bakke, and Comstock. Describe the depth of water in this slide you have of 1% (100 year) and then talk to us about the individual homeowners and or farmsteads that reside in those areas

and the options they have, should this go through, of preserving their way of life by ring dikes over individual properties. You noted that the land will stay in production because we're talking about 5-7 days of holding water in this area in the spring. I'd like to know what other work you've done with the individual farmers and homeowners in that region.

Aaron Snyder: At the furthest north point that we'd be looking to stage water - approx. 8 feet. You'd get a total water depth of close to 12 feet approx. As you move south, that water decreases in depth. You can see that on slide 14. (described the slides). The residential structures are generally buyouts in that area. There is an exception for working farmsteads that we would look at a ring levee around those. The communities of Oxbow, Hickson, Bakke and Comstock - we're currently proposing a ring levee around those communities. The levees there would be approx. 10-12 feet high on average with some places slightly higher than that. Many areas in Fargo Moorhead will have levees in excess of 15-20 feet.

**V.Chairman Grindberg**: If I'm a homeowner and have an acre of land with a home, and I decide I don't want to buy out, what other options do I have?

**Aaron Snyder**: First, we would come to you with a buy out option. Then we'll also be looking at other options on relocating. There are going to be some areas where it won't make sense to leave a residential structure in there just due to the risk that would be placed on them when the project does operate. Right now we're looking at about 58 residential structures that would be impacted. We'll be working with those individual land owners because generally, there is a process that we go through when we approach landowners for negotiations for a buyout. More than 90% typically agree to that.

**Senator Wanzek:** I am a farmer so I'm pretty sensitive when I hear farmland could be negatively impacted. That is a farmers main source of income and how he or she generates her living. Because this being a man-made event by diversion, that the federal farm insurance program will not pay for losses to farmers. Have you done anything to help facilitate changing any federal policies or helping these farmers if they should face that unfortunate event and not get their income?

**Aaron Snyder**: We are not planning on changing the federal law, but the Diversion Authority is going to purchase supplemental insurance for the occurrence of the operation and remove all future risk from the farmers. They will be insured for the event when the man made operation occurs. It will just be through a different policy which will be carried by the Diversion Authority.

(1:15:58) **V.Chairman Bowman:** We're going to spend millions and millions of dollars to protect people who moved into an area that knew if was in a flood area to begin with. Aren't we going backwards? Shouldn't you be moving people out of the flood area and not spending all this money rather than spend all this money to keep them in the flood area? We don't know what the future is going to bring. One community says they are buying all the places out alongside the river. The next community says we're going to protect all the places alongside the river. Why are there such differences in the approach to this?

Aaron Snyder: There is actually not a difference in the approach to this. Fargo and Moorhead have been buying out a whole bunch of properties along the river. That is what is happening and needs to occur to get any levee protection in there at all. The issue is that you can't just pick up Fargo/Moorhead and move it. The entire area is in the flood plain. The flood plain is huge in that area. It would take many billions of dollars to pick up the community and move them - and to where? We are proposing to buy folks out in areas that are at risk, but where we don't have to impact people, we don't want to impact them. We're trying to come up with the best project at the least cost with the least impact to people. The Corps of Engineers is on track. We're ready to build this. We don't need to study anything else. Everything has been studied. We will continue to look at the project and improve where we can for the project that's being recommended today. It really is the best project for the region and for the nation.

(1:18:10) **Darrell Vanyo** - addressed **Senator Wanzek's** question and said it was in the supplemental section of their testimony - 4 pages from the back. It's called Ag Impacts Mitigation Plan.

**V.Chairman Bowman**: You're buying out homes, but once the dike is put in place, are you going to allow new homes to go into that area now that it's diked?

**Darrell Vanyo**: I don't think there's any intention of doing that. Particularly with Cass Co. we bought those out with federal dollars.

**Chairman Holmberg**: My understanding is if you buy them with any federal dollars at all, you can't rebuild in that particular area. That area is dead for construction.

**Darrell Vanyo** said the wording in the amendments would direct all of the next biennium dollars towards Fargo's levees which is a one prong approach. He introduced **Ken Pawluk** who will tell of the 3-prong approach that they'd like to have if they were allowed the flexibility in the funding sources. Ken will tell what they'd like to do on the north side of Fargo.

#### (1:20:30) Ken Pawluk, Cass County Commission

(Speaking from his testimony in attachment #8) Addressed problems on the north end.

#### (1:25:50) Mayor Jim Nyhoff, City of Oxbow

(Speaking from his testimony in attachment # 8) Addressed problems on the south end.

#### (1:29:52) Brad Wimmer, Fargo City Commission

(Speaking from his testimony in attachment #8)The continued work on levees in Fargo.

# (1:32:55) Ann McConn, Alerus Financial, Business Leaders Task Force for Permanent Flood Protection

Testified in favor of HB 1020 but against the amendments

Testimony attached #9

Testimony attached # 10 - Business Leaders Task Force for Permanent Flood Protection

# (1:37:17) Rae Ann G. Kelsch , MNDak Upstream Coalition (Lobbyist #362)

Made opening remarks and introduced Steve Hall.

The MNDak Upstream Coalition has and continues to support flood protection for Fargo. The Coalition supports the appropriation to be used to protect Fargo to 42.5 feet. They believe the amendments support accountability for state tax dollars.

#### (1:39:49) Steve Hall, Superintendent of Kindred Schools

Testimony attached # 11

The Kindred School Board has gone on record opposing this locally preferred flood retention/ Dam project south of Fargo.

(1:49:45) **V.Chairman Grindberg** Could you provide the group with an overlay map of the 2009 flood event in the areas around Kindred and then as it overlays with this proposed area with the various levels of water to show the difference with what has been proposed and traditionally what happens around the region? You get flooding to the west, to the north, to the east and so what's the difference between what traditionally happens and what could potentially happen if you interpret it this way?

**Steve Hall**: We want to know what's going to happen to the west. In Kindred, we have flooding from three rivers, the Sheyenne, the Wild Rice and the Red. You're asking what the impact is on the western edge - around Kindred?

**V.Chairman Grindberg:** That is the same map that has been provided by the Army Corps under a 1% - 100 year event. Take the 2009 or 2007 or 1997 floods at peak period around Kindred with a map that says here is where all the water is - and then overlay it with this to see what the difference is. There's impact already that is going on that affects development. So what's the difference between this illustration and what actually happens?

Rae Ann Kelsch: We'll try to put something together.

# (1:51:45) **Scott Hendrickson, Chairman of MNDak Upstream Coalition** Testified against the FM Diversion Authority locally preferred plan No written testimony.

He is a Richland County resident and 4<sup>th</sup> generation farmer. He told of the joint U.S. Army Corps of Engineer Diversion Authority meeting in Kindred School two springs ago when they were told where the dam component of the locally preferred plan was going to be which was on the Fargo Kindred school district line, the water levels of three plus feet or more would be a buyout. Since this was a science based determination, that that is exactly where the dam needed to be. They also said that if there were any adjustments to the dam, it could only be inches and not miles. That the land outside of the red line could expect an additional two feet of water above and beyond the 2009 and the 1997 flood event when the structure is operated. No compensation outside the red line whatsoever. If you have farm buildings, shops, bins, you're on your own. That's what we were told: that these were minimal impacts and the Corps has guidelines that they need to follow; that the need for the dam component was to eliminate downstream impacts. Since that meeting, the dam structure has moved about one and a quarter miles north. The 50,000 foot storage

component of the original plan has been eliminated, so that 50,000 acre feet that was supposed to be north of the dam structure has now been pushed on the south side. That 50,000 acres of prime Red River farmland will be negatively impacted and some will be gone forever. The land both inside and outside the red line on the Corps map will not qualify for multi-peril crop insurance. If there is damage to one's property outside the red line due to the locally preferred plan, then the only recourse would be to go back after Fargo/Moorhead, Cass County or local sponsors for any type of compensation which would mean that as an individual, we would all have to hire attorneys to go after Fargo, Moorhead and Cass-Clay Counties.

These impacts are unaccounted for and will destroy any future growth within the boundaries of the Corps map. These impacts reach as far south as Abercrombie, ND where there is a state historical Fort Abercrombie. This is approx. 30 miles south of Fargo.

The impacts of Kindred and Richland school districts are real. Instead of these two districts growing, the future growth within will be eliminated. The state of MN has indicated they will not fund the locally preferred plan. The MN DNR is not eager to issue a permit to cross the Red River. Moorhead, MN is protected to 42.5 feet and is naturally on higher ground. The federal government is broke and can't seem to get anything accomplished. It's time to build Fargo to equal protection to Moorhead, build permanent structures and discontinue building into the flood plain.

The states of North Dakota, South Dakota, Minnesota and the province of Manitoba have been working on a basin wide approach of retention for years. This approach benefits all within the basin which includes Fargo and Moorhead. The tax dollars that have been spent wisely to help find a basin-wide water management approach. Following the Red River Basin Commission's plan, discontinue building into the natural flood plain, building permanent dikes, Fargo and Cass County will have long term protection. The MNDak Upstream Coalition, as well as my wife, Michelle, my twin girls Samantha & Riley are strong supporters of basin-wide approach and are in agreement to help Fargo with reasonable protection.

House Leader Rep. Carlson is spot on when he said this will be a state project. We applaud the ND Legislature and realizing the lopsided big win/big loss scenario is what the locally preferred plan is all about. The communities, farmlands, churches, and cemeteries, will all be negatively impacted within the footprint of this plan. Is saving a golf course more important than continuing the farms that have been the staple of this region for the past 130 plus years? This plan will forever change the landscape negatively impacting two skipped school districts in ND and two school districts in MN.

My family, along with all the neighbors who call this area our home, should not have this uncertainty. We want our children and grandchildren to have the same opportunities that our ancestors had, to continue to live and raise our families on our farms and small towns, continue to be good responsible citizens that contribute to the economy and tax base and not be subject to the bully on the block. I ask members of this assembly to look hard at the locally preferred plan and see through Fargo's attempt to use tax dollars to develop Fargo South into the natural flood plain. Let us move forward on the Red River Basin Plan of Retention and help protect the entire basin and not pick winners and losers. Since 1997, my farm has had less than 400 acres of prevent plant acres. If this plan moves forward, all

land identified within the map will have thousands of prevent plant acres and jeopardize the future of not just the farms, but all the businesses that supply the inputs that supply us year in and year out. The collateral damage has not been taken into consideration. Thank you very much.

(2:00:02) **Dennis J. Biewer, Resident of Bakke Homeowners Association** Testified in against the Diversion Authority plan Testimony attached # 12

(2:13:43) **V.Chairman Grindberg**: You received the copies of that survey? (Answer yes.) Does that represent all the properties in Bakke?

**Dennis Biewer**: When they summarize them, they did not put a name on them. It did not show that, no.

V.Chairman Grindberg: How many properties in Bakke? Dennis Biewer said 57.

**V.Chairman Grindberg**: Would it be, in your opinion, that all 57 are opposed to this?

**Dennis Biewer**: When we went door to door, we had 85% of the homes, so it was roughly 49 homes that came forward. Some of the homes were just not available. It was unanimous.

**V.Chairman Grindberg**: I think one could argue or demonstrate that obviously Oxbow leveraged the situation for the future of their development. That said, and that's my opinion, there have been no discussions with Bakke to leverage the monumental size of this project with resources to better position Bakke for the next generation?

**Dennis Biewer**: I was contacted by the County Administrator and said why don't you guys sit down and put together a list of demands like Oxbow did and we're not interested in that.

V.Chairman Grindberg: So you're not interested in that?

**Dennis Biewer**: No, we are not interested in that. I'll give you a copy of the survey, if you'd like.

**V.Chairman Grindberg:** If I was a resident there, and I had an opportunity to have investment to protect my property for the next generation, any reasonable minded person might have that discussion legitimately and see where that might go. I'm surprised that it's a flat out no we're not interested because that's just not the way the world works.

**Dennis Biewer**: That is correct, but the families that we have in our community worry about their neighbors. When we held our public meetings, when we did the surveys, they understood that it's taking care of their area and they will have 500 years of protection, a comment was made by Cass County, 'Well, we could find some pavement for you and pave your streets' because we have gravel roads in our development. The people did not want that because you're only pushing the problem on someone else. We have taken the approach that if Fargo would go back to the drawing board and do more studies, they can

come up with alternatives. They don't have to put in an 8-10 foot ring dike. Just look for a project for basin-wide that will protect all the way from Hankinson area to Wahpeton and Mantador. Look for basin-wide so everyone is protected and not just worry about the growth of Fargo.

**Senator Wanzek**: In your testimony, you say it's going to negatively impact 50,000 acres of farmland. Are you saying that it's going to negatively impact it in a permanent sense? When I do the math at today's market, 50,000 acres is \$250M worth of property not to mention all the potential production or economic activity that you achieve off of it every year.

Dennis Biewer: We're saying that 50,000 acres is going to be impacted in some fashion. Those 50,000 acres could not be developed on. The Kindred School District is going to be prevented from having needed developments built, new homes. Farm land, you can still farm that ground, but we're being told the farmers would be given some money to hold water on that ground, so the land is not coming out of production, the land can be planted on, but if they have a spring flood, you can't get your ground planted, you will not get prevent planning. If you do get your crop planted, and we have a July storm that drowns it out, it's going to be uninsured cause for the loss. It's not going to be unproductive, you can still raise a crop, but you're vulnerable to losing your crop or not getting paid crop insurance.

**Senator Wanzek**: Your contention is the substitute policy that they are talking about will just cost way too much from a private market sense.

**Dennis Biewer**: Yes, our company was contacted to consider a private product for crop insurance. With insurance, you need a spread of risk and these acres are all together, so if you have a devastating storm, I don't know how much you'd have to charge the Diversion Authority to insure that crop.

(2:19:00) Craig Hertzgaard, Farmer, Kindred, ND
Testified in favor of HB 1020 as approved by the ND House of Representatives
Testimony attached # 13

(2:33:41) **Patricia J. Schutt, Harwood, ND** Testified in opposition to the Dam Diversion

She lives 6 ½ miles north of Mapleton along Cass County 11. In 1919, her grandparents brought 4 of their 6 children to ND and that is where they settled. I grew up hearing my dad say, "Old man Dalrymple was good to us because the times were tough." Now, up to the present, that land also educated my children. They hold engineering degrees from NDSU and now it is my income and my future. Because of the location of the dam diversion, that will block water that comes from the west headed toward the Red River. Will Fargo leave it open? Well, who knows? When that water floods the farm land, then it will take a long time for it to dry out and that means its later when the farmers can get into the field. So that's the kind of damage that will be done there. On the other side of Cass 17 (to the east), it will wipe out some farmland for the farmers and it's not easily replaced. There are farmers who rent land, so some of that rental property will go too.

One of the things already mentioned and elaborated on is that MN will not be contributing to this. Our frustration is that Fargo has been building in a swamp. My cousin said to me at one time, that it's so stupid where they're building. He had gone duck hunting there with my dad and my uncle. That means that the farmers have to give up their land to protect that swamp land.

On the inside of that diversion, it will be used for economic development for the City of Fargo. Today, the farmers would be paid for their land at supposedly the going rate. The last I heard was over \$6800/acre around Prosper. The inside of that diversion would be sold by the square foot for economic development. We are already paying sales taxes towards the diversion project. I hope you will ask these questions of the diversion people. Are they really prepared to take away our farmland? We need it for farming.

#### (2:38:40) Mike Warner, citizen of Oxbow, ND

I am a citizen of Oxbow. I farmed about 20 miles south of Buxton, ND in the Hillsboro area. The last crop I put in was in the year 2000. The one thing about Oxbow that I think you should take away is that under any scenario, we need protection. It doesn't matter whether Fargo builds it up or we build a diversion, but we need protection. The opponents theme is elected officials are not to be trusted and public servants are inept. We've asked these folks on many occasions that if you have a remedy, how and when? And we don't get an answer. This discussion about retention - the best minds have said it isn't going to work. Millions of dollars of research has been done in analysis that says it's not enough. Regardless, we're sitting in Oxbow saying that in two years and four months, we've not been able to sell a home. Those young people with predominantly young families, that's their primary asset. The opposition gives no relief for that. The implication is that the farmland becomes useless. I farmed in that area, SE of Hillsboro, 5,000 acres with my cousin, within three miles of Three Rivers. Half of the acreage was on the rivers. At any given time, even in the minor flooding situations, we had farmland under flood. Here's the rule; I can have six inches of water or six feet of water on Red River Valley land in March, and I will farm it on the same day in April. It's like water on the parking lot of West Acres. It's a non-issue. The implication that it's going to cause a reduction in the value of the farmland and affect the Kindred School District holds no water. They admitted themselves that it will be farmed, therefore it will be taxed. They'll have the money, and if Oxbow is taken care of, then we continue to come back and rebuild our community, we'll have those dollars for that school district as well. There are a lot of inconsistencies in the discussion. One of the big ones is what is your specific remedy? - and they don't have one. Thank you for giving me the time.

# (2:42:03) **Jerome Nepstad, Farmer** Testified in opposition to the Dam Diversion

I am presently farming and am in the middle of the red area on the map. My farmstead would be wiped out. We'd be in five or six feet of water. This is my grandson and he would be the fifth generation farmer and with this project, we don't know what would happen. One side track is that cemeteries haven't been talked about too much. I've got a cemetery where my dad and my grandparents and several relatives are buried and that would be five or six feet under water. There are two or three other cemeteries in this same area that

would have problems. There are better ways. We're for protection for Fargo, but they don't have to flood us out to get it. This was moved way south just for Fargo's economic development. They wanted the dry land for the builders and realtors to build home and apartments. They don't care about the rest of us. Thank you for your time.

Chairman Holmberg closed the hearing on HB 1020.

Testimony submitted later:

**Mike Erickson,** Executive Director of Facilities and Support Services, Sanford Health, Fargo, ND - Testimony attached # 14.

#### 2013 SENATE STANDING COMMITTEE MINUTES

# **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 March 19, 2013 Job # 20198

	Conference	Committee
_		

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; relating to the development of policies and procedures of the state water commission. This hearing covers the Mouse River Protection, NAWS, Rural Water, SW Pipeline and Independent Water Producers.

#### Minutes:

Testimony attached # 1 - 21

Legislative Council - Sheila M. Sandness OMB - Laney Herauf & Joe Morrissette

**Chairman Holmberg** opened the hearing on HB 1020 and welcomed everyone. All committee members were present.

Mouse River Flood Protection -

# Dan Jonasson, City of Minot

Testified in favor of HB 1020

Testimony attached # 1

Testimony attached #2 Mouse River Enhanced Flood Protection brochure

#### David Ashley, Souris River Joint Board

Testimony submitted and attached # 3

NAWS (Northern Area Water Supply) -

#### (5:20) Bob Schempp, NAWS Advisory Committee

Testified in favor of HB 1020.

Testimony attached # 4

(11:29) **Senator Warner**: There's some talk that if the treatment plant had been built at Audubon or at Max, and the water would've been treated before it went into the Hudson River Basin, these problems with the biota issues would never have been developed. What should I tell my people back home?

Bob Schempp: The results of the environmental impact statement (EIP) was first determined that the treatment would be just to kill the bacteria that was in existence in the water supply by chlorination and ultra-violet light to kill the bacteria. The people doing the statement thought it would be enough to satisfy the people in Canada. It apparently wasn't so when they lost the case the second time, the judge said you basically have to prove that you're not going to do any harm to the environment in Canada by passing this water that was basically treated. It wasn't filtered, but it was treated. The judge said to find out what possible impact there is or could be on the Canadian drainage area. I don't know what you can do to satisfy their concerns, except a full water treatment plant. Several years ago, I talked to an environmentalist from Winnipeg and asked what can we do to satisfy your concerns? He said, "Nothing." The principal problem is that there have been promises made in Canada that there was not going to be any transfer of water. I think those political promises are being kept by this lawsuit. I don't know what the new EIS will recommend, but in order to specifically say that you cannot or will not harm, what can you do besides full treatment? We may be back talking about that in a couple years from now.

# Rural Water Supply -

# (15:10) Eric Volk, Exec. Director, ND Rural Water Systems Association

Testified in favor of HB 1020

Testimony attached # 5 - Personal testimony and Water Packet with charts and graphs.

(20:50) **Mr. Volk** asked the committee not to consider one of the House amendments which deals with the potential \$18M hit to the resources trust fund where it would be used to fund the state water commission operations. We prefer that be used out of the general fund and not the resources trust fund.

**Chairman Holmberg** asked if there was anyone not on his agenda list that would be interested in sharing something about Mouse River, NAWS or Rural Water Supply.

# Municipal Water Supply -

# (21:45) Todd Feland, Public Works Director, City of Grand Forks

Testified in favor of HB 1020.

Testimony attached #6

25:**22 V.Chairman Grindberg**: Looking at third page with categories "City, State, Total", the 2<sup>nd</sup> bullet on the right, "City intends to submit additional requests in future biennia". What happens if the oil industry takes a dive? Are you going to be in a position where you will not be able to finish projects or is this going to be case by case as you receive funds, you expend funds?

**Todd Feland**: This is a number one priority for the cities completing this water treatment facility. We understand that the state's investment is continuing on every two years of looking where revenues are. The city would like as much clarity as we move forward because we are working on some financial planning. In the past where we've received earmarks for important infrastructure like this, we're probably not going to receive those. As we get guidance from the state as see how things go with investments in the future, we'll

have to look at how we need to step up on the local end, whether that's rates or other funding aspects. Our best projects are those that are partnered with the state and once those projects are done, no one ever ponders we shouldn't have done it. There is a lot of pride. All the other regional cities and rural water always have the same story, well planned and well partnered projects.

**Chairman Holmberg**: Your position is clearly that you prefer the money come from the general fund and not from the resources trust fund. Answer: Yes.

#### (27:50) Mayor Chris West, City of Grafton

Testified in favor of HB 1020 Testimony attached # 7

#### (32:48) Jim Neubauer, City Administrator, City of Mandan

Testified in favor of HB 1020 Testimony attached # 8

Asked the committee not to fund the Water Commission out of the Water Resources Trust Fund.

# Southwest Pipeline Project -

# (37:26) Mary Massad, Manager/CEO, SouthWest Water Authority

Testified in favor of HB 1020
Testimony attached # 9 - SW Pipeline packet
Testimony attached # 10 - Dwaine Helmers, Oliver County Resident

# (41:45) Dennis Johnson, President, Dickinson City Commission, Dickinson, ND

Testified in favor of HB 1020 Testimony attached # 11

(48:12) **V.Chairman Bowman**: With great demand for water in Dickinson and for the new line that goes up to Killdeer, is that designed with the capacity to handle this huge growth? There are still rural people who have waited 30 years to get water and it's a hard balance to figure out a way to serve both the rural and the city.

**Dennis Johnson**: Dickinson is a customer of SW water pipeline. They bring the water, they treat it. There are two potential problems - One, will we have enough WAW water brought to the city and if we do have enough rural water brought to the city, will they have the treatment capacity to do it.

Mary Massad: The line going west from the new treatment plant, north of Zap, over to NW of Killdeer will allow us to feed to Fairfield - and north from that area which will free up about 120 gallons/minute. It will free up about the same on the east side - about 120 gallons/minute. (She explained the map) Our hope is to get water service to those who have been long waiting potential customers in this upcoming biennium. We need a second intake. We've needed one from the beginning. It's just that the size of that intake is going to be larger than we thought. We'll also need to parallel some pipeline. We'll need to add

pumps to our pump stations. We'll need to increase that capacity, put in bigger pumps, etc. And down the road, there are some deferred construction items that we haven't done, wanting to get water to those who wait plus now we are being impacted by all the growth.

**Senator Robinson**: You've referenced a pool of customers that have been waiting for some time, and in the next two years you want to get water to them. Once they are served, where are we with SW and remaining customers waiting for water, if this next pool is taken care of.

Mary Massad: This should meet the needs of those who have long waited. It is not dealing with the deferred construction items and it is not dealing with all the additional water needs. We need to get more water to Dickinson, but we also need increased treatment capacity. We can currently treat for 12 million a day, and we'll probably be doing that this summer so we'll need an additional six. Second takes to help increase capacity has been deferred and in the plan since the beginning like a second Richardton take, a 2<sup>nd</sup> Davis Buttes take. We've never put one in by Golva.

**Senator Robinson**: Your plan in 2013 would add 13 or 14 new staff people. Given the work situation in the western part of the state, are you able to retain staff and how much of a challenge is that?

Mary Massad: It is a challenge. My staff goes home overwhelmed each and every day. We've added four staff members in the past couple weeks. We've hired people who don't even show up on their first day of work. We're building a new office building so that we can house additional administrative staff. The easiest way to do this might be instead of centering out of Dickinson, we have satellite offices in Reeder, Sentinel Butte, and one in Elgin. Maybe we need to recruit more staff in those areas directly.

(54:40) Randy Becker, Oliver County Testified in favor of HB 1020 Testimony attached # 12

(58:23) **Kent Albers, Oliver County** Testified in favor of HB 1020 Testimony attached # 13

Western Area Water Supply - (1:03:44)

John Olson, representing Western Area Water Supply Authority (WAWS)

Testified in favor of HB 1020 Testimony attached # 14

Requesting \$119M - aside from the \$40M in HB 1140 for the BND loan, you have \$79M here, 40 of which is anticipated to be loan from the State Water Commission and \$39 would be an outright grant from the Water Resources Trust Fund. If you authorize that amount of money, that will be the first dollar of grant that would be given to this project.

(1:10:18) **V.Chairman Bowman**: I don't recall the \$40M grant that you're asking for this year. Is that a grant that will be paid back or is it a grant that you don't have to pay back?

**John Olson**: Out of the \$70M to WAWS in HB 1020, \$39M will be grant funds with no obligation to repay. The remaining \$40M, there will be terms set by the State Water Commission for repayment of that \$40M.

**Chairman Holmberg**: I believe that bill is in IBL? I'm talking about HB 1140. Answer;Yes

**Senator Robinson**: In HB1206, and also what we have in 1140 and in 1020 - is that the complete picture in terms of indebtedness for the WAWS project or are there other loans outside of the Water Commission and the State of ND?

**John Olson**: There are members in the WAWS Authority. Those members include Williston, MCWRD and there are other loans outstanding that are in addition to what the state has granted in terms of loans in the 2011 session and those you'd grant now. Yes, there are significant loans that are outstanding.

**Senator Krebsbach**: Give me just the total cost of what we're dealing with. We had \$110M in 2011 in HB 1206 and in this bill we're looking for \$79M? What was the amount in the other bill - the 1140?

John Olson: \$40 M - in addition to the \$79 here in 1020. That would make a total \$119M.

**Chairman Holmberg**: And the \$119M includes \$39 M of grant; \$40M of loan and in 1140, there is an additional \$40M draw from the BND?

**John Olson**: Yes, on terms that would be negotiated with the bank. I think about \$26M of that \$40M in 1140 would go to the water treatment plant in Williston which is the water source for this project. There is an emergency clause on that bill which will allow an expedited process to get that enhancement project started.

**Senator Warner** asked if Legislative Council could show the sources and the flow of cash for the committee in a one page synopsis - not only this bill, but the other bill also.

(1:14:20)

Jaret Wirtz, Executive Director, Western Area Water Supply Authority (WAWSA)
Testified in favor of HB 1020
Testimony attached # 15

(1:25:42) **Senator Robinson**: On page 8, we know what you're looking at for this upcoming biennium, you've referenced future growth, but do you have any idea what type of dollars we're looking at or a ballpark figure for 2015-17?

**Jaret Wirtz:** We started as a \$115M project which \$110M was given last biennium. Now we've come back for this \$40M which is in HB 1140 and we've identified another \$80M in needs that we're asking for this biennium. Next biennium, we think there's around \$120M

worth of needs. If some of the populations are continuing to grow as they are, we definitely will need that. If we see some kind of downturn or leveling off, some of that may not be needed.

(1:30:25) **Senator Mathern**: Who is your primary source for determining future need? What data do you look to, to determine your future needs.

**Jaret Wirtz**: Usually we use the requests we've taken in from people who have paid money down. We're taking those numbers and we're taking the population estimates from the ND Housing study that was done by NDSU.

**V.Chairman Grindberg** asked if they could get a copy of that study. He wanted to know if the study detailed the population growth in the cities of Williston, Tiogo so they'd know where the water is needed and he'd like to see where the population was five years ago and where it is today or at last count. **Jaret Wirtz** said those communities were lumped into regions.

**Senator Krebsbach**: Are you doing hookups for rural homes? How many requests are you receiving for individual rural farms?

**Jaret Wirtz**: Currently we have about 300-400 users in McKenzie County that was part of the initial funding for the \$110M. Now we have identified 900-1000 more that are rural residential farmsteads. There is a lot of rural growth going on in those areas, but typical traditional farmsteads - around 1000 new ones.

(1:32:59) **Steve Burian, AE2S representing Western Area Water Supply Authority** Testified in favor of HB 1020

Testimony attached # 16 - The 2013 Business Plan Update

He was asked by WAWS Board of Directors to present their 2013 business plan update.

**Senator Robinson:** The \$349M takes us through what time period?

**Steve Burian**: The population projections that we have constitute applying horizons through the year 2035. The 99,000 people that are projected to be needed to be served in NW North Dakota, that's the 2035 demand projection. That's how we would size water plants, intakes, transmission lines and that type of activity. The current priorities going through 2015 are the \$119M. The \$120M is what would be required to build out the remainder of that and depending on where those lines cross, the next water plant expansion is envisioned for 2018. The intake would be needed to be done sometime in that same time frame.

**Senator Robinson**: If we assume that this package is approved, and in the 2015-17 biennium we expend \$120M, at that point in time, what will be our total investment in WAWS? **Steve Burian** answered \$349M.

(1:38:26) Gave details of loans and said that in addition to the grant dollars of \$39M, the Water Commission is asking for 0% loan deferred until 2037. At that time, it would be a 20 year note with a five percent interest rate paid back to the Resources Trust Fund.

V.Chairman Bowman: Did I hear you say 0% loan till 2037?

**Steve Burian**: The Water Commission staff proposed 0% through 2037 which is the tail end of the amortization schedule for HB 1206 and the loan in HB 1140 at which time there would be a repayment for twenty years at five percent.

**V.Chairman Bowman**: That far out, how do we know what's going to happen up in that area and if you haven't made any payments on the loan, how do we recoup our debt?

**Steve Burian**: The way the loan was structured was that if the oil development were minimal in that late date, or even non-existent, a loan of that size spread over 20 years deferred for that long appears to be something that could be reasonably repaid by the membership.

(1:40:50) **Senator Warner**: All of these are considered unsecured loans? The state has no opportunity to take control of the project in some future date and run it for its own benefit?

**Steve Burian**: If there was a default, then the project would go into possession of the State of North Dakota and it would be administered and ran by the State Water Commission.

**Senator Robinson**: For the subcommittee, I know Senator Warner asked for an overview of financing through the state and the bank, but the other fiscal commitments that are out there, are you in this repayment schedule, taking all of those other debts & loans into consideration in your ability to make these payments over this period of time.

**Steve Burian**: We assumed about \$37M worth of debt from the member entities when the project was developed for the Williston Water Plant, the McKenzie Transmission line, etc. The line item on this table is called "debt service existing". That's the debt payment, the \$2.9M in 2015 is the debt service to help retire that \$37M worth of debt. So it's fully included.

**V.Chairman Grindberg**: This is a capital plan and not a business plan because you don't show projections and hook-ups, revenue and what you're charging. We're going to want to see all that data as well on the revenue side and have a thorough explanation of what all these categories mean. This is a whole different set of accounting terms that I'm used to, so we have to understand how this works from a true business plan, not a capitalization and debt plan. **Steve Burian** said they would be willing to do that.

**Independent Water Providers -** (1:48:25)

# Robert Harms, Lobbyist for Independent Water Providers

Testified in favor of HB 1020 No written testimony. Testimony attached # 17 - Notes from Minutes Testimony attached # 18 - Proposed Amendments to HB 1020

He introduced the speakers for this afternoon and said they would cover the amortization schedules and figures previously discussed; some of the financial management tools that WAWS has available to it in managing their cash flow; information on 1926b; and from landowners.

Two years ago in HB 1206, the legislature passed \$110M authorization. It was to be a \$150M project - 80% of which was to come from the oil industry through the sale of industrial water through depots located along a trunk line. That was the concept two years ago and WAWS said in their business plan that the most rational time to repay this debt was twenty years (found on page 21 of their Executive Summary of the last business plan they had).

When all of the debts are paid in the WAWS project, WAWS gets to keep all the revenue even though the taxpayers of ND have funded the entire project on the front end. Once all of those debts are repaid, the revenue stays in WAWS as opposed to coming back to the taxpayers to be used statewide. The concept in 2011 was a compromise of two public policies. One was that the legislature authorized this public entity, WAWS, to enter into a private mature market. The second thing the legislature did was it said there is going to be some restraint on this project in entering into the private market. That restraint was specifically spelled out in the HB 1206 and the language says, "the WAWSA shall consider in the process of locating industrial water depots, the location of private water sellers, so as to minimize the impact on private water sellers." The concept was that the legislature placed the restraint on WAWS.

When the plan was conceived two years ago, there were a couple of flaws in the plan. The market was fully served at that time, about 75-80% of the water was being provided by the private industry. About another 20% of the water was being provided by Tioga, Stanley, Williston, Watford City. We used 9400 acre feet of water in 2011. We told the WAWS proponents two years ago that you had enormous competition in the queue at the time. Two years ago there were 20,000 acre feet of water permits pending in the market that WAWS was going to come into and compete. One of the other flaws, there's an enormous growth in domestic water supply. That's the cheap water that doesn't pay the bills. A huge demand in domestic water, so that takes away from the water supply for industrial water, so the high value water, or industrial water, this project is designed to get water to people but the high value water needs to go to the domestic water where it doesn't pay as well. That's part of why we have this problem today and that is that WAWS sees a potential cash flow problem challenged by the independent water providers. They try to see to it that they have the cash flow they need to pay their bills.

On the other side, the independent water providers, we believe that the plan was, WAWS would have some restraint and WAWS has told us consistently that they are unrestrained. The only restraint they had was to minimize the impacts as provider in HB 1206. They've

asserted that they have the right to build private water depots, enter into private contracts, set up private arrangements with oil companies, set up private arrangements with trucking companies, build lateral lines to oil wells, allow oil companies to tap their trunk line, all of those things which was not part of the plan two years ago. That's been their assertion to us, so that causes our members to be concerned that we have a publicly funded entity that doesn't feel that it has any restraint and so we're concerned "How big is this thing going to get?" That's the rub.

What we want to do today is to focus your attention on HB 1020. I've taken the liberty to provide you with an amendment that's at your desk. The \$79M in HB 1020 was the result of some new funding that arrived at the Resources Trust Fund last summer, so the governor, in 2012, saw that there was about \$125M of funds that had not been allocated yet. He asked the Water Coalition to give him recommendations on how that money would be allocated. This money today is the result of that process. WAWS represented to the Water Coalition that none of that \$79M would be used for industrial water supply. Part of the amendment addresses that and we ask that it not be used for industrial water supply. You were provided with a spider web map at your desk and our concern is that we don't want the \$79M in HB 1020 to be used as an industrial water supply to supersize the WAWS project. We're ok with the trunk line, the twelve depots that are in the trunk line, but not the \$79M be converted to an industrial water supply that essentially blankets all of NW North Dakota. Those amendments that you have in front of you address that.

Closing comments - we can solve this conflict between WAWS and the IWP. It's very doable. We're advancing a number of policy solutions that will help move us in that direction. Some are contained in the amendments. The amendments do four things: 1) says this infrastructure, and this need is verified by the Water Commission; 2) that all funds used would be for municipal and rural water needs, not for industrial water supply; 3) that the industrial water sales would be consistent with the plan of two years ago, that is the trunk line and 12 depots; 4) that any funds would be applied to 1926b.

We think we can solve this problem with appropriate policies that would include the 12 depots. The \$79M in this bill should be all grant dollars. WAWS doesn't need more debt. We're supportive of that. We want this project to get water to people. That money going in as a grant would help that to occur. The Water Commission oversight is something that we should do and I would encourage you to slow the project down a little bit. We have time to do this correctly, there is no urgency. The trunk line is in where the population centers are, we don't need to build another \$120M project in record time.

Steve Mortenson, Chairman, Independent Water Providers, Williston, ND Testified in favor of HB 1020 Testimony attached # 19

Money to rural providers have to be paid for by themselves. The main project was to provide drinking water. (2:04;30) He can only develop 25% of their lines.

(2:09:06) **Jon McCreary, President, Western Dakota Water LLC** Testified in favor of HB 1020 Testimony attached # 20

I'm here to ask for your help to put some constraints on the WAWS with this funding and to add more oversight. A couple weeks ago, WAWS mentioned they are going to be out of water periodically. They are going to shut down depots periodically, and at the same time, they are out there trying to stop the expansion of private water sellers. To me, it doesn't make sense. The residential demand for water has doubled. Jaret Wirtz testified that today. I don't think anybody is going to deny that we believe there are more people moving to the area. Initially this project was thought that they could fund the whole thing through industrial water sales, but with the population doubling and with their fixed pipe sizes, they can only move so much water through those pipes, so one has to consider if more of the water is going to people, can the people pay for some of that capital expenditure. These new people moving into the area, the developers, apartment builders, can they share some of that cost that enabled them to have their projects and make their projects successful.

Among other things, WAWS is missing opportunities to increase project revenue, given the changes that have happened in the last two years. I also think they are missing opportunities to save money -starting with increased revenue. Like I said, the population has doubled. There are developments everywhere. There are apartment building going up everywhere. There are hotels being built. There's a great opportunity for those people to pay slightly higher rates on their hookup fees, water rates or capital repayment component, things that are typical when water systems expand. The water systems have expanded over the years and new users pay higher fees than the old users. That makes sense here, given that WAWS is constrained on how much water it projects that it will have for industrial sales.

There's also an opportunity for WAWS to save costs. Their water treatment facility is a \$26M expansion for their 2<sup>nd</sup> expansion that will take it up to 21 million gallons a day. That expansion is based on some assumptions that they need 160 gallons a day per person whereas; the City of Dickinson for example, only uses 102 gallons. It's also based on assumptions that the peak water demand is three times average water demand, whereas you could support a case where peak water demand is only 2-2 ½ water demand. When you put those factors together, you could argue that the peak water demand could be 25-50% less than what they're projecting, which would save them \$26M and a huge expansion of their treatment facility that may not be necessary especially considering a population out 22 years to 2035. Specifically with regard to solutions that earn more revenue. I have a subdivision in McKenzie County and I have been asked to pay a \$3000 hookup fee per lot - that's \$489,000. To my knowledge, there are no hookup fees in the WAWS business plan to help pay down debt. If all the growth, and everyone was asked to pay the same hookup fee that I've been asked to pay, you could make the case that would be \$41M in hookup fees. There's none of that revenue in the WAWS business plan to pay down debt - none. While we want to keep rates the same for existing customers, there's an opportunity to have a higher water rate for these new users like the people that would live in my subdivision. It's a typical way to finance a water project. A \$2 per thousand increase in water for those people would generate \$98M over the 23 year life of the WAWS loans. That would be \$98M in additional revenue where the existing people could still have the same price for water - only new people pay a higher price.

There's an opportunity for a capital re-payment component, for example, \$30/month for new people. That \$30/month for the new people would generate \$100M in revenue for this project for the next 23 years. The combination of the increased water rate and the monthly

fee would only add \$19.73/person/month to a new customer's water bill. It's very affordable. I feel like WAWS is missing the opportunity to go after these revenues because they're so focused on the industrial sales. (In testimony #20)

Senator Carlisle asked if Mr. Harms could submit his testimony.

# (2:19:06) Tim Dwyer, farms in McKenzie County

Testified in favor of HB 1020

No written testimony.

Over the past thirty years, and especially the last three or four years, I have worked with REC, RTC and several oil companies on various easements and I must say that I have never been treated by anyone of these like I have been treated by the McKenzie County Rural Water District (MCRWD) and WAWS. They entered land that I rent without any prior notification, without any offer for crop damage settlement ahead of time. On other property that I own, they have threatened condemnation and further, if I did not willingly sign, that I could not get water from them in the future. I think this is wrong. Our trouble with the state funded project and the public entities trying to compete in an industry with private providers that they questionably should even be completing then. And further, they are trying to monopolize this industry now.

# (2:20:57) Mike Forman, Independent Counsel for IWP

Testified in favor of HB 1020.

No written testimony.

If you would refer to the handout that Mr. Harms provided earlier (attachment #17). I'm addressing specifically Section D which has to do with section 1926(b). It is a federal statute that provides protection to the franchise rights of rural water districts and specifically rural water districts that receive loans from the USDA. The idea is to protect the ability for those rural water districts to repay those loans.

In order for you to understand the Independent Water Providers (IWP) comments, I think it would be helpful to do this in the context of a timeframe and a timeline. I want to go back before HB 1206 was passed in 2011, specifically 2009 & 2010. In 2009, one IWP in particular, was contacted by Brigham Oil and Gas who you all know now to be Statoil. The question was raised, is there a way that we can get fresh water to the wells here in Williams County and do it through a pipeline to not only get the fresh water to the wells, but also get the trucks off the road. This IWP, who you are going to hear from said they have been able to do that in other states and he along with folks from Brigham Oil & Gas met with local leaders, state leaders, your congressional delegation as well as then Governor Hoeven. That process was started and resulted in approx.150 miles worth of pipeline in Williams County and this IWP did not stop there and applied for applications to withdraw water from the Missouri River which has been a decade's long battle for this state. This was something that was started in 2009 prior to HB 1206 and WAWS's creation. This independent water provider filed these permits and worked again with the governor's office, your congressional delegation and state leaders. This IWP went to the Pentagon at least three times with his own money and met with the Army Corps of Engineers and continued to keep this state and the governor's office up to date the entire three years. In February 2013, the Army Corps of Engineers released some of that water and opened up the

moratorium on some of those permits. So again, these are efforts by an independent water provider that started before HB 1206.

(2:24:15) Jump forward to 2012, and some of the activity that has caused concern not only to independent water providers, but in particular the independent water provider that applied for the permits out of the Missouri River and seeks to build additional pipelines to get trucks off the roadway. I want to hand out letters and you can see what I'm telling you is correct.

In 2012, the letters started being written to the Army Corp of Engineers by the chairman of WAWS who is also the chairman of the McKenzie County Rural Water District. These letters essentially say "We're concerned about 1926(b) and this independent water provider's use of water out of the Missouri River. We think you should delay, stop, and not grant easements, whatever is necessary because this is an issue for us in McKenzie County." This letter is July 5, 2012 as well as a response from the Army Corps of Engineers dated Sept. 27, 2012 (in attached # 21). I will point out that in the Army Corps of Engineer's correspondence; they say to Mr. Zubke, "to my knowledge, your letter of July 5 is the first reference made to the potential applicability of 1926(b) and requires further review." To my knowledge, that review has not been done or if it has, it has not been supplied to Mr. Zubke.

In addition to the letter to the Corps of Engineers trying to thwart the ability to pull water out of the Missouri River, additional letters were sent out. I have letters that I will pass around that were signed by Mr. Zubke to the ND Water Users Association on WAWS letterhead and copied the governor, the state water commissioner, Mr. Sando and Mike Dwyer of the ND Water Users Assoc. (in attached # 21). Again, he was expressing concern about 1926(b).

Finally, some additional letters that I want to pass out and bring to your attention. First I have a letter, again from Mr. Zubke, asking the State Water Commission to deny a permit to Park Construction Co. I have a letter from Mr. Zubke to the State Water Commission asking that a permit to North Star Energy and Construction, LLC be denied. I have a letter from Mr. Zubke to Mr. Sando and the State Water Commission asking that Northwest Transfer permit be denied. I have a letter from Mr. Zubke to Mr. Sando, to the State Water Commission asking that SM Energy Company permit be denied. I have another letter regarding a permit requested by Ronnie and Mavis Berry asking that it be denied. Another letter regarding Northwest Water Transfer again asking that it be denied. Again, it was from Mr. Zubke, the chairman of McKenzie County and WAWS.

What's fascinating is that I did not pass around a letter from Mr. Zubke objecting to his family's depot in McKenzie County - a depot that currently has a request for 500 acre-feet. Not one letter sent in to the State Water Commission objecting to his family's depot. These other letters that are going around have been sent in. (Letters in attachment #21)

The concern is this: by inserting 1926(b), McKenzie County and WAWS are attempting to create a monopoly that will force the private water providers out - one of whom you will hear from in a minute. Finally, I want to leave you with this on 1926(b) and what Mr. Harm's gave you. Absent this legislation, I think it's fair to say that you as a legislative body will be seeding your state water policy of 40 to two entities; the Western Area Water Supply of 40 and McKenzie County. I'm not sure that's something you want to do because ultimately I think not only do we have those two entities that are going to set water policy for

you, but I think it's quite likely a federal judge somewhere is going to set water policy for you - and that's not really what North Dakota wants, especially on the Missouri River that you fought decades to get access to.

**V.Chairman Grindberg**: The letters you cited moments ago, is this the first time that they have been presented to any legislative committee?

**Mike Forman**: No, those have been presented in prior testimony.

**V.Chairman Grindberg**: Were these independent water users in business prior to 1206 and this letter that Mr. Zubke sent then was requesting denial of future capacity additions?

**Mike Forman**: Some of the letters that you'll see are for permits or requests that have gone in since HB 1206. The ones that specifically deal with the diversion off the Missouri River, those were put in in 2009, so you have a combination of both.

**V.Chairman Grindberg**: So those independent water users prior to 1206 were providing water out of the ground and not the Missouri?

**Mike Forman:** They were providing water, but it would've been through another source. The actual permit was put in place with the Army Corps of Engineers - the request or the application for the permit in 2009, but the actual water, because of the moratorium was not being diverted at that point.

(2:30:49)

# Dale Behen, Independent Water Provider

Testified in favor of HB 1020.

No written testimony, but handed out WAWS Information Packet - attached # 21.

I am the independent water provider that Mr. Forman referred to that has been working with the State of ND and the Corps of Engineers to secure coordinating from Lake Sakakawea to use fresh water from the Missouri River system. I passed out a booklet entitled the WAWS Information Packet. It contains material that serves to tell, as Paul Harvey affectionately put it, the 'rest of the story'. My wife and our son moved to ND in 2008 to begin a water transfer business and begin a three year process to gain permitting water from Lake Sakakawea and the Missouri River system. We love ND and after working three years with the governor's office, elected officials and the State Water Commission, we finally have our permits to utilize water for fracking from Lake Sakakawea and the Missouri River system.

We bought some property south of Williston on the Missouri River and one our permits that the Corps has given is on that property. Two years ago, we moved here and I am a resident. I support HB 1020 and our amendments to the bill. I support WAWS as envisioned in 2011 in HB 1206 but I do not support WAWS as it now exists, as a power hungry, money spending entity that spends dollars with reckless abandon, threatening private business men like me with this 1926(b) malarkey. Constructing a project of little or no quality control or oversight and they have a way with numbers that are misleading and does not build confidence. All that said, that was then; this is now. The problem is that

WAWS has simply lost sight of their mission. They now envision a massive water infrastructure project to sell industrial water first. Somewhere in this scenario, sell these rural residents while having a monopoly on industrial sales eliminating private business guys like me.

Mr. Olsen's assertion that the WAWS financial plan is on track is incorrect. It should be altered and brought into line, and you gentlemen and ladies put the project on the right track. WAWS has the wrong vision. Their real mission is mandated by HB 1206 in 2011 is to serve towns, ranches and rural residents and sell industrial water at their twelve depots. We have been pumping water in rural ND since 2008. We pumped water over ground, over land for distances up to 15 miles in temperatures approaching -30 degrees with great success. We have been doing this for five years now before WAWS ever trucked their first load of water from the depot. So ask yourself, who created this opportunity. It's guys like us who come to ND, invest our own money, invest our own heart and time and resources that has given WAWS the opportunity to enter this water market.

As Mr. Zubke told me, after passage of HB 1206 at a meeting in Watford City, "Mr. Behen, help us in our deal and we will work together. There's room for everyone here." Like their accounting, this is not true. It's a distortion and simply misleading. While they portray one thing to you, they do another. The problem, while it looks complicated and diverse, is very simple.

(2:37:06) The solution in four points:

- 1) Confine industrial sales to twelve depots. It provides more than sufficient income, just like WAWS proposed to you in 2011 in HB 1206. We have twelve depots. They will produce sufficient income to cash flow the project. In conjunction with that, there should be positively no industrial sales off the trunk lines or lateral lines, and no lines from the depots.
- 2) Make \$79M a grant. We want WAWS to work. We want it to cash flow. Give them the money and let them be successful. Make sure this \$79M is used exclusively for rural residents, communities, and municipalities and positively no lateral lines to oil wells. This coupled with oversight from the State Water Commission and outside value engineering.
- 3) Absolutely no 1926(b). When we as a state or the legislature gives you the \$79M, you WAWS, agree that you take this money with the understanding that the 1926 malarkey is off the table.
- Absolutely no interference with the Missouri River water permitting or with independent's rights to do business.

Finally, we want WAWS to be successful. They need to cash flow. No one wants to run over WAWS. No one wants to be run over by them. The solution is very simple.

Chairman Holmberg closed the hearing on HB 1020.

**V.Chairman Grindberg:** For everyone in the room, the subcommittee will meet for the first time on Thursday at 4:00 with one agenda item, and that's with Mr. Sando to review the bill one more time. There will be no other discussion. Further agendas and work by the subcommittee will be announced at that time or on Monday.

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#### 2013 SENATE STANDING COMMITTEE MINUTES

# Senate Appropriations Committee

Harvest Room, State Capitol

HB 1020 subcommittee March 21, 2013 Job # 20338

	Conference Committee			
Committee Clerk Signature	Hose Laning			
Explanation or reason for introduction of bill/resolution:				
A BILL for an Act to provide an apcommission;	opropriation for defraying the expenses of the state water			
Minutes:				
Legislative Council - Sheila M. Sa OMB - Sheila Peterson	ındness			

**Senator Grindberg** opened the subcommittee hearing on HB 1020. **Senator Holmberg** and **Senator Robinson** were present.

**Senator Grindberg** asked Todd Sando to walk through the bill with the changes as came through the House. There will be 3 meetings next week, one of them tentatively set for Tuesday at 3:30 with updates from Senators Hoeven and Heitkamp's offices. He would also like to get a funding history for Water Commission operations for the last 20 years; general fund, resources trust fund, etc.

Senator Grindberg had to leave for a few minutes to meet with constituents who were at the capital.

Todd Sando, North Dakota State Engineer; also Chief Engineer-Secretary to State Water Commission

Summarized HB 1020 and talked about a lot of House changes. Their total budget has increased dramatically over the last couple biennium with the Resources Trust Fund with oil revenues and production. The total budget is \$826, 574, 632. They are a general funded agency.

It's \$17.8M in the executive budget for agency operations. The House stripped that out. If they become a special funded agency, their legal costs would have to be paid for and that's not accounted for on what came from the House.

**Senator Holmberg** asked if they were a general funded agency, then the Attorney General sets it up?

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**Todd Sando**: Yes. And they'd also have to pay rent for offices, audits, etc. They would like to see the money from the Resources Trust Fund go toward projects.

**Senator Holmberg**: Any idea what those additional costs might be if you remained a totally special fund agency?

**Todd Sando**: We can get those numbers to you. They'd also like to restore the executive budget for the salary package. **Senator Holmberg** said they heard testimony on that the other day and it will be done.

**Todd Sando** read from page 10 of their main testimony (from the 3-8-13 hearing - Executive Summary - attachment #1)

**Chairman Holmberg** said he heard news reports of another 2 feet at Devils Lake.

**Todd Sando**: The official forecast by the National Weather Service is for the lake to come up 2 feet and basically that would be the 4<sup>th</sup> largest flood on record.

(9:42) Discussion on the possible flooding of the Devils Lake area, the Sheyenne Valley and the Red River.

**Todd Sando** said there was \$21M for Valley City, Lisbon & Fort Ransom and would entirely fund the projects. It would be a full cost share. A portion of the project funding would be provided in the form of a loan or a capital repayment so they'd have to figure something out - if they could pay a partial payment. That would have to be worked out with the Water Commission.

**Senator Holmberg** asked if it would be the Water Commission or the legislature that would be involved in that.

**Todd Sando**: It would be for the Water Commission to figure out with the local sponsors. .

**Senator Holmberg**: The \$21M is what it might cost and Valley City may have to pay \$3M of that back to the trust fund. Answer: Correct.

**Senator Robinson** said the Water Commission has been great to work with. The impact of 2009-11 was exhausting to local resources.

#### General Water Management -

**Senator Robinson** said the bridge in city of Lisbon is not very old, but sets very low and restricts water flow during high water levels.

**Senator Holmberg**: Is there participation or long range plans to fix bridges or is that a transportation issue?

Todd Sando: That's a road authority issue and the Water Commission does not get involved in actual bridges. Sometimes they get involved at stabilizing the bank as it

Senate Appropriations Committee HB 1020 subcommittee March 21, 2013 Page 3

approaches channels coming in or out of a bridge, but actual bridge construction and road crossings have been the road authority's responsibility.

# Northwest Area Water Supply -

**Senator Holmberg** asked if that money accumulates if nothing happens over the next two years, and would you have the flexibility to use that \$14M. This is not in statute so is this your priority at this point in time?

**Todd Sando**: This is just a potential allocation project and a lot of times, different priorities do come up with floods and lawsuits. We do have the flexibility to budget, and there are amendments on House side that would take away the flexibility of working on projects. For example, this current biennium, after the legislative session and had our budget in place and signed by the governor, we ended up having record floods on several of the rivers. We had record flow before the starting date of the biennium, so there was a whole new set of issues that had to be addressed. We even had to build a second outlet at Devils Lake. We shifted money from some water supply projects and had the flexibility to help Devils Lake. We were able to move money around.

**Senator Holmberg** asked **Mr. Sando** if he knew why there were more restrictive amendments added in the House. Was there a specific area they were unhappy with or just a general angst over your flexibility.

**Todd Sando**: It looks like they might want to pick the projects and the amount of money that goes towards them. They want us to report back to budget section if we deviate from our potential allocation plan, and they gave us so many days to go back to them. If we could go through them and amend them, it would be good.

**Todd Sando** said they built a new treatment plant for Valley City.

**Senator Robinson** asked about grants or loans and wondered if there would be any repayment.

**Todd Sando**: There are a couple projects that have been repaying. SW Pipeline has capital repayments so they've been putting money back into the Resources Trust Fund that we can spend on water development throughout the state. The other is the WAWS that is supposed to be paid for by industrial sales. Otherwise, we don't have much out there. We have some loans on a couple rural water projects with promise to repay.

**Senator Robinson** asked if there was a chance to deplete the water taken from reservoirs in coming years. I don't know how we plan for that.

**Todd Sando** said we're blessed with water in ND and lucky to have the Missouri River flow through our state. Right now we put less than 1% of the water to use. The governor and I went to Minot yesterday and dealing with the Corps of Engineers, we explained that we only use one third of 1% of the water - and even if we put everything else to use and do our fracking for industrial use, build the Red River Valley water supply, build the NAWS project,

Senate Appropriations Committee HB 1020 subcommittee March 21, 2013 Page 4

we'd still be using less than 1% of the water. The Missouri River is an abundant source of water.

Discussed municipal water supplies (35:00) and what might be a major shift in policy in section 18 of the engrossed bill where they have to develop policy in loans or grants.

Senator Holmberg closed the hearing on HB 1020.

#### 2013 SENATE STANDING COMMITTEE MINUTES

# **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 subcommittee March 26, 2013 Job # 20517

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

This is a hearing on the State Water Commission and a conference call with **Senator John Hoeven** and **Senator Heidi Heitkamp**.

Minutes:

Testimony attached # 1 - 2

Legislative Council - Sheila M. Sandness OMB - Laney Herauf

**Senator Grindberg** opened the subcommittee hearing on HB 1020. **Senator Holmberg** and **Senator Robinson** were also present.

Connected a conference call with **Josh Carter** of Senator Hoeven's office and **Tracess Sutton** from Senator Heitkamp's office.

**Senator Grindberg** would like to get their perspective of what is going on in Washington and help shape thoughts here as we move through the various projects in HB 1020.

**Josh Carter** said they looked at the questions that were advanced to them and hope they can speak with some clarity but he's not sure what direction you want to go.

**Tracess Sutton** said we're available to answer questions in response to the information provided. If there are specific questions, then we can answer.

**Senators Grindberg** asked them to give their comments and maybe summarize where you think this will go. Senate Hoeven had a release yesterday that the Senate was going to vote on this sometime in April - see attached # 1.

Josh Carter: I can speak in context of what Senator Hoeven said yesterday. The Environment and Public Works Committee passed its version of a new Water Resources Development Act last week and is now prepared for Senate floor consideration. There's a possibility that the legislation could go to the Senate floor during our April work period. It's always a fluid situation as things come up and down on the Senate floor all the time. From there, it gets into a level of speculation pretty quickly. If it would get to the floor, we could anticipate taking a couple weeks on it. Assuming it would pass, then it would have to wed

Senate Appropriations Committee HB 1020 subcommittee March 26, 2013 Page 2

up from something in the House and I don't have any good information on what the House of Representatives would be prepared to do with a Senate bill. To your point of when it would reach the President's desk, without knowing the situation in the House, it's tough to speculate when something would get to the President.

**Senator Grindberg**: Can you comment on earmarks? Will that get in the way? The House has been a little skittish in earmarking this project.

Josh Carter: If you're speaking to the particular provision in the Senate legislation that came out of committee, it was written in a way to avoid senate earmark provisions at this point because it authorizes a category of projects that's not geographically specific. It authorizes projects that it receives these reports and been referred over to congress from the administration. From the Senate's perspective, that's not an earmark problem.

**Senator Grindberg**: On question #7, considering this is a large project, how would you envision seeing that appropriated over a period of years? Is that still subject to congressional input or is it a typical model or role that the Army Corps follows with funding a project of this size?

**Josh Carter**: I'd hesitate to say there's a typical model. I would ask Tracee if there's a typical model. Much of it depends on the resources that are available year to year to put against projects that the administration and congress identify as priorities through the appropriations process.

**Tracess Sutton**: I agree with that. It will happen over time, we can't say from one year to the next what the amount might be. The federal government has provided upwards of \$26M for the project to advance it to this stage. It's been included in the President's budget for design, planning and engineering up to this point which is important as far as the appropriations process here. Obviously, to move to the construction phase, we'll need a new construction start. It will be something that will have to be done in the budget in whatever the president proposes. There's no typical funding matrix relative to these types of projects.

**Senator Grindberg**: Any thought for us as far as the state's commitment on this project? Any things that come to mind that would be counter-productive to the federal effort?

**Tracess Sutton**: In making the case on the federal level for funding for the project, its important to demonstrate a strong non-federal component to the project - a strong local and state commitment to the project. That's an important demonstration of support for a project here and given that the project is funded close to a 50-50 cost share, people tend to look at that more favorably. The money that the state has provided so far is critical and in keeping that sort of momentum going is important as we advance the project.

**Josh Carter**: As you're well aware, when the project came before the Corps, several of us were in the room and heard the Corps talk about the significance of local and state support at that particular level. That was important and helpful as it goes forward.

Senate Appropriations Committee HB 1020 subcommittee March 26, 2013 Page 3

**Tracess Sutton**: We've highlighted the support from the state and the local with respect to the sales tax and the overall commitment on the non-federal level to the project which has been important on our level to advance things here.

**Senator Grindberg**: It's pretty clear that the commitment has already been made that the federal government realizes the state and local have made commitments to this project.

**Tracess Sutton**: They certainly see the strong support behind the project on all levels - which is important to advancing the project altogether. It's having all the partners together at the table.

**Senator Grindberg**: So irrespective of any action this session, we clearly have sent a signal that there is support for this project and if it takes two years to get the legislation through, we would be back here in two years so there's nothing we could do here that would alter the message that's been sent, with support, locally and state?

**Tracess Sutton**: I think you want to continue the same message and continue the strong support for the project going forward and supporting the project on the state level.

**Senator Holmberg**: If you're looking at a match and state/local is looking at 50-50, is that match measured against the total cost of the project or is it match up against specific sections of the project. If there is an area of the project that the state goes ahead and does 100% with their own money, is that 100% of their own money count in a discussion of the 50-50 match for the entire project?

Josh Carter: My assumption is that the money contributes to the overall match, but I couldn't speak to that in terms of the sequencing of the project itself. No matter who's paying for what in what spot, the Corps probably needed to be coordinated in some fashion. This gets into - when money can be spent and what can be done in advance, and so forth. I'm not an implementing partner with the Corps of Engineers to speak to all the hoops that may have to be gone through to understand how the project has to be sequenced and financed.

Tracess Sutton: For example, in a project, the locals or non-federal are responsible for all the land acquisition and right of ways with respect to the project. They pay 100% of that, but it's counted toward the overall 50% of the project that they are on a cost share basis. They pay 100% of those costs, but it's factored into the overall 50-50 of the approximate breakdown federal/non-federal. There are parts of the project that non-federal sponsors have to fund the money because that's their responsibility for the project. The Corps keeps a pretty good handle on where things are at as the project moves forward where their at with the cost share breakdown, but beyond the land acquisition, right aways, I can't speak much to the sequencing of the project.

**Senator Grindberg**: Other than the tight federal budget, are there any other road blocks or concerns that might develop as this moves through?

Tracess Sutton: Certainly none that the authorizing committee has raised with us.

Senate Appropriations Committee HB 1020 subcommittee March 26, 2013 Page 4

**Josh Carter**: It's a question of legislative process and the tight federal budget than a substantive concern with the project itself.

**Senator Grindberg** thanked them for their perspective. They will take their recommendations and move forward.

**Senator Grindberg** asked **Todd Sando** and **Dave Laschkewitsch** to walk thru the House amendments one more time.

Todd Sando and Dave Laschkewitsch went over engrossed HB 1020 section by section.

#1 switching from general to special funds -

**Dave Laschkewitsch** handed out a list of the additional costs incurred by having to go to a special funded agency - see attachment # 2.

Discussion continued on the House changes proposed in the bill.

Senator Grindberg adjourned the hearing.

#### 2013 SENATE STANDING COMMITTEE MINUTES

# **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 subcommittee April 2, 2013 Job # 20775

	Conference Committee			
Committee Clerk Signature	Rose Saning			
Explanation or reason for introduction of bill/resolution:				
This is a subcommittee hearing on HB 1020 SWWA - the Southwest Water Authority.				
Minutes: Legislative Council - Sheila M. Sand OMB - Sheila Peterson & Laney He				

**Senator Grindberg** opened the subcommittee hearing on HB 1020. **Senator Holmberg** and **Senator Robinson** were also present.

**Senator Grindberg** asked Mary to walk them through an overview of Southwest Water and the funding that's in the budget now and if they will be able to complete the work. And if she could give perspectives of the board on the transfer discussion that is listed in SB 2233.

# Mary Massad, Manager/CEO, Southwest Water Authority:

Testimony attached # 1:

She described the maps. Everything in blue (on the map) is complete as far as original construction and is served out of the Dickinson water treatment plant, but they still have deferred construction out there. Everything in green will be served out of the treatment plant, the OMND, located 7 ½ miles north of Zap. They currently serve 31 communities. The area in green will be served out of that region. Currently they are serving Zap, Hazen, Stanton and Center out of the new treatment plant. The communities of Golden Valley, Dodge, Halliday and Dunn Center are served out of the Dickinson water treatment plant.

She described the population growth in several of the cities.

**Senator Grindberg**: Will all the map in green and tan, in two years, when the work is done become blue?

Mary Massad: The blue area is served out of the Dickinson treatment plant; the green area will be served out of the OMND treatment plant. The hatched areas will also be served out of the OMND treatment plant.

**Senator Grindberg** asked of a completion date and said they needed to know when the project would be completed.

Senate Appropriations Committee HB 1020 subcommittee April 2, 2013 Page 2

**Mary Massad**: Funding this current biennium, and next biennium should get us to where the 2013-15 and 2015-17 should get us fairly close. She explained more of handouts and funding. Funding Requirements for the SW Pipeline Project (see attached)

Mary explained the phases of construction.

Senator Robinson: When you reference an elevated tank, is that a water tower?

Mary Massad: They're up in the air a couple hundred feet, usually with a concrete base.

(18:02) **Senator Grindberg** asked questions about the map and Mary explained.

**Senator Robinson**: Earlier you mentioned deferred construction projects in the SW. What are we talking about? Are they smaller hook up areas?

**Mary Massad**: Mostly 2<sup>nd</sup> reservoirs. We need a 2<sup>nd</sup> reservoir at Richardton, that's raw water reservoir to bring water to Dickinson. (She named the areas they need 2<sup>nd</sup> tanks.)

(20:22) **Senator Robinson**: In the areas you're referencing, you have connections to the businesses and the residents, farms and ranches. You need extra capacity.

Mary Massad: Capacity - and as the area goes and becomes more mature. You plan for an immature system and a mature system and as your system matures, you get more growth. We knew that all along. We needed things like this and you do them as you need them because funding has always been an issue for our project. That's why we're still here.

**Senator Robinson**: On the map, if everything falls in place in the next biennium, you mentioned that you would have additional work in the 2015-17 biennium, where would the bulk of that work take place.

**Mary Massad**: It would be system wide. It would be for the tanks that were referred to, the upgrades, larger pumps at some of the pump stations. **Senator Robinson** said that at the end of the upcoming biennium, that if everything falls in place, you wouldn't be in a situation where there's many folks waiting for water?

Mary Massad: Correct. Now we just have cities whose growth is dependent on water availability. Dickinson's growth plan is based on water availability.

(26:05) **Senator Robinson**: SW has managed this operation since 1996. How long did the Water Commission operate it prior to SW Authority assuming responsibility?

Mary Massad: Construction started in 1986 and we began our first service October 17, 1991 to the City of Dickinson. Our first rural service was the following year to Roshau. Then there were negotiations and contracts to transfer management to O&M and the effective date was January 1, 1996. Kind of did the same thing with the City of Dickinson. The City still owns the water treatment plant. We're in the process of transferring

Senate Appropriations Committee HB 1020 subcommittee April 2, 2013 Page 3

ownership of that and obtaining additional property to build the 6 million gallons that we need.

Mary Massad: I don't know how you want me to address transfer of ownership.

**Senator Grindberg**: Let me take a crack at that, but to clarify the annual revenues collected are \$8M? **Mary Massad** said they're budgeting for a total of about \$15M for the current calendar year.

**Senator Grindberg**: And that's all fee based? Answer: Yes, but it also includes mill levy - one mill for the twelve counties.

**Senator Grindberg**: And out of that you pay your operations? **Mary Massad** said the funding from the state is strictly construction and there are construction items that they don't pay for. We've got satellite offices. We've built offices in other communities and will continue to do so. That's done with the revenue generated from water sales.

**Senator Grindberg**: And what is the amount that's anticipated to be paid back? **Mary Massad**: \$4.9M for capital repayment in 2012.

**Senator Grindberg**: Those are payments but what is the outstanding balance? **Mary Massad**: It goes on into perpetuity.

**Senator Grindberg**: The project will be completed this biennium. Other than what you said about enhancements, upgrades, expansion, and Senator Schaible shared some thoughts with me that the pipe in his area maybe needs to be expanded now. When I read the language in section 6, SB 2233, it says:

#### SECTION 6.

#### Southwest pipeline project - Report to legislative assembly.

The state water commission and the southwest water authority shall begin the process of reviewing capital repayment and revenues being returned to the resources trust fund; payments necessary to meet obligations of existing bonds and other loans; ownership of land and associated facilities; existing construction documents; liabilities; contracts with cities, bulk users, companies, and other users; and other items, and shall report to the legislative assembly those steps necessary for the transfer of ownership and responsibility of the southwest pipeline project from the state water commission to the southwest water authority.

So my question to you - That's going to take place over the next two years because it's in the bill and the Senate has already passed it. I expect the House is going to pass it as well. We're going to be back here in two years and you're going to have a revenue base of whatever the number is. Here's what the state expects to be repaid, I would advocate that we would have that amortized over a longer period of time so you net more cash and then you can keep that locally to manage for some of those expansions, and upgrades that need to be happening rather than having you come back here every session. Allowing that to evolve with cash flow and fee based growth versus biennium after biennium dependency upon state appropriations.

Senate Appropriations Committee HB 1020 subcommittee April 2, 2013 Page 4

We want to finish the project but I think there's a point it's got to come that SWA acts as an independent entity with obligations with repayment, however that may shake out, so that we declare it finished and then allowed you to be successful financially as well as the overall purpose of the authority.

Mary Massad: Where do I see things as going? I guess to do a study to see what it would take to do the transfer. What kind of revenue streams we would be looking at long term and convince me that it's the right thing to do. How do we deal with what we're dealing with today in our region? You have a mature system on one side. You have huge oil or industry, economic impacts throughout the region and you still have people waiting for water. Hopefully we'll get past that and we won't have people upset with us who are still waiting thirty plus years for water.

**Senator Grindberg** asked Todd Sando if he had any perspectives from the State Water Commission.

**Todd Sando, State Engineer:** Regarding SW pipeline, we have concerns with under designed weight with the way population trends are going so there is a big need. We're nearing the completion of the original plan, but we're seeing populations double of what was projected for SW North Dakota. It's hard to part ways with that at the moment. I think it's important to take a look at it and study. That's just one issue with the influx of people, the demands for water needs and the industrial growth in SW in North Dakota. We've been able to meet the needs in NW North Dakota because of the ground source water. SW North Dakota does not have the ground water sources like NW. It's a water poor area and that's how the SW pipeline came about and now we have a growing area too on top of an area we don't have water.

**Mary Massad**: We should've been done and complete 10-20 years ago. There wasn't the revenue to do that.

**Senator Grindberg**: No one here is against this. We want to know what the model moving forward when it's declared finished and what's it going to take.

**Mary Massad**: The study will hopefully show us. Any guidance that we could get from yourself, the committee, the state legislature on any ideas or input they have, we'd appreciate.

**Senator Robinson**: The bill with the funding before us, if that remains intact, is there anything here that would inhibit or create an obstacle for SW water to move forward with your projections over the next two years? Is everything is place in this bill in terms of funding levels, emergency clauses, the works. Are you prepared to do or complete what we hope to have done in the next biennium?

Mary Massad: Yes, and she appreciates the committee's support.

**Senator Grindberg** closed the hearing.

#### 2013 SENATE STANDING COMMITTEE MINUTES

# **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 subcommittee April 2, 2013 Job # 20794

Conference Committee

Explanation or reason for introduction of bill/resolution:				
Minutes: Legislative Council - Sheila M. Sandness	Testimony attached # 1-5			

**Senator Grindberg** opened the hearing on HB 1020. Senator Holmberg and Senator Robinson were also present.

OMB - Sheila Peterson

**Senator Grindberg** said they've been working on legislation with SWWA and tomorrow they will be working with WAWS. Some people present have support for the FM Diversion and there are also members of the FM Homebuilders present. He visited with both sides and he told them he will give each side about 45 minutes to reinforce their other testimony given before the full committee. They will be preparing amendments that will be discussed next week.

**Senator Holmberg**: The emergency commission is meeting this afternoon and I have to leave for a few minutes.

Craig Hertsgaard, a farmer from Kindred, ND, spoke in opposition to the dam and reservoir components of the proposed Red River Diversion Project. He spoke about the impacts to the communities south of Fargo. Funding this would cost the state of ND \$560M or more. The army Corps of Engineers has a record of under-estimating the cost of projects. It is risky for the State to start projects without approved federal funding. His group does not oppose flood control for Fargo. They simply don't believe their communities should be pushed aside so Fargo can develop in the flood plain. Fargo has alternatives to the current dam and reservoir. He explained both a diversion project and alternatives that don't require a diversion. He also explained the possibility of doing small basin-wide retention projects. See attached testimony # 1. He explained the attachment. (03:40 to 19:11)

Senate Appropriations Committee HB 1020 subcommittee April 2, 2013 Page 2

**Senator Grindberg**: The south side project that was shelved a few years ago, wasn't there environmental issues with that or land owner protests?

**Craig Hertsgaard**: I think there were some landowners that weren't excited about it. I don't know if this pushed water on them. Their concern was building into the flood plain. They wanted to change their focus to flood diversion.

**Senator Grindberg** asked about the terrain and the natural retention to the south and west of the Fargo-Moorhead area. (20:17 to 20:45)

Craig Hertsgaard addressed the question and spoke about retention sites. (20:46 to 22:24) He also explained the situation with Hickson-Oxbow-Bakke. See page 7 of attachment #1. The problem is caused by Fargo building in the flood plain - MN DNR doesn't like it. FEMA doesn't like it. The only ones that are for it are the Army Corps of Engineers. A shift in the flood plain is not in their best interest. They strongly oppose any funding for a diversion project as long as there is a dam and reservoir south of town. They also oppose the construction of a 10 foot dike around Hickson-Oxbow-Bakke when a majority of the residents in the township oppose it. (22:26 to 28:00)

Darrell Vanyo, Chairman, FM Area Diversion Board of Authority, introduced the speakers and gave a brief overview of what will be presented.

**April Walker, City Engineer, City of Fargo**, testified in favor of HB 1020. She stated the plans that Craig had explained were set aside for various reasons. She addressed the comprehensive 42.5 foot plan and the changes FEMA has made to flood insurance through the Biggert-Waters National Flood Insurance Reform Act. See attachment #2. (31:25 to 41:03)

**Senator Grindberg**: Has there been any discussion in Congress about changing the Biggert-Water Act?

**April Walker**: We met with Senator Hoeven and he said it wouldn't be enforced as originally stated by FEMA. We feel a case needs to be made for not eliminating the basement exemption. We'll be working with senators at the national level.

**Senator Grindberg**: Will that be an administrative rule process or Congressional action?

April Walker: I am not sure.

Rose Hoefs, Certified General Appraiser who specializes in eminent domain mitigation and combination issues, presented attachment #3. She has done appraisals in those fields for 17 years. She has been an appraiser for 30 years and has been in real estate for 40 years. About two thirds of her appraisal practice has dealt with water issues. She cited a number of appraisal mitigations she was involved in. She stressed that there are very succinct guidelines for doing appraisals. (43:23 to 48:15)

Senate Appropriations Committee HB 1020 subcommittee April 2, 2013 Page 3

**Senator Grindberg**: It would be helpful if you would describe how this process would work for fair treatment of those not eligible for a ring levee. In prior testimony, there's misunderstanding that some folks believe they won't be treated fairly. Also address the easements -one time easement, etc.

**Rose Hoefs**: She addressed that question. (49:24 to 53:17)

**Senator Robinson** asked what the consideration is when there is an ongoing permanent reduction in the evaluation of the property because of a dike. How is that handled? (53:18 to 53:34)

**Rose Hoefs** addressed that question by using the City of Oxbow as an example. She spoke about the procedure for arriving at a price for a buy-out. (53:42 to 55:25)

**Senator Robinson** asked if it is normal for the buy-out figure to be based on the market value at some point in time. He knows of some communities that have the value set at 110% to compensate the people for what they are going through.

**Rose Hoefs** explained the difference between a market value and an assessed value. (56:10 to 57:35)

Rodger Olson, Chairman of Diversion Authority's Agriculture Subcommittee and also member of the FM Area Diversion Authority, presented attachment #4. (58:15 to 1:09:37)

**Senator Robinson** asked where they were in putting the Diversion Authority's crop insurance plan together. (1:09:39)

**Rodger Olson** referred to the Ag Impacts Mitigation Plan on page 4 of attachment #4. (1:09:55 to 1:10:33)

**Senator Robinson**: You have full confidence that the plan will work financially for the Authority and for the farmers in that area?

**Mr. Olson**: Yes. He went back to the partial paragraph on the bottom of page 2 of attachment #4. (1:10:47 to 1:12:45)

**Senator Robinson**: Are you aware of any other situation where this type of package has been put together?

**Rodger Olson**: On the Mississippi River they blew the dikes and inundated thousands of acres of farmland. Risk Management Agency actually covered that loss because they looked at it as if it was a natural disaster that was happening. I am not aware of another plan like this in existence. This came out of our discussions at our Ag Committee and then further discovery through talking through RMA. (1:12:53 to 1:14:31)

**Senator Robinson** asked about the preventive planting situation. Do you take into consideration the possibility of back to back cash flow? If there were two or three years in a

Senate Appropriations Committee HB 1020 subcommittee April 2, 2013 Page 4

row, where would we be in terms of cash flow in our ability to respond to the farmers in that area? (1:14:34 to 1:15:05)

**Rodger Olson**: There are a lot of fine points that need to be studied. That has been discussed. There has been a commitment from the Diversion Authority that we will cover those losses. He went back to paragraph 1 on page 3 of attachment #4. He also explained the flowage easements on Page 4 of attachment #4. (1:15:10 to 1:18:10)

**Senator Grindberg**: Would it be your opinion that if the land was sold in ten years the new buyer would be aware and he agreed to buy the land?

**Mr. Olson**: That is true. That is a risk that a land buyer would look at before he would buy that land.

**Mr. Olson** explained the map and showed areas that are in the 100 year flood plain. They would have water on them without the diversion or with the diversion. (Ends at 1:19:53)

**Darrell Vanyo, Cass County Commissioner and current Chair of the FM Diversion Authority Board,** handed out testimony and wrapped-up their presentation. See attachment # 5. (Ends at 1:31:35) He wanted to address the question of whether they knew of anyone else who had done this self-insuring. They had gone to Canada and had seen many ring dikes. They were told if there is any failure of the ring dikes, the provinces will make it up. He is not sure of how it is structured. He also spoke of retention. He said it is best served closest to the area it is protecting. (1:32:40 to 1:33:14)

Senator Grindberg closed the hearing on HB 1020.

#### 2013 SENATE STANDING COMMITTEE MINUTES

#### **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 subcommittee April 3, 2013 Job # 20838

Conference Committee

Committee Clerk Signature	Rose Laning					
Explanation or reason for intro	oduction of bill/resolution:					
This is a subcommittee hearing on the Water Commission, specifically to the Western Area Water Supply.						
Minutes:	Testimony attached # 1					

**Senator Grindberg** opened the subcommittee hearing on HB 1020. **Senator Holmberg** and **Senator Robinson** were also present.

**Senator Grindberg** said they'll ask **Jaret Wirtz** to answer several questions that they had sent him about his business plan that he referenced at a hearing last week. The chairman wanted information about a business plan as opposed to a capitalization plan.

Jaret Wirtz handed out Western Area Water Supply Authority - HB 1020 - Response to Senators. Grindberg - attached #1.

He then proceeded to go over the questions.

Question # 1 - Number of "traditional" (rural homes/farmsteads) rural users, water rate, and revenue generated ---

**Senator Robinson**: How do these rates compare with other rural water systems across the state?

**Jaret Wirtz**: McKenzie and Williams are some of the highest rates throughout the state. They exceed Southwest by quite a bit. An average water bill for McKenzie Rural Water is close to \$77.00 and Williams being a little higher than that. This is the amount that they are charging their residents. There is a cost that they have to buy the water from WAWS. McKenzie buys it from WAWS for \$3.87 per thousands. Williams buys it for \$3.16 per thousand.

(4:06) **Senator Grindberg** asked him to walk through it again.

**Jaret Wirtz**: Once we build the system, they're handed over to the local entity. Those local entities are billing that farmstead user. If the local entity says we don't want to serve that person, WAWS has the right to give that person water. These numbers shown here are

Senate Appropriations Committee HB 1020 subcommittee April 3, 2013 Page 2

what McKenzie and Williams have for customers and what they are taking in. It doesn't show the cost that goes out to pay back WAWS or the cost to operate and maintain their lines.

**Senator Grindberg**: From accounting perspective, this is gross revenue? Answer yes. This is not WAWS revenue then?

**Jaret Wirtz**: No, it's not. As of right now, WAWS is not collecting any of that revenue that's being taken in by the member entities. We are in negotiation with McKenzie and Williams to take a portion of that since we are building some of the systems.

**Senator Grindberg**: Would that have been pre-determined then with the structure of WAWS from two years ago, that at a certain date and time you would start receiving revenue based on your loan obligations?

**Jaret Wirtz**: No, the original plan didn't have that debt that the members they were going to serve, go back to that WAWS debt. The members would keep that in house to do their own operation and maintenance. It's a huge O&M cost to take care of these systems.

Question # 2 - number of cities served by WAWSA, rate, volume water utilized, and revenue generated.

Question # 3 - Number of other hook-ups for domestic water (rural residential subdivisions, commercial and industrial users, and bulk, RV Park, and temporary housing units, rural, etc.)

(11:21) **Senator Robinson**: There's \$79M in HB 1020, and now we heard HB 1140 - What if the legislature passed 1020 with the \$79M but HB 1140 didn't materialize? What adjustments would you have to make in the plan to get by the next two years?

Jaret Wirtz: The main objective of WAWS as far as priority of projects is increasing the size of the Williston water treatment plant from a 14 to a 21 mgd. The WAWS board prioritized a list of projects and came up with a list of \$120M of projects with needs that we could accomplish this biennium with this funding. No matter how much money we get, the first \$40M will go into water treatment plant. The Board would have to prioritize which projects didn't get built if we were limited of funding.

Just to add - HB 1140 has an emergency clause on it as well. There is a huge need to get that started because the treatment plant takes so long to get out for bids and so long to build that we need to move and a matter of months does slow it down. We'd like if finished before the peak season 2015.

**Senator Grindberg**: The \$79M in this budget - \$40M goes for the project in Williston for increasing capacity. Did I hear you correctly?

**Jaret Wirtz:** The \$79M out of HB1020 is for rural & distribution, rural pipelines, reservoirs and pump stations. (Referred to a map used in his testimony from 3-26-13 - in attached #15 and explained the spider distribution lines and the area covered.)

Senate Appropriations Committee HB 1020 subcommittee April 3, 2013 Page 3

(15:50) **Senator Robinson**: (asked about the water treatment plant in Williston and wanted to know if that request was made of the Water Commission and if Mr. Wirtz was planning to fund that with the \$40M in HB 1140.) Did you ask for more than \$79M from the Water Commission? Why are there two pieces and why wasn't it all in one package?

Jaret Wirtz: We initially came to the Water Commission and told them we have \$120M worth of needs. We anticipated HB 1206 with \$110M when we brought that down two years ago. That was going to be a \$150M project and we assumed we come back in a separate bill for the \$40M to take us to \$150M. We told the Water Commission we have additional \$80M needs for this biennium which would total about \$120M worth of needs. That's why that additional money was put into the Resources Trust Fund in the Water Commission budget to take care of those needs.

Question # 4 - Number of depots currently in operation and revenue generated monthly and annually.

They currently have 9 depots in operation and have plans for 12. \$13.2M has been generated from April 2012 through March 2013 from the depots.

(19:16) **Senator Grindberg**: That revenue is WAWS revenue? Or is it McKenzie County and Williams Authority revenue?

**Jaret Wirtz**: It varies. McKenzie County collects their revenue and reimburses back to WAWS. The same with the City of Williston, they collect their revenue and reimburses it back to WAWS. We do have some of our own depots that we built that the money comes directly to WAWS.

**Senator Robinson**: How is that determined - the various payment structures? Is each one taken on an individual basis? You mentioned that you have some depots that you built, and that money comes back to WAWS, but are there situations where others had built their own depots? How do you determine where the money comes back to?

**Jaret Wirtz**: No, that was done through member agreements. Part of WAWS, all the members agreed to contribute their industrial water sales to the project to help pay it off. Two years ago, Watford City had a depot. Williston had a depot within the town that they've been serving water for years off of. Those cities have been dependent on those incomes coming in from those industrial sales, so we took a 2010 baseline - what they sold in 2010. Every year we would contribute that amount back to them and they would give us anything over and above that. If they had an existing depot, the revenues all come back to WAWS minus the cost to run them.

Right now, in the month of March, we approx. sold \$720,000 worth of water and total sales for the year of about \$1.8M through those direct sales.

<u>Question # 5</u> - Number of Industrial hook-ups (direct lateral connections, other) in operation and monthly and annual revenue?

Question # 6 - WAWS's annual administrative and operations and maintenance (O&M) budget (2013).

Senate Appropriations Committee HB 1020 subcommittee April 3, 2013 Page 4

Question #7 - Annual consulting fees and description of services.

Question # 8 - Annual Contracted Member O&M budget (2013)

Jaret Wirtz said that the money paid back to the entities to run such things as the depots, the pipelines that are being utilized to run the treatment plant comes up to \$3.8M.

**Senator Grindberg**: So that's what each of those entities is paying WAWS?

**Jaret Wirtz**: No, that's what we have to pay them - to operate the infrastructure that WAWS is utilizing of theirs. For instance, Williston is \$1.7M with the treatment plant in there, so we're paying all the expenses. They in turn buy the water from WAWS. We take on all the expenses of running the plants. Then they buy the water from WAWS so that's how we make the profit.

(25:35) **Senator Robinson**: If the money is approved to do the expansion of the Willistion treatment plan, will that plant become the property of WAWS, the City of Williston, or where do you draw the line in terms of ownership, liability issues, all of the related business concerns in terms of having a system in place?

**Jaret Wirtz**: I'm going to ask our engineer on that. Right now in the treatment plant, we're operating and maintaining it, but all the improvements are WAWS.

(Voice from the audience) The water plant is owned by Williston and they have to retain ownership once they have debt on it. Once that debt is retired, there is an agreement in place that allows WAWS to buy it for \$1.

**Senator Robinson**: In the meantime, the costs for the improvements will be borne by WAWS? Answer: Correct.

**Senator Grindberg**: In your material, you have \$833,000 for operations (2013 budget), professional fees \$750,000 projected, and the O&M of \$3.M. You add those three together and it's \$5.3M. That's apples to apples as far as expenses? Answer yes. Then your revenue is how much?

**Jaret Wirtz**: We project that we will take in \$25M of industrial revenue and we have another \$5-6M on the domestic side.

**Senator Grindberg**: That's \$30M a year? And then you back out \$5.5 or 5.3 of expenses, so there's about \$25M in profit. That goes where?

**Jaret Wirtz**: To pay off the BND. We need about \$25M for the 10 year and \$21M for the 23year. That's to satisfy the debt requirements and the capital requirements as well.

**Senator Grindberg**: (for **Dave Laschkewitsch**): Yesterday we had SouthWest discussion and the money we're appropriating to SW to finish their project, which isn't too far from where the southern end of WAWS is. Are contractor rates cost per mile with a 2 inch line comparable to a 2 inch line in Tioga?

#### 2013 SENATE STANDING COMMITTEE MINUTES

#### **Senate Appropriations Committee**

Harvest Room, State Capitol

HB 1020 April 11, 2013 Job # 21116

Conference Committee					
Committee Clerk Signature Rose Janing					
Explanation or reason for introduction of bill/resolution:					
A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission.					
Minutes:					
Legislative Council - Sheila M. Sandness OMB - Laney Herauf					
Chairman Holmberg opened the discussion on HB 1020. All committee members were present.					
V.Chairman Grindberg handed out amendment 13.8149.02004 and explained the amendments. Read from the amendments					
V.Chairman Grindberg moved Do Pass on amendment 13.8149.02004. Senator Carlisle seconded the motion.					
<b>Senator Gary Lee</b> : In bullet point # 2, in the addition section, when it talks about legislative assembly for Fargo control only for levee and dike protection, is that intended to be only for Fargo as is stated there - on page 4?					
V.Chairman Grindberg: That is my understanding.					
<b>Senator Warner</b> : On that same bullet point, does the term authorization include the notion of appropriation. Does the money have to be there or does it just have to be authorized?					

**Senator Mathern**: Some of these amendments almost look more appropriate for a conference committee. What is the rationale for not just taking off the House amendments? For example, setting the project limit at \$450M, seems to me like we get more and more data all the time to make that information more accurate. Why did you feel we needed to put that in at this point - that cap?

V.Chairman Grindberg: Just authorization.

Senate Appropriations Committee HB 1020 April 11, 2013 Page 2

**V.Chairman Grindberg**: There have been ongoing discussions in SB 2233. The same language has been adopted by the House in the House Natural Resources Committee with authorization being the contingent factor, as well as up to \$450M amount. As this bill was passed over, it's \$325M. My discussions with the Natural Resources committee and House Majority leader is that the discussions they were having is cleaning up the House amendments to this bill and that was palatable to what they were going to do with SB 2233. Further, my discussion with the Diversion Authority leaders and the City of Fargo is that they are comfortable knowing that this is the number and if it comes to be, they realize that this is the commitment from the State of ND and that does include the 61<sup>st</sup>, 62<sup>nd</sup>, and 63<sup>rd</sup> commitment which would total \$175M, so down the road, if the diversion is authorized, our commitment would be the remaining amount between \$175M & \$450M. I think everyone understands that would take 2-3 more biennium and authorization is a determining factor here of going forward. But federal appropriations could take well over a decade, so construction cash flow between federal funding and state funding could take us beyond 2020.

**Chairman Holmberg**: If you check back when the legislature authorized the Grand Forks flood protection plan, there was a limit put in that legislation saying that the state's commitment shall be \$52M.

**V.Chairman Bowman**: We're committing a lot of money based upon an assumption that the federal government is going to come through. We know they haven't come through yet and we know the financial division of the federal government. Why would we tie up any money until we know if they're going to come through? Why do we need that money set aside until the feds make their decision?

V.Chairman Grindberg: The difference between \$175M and \$450M has technically not been set aside. Its intent language that this is the most the state would contribute to the ultimate project should it move forward. I think that this language is palatable to at least send to the federal government should you decide to embark on this project, the state has made its commitment. Either it's going to be a decision point that this is going to happen or it's not going to happen. This is the best approach to send a message that we're committed but the final signature has to come from the federal government and at the same time, recognize that this is going to take a period of years to complete. It also sends a message to the residents in my community that we're going to commit to this, recognizing that there are still challenges so there are a lot of unanswered questions - with the upstream interests as well, hence the budget section requirements to continue reporting to us what's going on - and also the whole FEMA maps. There are a lot of moving parts yet. The bottom line that minds locally will decide how this is going to go forward and we'll see where the federal government ends up on this.

V.Chairman Bowman: This is a commitment from us, but what is the commitment from us to the area south of Fargo that we heard from. They are very concerned about this commitment. Has that been addressed at all? Is there any other things that guarantee those people are not going to lose a lot of acres of land? That it's going to wreck their school board and the amount of mills they're going to generate because the land is going to be worth less money? There is a lot at stake in this decision. It would be nice if there was a way that we could help both. Anytime you have two people coming in and fighting, we try

Senate Appropriations Committee HB 1020 April 11, 2013 Page 3

to find some middle ground. Is this all or none? Or is there something in here to help those small communities south and west of Fargo?

V.Chairman Grindberg: From the local funds that are generated and the commitments that have been made to date - for example, the self-insured crop insurance pool, we took testimony here and I take them at their word when they say they're going to do it. On the other side, the upstream interests, there are folks concerned that that won't even cover their losses. We have to put faith in the fact that they testified that they will and hence the requirements that they report back to the budget section so we learn what's going on, not just what we read about in the papers. There are strong opinions on both sides of this project and what it means in the impact. My hope is that people stand true to their word and as this progresses and authorization prevails, then the leaders on both sides of the issue need to roll up their sleeves and be constructive in their discussion and not look toward what has happened in the past.

**Senator Carlisle**: On page 4 with this federal authorization, is that a complicated Washington process? What all does it involve? How does that process work?

V.Chairman Grindberg: My understanding is that the budget that was put forth by President Obama yesterday, is apples and oranges different than what authorization means. The budget did not contain any funding. That was reported in the press. It has small amounts for design and engineering in the past. The Worda bill, which has been reported recently, is now underway in Congress. A few weeks ago, Senator Hoeven put out a press release that authorization would be a goal of having that placed in the Worda legislation. The Worda bill will be voted on later this month or early in May in the US Senate and then pass over to the House. It's authorization which is the key word. Without some restrictions from us, such as, authorization contingency, if the Diversion Authority and City started expending funds on a diversion project, that wouldn't be reimbursable. Authorization declares that reimbursable. It will all hinge on what Congress does.

**Senator Wanzek:** I'd truly like to help Fargo with their flood problem. This is a struggle and a tough decision. There is something fundamentally troubling to me by taking someone's problem and pushing it onto someone else - making it their problem. The flooding will hinge on whether the upper ground is dry or so saturated.

Voice vote on amendment - adopted.

V.Chairman Grindberg moved Do Pass as Amended on HB 1020 Senator Carlisle seconded the motion.

**Chairman Holmberg** said by putting section 5 in this amendment, then there will be a motion to kill HB 1140. The \$40M loan that will go toward the Williston water treatment plant is in this bill.

**Senator Warner**: I have no problem with section 5. I do really have a problem with shoving somebody's property interests off on somebody else and so I'm not going to support this bill.

A roll call vote was taken. Yea: 11 Nay: 2 Absent: 0 V.Chairman Grindberg will carry the bill on the floor.

April 10, 2013

or 10+4 4/1/13 To

#### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "and sections 6 and 7 of"

Page 1, line 6, remove "chapter 46 of the 2011 Session Laws"

Page 1, line 6, remove ", the"

Page 1, line 7, remove "water-related topics overview committee, and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,620,136	\$4,850,009
Water and atmospheric resources	498,413,774	324,694,788	823,108,562
Total all funds	\$501,643,647	\$326,314,924	\$827,958,571
Less estimated income	486,648,448	341,310,123	827,958,571
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, line 25, remove the comma

Page 2, line 26, remove "subject to budget section approval,"

Page 2, after line 28, insert:

"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

Page 4, replace lines 1 through 13 with:

"SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for

levee and dike protection until federal authorization is received for a river diversion project, at which time these funds may be expended for a river diversion project.

## SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that the state provide and half of the local cost-share of constructing a federally authorized Fargo flood

one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove lines 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 31
- Page 6, replace lines 1 through 3 with:

#### "SECTION 12. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET

**SECTION.** The Fargo-Moorhead area diversion authority board shall report to the budget section prior to December 2013 and prior to October 2014 regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool, mitigation efforts, easements, and the project budget."

- Page 6, remove lines 12 through 30
- Page 7, remove lines 1 through 16
- Page 7, line 17, after "1" insert "of this Act and section 5"
- Page 7, line 18, replace "is" with "are"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Administrative and support services	\$4,042,784	\$3,909,500	\$940,509	\$4,850,009
Water and atmospheric resources	823,096,248	822,339,358	769,204	823,108,562
Accrued leave payments		325,774	(325,774)	
Total all funds	\$827,139,032	\$826,574,632	\$1,383,939	\$827,958,571
Less estimated income	809,359,388	826,574,632	1,383,939	827,958,571

General fund	\$17,779,644	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00

#### Department No. 770 - State Water Commission - Detail of Senate Changes

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Administrative and support services	\$86,252	\$49,192	\$805,065	\$940,509
Water and atmospheric resources	492,622	276,582		769,204
Accrued leave payments		(325,774)		(325,774)
Total all funds Less estimated income	\$578,874 578,874	\$0 0	\$805,065 805,065	\$1,383,939 1,383,939
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

- Audit fees \$53,000 State Auditor
- Attorney fees \$321,276 Attorney General
- Rent \$430,789 Office of Management and Budget

#### This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to Fargo flood control funding. The House amendments changed legislative guidelines for Fargo flood control project expenditures.
- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million.
- Sections added by the House directing the State Water Commission to study the use of ring dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red River Valley.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing.
- A section added by the House which increases the membership of the Water-Related Topics
   Overview Committee and directs the committee to prepare a water project priority schedule to be
   included in the committee's final report to the Legislative Management.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center.
- A section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013.
- The requirement that the State Water Commission receive Budget Section approval prior to

<sup>&</sup>lt;sup>2</sup> The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

<sup>&</sup>lt;sup>3</sup> Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from general fund to special funds:

spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium.

#### In addition, this amendment:

- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure.
- Adds a section to provide funds designated by the Legislative Assembly for Fargo flood control
  are available only for levee and dike protection until federal authorization is received for a river
  diversion project, at which time these funds may be expended for a river diversion project.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million.
- Adds a section requiring Fargo-Moorhead Area Diversion Authority reports to the Budget Section.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation.

Date:	11-	13
Roll Call Vote #	1	-

## 2013 SENATE STANDING COMMITTEE ROLL CALL VOTES

	BILL/RESC	LUTIO	N NO.	1020		
Senate Approp					Com	mittee
☐ Check here	for Conference C	ommitte	ee			
Legislative Counc	cil Amendment Nun	nber _	12	3.8149. 020	04	
Action Taken	Adopt Amen Do Pass as		ed	☐ Do Pass ☐ Do Not Pass		
Motion Made By	Brindbe	ra	Se	econded By <u>Canleb</u>	le	
	ators	Yes	No	Senator	Yes	No
Chariman Ray F				Senator Tim Mathern		
Co-Vice Chairman Bill Bowman Senator David O'Connell						
Co-Vice Chair Tony Grindberg Senator Larry Robinson					1 1	
Senator Ralph K		1	<u> </u>	Senator John Warner	1	<u>                                     </u>
Senator Karen K Senator Robert I		]			<u> </u>	<u> </u>
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Date: <u> </u>	<u> </u>	<u>l - 13</u>
Roll Call Vote #_	1	2

### 2013 SENATE STANDING COMMITTEE ROLL CALL VOTES

	BILL/RESC	LUTIOI	N NO	1020		
Senate Appro	priations	······································			_ Com	mittee
☐ Check here	for Conference C	ommitte	ee			
Legislative Coun	cil Amendment Nun	nber _				
Action Taken	☐ Adopt Amend ☐ Do Pass as A		ed	☐ Do Pass ☐ Do Not Pass		
Motion Made By	Brindber	Les .	Se	conded By <u>Carlis</u>	l L	and the state of t
Ser	nators	Yes	No	Senator	Yes	No
Chariman Ray F	Holmberg	L	-	Senator Tim Mathern	<i>L</i>	Fi
Co-Vice Chairm			V	Senator David O'Connell		
Co-Vice Chair T	ony Grindberg	V		Senator Larry Robinson	1	- 1
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Senator Terry W	/anzek	1				
Senator Ron Ca	rlisle	1				
Senator Gary Le	ee					
Total (Yes)	_//		No	2		
Absent		. 0				
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If the vote is on a	n amendment, briefl	ly indica	te inten	t:		

#### REPORT OF STANDING COMMITTEE

HB 1020, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1020 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

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a river diversion project, at which time these funds may be expended for a river diversion project.

## SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove lines 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 31
- Page 6, replace lines 1 through 3 with:

# "SECTION 12. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. The Fargo-Moorhead area diversion authority board shall report to the budget section prior to December 2013 and prior to October 2014 regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool, mitigation efforts, easements, and the project budget."

- Page 6, remove lines 12 through 30
- Page 7, remove lines 1 through 16
- Page 7, line 17, after "1" insert "of this Act and section 5"
- Page 7, line 18, replace "is" with "are"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Administrative and support services	\$4,042,784	\$3,909,500	\$940,509	\$4,850,009
Water and atmospheric resources	823,096,248	822,339,358	769,204	823,108,562
Accrued leave payments		325,774	(325,774)	
Total all funds	\$827,139,032	\$826,574,632	\$1,383,939	\$827,958,571
Less estimated income	809,359,388	826,574,632	1,383,939	827,958,571
General fund	\$17,779,644	\$0	\$0	\$0

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FTE	90.00	90.00	0.00	90.00

#### Department No. 770 - State Water Commission - Detail of Senate Changes

	Restores Executive Compensation Package¹	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Administrative and support services	\$86,252	\$49,192	\$805,065	\$940,509
Water and atmospheric resources	492,622	276,582		769,204
Accrued leave payments		(325,774)		(325,774)
Total all funds Less estimated income	\$578,874 578,874	\$0 0	\$805,065 805,065	\$1,383,939 1,383,939
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

- Audit fees \$53,000 State Auditor
- Attorney fees \$321,276 Attorney General
- Rent \$430,789 Office of Management and Budget

#### This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to Fargo flood control funding. The House amendments changed legislative guidelines for Fargo flood control project expenditures.
- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million.
- Sections added by the House directing the State Water Commission to study the use of ring dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red River Valley.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing.
- A section added by the House which increases the membership of the Water-Related Topics Overview Committee and directs the committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center.
- A section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013.
- The requirement that the State Water Commission receive Budget Section approval

<sup>&</sup>lt;sup>2</sup> The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

<sup>&</sup>lt;sup>3</sup> Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from general fund to special funds:

prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium.

#### In addition, this amendment:

- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure.
- Adds a section to provide funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until federal authorization is received for a river diversion project, at which time these funds may be expended for a river diversion project.
- Adds a section of legislative intent that the state provide one-half of the local costshare of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million.
- Adds a section requiring Fargo-Moorhead Area Diversion Authority reports to the Budget Section.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation.

**2013 CONFERENCE COMMITTEE** 

**HB 1020** 

#### 2013 HOUSE STANDING COMMITTEE MINUTES

#### **House Appropriations Education and Environment Division**

Roughrider Room, State Capitol

HB 1020 April 22, 2013 Job 21379

	Committee
Committee Clerk Signature	y Linen
Explanation or reason for introduction of bill/	resolution:
A BILL for an Act to provide an appropriation for commission.	defraying the expenses of the state water
Minutes:	Attachment 1.

Chairman Carlson called the committee to order with a quorum present.

Sen. Grindberg: Walked through attachment 1, explaining action in the Senate. 7:37

- 7:48 **Rep. Skarphol**: Asked about section 4 in the Senate version and whether in next session there will be a balance or only projections.
- 8:19 **Sen. Grindberg**: That is a scenario that could take place. We try to stay out of picking projects and let the Water Commission allocate the funding with the water collation. My guess is that of the lists of all the projects pending, not all of those will be completed. There will be some changes.
- 8:48 **Rep. Skarphol**: Are you envisioning that the list we saw as a priority list is non-existent and that full discretion lies within the Water Commission?
- 9:10 **Sen. Grindgerg**: I don't believe the list has disappeared. I believe the intent with the water groups and the Water Commission is to honor those projects. Whether they are fully charged and ready to go in the next biennium could be based project by project, dependent on unforeseen conditions. Gave example.
- 9:52 **Sen.Holmberg**: On that particular issue, the Fargo project was mentioned, but the language in Section 9 specifies a certain amount of a line item of Water and Atmospheric Resources is appropriated for the Fargo flood control. If that did not move along, my understanding is that it could not be moved to another area because that money is already carved out.
- 10:34 **Rep. Skarphol**: I am fully amenable to the Fargo situation. My concern was that the rest do not get similar recognition. I understand that whether or not they move forward will be the determining factor in whether or not the money is used for that purpose. But

there was an expectation that the list would be followed to the extent that the projects were ready to move forward and the money was going to be available. I am concerned about the appearance of the lack of commitment to that priority list.

11:09 **Sen. Grindberg**: We didn't do anything to alter the appearance of the list. My comments were directed to testimony from the past that the Water Commission does like flexibility as well. Some things do change with these projects.

Chairman Carlson: It is always an interesting debate because we'll move the venue to higher education about buildings, and we will or will not have discussion about who gets what building and for how much money. So we're not really consistent. Mr. Sando is in the room. The next time we meet, I would like the list that was prepared before of where this \$515 million was going to be spent on anticipated revenue collection. After we look at it, we will determine whether or not we put that as part of the record. I share Rep. Skarphol's concern that there were several amendments put on by the House, including the water topics overview committee as well as budget section review of projects, to have some understanding instead of giving them all the money to be spend as determined by the water coalition and the water department. We felt there was legislative obligation to have some input as to where the money was spent. I don't think that creates doubt; it's our oversight ability on a budget that has increased so substantially over a biennium. That also gives us an idea of what all the water projects are doing.

- 13:17 **Sen. Holmberg**: There is a consistency to our inconsistency. Elaborated with examples related to DOT and higher education. Is there anything that we can point to as an egregious abuse of the flexibility by the water commission?
- 15:05 **Rep. Skarphol**: Section 4 of the bill changes a number. I quite honestly would like to have some idea where it will go. We need to see the list as it would be configured under this scenario.
- 15:41 **Chairman Carlson**: I believe that whiskey is for drinking and water is for fighting. This is not an old debate. The question has always been whether you give someone the authority that if they have much more money, just let them spend it as they want, or do you expect to have safeguards to understand that we're not starting the first phase of a multiphase project. That language has bothered the House before, and it probably still bothers us today. Does it mean we don't trust? I don't know, but it's always trust by verify.
- 16:31 **Rep. Williams**: I'm concerned about Sections 7 and 8. What constitutes how much money is coming from the federal government? We've upped the dollars from the original bill. I'm curious if this can be used for ring dikes within Fargo or can it be used for other areas outside of Fargo but along the Red River. I'm curious what the language in Sections 7 and 8 really means.
- 17:30 **Sen. Grindberg**: My understanding, the overall project for diversion and levy protection to tie in permanent protection, this provides flexibility for the locals to work here and now with levies and dikes. Should federal funding authorization pass in a bill being debated in Congress, and a project partnership then is executed, and the federal government has signed on the dotted line, at whatever point there is federal funding for

construction purposes, then the diversion authority could excel and move forward with various aspects of the diversion. In everything that I've read and heard, it's at least a tenyear project, so how they manage that to completion is going to require a lot of work and a lot of cash flow analysis and overall project budget. The news that broke last week, the federal funding was funding for continued design and engineering work; it was not for construction.

- 18:45 **Rep. Williams**: On the Senate side, when the bill came over at \$100 million for the Fargo diversion, why did the Senate raise it to \$450? I do not know that.
- 19:03 **Sen. Grindberg**: From the point at which the discussions began a number of years ago, the overall budget has been continuing to be a moving target. Our work on the Senate side, working with the folks and the leaders, looking at the overall \$1.8 million project, that the state commitment of \$450 million would get the job done, so we advocated that we'd send the final message that the state in present and future bienniums would commit to up to \$450 million for the project. Folks who have answered that question, whether they're from the city of Fargo or the diversion authority, are confident at this point that that will get the job done.
- 19:54 **Rep. Williams**: Can this money be used outside of the city of Fargo without the commitment of federal dollars?
- 20:11 **Sen. Grindgerg**: My understanding is that this funding can be used for levies and dikes in the total scope of the project, whether that be levies and dikes for Oxbow or the city of Fargo.
- 20:35 Chairman Carlson: I have some questions I'd like Mr. Sando to bring. Over the last two bienniums, we've set aside \$45 million and \$30 million, and this budget sets aside \$100 million. I believe there is about \$36 million that has been spent on Red River diversion or flood protection. Mr. Sando, I would like to understand the process. There is about \$139 million left. How do you anticipate that to be going out this biennium? What kind of reporting is done on that? I understand that much of the language I had in there before (elaborated) is all gone. I am concerned about what happens to this \$139 million we have left and what the anticipated plan is for spending that money. I understand, Sen. Grindberg, that the 10% cap on (audio unclear) fees is still in there. You changed the 325 to 450. There was language I had provided from the city of Fargo about protecting the city of Fargo to 42.5 feet, and that is how that number got into the bill in the first place. That has changed by allowing them to use it for other things besides that. Our amendments did say they could use that money for 42.5 feet as well as areas north and south of Fargo. I see you left in the \$11 million on the Red River water supply, but you removed the study. There are many opinions about what will be needed and how much money will be needed as a commitment to get water to the valley. We are one spring storm away from a really bad flood, and we are one dry summer away from drinking water problems in the valley. I think we as a legislature need to start looking at that seriously, so I am disappointed it was taken out. The only plan that people seem to like is probably not the plan that is going to pass around this place.

- 23:23 **Sen. Grindberg**: We're not opposed to a study of the water supply. We were not convinced that is was another study of a study.
- 23:31 **Chairman Carlson**: Right now there is no definite plan. We need to get realistic that this is a problem, not only for Fargo but also for Grand Forks and Wahpeton. I understand the comments of the mayor that they were given a choice of the two, and they picked flood protection. We have some concerns where you removed the section about the water topics overview committee. We have some concerns about the section to provide IT hardware to the IT department's secure data center. There are a few other mechanical things. I'd like to find out the information from Mr. Sando about how the money is anticipated to be spent as well as the projects that are on his list for the money that will be raised in the next biennium.
- 24:50 **Sen. Holmberg**: I would also like Mr. Sando to review how this legislature struggled with the Grand Forks project. Summarized his recollection. I'd like him to review that, from the standpoint that we set a state limit and then we reached that limit over three biennium.
- 25:35 **Rep. Skarphol**: Regarding the Fargo flood control and the Red River valley water supply, I'd like to know what the participation of the state water commission has been in those in the past. Also, with regard to Section 12 of the Senate bill, under Reports to the Budget Section, I would like to hear the other folks also be able to participate and report to the budget section to give us their perspective on how things are moving.
- 26:11 **Chairman Carlson**: Regarding a federal appropriation for construction, is there a certain level when you dare start or do not dare start? How do we anticipate the remainder of this \$275 million? With this biennium included, we have \$175 million committed, which leaves \$275 million more that our commitment of the 450, how many bienniums we anticipate having that? Obviously, he would need to know how to plug that into his numbers for the next three or four biennium. I understand the feds will fund it over time. I don't think it is wrong for us to put some language in that we anticipate that this will be over three or four biennium period that we would fund it to get to that number. It's good management of the money on our part.

27:22 **Rep. Skarphol**: If we want this to be the final number, let's make sure that it is the final number.

**Sen. Grindberg**: I do have a letter from Mr. Sando that I will share.

Chairman Carlson adjourned the committee.

#### 2013 HOUSE STANDING COMMITTEE MINUTES

#### House Appropriations Education and Environment Division

Roughrider Room, State Capitol

HB 1020 April 22, 2013 Job 21400

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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission.

Minutes:

Attachments 1 and 2.

Chairman Carlson called the committee back to order.

**Chairman Carlson**: Anything further to add on the amendments?

**Senator Grindberg**: Not at this time. Handed out attachment 1.

**1:40 Todd Sando, State Engineer**: Gave scenarios and discussed the funding priority list.

**4:38 Representative Skarphol**: Just so I can follow here when you talk about the federal authorization that's spending this kind of money, can I assume for every two dollars federal for every dollar in state spent? Is that what this means?

**5:11 Sando**: Our budget is just state dollars.

**Representative Skarphol**: If it requires federal authorization and a federal appropriation for construction does that mean that there will have to be money available of federal dollars to match the money from the State Water Commission and City of Fargo?

**6:18 Sando**: It all depends how you write the legislation.

Representative Skarphol: Who could get ahead?

**Sando**: Building the diversion project if you have federal authorization I don't think it's all directly tied to how much federal dollars you get.

**Representative Skarphol**: I would hate for us to commit and the federal government not come across.

7:09 Sando: The Senate version maybe they could help out.

Representative Skarphol: We need an answer.

Senator Grindberg: This bill has more hurdles.

**9:00 Representative Skarphol**: I understand what you are saying, but I have some difficulty with the language being ambiguous enough that we don't know what the situation is going to be.

**Senator Grindberg**: I don't believe they will start anything until they have insurances from the federal government.

**10:04 Chairman Carlson**: Go through the rest of your list as to where this goes.

**10:19 Sando**: Continued listing where money was given out.

**13:14 Senator Grindberg**: Once they separate from general funds they have to start paying rent back to the state.

**Sando**: When we become a special funding agency the Attorney General's office represents general fund agencies and they don't bill us.

**14:00 Chairman Carlson**: Are we in litigation?

**Representative Skarphol**: The Southwest Pipeline money was given to them two years ago and used in Minot. Didn't we pull back some and spend it on the flood in Minot?

**14:31 Sando**: That's correct, we didn't. We wouldn't do that until we see the revenues coming in. Paying off the bonds will come out of the Resources Trust Fund.

**15:39 Chairman Carlson**: So you've sorted out the ones where it would be a money saver to do that?

Sando: Yes, basically they would all be money savers.

**Representative Skarphol**: There are some of them that need to be paid off and where the money just needs to be set aside to cover them so they're off the books.

**16:14 Sando**: Regarding the Fargo issue, a lot of money is being used for cost share in kind for dwellings that are being purchased.

**Chairman Carlson**: Can you tell me the procedure you used to follow for them to access and how it gets spent?

**17:42 Sando**: Right now we have to get letters in order to move forward on what is eligible.

**Chairman Carlson**: Who determines the list, is it clear enough in code so you know what you are matching?

Sando: Yes. That's the process.

**18:24 Senator Robinson**: I can only say the last couple of years the folks involved have really gone above and beyond to hear all concerns, study the issues and put together a very comprehensive approach.

19:50 Chairman Carlson: I remember we started SBARE. What is our level of overview?

20:23 Senator Grindberg: Talked about the Resources Trust Fund.

**22:02 Representative Skarphol**: My comment was with regard to the fact that if we give them the authority to spend all of the money in the Resources Trust Fund, we come back without any kind of money to start with other than what's projected.

**Senator Robinson**: The one thing we need to keep in mind is we have had unusual conditions with water. Resources had to be readjusted to respond to the crisis before us. The interaction and communication on this list has been at a high level more so than ever before.

**24:05 Chairman Carlson**: I'd like to have Mr. Vanyo come to the front with further information. The money available for flood protection in the Valley for this coming biennium, what's your idea of what you believe your plan would be for spending that money. Talk about how that situation is transpiring with you as the commission for the county and what's happening in your plan for the spending of money?

**25:23 Darrell Vanyo**: Our intentions would be \$32 million for Oxbow and the other 2 areas we would put money towards are the Fargo levies and the North reaches.

**Chairman Carlson**: How about the south end?

**26:56 Vanyo**: If we elect to do the ring dikes, they could be intact and save the school district. No south alignment work, that's why we're starting on the north end to work down.

**27:42 Chairman Carlson**: Read from attachment **2**. At what level does an appropriation kick you into gear?

**Vanyo**: I can assure you that from conversations with the Corp of Engineers startup projects don't come with a small amount. A startup project is there because it is felt worthy of beginning and comes with a more substantial appropriation.

**29:55 Chairman Carlson**: Are you OK with the language that's in the bill allowing the match is being worked out now?

Vanyo: Yes.

**Chairman Carlson**: We would like to talk about section 12, 13, 14, and 15 that you took out of the bill the next time we meet.

**30:23 Representative Skarphol**: On the House side we had language in there that provided for Fargo to go ahead and build levy's to 42 ½ feet. I would like to know what the anticipated cost of that is.

**30:52 Keith Burnt**: The city's goal has been to look at those areas currently in the city that are less than 39 1/2 feet and to raise those areas. When they are raised, they are at 42  $\frac{1}{2}$  feet. To get those up to 42  $\frac{1}{2}$  would require a much greater figure than what has been discussed.

**Representative Skarphol**: Should citizens of Fargo look forward to sandbagging to get to 42 ½ feet no matter what we do?

**Burnt**: With the current plan without a conversion, that is correct.

Chairman Carlson adjourned the committee.

#### 2013 HOUSE STANDING COMMITTEE MINUTES

#### House Appropriations Education and Environment Division

Roughrider Room, State Capitol

HB 1020 April 23, 2013 Job 21450

○ Conference Committee

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#### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission.

Minutes: Attachment 1

Chairman Carlson called the committee to order with a quorum present.

Chairman Carlson: You were going to supply us with a list of projects. Let's talk about those.

Todd Sando: Passed out attachment 1.

**Representative Skarphol**: Do you have an estimate of where you would spend the additional dollars?

**2:12 Sando**: Regarding where we could spend some of the other money is where we are changing from a general funded agency to a special fund.

**Chairman Carlson**: How much was your administration again?

Sando: \$18 million

**Representative Skarphol**: After that is taken out there was still \$98 left according to what we have. So \$68 would go to paying up the bonds, \$30 million left for just general water?

2:55 Sando: It depends what comes into the Resources Trust Fund when you're doing the tax bill for whole extraction tax. That can really change with the amount of money coming in

**3:26 Chairman Carlson**: I'm just trying to get to the bottom of this. Went through the sections. It's my understand that there is no clear cut plan for section 13.

**5:00 Senator Grindberg**: We would be open to have further discussion on this.

**Chairman Carlson**: My intent would be a lot different. It would be to consider a possible pipelines and treatment plants so we can actually move and use that water.

**5:57 Chairman Skarphol**: NAWS is a problem because you're taking untreated water across the continental divide potentially dumping it into the reservoir.

**6:36 Senator Grindberg**: The cost for the plant is like \$400 million dollars. Will that satisfy the study if that is what has to happen?

**Chairman Carlson**: If we are ever wanting to have any return on the investment on NAWS someone has to make a decision on how you're going to do that and put water in that pipeline. We need to try and figure out how we move water across the continental divide into different water sheds.

**Representative Skarphol**: We are taking Missouri River water at Williston and going to ship it across the continental divide into the northern reaches of North Dakota along the Canadian border so I can't imagine how we would have an issue bringing this same water north for NAWS.

**8:40 Sando**: There are a lot of issues involved with Manitoba, Canada, and the State Department dealing with taking water from the Missouri River basin to the Hudson Bay drainage. Explained other issues.

**Chairman Carlson**: Are you in agreement that we need to be pushing forward with this?

Sando: Yes.

**Chairman Carlson**: We should have further discussion about language to assist in moving this forward.

10:00 Sando: There have been many studies.

**Chairman Carlson**: Is there any light at the end of the tunnel on the NAWS project?

**Sando**: Yes. We'll have to appeal the ruling but we'll get past that.

**Chairman Carlson**: If you have any suggestions we're open to those.

**Representative Skarphol**: Is Manitoba a bigger problem than Saskatchewan?

Sando: Yes.

Chairman Carlson: Section 14 has some language worked on.

**Representative Skarphol**: There is an issue out there with a few agencies and their software. What is the hesitancy to put this in a climate controlled environment? It's simply about moving the equipment into a secure data center that's climate controlled.

**13:46 Senator Grindberg**: If that's where we are migrating as policy makers with all agencies then that's about all we can do then.

**Senator Robinson**: Did you have any testimony for the water commission on this?

**Representative Skarphol**: It wasn't something we thought would be controversial. We thought it was appropriate to do it with this one as well.

Chairman Carlson: Section 15 was read. That was removed.

**15:22 Senator Robinson**: I think the danger of putting this in a line item would be the concern over the impact it would have on flexibility. If you look at the last few years the list the water commission has put together in cooperation with the water coalition has been a list of priority projects that were suggested. The concern over the last few years, if this would have been placed in the budget on a line item basis, when we were confronted with emergency situations in the Lake Region for example, they did some adjustments to respond to the needs of the day.

**17:39 Senator Grindberg**: If the intent is to have reports and changes in 90 days I think we can meld that into what we require as a report of status of mitigation and authorization, pooling and flood insurance. If our reporting is our intent then we are going to be in budget section for weeks.

**18:20 Representative Skarphol**: That was to merely to keep us informed as to whether or not there were changes.

**Chairman Carlson**: I never thought that we'd have half a billion of water projects that were funded off the oil revenue.

**Senator Robinson**: I think we will find that there are serious efforts to respond to the needs on this list. If projects are delayed due to legal or funding or environmental issues, that's the history of the water commission. They do the best they can with the dollars and issues in front of them.

**21:16 Senator Robinson**: Any thoughts what your staff are starting to see with the oil production and Resources Trust Fund? Are we looking at another \$500 million RTF discussion 2 years from now? Is it going to be higher?

**21:44 Sando**: I think we are going to have significant money of the time period forward.

**Chairman Carlson**: If you had to put a dollar figure on Minot for flood repair, in the water supply in the east and a filtration plant to move water north on NAWS what kind of money are you talking?

**Sando**: I think it could cost \$100 million dollars just to treat the water to get it across the continental divide.

**23:48 Chairman Carlson**: There are a lot of things coming, we better hope that there's a lot of money flowing through the pipeline.

**Senator Grindberg**: Would \$750 million be a realistic number?

**Senator Robinson**: Do you have anything else to add to the importance of flexibility? It's very important to the administration and operation of the water commission.

**24:50 Sando**: Our weather is so dynamic. We need the flexibility. It all depends on the climatic conditions.

**Senator Robinson**: I think there has been some frustrations throughout the state because projects were started not getting done. The thing that has changed that dramatically is the amount of money on the table.

**26:20 Representative Skarphol**: Just for the committees information in 2011-2013 we took in \$384 million in the Resources Trust Fund. What part is local, state, and federal?

**27:05 Sando**: Right now our cost estimate for the state of North Dakota, we're struggling with the sequestration and issues with no new starts, with the federal government so the Corp of Engineers hasn't been a new start since the 2011 flood. We are doing the reconnaissance study and submitting it to the Corp so hopefully they can make use of it.

Chairman Carlson: So it could be our cost?

**Sando**: There's a possibility but we're still pushing hard to get federal government involved.

**Chairman Carlson**: Section 17 and 18 were removed. I think there was more interest to have more legislative process.

**29:08 Representative Skarphol**: That seems to be logical rather than some other entity. We can work in cooperation with anyone out there.

**Senator Grindberg**: Some of the discussion that occurred last summer. Our role as policy makers should be able to determine the final decision. I'm concerned about the policy perspective. How deep do we want to get into this from an interim committee vs. the water coalition and water commission?

**Chairman Carlson**: I agree with one thing when there was discussion in conjunction with the water coalition, it creates advocates out of legislators. As we start dealing with this vast amount of money, we should see a list and be involved in these. We need to find some language.

**31:50 Representative Skarphol**: I think the number is somewhat important. It's important we have as many people as we can informed.

**Chairman Carlson**: Next time we meet we'll come with proposals from the House. We aren't seeing any changes in the money. If there are any amendments you want drafted bring them to the next meeting, it will help get this finished.

**Senator Holmberg**: The other day I asked Mr. Sando if he could prepare a little history of how it was handled in Grand Forks with the legislature over passing the original bill in 1999 and appropriating money over 3 bienniums. I would like to see that for our background information as we go forward.

**Chairman Carlson**: As far as the Fargo water project goes to use that as a model, I think that it would be imperative of us to have some idea how we would commit the money how we would pay for it over time and good to have intent language that says of the \$450 we will pay some in each biennium for the state's share.

Chairman Carlson adjourned the committee.

#### 2013 HOUSE STANDING COMMITTEE MINUTES

#### House Appropriations Education and Environment Division

Roughrider Room, State Capitol

HB 1020 April 24, 2013 Job 21481

□ Conference Committee

Committee Clerk Signature Dauid Hanson

#### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission.

Minutes: Attachments 1,2 and 3.

Chairman Carlson called the committee to order with a quorum present.

Chairman Carlson: Announced his intentions for the meeting. 0:55

**Sheila Sandness-Legislative Council**: This analysis is the status of the resources trust fund. See attachment 1, 2:00

**Sen. Holmberg**: Does the \$18 million, you mentioned, does that include to pay for the rent.

Sandness: Yes. That's included.

**Chairman Carlson**: Is that all reflected in the documents that we have in front of us; the amendments to the bill.

**Sandness**: It's in the amendments to the bill as it came from the Senate. Explained attachment 2. 3:50

**Chairman Skarphol**: Was not most of that money that went to Grand Forks General Fund dollars?

**Sandness**: No. The bulk of the money bond and a combination resources trust fund and water development trust fund.

**Chairman Carlson**: But we were also paying out those bonds over time with General Fund dollars were we not?

**Sandness**: I think the bond payments are coming out of the water development trust fund.

**Rep. Skarphol**: The dollar amount going into the trust fund at that time was fairly insignificant by comparison to today. Was it not?

**Sandness**: The water development trust was the tobacco settlement funding. So, its been going down. 4:55

Chairman Carlson: I'd like to have it on the record have it reflect the information we received yesterday, I don't want to put it in the bill, but I want it to be reflected on our minutes the priority list and the approximate cost for each one of those for their projects they have totaling to \$515 million. I think it's important that we have some amount of stamp on that, as far as having acknowledged that this is where the intention is spend the money now that it has gotten to be such a large number. I don't want to include the itemized list in the bill, but I would like to have it reflected in the record that that is what they submitted to us for their intention to spend the money. See attachment 3. 6:42

**Rep. Skarphol**: If they are amenable to that. How about if we ask for a report every six months on the progress on the priority list and incorporate into that the same six month time frame the approval of budget section on the expenditures from the excess over and above the 515 million. 7:18

**Chairman Carlson**: Thought it would be prudent to be involved in knowing where the money is going that on the project. There are a couple of questions that he have regarding section 7 of the Senate version of the bill. Asked at what level would do he consider the language to be a federal appropriation is provided for project construction to release state funds for that. 9:43

**Todd Sando**: If it's a federal appropriation; if it's a dollar amount that would open it up to start using state money towards it.

**Chairman Carlson**: If they put in \$5 million and they could access \$40 million would you consider that to be the way to do it?

**Sando**: It seems like it is crafted that once you get the federal appropriation and you get the agreement executed and get an authorized project, you can start moving forward with components of the diversion. 10:45

**Rep. Skarphol**: You said if the locals put in \$30 million the state will put in \$30 million. What is the federal requirement for that to happen?

**Sando**: It looks like if we have a federal appropriation, it wouldn't have to be an equal amount. 11:25

Rep. Skarphol: So, what is going to be in this partnership agreement?

**Sando**: I think you should ask the diversion that guestion.

House Appropriations Education and Environment Division HB 1020 April 24, 2013 Page 3

**Rep. Skarphol**: You don't feel like the State Water Commission would be one of those that would be a principal in this partnership agreement. That would really be between the City of Fargo and Army Corp. of Engineers or whomever?

Sando: That is correct.

**Chairman Carlson**. Our role here is to match with funding. The only concern is that he would hope that when they are planning and signing the agreement that they have a plan before they start. 13:25

Rep. Skarphol: Were the provisions pretty much the same in Grand Forks?

**Sando**: That's correct. We were ancillary players for the City of Grand Forks and the federal government.

**Chairman Carlson**: Would this be the same format that you'd use for Minot, looking down the road?

**Sando**: That's if it turns into a federal project. Right now we don't have the federal government involved, because they have no new starts at this point.

Chairman Carlson: So, you are comfortable with the way the language is written?

Sando: Yes.

**Rep. Skarphol**: Read from the bill and asked how much input he had in that process.

**Sando**: Explained how he would take all of the projects before the Water Commission for approval. 16:00

**Chairman Carlson**: Our role is to determine what the state's participation level of funding, because this is not our project.16:51

**Sando**: He expressed his concerns with 1. ITD servers being moved 2. Combined treatment plant. 20:35

**Chairman Carlson**: Stated that they would not stand in the way concerning combined treatment plant. We do understand that we need to address moving water out of this watershed to a different watershed in two directions so that at some point in time that reality has to set in here. 21:00

**Rep. Williams**: I think everybody is concerned about Fargo's flood control. I'm concerned about something else a little bit different. The problem is basically being spread south into my district. With the Army Corp. of Engineers and the City of Fargo basically controlling how the flood control and diversion is going to go. Do you have any control or influence over that? 22:00

**Sando**: He explained his role as state engineer. 23:00

House Appropriations Education and Environment Division HB 1020 April 24, 2013 Page 4

Rep. Williams: And I'll trust you.

Chairman Carlson: One thing that I still have when you removed language in section 17. I think we are in agreement that we don't need to expand that committee, but as the chain of command flows we do really like some of the things where the water coalition flows through the water topics committee and then onto those recommendations brought forward to the Water Commission. We think that is a logical step and there should be some legislative involvement and I'd like to see some of that language reinstated.

**Rep. Skarphol**: I think the membership size has been addressed in other bills. I believe that that committee should bring forth the prioritized list.

**Chairman Carlson**: I'm not objecting to language in the bill, but I think we want to know your perspective of you think it means.

**Darrell Vanyo**: Explained the project partnership agreement. 26:45

**Chairman Carlson**: If you are to going to start a project are you not going to start until the money is committed?

Vanyo: I can't answer what the federal appropriation might be. 27:55

Chairman Carlson adjourned the committee.

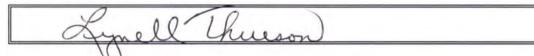
#### 2013 HOUSE STANDING COMMITTEE MINUTES

### **House Appropriations Education and Environment Division**

Roughrider Room, State Capitol

HB 1020 April 25, 2013 Job 21524

□ Conference Committee



#### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission.

Minutes:

Amendments .02011, .02013, .02014, .02015, .02016, and .02017

Chairman Carlson called the committee to order with a quorum present.

**Chairman Carlson**: Explained what he intended for this meeting.

**Representative Skarphol**: Handed out amendment .02011.

1:31 Sheila Sandness-Legislative Council: Explained the amendment.

**7:15 Senator Grindberg**: We had discussion on that and the thinking was to reinsert some language on the water supply.

**Representative Skarphol**: That report from the Fargo Moorhead area, what about hearing from the other folks?

**7:55 Sandness**: Continued explaining the amendment.

**10:18 Representative Skarphol**: On line 27 it talks about the number of members again. There was reference to this and they removed any reference to numbers. When reconcile this are we going to end up with 13 members?

**Sandness**: Jeff drafted this language. He was looking at those two bills at the same time and he indicated that he could put the two together.

Representative Skarphol: Typically they say last past.

Sandness: Yes.

House Appropriations Education and Environment Division HB 1020 April 25, 2013 Page 2

**Chairman Carlson**: The numbers don't matter to me. It does make a difference of 13 or 15. It's a matter of who's on the committee and has the willingness to work in these projects.

**12:00 Senator Robinson**: The water coalition also came up, do we need to reference that here?

**Chairman Carlson**: I agree with you. I thought they were supposed to work with our water topics committee on this priority list. We may have to change language to do that.

Senator Robinson: It might be a good idea.

**Chairman Carlson**: I have no objection to that if we can find the right language to put the coalition in there.

**13:42 Sandness**: Continued to explain the amendment.

**14:15 Chairman Carlson**: The last section was the emergency clause. Any questions that we need to deal with?

**Representative Skarphol**: This is amendment .02001?

Sandness: That is amendment .02011.

**Chairman Carlson**: I'd like to see the whole bill redone and put in one spot with our amendments approved. We can review it all and deal with it quickly.

**15:14 Representative Skarphol**: Would you want to approve this amendment as a first step in the compilation of the full amendment?

**Chairman Carlson**: This is part of the package. We will not approve it today. If you will look on page 6 why does it cost so much when you're just moving over servers and keeping everything else at their site.

**Senator Robinson**: We're doing this in 2 or 3 budgets. When it comes to the Water Commission their IT platforms are Apple. This creates many challenges in the other agencies we're talking about.

**18:00 Representative Skarphol**: I would like to ask Mr. Sando or whoever is on the IT for the Water Commission a question. How do you back up your servers? Where is it located? Is it a separate facility?

**18:25 Chris Bader, IT Director, State Water Commission**: Everything is backed up interactively to our remote shop facility which is identified as our continuing government starting point in the event we should have a disaster. It is located down by the State Pen. Yes, it is a separate facility.

House Appropriations Education and Environment Division HB 1020 April 25, 2013 Page 3

**19:08 Senator Robinson**: That is the issue with the other agencies, the backup and security. There is also a backup plant in Mandan.

**Chairman Carlson**: I think back when the power went out during session and the generators didn't work; everyone was in a state of panic around here. Are there any other questions about the base amendments on .02011? Passed out the amendment .02013 that deals with the Fargo flood project.

21:05 Sandness: Read from amendment .02013.

**21:55 Senator Grindberg**: There are a lot of words that basically say you can't use state funds for a golf course.

**Chairman Carlson**: That's what is says but also addresses the area of Minnesota's participation when it talks about non-states.

**Senator Grindberg**: What happens if there is never any Minnesota money?

**Representative Skarphol**: Does it say we will not spend **N**orth Dakota money on Minnesota costs?

**Chairman Carlson**: Read from the amendment and this just says that the state money will not be spent on that stuff. Local money we have no control over, this just deals with the state funds.

**Senator Grindberg**: I would add it to Representative Skarphol's package.

23:27 Chairman Carlson: Passed out amendment .02014.

Sandness: Read from amendment .02014

25:06 Senator Grindberg: I would like to add that to the package.

**Senator Holmberg**: We will concur with that amendment.

**25:51 Representative Williams**: Passed out amendment .02015

Representative Williams moved amendment .02015 and Representative Skarphol seconded.

**Representative Williams**: Gave an explanation of his amendment.

**32:15 Senator Grindberg**: I appreciate Representative Williams's thoughts and I will reject his motion. I can't support this portion of the amendment.

**Chairman Carlson**: I can tell you nobody has taken a worse beating over this than me because of the first amendments that were put on the bill. The bill before us isn't quite as restrictive. We have to remember that our responsibility is we didn't design the project,

House Appropriations Education and Environment Division HB 1020 April 25, 2013 Page 4

don't' approve the project, but asked to participate in the funding in the project. Our intent was to decide what the state's role was in funding this project.

**Representative Williams** moved to withdraw his motion and to do a substitute motion, seconded by Representative Skarphol.

Representative Williams: Passed out amendment .02016.

**38:26 Senator Grindberg**: I would be willing to make a compromise. Explained this compromise.

Representative Williams: I agree with what was stated.

**40:55 Senator Grindberg**: This compromise makes sense and let's put in the language as we discussed we have captured the intent.

**Senator Robinson**: The several comments on this bill have been all in good taste and there are strong feelings on both sides. Everyone wants a win-win. This is a many, many year deal and the legislature wants the highest level of ongoing communication between the parties.

**42:46 Representative Williams**: I know that a lot of people have been hurt over this. I hope that people realize what your job is and what our job is as you just stated.

**Chairman Carlson**: It has been an interesting saga.

**Representative Skarphol**: Amendment .02017. This would add a word to section 8.

**45:30 Chairman Carlson**: I am going to take you at your word that you gave me that when you start a phase of the project you will have a funding plan in place that you share with us as to how you are going to do it.

**Sandness**: The question relating to the water related topics committee and the size, Jeff Nelson indicated that when the two sections are put together that the membership limitation will be deleted.

Chairman Carlson adjourned the committee.

#### 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Education and Environment Division

Roughrider Room, State Capitol

HB 1020 4/26/13 Job 21554

Committee Clerk Signature Merchall Trailwit

#### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to provide exemptions; to provide legislative intent; to amend and reenact section 6-09.5-03 of the North Dakota Century Code, relating to the community water facility loan fund; to provide for legislative management reports; to provide for a loan from the Bank of North Dakota; and to declare an emergency.

#### Minutes:

You may make reference to "attached testimony."

**Rep. Carlson**: Called the committee to order and all members were present. We have the amendments from yesterday; Legislative Council will go through the marked up version of the bill with us. If there are not any major adjustments or changes, we'll move it out.

**Sheila Sandness, Legislative Council**: Went through marked up version .02018.

01:50

Rep. Carlson: Is that language acceptable to you, Rep. Williams?

Rep. Williams: Yes.

**Sen. Holmberg**: I'm assuming that the word levees is ring dikes, too?

**Sen. Grindberg**: In the huddle that took place yesterday, there was a request to take 'ring' out, because some of the levee works along the river, as well as ring levees. Levees are eligibile.

Rep. Carlson: So levies are eligible, ring dikes are okay. That's the way I understood it.

**Sen. Holmberg**: I have no problem with it, as long as the definition is such.

02:45

**Sandness**: Resumed going through marked up bill on page 5.

House Appropriations Education and Environment Division HB 1020 4/26/13 Page 2

04:15

**Sen. Holmberg**: Why on page 4 line 31 do we say, except for the construction of levees, and on page 5 line 31 it is including levees and dikes. Is it correct to use two different phrases, for what I think is the same idea?

**Sandness**: The language 'including levees and dikes' was added in the Senate.

**Sen**. **Holmberg**: Should it not be consistent?

**Rep. Carlson**: Went over difference again; I don't think they are contradictory, because one describes the things you can do with the \$100M, and the other says you are not allowed to build levees, but you are allowed to build ring dikes outside the extraterritorial zone. I think it's two separate things. How do you read that?

**Todd Sando, ND State Engineer**: Yes, I would read it the same way. Levees and dikes mean the same thing, they basically have the same definition.

**Rep. Carlson**: In section 7, the intent of the language was that they do not build the south end of the diversion with the dam; in section 11, we're saying that of the \$100M, you're allowed to build levees and dikes using some of that \$100M. Are they in contradiction?

**Sando**: They can build levees and related Fargo flood control projects south of the extraterritorial land. That's what I read.

**Rep. Carlson**: We might need to clarify our language, but I don't think it's a problem. The key part is what you're going to build south of the extraterritorial zoning and whether or not we're excluding the ring dikes from being built.

**Sando**: Maybe we need definitions that a ring dike is different than a levee and a dike. A ring dike means it is totally encircled; a levee could be just on one side or a dike could just be on one side of the river.

**Rep. Williams**: We'd better have it straight what we are dealing with.

**Sando**: Ring dike means it goes all the way around the property, it's not just on one side. Levee and dike does not mean it gets totally surrounded.

**Rep.** Carlson: If that's true, I think it says the right thing.

**Rep. Skarphol**: The language we agreed upon yesterday does say ring dike.

**Sen**. **Grindberg**: There are projects that need to be ring-diked, and there is also levee work scheduled along the river. As it was described yesterday, 'levees' is all-encompassing, ring levees, ring dikes, and levees. The language as discussed yesterday just said 'ring dikes' or 'ring levees,' and the concern was the levee work that needs to be done on the river. That's why 'ring' was removed.

House Appropriations Education and Environment Division HB 1020 4/26/13 Page 3

09:45

**Rep. Skarphol**: Would you be amenable to ring dikes and river levees? That way you're not building a levee somewhere other than along the river that you're referring to.

Sen. Grindberg: That's fine, I guess, if that helps clarify it.

**John Olson, Attorney, Fargo**: If you want to really clarify it, Rep. Skarphol's suggestion could be included. That would mean ring dikes and levees could be constructed, but anything else south of the extraterritorial jurisdiction could not be, that first year.

Rep. Carlson: That was our intent all along.

**Olson**: Until I heard Mr. Sando say 'levee' doesn't include a ring dike, I was fine with that language, but if somebody has a hang-up with that definition, 'ring dikes and levees' would solve the problem.

**Sen. Grindberg**: Do you want to make that technical change? Are we comfortable with that then?

**Rep**. Carlson: I am comfortable with that. The intent was that the ring dikes are allowed to be built, but you do not want the south dam built.

Rep. Williams: You do not want the berm or dam going across from Highway 16.

**Sando**: That would cover it. We consider dams different from dikes, so they have totally different processes for permitting.

Rep. Carlson: We're attempting to give them this one year protection. If it were to read 'except for the construction of ring dikes or levees, construction related...' on page 4 line 31, I think it says the right thing. I would say a technical correction to that would be acceptable.

**Sen. Grindberg** so moved, seconded by **Sen. Holmberg**. The motion carried by a voice vote.

13:50

**Sandness**: Resumed going over marked up bill on section 11, page 5. Concluded minute 16:15.

**Sen. Holmberg** moved that the Senate recede from its amendments and it be amended as per .02018 with the language correction noted earlier in today's discussion. **Rep. Williams** seconded the motion.

**Rep. Carlson:** Any further discussion on this budget? Thanks for your hard work. A roll call vote was done and the motion carried 6 Yes, 0 No, 0 Absent. The meeting was adjourned.

VR 4/27/12 186

#### PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1477-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "sections 6 and 7 of"

Page 1, line 6, replace "chapter 46 of the 2011 Session Laws" with "section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly"

Page 1, line 6, replace the second comma with "and"

Page 1, line 7, remove ", and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498,413,774</u>	<u>324,194,592</u>	822,608,366
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, after line 28, insert:

"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

Page 4, replace lines 1 through 13 with:

#### "SECTION 7. FARGO FLOOD CONTROL PROJECT CONSTRUCTION -

**LIMITATION.** Except for the construction of ring dikes and levees, construction relating to Fargo flood control project components located south of the city of Fargo's extraterritorial zoning jurisdiction may not begin until after July 1, 2014.

SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

#### SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT.

Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States Army Corps of Engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

**SECTION 10. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove line 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 29
- Page 5, line 31, after "section" insert "every six months during the 2013-14 interim regarding"
- Page 6, line 2, remove "within ninety days of the state water commission approving the change"

Page 6, after line 3, insert:

"SECTION 15. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. During the 2013-14 interim, the Fargo-Moorhead area diversion authority board shall report to the budget section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak upstream coalition shall report to the budget section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs."

Page 6, remove lines 12 through 30

Page 7, replace lines 1 through 16 with:

"SECTION 17. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

#### 54-35-02.7. Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and the prioritization of water projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee also shall study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members, and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees."

Page 7, line 17, after "1" insert "of this Act and section 5"

Page 7, line 18, replace "is" with "are"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Administrative and support services	\$4,042,784	\$3,909,500	\$852,165	\$4,761,665	\$4,850,009	(\$88,344)
Water and atmospheric resources	823,096,248	822,339,358	269,008	822,608,366	823,108,562	(500,196)
Accrued leave payments		325,774		325,774	<u> </u>	325,774
Total all funds Less estimated income	\$827,139,032 809,359,388	\$826,574,632 826,574,632	\$1,121,173 1,121,173	\$827,695,805 827,695,805	\$827,958,571 827,958,571	(\$262,766) (262,766)
General fund	\$17,779,644	\$0	\$0	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00	90.00	0.00

#### Department No. 770 - State Water Commission - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package¹	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	increases Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Administrative and support services	\$86,252	(\$39,152)	\$805,065	\$852,165
Water and atmospheric resources Accrued leave payments	492,622	(223,614)	<del></del>	269,008
Total all funds Less estimated income	\$578,874 <u>578,874</u>	(\$262,766) (262,766)	\$805,065 805,065	\$1,121,173 1,121,173
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Changes made by the House to the executive compensation package are removed.

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

- Audit fees (\$53,000) State Auditor.
- Attorney's fees (\$321,276) Attorney General.
- Rent (\$430,789) Office of Management and Budget.

#### This amendment removes:

 Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to legislative guidelines for Fargo flood control project expenditures, the same as the Senate.

<sup>&</sup>lt;sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

<sup>&</sup>lt;sup>3</sup> The Senate did not remove the House funding source change for the administration of the State Water Commission from the general fund to the resources trust fund. Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from the general fund to special funds, the same as the Senate version:

- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million, the same as the Senate.
- Sections added by the House directing the State Water Commission to study the use of ring dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red River Valley, the same as the Senate.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing, the same as the Senate.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center, the same as the Senate.

#### In addition, this amendment:

- Restores the requirement that the State Water Commission receive Budget Section approval
  prior to spending any additional funds that may become available in the resources trust fund or
  water development trust fund during the 2013-15 biennium, the same as the House. The Senate
  removed this requirement.
- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure, the same as the Senate.
- Adds a section to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for construction, and the budget for the Fargo flood control project is approved by the State Water Commission, the same as the Senate.
- Adds a section to require the State Water Commission enter a cost-sharing agreement with the Fargo flood control sponsor prior to expending any state funds for the Fargo flood control project. The section also provides that state funds may not be used for recreational components of the project or to cost-share with nonfederal entities outside the state. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility. This section was not included in the House or Senate version of the bill.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of
  constructing a federally authorized Fargo flood control project and that total Fargo flood control
  project funding not exceed \$450 million, the same as the Senate. In addition, the Conference
  Committee provided further intent that the \$275 million yet to be designated for Fargo flood
  control is to be made available in equal installments over the next four bienniums.
- Adds a section which limits Fargo flood control project construction south of the city of Fargo to ring dikes and levees until after July 1, 2014. This section was not included in the House or Senate version of the bill.
- Adds a section requiring the Fargo-Moorhead Area Diversion Authority and the MNDak Upstream Coalition report to the Budget Section, the Senate required only the diversion authority to report.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes, the same as the Senate.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation, the same as the Senate.
- Amends a section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013 to provide the State Water Commission report every six months. The Senate removed this section.
- Replaces a section added by the House, but removed by the Senate, which increases the
  membership of the Water-Related Topics Overview Committee and directs the committee to
  prepare a water project priority schedule to be included in the committee's final report to the
  Legislative Management. The new section amends Section 54-35-02.7 related to the

Water-Related Topics Overview Committee, as amended by Senate Bill No. 2233, to provide the committee study policies regarding the development and financing of municipal projects. In addition, the amendments require the State Water Commission and the State Engineer assist the committee in developing a schedule of priorities with respect to water projects.

## 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

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## 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

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#### REPORT OF CONFERENCE COMMITTEE

HB 1020, as engrossed: Your conference committee (Sens. Grindberg, Holmberg, Robinson and Reps. Carlson, Skarphol, Williams) recommends that the SENATE RECEDE from the Senate amendments as printed on HJ pages 1677-1681, adopt amendments as follows, and place HB 1020 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1477-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "sections 6 and 7 of"

Page 1, line 6, replace "chapter 46 of the 2011 Session Laws" with "section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly"

Page 1, line 6, replace the second comma with "and"

Page 1, line 7, remove ", and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498,413,774</u>	<u>324,194,592</u>	822,608,366
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, after line 28, insert:

"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

Page 4, replace lines 1 through 13 with:

"SECTION 7. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION. Except for the construction of ring dikes and levees, construction

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relating to Fargo flood control project components located south of the city of Fargo's extraterritorial zoning jurisdiction may not begin until after July 1, 2014.

SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

#### **SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING**

**AGREEMENT.** Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States Army Corps of Engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

#### **SECTION 10. LEGISLATIVE INTENT - FARGO FLOOD CONTROL**

**PROJECT FUNDING.** It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove line 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 29
- Page 5, line 31, after "section" insert "every six months during the 2013-14 interim regarding"
- Page 6, line 2, remove "within ninety days of the state water commission approving the change"
- Page 6, after line 3, insert:

"SECTION 15. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. During the 2013-14 interim, the Fargo-Moorhead area diversion authority

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board shall report to the budget section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak upstream coalition shall report to the budget section biannually regarding an update on the impacts of the Fargo flood control project and

Page 6, remove lines 12 through 30

Page 7, replace lines 1 through 16 with:

mitigation efforts, alternatives, and costs."

"SECTION 17. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

#### 54-35-02.7. Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and the prioritization of water projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee also shall study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members, and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees."

Page 7, line 17, after "1" insert "of this Act and section 5"

Page 7, line 18, replace "is" with "are"

Renumber accordingly

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#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - Conference Committee Action

	Executive Budget	House <b>Versio</b> n	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Administrative and support services	\$4,042,784	\$3,909,500	\$852,165	\$4,761,665	\$4,850,009	(\$88,344)
Water and atmospheric resources	823,096,248	822,339,358	269,008	822,608,366	823,108,562	(500,196)
Accrued leave payments		325,774		325,774		325,774
Total all funds Less estimated income	\$827,139,032 809,359,388	\$826,574,632 826,574,632	\$1,121,173 1,121,173	\$827,695,805 827,695,805	\$827,958,571 827,958,571	(\$262,766) (262,766)
General fund	\$17,779,644	\$0	\$0	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00	90.00	0.00

## Department No. 770 - State Water Commission - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Administrative and support services	\$86,252	(\$39,152)	\$805,065	\$852,165
Water and atmospheric resources Accrued leave payments	492,622	(223,614)		269,008
Total all funds Less estimated income	\$578,874 578,874	(\$262,766) (262,766)	\$805,065 805,065	\$1,121,173 1,121,173
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Changes made by the House to the executive compensation package are removed.

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

<sup>&</sup>lt;sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

<sup>&</sup>lt;sup>3</sup> The Senate did not remove the House funding source change for the administration of the State Water Commission from the general fund to the resources trust fund. Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from the general fund to special funds, the same as the Senate version:

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- Audit fees (\$53,000) State Auditor.
- Attorney's fees (\$321,276) Attorney General.
- Rent (\$430,789) Office of Management and Budget.

#### This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to legislative guidelines for Fargo flood control project expenditures, the same as the Senate.
- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million, the same as the Senate.
- Sections added by the House directing the State Water Commission to study the use
  of ring dikes as part of a flood protection plan for the city of Fargo and water supply
  needs in the Red River Valley, the same as the Senate.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing, the same as the Senate.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center, the same as the Senate.

#### In addition, this amendment:

- Restores the requirement that the State Water Commission receive Budget Section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium, the same as the House. The Senate removed this requirement.
- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure, the same as the Senate.
- Adds a section to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for construction, and the budget for the Fargo flood control project is approved by the State Water Commission, the same as the Senate.
- Adds a section to require the State Water Commission enter a cost-sharing
  agreement with the Fargo flood control sponsor prior to expending any state funds
  for the Fargo flood control project. The section also provides that state funds may
  not be used for recreational components of the project or to cost-share with
  nonfederal entities outside the state. An advance funding agreement between the
  United States Army Corps of Engineers and the local Fargo flood control sponsor
  must precede any state funding used to advance construction work considered to be

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a federal responsibility. This section was not included in the House or Senate version of the bill.

- Adds a section of legislative intent that the state provide one-half of the local costshare of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million, the same as the Senate. In addition, the Conference Committee provided further intent that the \$275 million yet to be designated for Fargo flood control is to be made available in equal installments over the next four bienniums.
- Adds a section which limits Fargo flood control project construction south of the city
  of Fargo to ring dikes and levees until after July 1, 2014. This section was not
  included in the House or Senate version of the bill.
- Adds a section requiring the Fargo-Moorhead Area Diversion Authority and the MNDak Upstream Coalition report to the Budget Section, the Senate required only the diversion authority to report.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes, the same as the Senate.
- Allows the State Water Commission to use funding in the resources trust fund to pay
  off or defease outstanding bond issues when the balance in the resources trust fund
  exceeds \$287 million rather than \$515 million, as provided in the executive
  recommendation, the same as the Senate.
- Amends a section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013 to provide the State Water Commission report every six months. The Senate removed this section.
- Replaces a section added by the House, but removed by the Senate, which increases the membership of the Water-Related Topics Overview Committee and directs the committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management. The new section amends Section 54-35-02.7 related to the Water-Related Topics Overview Committee, as amended by Senate Bill No. 2233, to provide the committee study policies regarding the development and financing of municipal projects. In addition, the amendments require the State Water Commission and the State Engineer assist the committee in developing a schedule of priorities with respect to water projects.

Engrossed HB 1020 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY** 

HB 1020



# North Dakota State Water Commission Testimony Relative to House Bill 1020

Presented to the House Appropriations Committee

**63rd Legislative Assembly** 

**January 10, 2013** 

By Todd Sando, P.E.
North Dakota State Engineer and Chief Engineer-Secretary
to the State Water Commission

## NORTH DAKOTA STATE WATER COMMISSION TESTIMONY RELATIVE TO HOUSE BILL 1020

# PRESENTED TO THE HOUSE APPROPRIATIONS COMMITTEE JANUARY 10, 2013

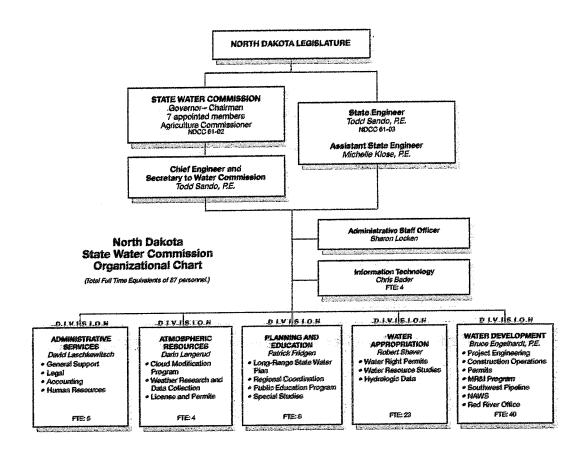
Good morning, Chairman Delzer, and members of the House Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding House Bill 1020. Per your request, and as outlined in the December 20 letter from the North Dakota Legislative Council, my testimony will include an overview of:

- Major water project efforts during the 2011-2013 biennium;
- Project funding needs for the 2013-2015 biennium;
- Anticipated funding available for water projects during the 2013-2015 biennium; and
- A discussion of priority water projects, and related costs for the 2013-2015 biennium.

#### ORGANIZATIONAL OVERVIEW

In addition to project and financial overviews, I would also like to provide a brief organizational overview. As illustrated by our organizational chart, the State Water Commission and Office of the State Engineer are comprised of 87 Full Time Employees (FTEs). As indicated in my introduction, I serve as both North Dakota's State Engineer, and as Chief Engineer and Secretary to the State Water Commission.



The Assistant State Engineer, Michelle Klose, provides support with water issues across the state, and with interstate and international issues, and serves as Chair of the Water Commission's cost-share subcommittee.

The Administrative Services Division, directed by Dave Laschkewitsch, provides agency operational support, including accounting, human resources, records management, and legal support coordination for all agency projects and programs.

The Water Appropriations Division, directed by Bob Shaver, is responsible for the processing of water permit applications, water rights evaluations, hydrologic data collection, water supply investigations, and economic development support activities.

The Water Development Division, directed by Bruce Engelhardt, is responsible for project engineering, construction, and maintenance; Municipal, Rural and Industrial water supply program, and State Water Supply Program administration; flood response and recovery; cost-share program administration; Southwest Pipeline and Northwest Area Water Supply projects management; floodplain and sovereign land management; dam safety; Devils Lake outlets construction and operations; and the processing of dam, dike, and drainage permits.

The Planning and Education Division, directed by Patrick Fridgen, develops and maintains the State Water Management Plan, and the agency's Strategic Plan; and manages the agency's information and education programs, including public outreach, and Project WET.

And finally, the Atmospheric Resources Division, directed by Darin Langerud, is responsible for the administration of cloud seeding activities in the state, conducts atmospheric research, and performs weather-related data collection and analysis. An excellent source of information regarding our agency, and our major projects and programs, is the Water Commission and Office of the State Engineer Strategic Plan. A copy of that document has been provided for your future reference.

## 2011-2013 WATER PROJECT AND PROGRAM OVERVIEW

As I begin covering the topic areas as requested, I would like to bring to your attention that we have also provided you with a copy of the 2013-2015 Water Development Plan. Much of what I will be covering today is included in that document, and I believe it will be very useful for your future reference regarding: current biennium project efforts and progress; completed projects; future water project funding needs; 2013-2015 available funding, and funding source descriptions; and 2013-2015 project priorities. If you would prefer to reference the Water Development Plan electronically, it is also available for review and download via our website at www.swc.nd.gov.

#### Flood Control

I would like to begin the 2011-2013 project overviews with statewide advancements in flood control. As all of you are aware, one of the most urgent flood-related issues facing the state over the course of the last two decades has been the ongoing flooding crisis in the Devils Lake basin. On June 27, 2011, Devils Lake set another new record level of 1454.4 feet above mean sea level, surpassing the previous record of 1452.05 feet, set on June 27, 2010 – exactly one year before. At its 2011 record elevation, Devils Lake covered an astonishing 211,000 acres, which was an increase of 167,000 inundated acres since the lake began its relentless rise back in 1993.

As Devils Lake crept within six feet of naturally overflowing back in 2010, the State Water Commission began aggressively pursuing an additional outlet from the east end of Devils Lake

(See Map Appendix). With the existing 250 cubic feet per second (cfs) West Devils Lake outlet in place, the purpose was to get an additional outlet operating as quickly as possible – to reduce the risk of additional land being inundated throughout the basin, and to prevent a natural overflow of Devils Lake into the Sheyenne River.

Construction on the East Devils Lake outlet began in late September 2011, and by June 2012, only nine months later, the new 350 cfs outlet project began removing additional Devils Lake water out of the big lake, and into the Sheyenne River. The total cost of the project was about \$70 million.

The combined design capacity of the West and East Devils Lake outlets is 600 cfs. Over the course of last summer, I am happy to report that we were able to remove 157,000 acre-feet of water from Devils Lake. And since the most recent record elevation was set in the summer of 2011, Devils Lake has dropped approximately three feet, with a third of that attributed to outlet operations, and the remainder from evaporation. In that three-foot drop, 32,000 acres of land reemerged from the floodwaters, with some of it going back into agricultural production, and contributing once again to the local economy.

In addition to the completion of the East Devils Lake outlet, the Water Commission worked in cooperation with the U.S. Army Corps of Engineers (Corps) on a Tolna Coulee control structure. This project was also completed this past summer, and substantially reduces the risk of a catastrophic overflow of Devils Lake. And thus, adds an extra level of protection for downstream areas. The Corps constructed the control structure, however, the Water Commission

will own and operate the project within the guidelines of established protocol. The total cost of this project was about \$9 million, with the Water Commission contributing \$4.3 million.

In relation to downstream impacts, increased sulfate concentrations in the Sheyenne River as a result of outlet operations prompted the Water Commission to provide about \$15 million toward a new water treatment plant in Valley City. I am happy to report, that project has been completed, and it is fully operational. Also because of the Sheyenne River sulfate concentration issue, we approved \$15 million for water treatment plant improvements at Fargo as well. Fargo is currently proceeding with pilot treatment efforts to identify the most optimal treatment options, and we expect that project to proceed in the next biennium – with additional cost-share from the state.

Outlet-related downstream impacts from flooding this past summer were minimal because of dryer conditions, and reduced tributary flows into the Sheyenne River. However, normal or above average runoff conditions during summer months will likely result in increased downstream mitigation costs in the future.

The last effort in the Devils Lake basin I would like to mention is the ongoing effort by the Corps to raise the city's level embankment to an elevation of 1,466 feet above mean sea level.

This latest construction effort will raise the level by about six feet, and extend it by four miles—to twelve miles in total. During this current biennium, the Water Commission provided \$15.5 million, for an overall total of about \$40 million from the Commission.

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Moving our attention to other flood control efforts in the Red River basin, I am happy to report that the Grand Forks flood control project performed extremely well during our most recent large-scale flood events in 2009, 2010, and 2011. And in Wahpeton, almost all elements of their permanent flood control project have been completed, with only a few small efforts remaining.

Another large-scale flood control effort that continues to advance is the Fargo-Moorhead metro area flood control project. After narrowly escaping extensive damages during the major floods of 1997 and 2009, it became apparent that a permanent, large-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the Corps, Fargo, West Fargo, Moorhead (MN), Cass County, and Clay County (MN) worked jointly toward the completion of a study that assesses potential measures to reduce the entire metro area's flood risk.

In April 2012, the Assistant Secretary of the Army signed a Record of Decision. Major elements of the locally preferred plan include, among other aspects, acquisitions; internal city protection efforts; upstream floodwater staging; and a 35-mile long, 20,000 cfs diversion channel on the North Dakota side of the Red River (See Map Appendix).

The estimated cost of the North Dakota diversion alternative is about \$1.8 billion, with an expected North Dakota non-federal share of about \$900 million – to be split in some fashion between local and state sources. The Water Commission has allocated \$75 million to Fargo flood control efforts thus far for land acquisitions, internal levee and other infrastructure construction, studies, and engineering - with additional contributions necessary in the future, and to be discussed later.

Currently, the city of Fargo has been moving forward on several fronts related to this project, and the NEPA process is scheduled for completion in 2013.

In the Mouse, or Souris River Basin - on June 25, 2011, Mouse River flood flows peaked in Minot at 27,400 cfs. This was more than five times greater than the city's existing flood control channels and levees had been designed to handle. The record breaking flooding of 2011 overwhelmed most flood fighting efforts along the entire reach of the Mouse River in North Dakota, causing unprecedented damages to homes, businesses, public facilities, infrastructure, and rural areas.

In response, a State Water Commission-sponsored Mouse River Enhanced Flood Protection Project Preliminary Engineering Report (PER) was completed in early 2012 – only months after those devastating events. Phase I of the PER, which focused on flooded communities (from Mouse River Park to Velva), was completed on a rapid timetable in order to satisfy the desperate need of displaced residents for relevant information as quickly as possible. It was entirely funded by the Water Commission, and provided preliminary engineering information, project footprints, and key project data, while inviting community input. Phase I of the PER, which focused on a protection level to a 2011 flood event (or 27,400 cfs), consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, and 2011 flood buyouts. Levees comprise about 90 percent of the alignment – totaling 21.6 miles.

The engineering team was also asked to provide cost estimates to scale the 27,400 cfs project down to a level of protection of 20,000, 15,000, and 10,000 cfs. However, the cost savings to

construct the project to a 10,000 cfs level of protection versus 27,400 cfs would only yield a cost savings of about \$15 million – of an \$820 million project.

Phases II and III are currently underway, and will extend preliminary engineering to the rural regions of the Mouse River. In addition to these efforts, the Souris River Joint Board has made a request to the U.S. Army Corps to conduct a reconnaissance study to determine the potential for federal involvement in Mouse River Flood control. We have also been involved in cooperative efforts involving the International Souris River Board and International Joint Commission to reopen international agreements to modify flow targets, and to identify additional flood storage – including the potential raise of Lake Darling.

Flood events along the Sheyenne River have been another concern in recent years, and have also severely impacted and tested other North Dakota communities like Valley City, Lisbon, and Fort Ransom. For that reason, each of those communities is working to implement more permanent flood protection.

On a final note related to flood damage reduction efforts, I would like to briefly report on our floodway property acquisition program. During the 2011 special Legislative session, following the devastating floods earlier that same year, the Legislature passed Senate Bill 2371, which allocated \$50 million to flood recovery, and directed the Water Commission to put priority on floodway property acquisitions.

To date, the Water Commission has approved \$17.75 million for Minot, \$1.07 million for Burlington, \$18.29 million for Ward County, \$3 million for Valley City, \$1.43 million for

Burleigh County, about \$184,000 for Sawyer, and \$645,000 for Lisbon floodway property acquisitions. In total, we have approved \$42.3 million for acquisitions since the passage of Senate Bill 2371.

#### Water Supply

Moving on to water supply efforts, as the oil industry continues to grow in the western portion of the state, so does the need for water development projects to support drilling processes, and rapidly growing populations.

During the 2011 Legislative Assembly, House Bill 1206 allocated \$110 million in state financing to advance Phases I and II of the newly created Western Area Water Supply (WAWS) project. The focus of this project is to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant, to areas throughout the northwest, oil-producing region of the state for municipal, rural, and industrial purposes (See Map Appendix).

Phases I and II are currently under construction, and Watford City, McKenzie Rural Water, and Williams Rural Water are now receiving water from WAWS. By the end of this biennium, Ray, Tioga, Stanley, Wildrose, Noonan, Columbus, Fortuna, and Burke-Divide-Williams Rural Water will also receive water from WAWS.

In addition, WAWS currently has the following water depots operational and generating water for the project: McKenzie County's System II Keene Depot, McKenzie County's Indian Hills Depot, the city of Williston's 2<sup>nd</sup> Street Depot, the North Williston Depot, 13 Mile Depot,

Alexander Depot, Indian Hills Expansion, and Watford City. The depot at Ray is expected to be complete later this coming summer.

It was originally estimated that WAWS would serve as many as 35,000 people, but that number is now expected to be about 90,000 by 2025. Currently, WAWS has over 15,000 water service requests for residential, commercial, rural, and temporary housing. And, they are increasing the long-term projected water demands of municipal water systems throughout the service area. Because of this unprecedented growth, project expansion beyond the original \$110 million investment is needed to address overwhelming water supply needs in that region of the state. As mentioned previously, future project financial needs will be covered in greater detail later in my testimony.

In the southwest oil-producing region of the state, we have continued with our track record of substantial progress on the Southwest Pipeline Project. As you will notice on the Southwest Pipeline Project map in the Appendix, this project now covers much of southwest North Dakota west of the Missouri River. Today, Southwest Pipeline serves over 48,000 people, including 31 communities, and about 4,300 rural hook-ups. Like WAWS, Southwest Pipeline is working hard to address the tremendous growth and water needs they're seeing in that region of the state. Since we last reported to you two years ago, the number of people served by Southwest Pipeline has grown by 13,000.

During the current biennium, we completed construction of the Oliver, Mercer, North Dunn (OMND) Water Treatment Plant, and completed construction of two potable water reservoirs one at the OMND Water Treatment Plant site and the other in Oliver County. In addition,

construction was completed on a main transmission line in Mercer and Oliver Counties. And, Southwest Pipeline water was delivered to the cities of Stanton, Hazen, Zap, and Center, along with rural customers around Zap and Beulah this past summer.

With the Northwest Area Water Supply (NAWS) project, the first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009.

Before the start of the current biennium, NAWS was serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot. Additions during the current biennium include Sherwood, Mohall, All Seasons Water Users District near Antler, Upper Souris Water District near Sherwood, Minot's North Hill, Minot Air Force Base, Upper Souris Water District near Glenburn, and North Prairie Rural Water near Ruthville, from an interim supply from the Minot Water Treatment Facility (See Map Appendix).

In addition, recent efforts also include upgraded filters and associated piping and controls at the Minot water treatment facility - increasing its capacity from 18 million gallons per day (MGD) to 26.5 MGD. Increases to softening capacity, which still remain at 18 MGD, are scheduled for the 2013-2015 biennium, pending court approval.

With regard to NAWS-related lawsuit efforts, we have continued to work with the Bureau of Reclamation on a Supplemental Environmental Impact Statement (EIS) ordered by a federal court prerequisite to the lifting of an injunction on the project.

With the Red River Valley Water Supply, the Water Commission has continued to work in cooperation with the Garrison Diversion Conservancy District to advance this project, although a Record of Decision has not been signed for the EIS that was completed back in 2007.

As part of the Final EIS, the U.S. Bureau of Reclamation, and the Garrison Diversion Conservancy District identified the Missouri River Import to the Sheyenne River Alternative as the preferred alternative. However, the project still needs two major steps to occur before construction can start: 1) Congress must authorize the project; and 2) the Record of Decision must be signed. As Fargo continues to grow, and as industrial water supply needs are expected to increase east of the Missouri River, the need for a supplemental water supply in the eastern portion of the state remains.

In other water supply efforts, I think it's important to note that federal funding for water supply projects through the Municipal, Rural, and Industrial (MR&I) Water Supply Program has decreased dramatically in recent years. For that reason, the state has increased investments in rural and regional water supply system advancements across the state.

In addition to the previously mentioned water supply system advancements, the Water Commission also provided funding assistance for various projects during the current biennium to: Burke, Divide, Williams Water System; Crosby Water Supply; Grand Forks-Traill Water District; McKenzie County Regional Water System; the city of Parshall; North Central Rural Water Consortium; South Central Regional Water District; R&T Water Supply; Stutsman Rural Water District; and Traill Rural Water District (See Map Appendix).

Thanks to North Dakota's Water Supply Program and the MR&I program, there are now 31 regional water systems in North Dakota providing quality drinking water to over 200,000 people in 319 cities, 88 various water systems, and over 90,000 rural residents. Currently, all or part of North Dakota's 53 counties are served by regional and rural water systems, with several having plans to expand.

### Weather Modification

With regard to atmospheric resources efforts, cloud seeding services continued in Bowman, McKenzie, Mountrail, Slope, Williams, and Ward Counties (See Map Appendix) — with the dual purpose of reducing hail and enhancing rainfall. Long-term evaluations indicate that the cloud seeding program reduces crop hail losses by 45 percent, and increases rainfall by 5-10 percent. A 2009 NDSU study shows the program creates \$12 million to \$19.7 million annually in direct agricultural benefits, or \$5.16 to \$8.41 on a per acre basis — yielding a benefit-cost ratio of 16 and 26 to 1. Gross business volume ranges from \$37 million to \$60 million, annually.

This past summer was the 36th year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 608 active volunteer observers throughout the state (See Map Appendix), with nearly half of our observers now measuring snow, which is extremely valuable, as it fills data gaps and improves forecasting of spring runoff and flood risks. All of this information – including precipitation data, charts, and maps is now easily accessed via the Water Commission's website.

### General Water Management

Significant progress was also made on statewide general water management projects through our cost-share program. These types of projects include rural flood control; other flood control; dam safety, repairs, and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation. During the current biennium, the Water Commission has approved funding for 123 general water management projects, totaling about \$20 million.

### Importance of Funding Flexibility

As a final comment on 2011-2013 biennium efforts, I would like to recap and bring your attention to the fact that in the week preceding the start of this biennium, the Mouse River at Minot peaked on June 25, leaving unimaginable damages in its wake. Two days later, Devils Lake peaked on June 27. And on July 1, 2011, the first day of the current biennium, the Missouri River peaked in Bismarck at 19.23 feet – more than three feet above flood stage. While all of this was occurring, the Red River at Fargo remained at, or above flood stage for almost all of April, May, June, July and August 2011.

The images and stories associated with these events are ones that we will not soon forget. The thousands of North Dakotans evacuated, the inundated homes, and the ongoing fear of the potential for lives lost.

Then, as we turned the calendar to the summer of 2012, much of the nation, including large portions of North Dakota, were in the grips of a severe drought. And unfortunately, drought conditions continue to persist for much of the Midwest today.

The reason I bring your attention to these most recent unprecedented flood and drought events, is that neither were part of our discussion as I stood before you only two years ago. No matter how much effort we put into project planning and financing, the unpredictable nature of North Dakota's climate requires that we be able to respond to the unexpected. And for that reason, it is imperative that we maintain flexibility in our project funding efforts – as we never know what the next year, month, or even day may bring in the water world.

### WATER PROJECT FUNDING NEEDS: 2013-2015 & BEYOND

Moving on to project funding needs - as part of the Water Commission's water planning efforts, we once again solicited project and program information from potential project sponsors, beginning about this time last year. The results provide us with an updated inventory of water projects and programs that could come forward for Water Commission cost-share in the upcoming 2013- 2015 biennium and beyond.

To obtain updated and new project and program information from sponsors, we sent project information forms to water boards, joint water boards, the North Dakota Irrigation Association, communities, and government agencies with an interest in water development projects and programs. The managers of major water projects, including rural water systems, Northwest Area Water Supply Project, Southwest Pipeline Project, Red River Valley Water Supply Project, and the Western Area Water Supply were also surveyed. Information requested on the forms included general project descriptions, location, permit information, and identification of potential obstacles, among other basic aspects of the projects. More importantly, sponsors were asked to assign the most realistic start dates possible to projects they expected to present to the Water Commission for cost-share consideration - particularly during the 2013-2015 and later biennia.

In addition to the project information forms collected by the Water Commission, we also continued to work closely with project sponsors throughout the course of the last year, and with the North Dakota Water Coalition. Through our inventory process, and through our cooperative efforts with project sponsors, I believe we are continually improving our efforts to identify future project funding needs for budgeting purposes.

In the interest of time, I will not cover all individual project funding needs that we compiled for the 2013-2015 biennium. However, for your reference, note that Table 3, beginning on page 11 of the Water Development Plan, contains projects that could possibly move forward and request Water Commission cost-share in the 2013-2015 biennium.

This accounting of projects simply represents a non-prioritized list of needs as submitted by project sponsors. It does not guarantee, in any way, that all of the projects listed will receive funding. In addition, upon further review of the projects listed, the state's potential cost-share contribution may change based on the agency's cost-share policy and requirements for eligible items. The funding needs list is organized into eight categories including: flood control; studies and planning; dam repairs and reconstructions; irrigation; rural flood control; multi-purpose; municipal, rural, and regional water supply; and snagging and clearing.

### **Project Funding Needs Beyond 2013-2015**

As a final note related to water development funding needs, I would like to stress that many of North Dakota's largest water projects cannot be completed in one or even two biennia. But rather, require longer-term financial planning. This is particularly the case for some of North Dakota's larger water project funding priorities, like flood control and water supplies. For that

reason, project funding needs for future biennia are also requested from project sponsors – beyond the 2013-2015 biennium.

The potential funding reported by project sponsors beyond the 2013-2015 biennium, through 2021, could approach \$5 billion dollars in total project costs, with a large share attributed to water supply and flood control projects.

### 2013-2015 WATER PROJECT FUNDING

With regard to water project funding, North Dakota funds a majority of its water projects through the Water Commission. Funding that is funneled through the Water Commission for water development has come from several sources, including: the state's General Fund; the Dakota Water Resources Act; the federal Municipal, Rural, and Industrial (MR&I) Water Supply Program; the Resources Trust Fund; and the Water Development Trust Fund. In addition to these sources, the Water Commission is also authorized to issue revenue bonds for water projects, and we also have shared control of the Drinking Water State Revolving Loan Fund – in cooperation with the Department of Health.

The following sections outline available funding by source for the 2013-2015 biennium. Additional details about these funding sources, including some historical trends, can be referenced in the 2013-2015 Water Development Plan beginning on page 17.

### **General Fund**

With regard to General Fund dollars, the proposed budget includes almost \$17.8 million from the General Fund, primarily for agency operations.

### Municipal, Rural, and Industrial Water Supply Program

Moving on to MR&I program funding, this has been a major source of federal grant funding for water supply development in North Dakota in previous biennia. Funding of this program was authorized by Congress through the 1986 Garrison Diversion Unit Reformulation Act. It is jointly administered by the Garrison Diversion Conservancy District, and the Water Commission.

Annual MR&I funding is dependent upon U.S. Congressional appropriation. The proposed budget contains \$31.2 million of federal MR&I funding. This is a reduction of \$9.5 million from the current biennium.

### **Resources Trust Fund**

The Resources Trust Fund is funded with 20 percent of the revenues from the oil extraction tax, and it has been designated by the Legislature to be used for water-related projects and energy conservation. The Water Commission's budget is based on a forecast of oil extraction tax revenue for the biennium, which is provided by the Office of Management and Budget.

Revenues into the Resources Trust Fund for the 2011-2013 biennium are expected to total \$392.3 million. When combined with the fund's beginning balance of \$148.1 million, less the estimated expenditures of \$275.2 million; the balance in the Resources Trust Fund at the beginning of the 2013-2015 biennium could be \$265.2 million. Because revenues from the oil extraction tax are highly dependent on world oil prices and production, it is very difficult to predict future funding levels. With that in mind, the September 2012 forecast

includes \$547 million for the 2013-2015 biennium from oil extraction.

Additional revenue into the Resources Trust Fund will come from Southwest Pipeline

Project reimbursements, State Water Commission Water Supply Program loan repayments

(which amount to \$0.8 million per biennium through year 2017), interest, and oil royalties.

These are estimated to total an additional \$9.9 million.

The proposed budget includes \$515 million for new projects; \$125.9 million for uncompleted projects from the previous biennium; and \$60 million to pay off outstanding bonds. Even though this is an increase of \$317.8 million from the current biennium, it would still leave an unobligated balance in excess of \$100 million in the Resources Trust Fund. We anticipate these resources will be needed to partially fund major water projects, such as the Fargo and Minot flood control projects, and Red River Valley Water Supply and NAWS, which all will require significant funding in future biennia.

### **Water Development Trust Fund**

In 1999, Senate Bill 2188 established a Water Development Trust Fund as a primary means of repaying the bonds it authorized. And, House Bill 1475 allocated 45 percent of the funds received by the state from the 1998 tobacco settlement into the Water Development Trust Fund.

Revenues into the Water Development Trust Fund for the 2011-2013 biennium are expected to total about \$18 million, with an estimated beginning balance of \$26.3 million. The proposed budget contains \$44.3 million from the Water Development Trust fund. This

is an increase of \$7.1 million from the current biennium.

### Bonding

With regard to bonding, the Water Commission has been given the authority (NDCC 61-02-46) to issue revenue bonds of up to \$2 million per project. The Legislature must authorize revenue bond authority beyond \$2 million per project. In 1991, the Legislature authorized full revenue bond authority for the NAWS project, in 1997 it authorized \$15 million of revenue bonds for the Southwest Pipeline, and in 2001 it raised the Southwest Pipeline authority to \$25 million. As of June 30, 2012, the Commission had outstanding bonds totaling \$19.8 million for the Southwest Pipeline project. There are currently no outstanding bonds for NAWS.

In 1999, the Water Commission was authorized to issue up to \$84.8 million in appropriation bonds under provisions set in Senate Bill 2188. The Legislature's intent was to partially fund flood control projects at Grand Forks, Devils Lake, Wahpeton, and Grafton, and to continue funding for the Southwest Pipeline. In March 2000, the Water Commission issued bonds generating \$27.5 million, thus reducing available bonding authority to \$57.3 million. Recognizing the need for water development projects in addition to those identified in Senate Bill 2188, the 2003 Legislature allowed authority for the unissued \$57.3 million to expire, but then authorized \$60 million of bonding authority for statewide water development projects. In June 2005, the Commission did issue bonds generating \$60 million. And, as of June 30, 2012, the Commission had outstanding bonds totaling \$68.9 million for other statewide water projects.

Scheduled payments for existing water development bonds will be \$16.9 million for the 2013-2015 biennium; however it is our intent to retire these bonds early. The Commission's 2013-2015 budget contains \$75.3 million to retire all of the outstanding bonds.

### Drinking Water State Revolving Loan Fund

An additional source of funding for water supply development projects is the Drinking Water State Revolving Loan Fund (Revolving Loan Fund). Funding is distributed in the form of a loan program through the Environmental Protection Agency and administered by the Department of Health. The Revolving Loan Fund provides low interest loans of 3 percent to public water systems for capital improvements aimed at increasing public health protection and compliance under the federal Safe Drinking Water Act.

The Water Commission's involvement with the Revolving Loan Fund is two-fold. First, the Department of Health must administer and disburse funds with the approval of the Water Commission. Second, the Department of Health must establish assistance priorities and expend grant funds pursuant to the priority list for the Revolving Loan Fund, after consulting with, and obtaining the Water Commission's approval.

The process of prioritizing new or modified projects is completed on an annual basis. Each year, the Department of Health provides an Intended Use Plan, which contains a comprehensive project priority list and a fundable project list. The 2012 comprehensive project priority list includes 172 projects with a cumulative total project funding need of \$690 million. The funded list of 164 projects includes \$154 million in loans from federal

grants of \$320 million for fiscal years 1997 through 2012. Available funding for the Revolving Loan Fund for 2013 is anticipated to be approximately \$20 million.

### **Other Federal Funding**

The Environmental Protection Agency, U.S. Bureau of Reclamation, U.S. Geological Survey, U.S. Army Corps of Engineers, and the Natural Resources Conservation Service all contribute to the state's water development efforts in many different ways, including studies, project design, and construction. The Commission's 2013- 2015 budget contains \$5.9 million from other federal sources, which is a reduction of \$7.1 million from the current biennium due to the elimination of federal ARRA funding.

### House Bill 1020

To conclude my comments on water project funding, I would like to summarize elements included in House Bill 1020. House Bill 1020 contains the Executive Budget recommendation for the State Water Commission for the 2013-2015 biennium. The recommendation totals \$827,139,032.

Our agency budget includes two line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriations, Water Development, and Atmospheric Resources Divisions, as well as project funding.

Administrative and Support Services Water and Atmospheric Resources Total	\$4,042,784 <u>823,096,248</u> \$827,139,032
General Funds	\$17,779,644
Federal Funds	37,322,577
Other Funds	<u>772,036,811</u>
Total	\$827,139,032

You will also note that Section 8 of House Bill 1020 provides that the Water and Atmospheric Resources line item in Section 1 is declared to be an emergency measure. With the unprecedented growth we are seeing in the oil-producing region of the state, and the speed at which it is occurring, the need for supporting water-related infrastructure has never been greater. With the emergency measure in place, it would allow several critical water-infrastructure projects to proceed in a more timely and cost-effective manner. And, would substantially reduce the risk of potentially missing an entire construction season for several project phases.

### 2013-2015 FUNDING PRIORITIES

In developing water project funding priorities for the 2013-2015 biennium, the Water Commission worked closely with project sponsors from all corners of the state, and the North Dakota Water Coalition. The project priorities that I am about to cover are the result of those cooperative efforts, and include our current road map for water project development in the upcoming biennium. More detailed information on each of the priorities is included in the Water Development Plan, beginning on page 21 for your future reference.

The following table represents the Water Commission's funding priorities for the 2013-2015 biennium.

SWC Priority Projects	Potential 2013-2015 Allocations
Community Water Facility Rev. Loan Fund	\$15,000,000
Devils Lake Flood Control	10,000,000
Fargo Flood Control	102,000,000
Mouse River Flood Control	61,000,000
Sheyenne River Flood Control	$21,000,000^1$
General Water Management <sup>2</sup>	33,000,000
Irrigation	5,000,000
Fargo Water Supply	15,000,000
Northwest Area Water Supply	14,000,000
Red River Valley Water Supply	9,000,000
Southwest Pipeline Project	$79,000,000^1$
Water Supply Program	71,000,000
Western Area Water Supply	79,000,000 <sup>3</sup>
Weather Modification	1,000,000
Project Totals	\$515,000,000

I would like to emphasize that the project priorities I just covered are for the 2013-2015 biennium only. I feel it's important to reemphasize that many of our state's priority water projects are far too large to complete in one, or even several biennia. For that reason, many larger projects – particularly those related to flood control and water supply, will require additional funding to move forward in future biennia. I simply mention this to again highlight the fact that even though we are now able to fund projects at unprecedented levels, the financial needs of water projects have also grown tremendously.

### CONCLUSION

I would like to conclude by saying – now is the time to make long-term investments in our critical water infrastructure. Our state is in a unique situation where we can create and shape our future, and improve the lives of North Dakotans for generations to come.

<sup>1</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

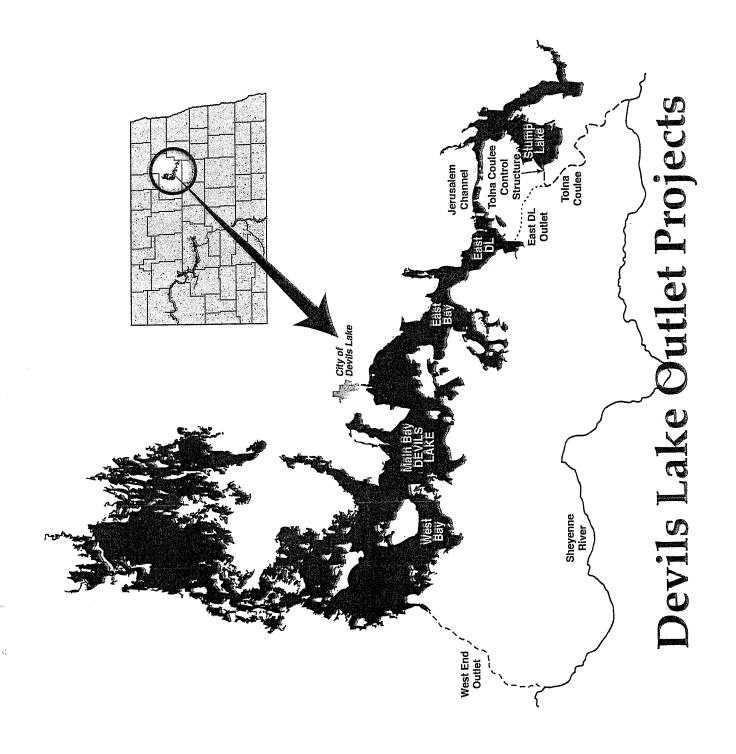
<sup>3</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.

<sup>&</sup>lt;sup>2</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

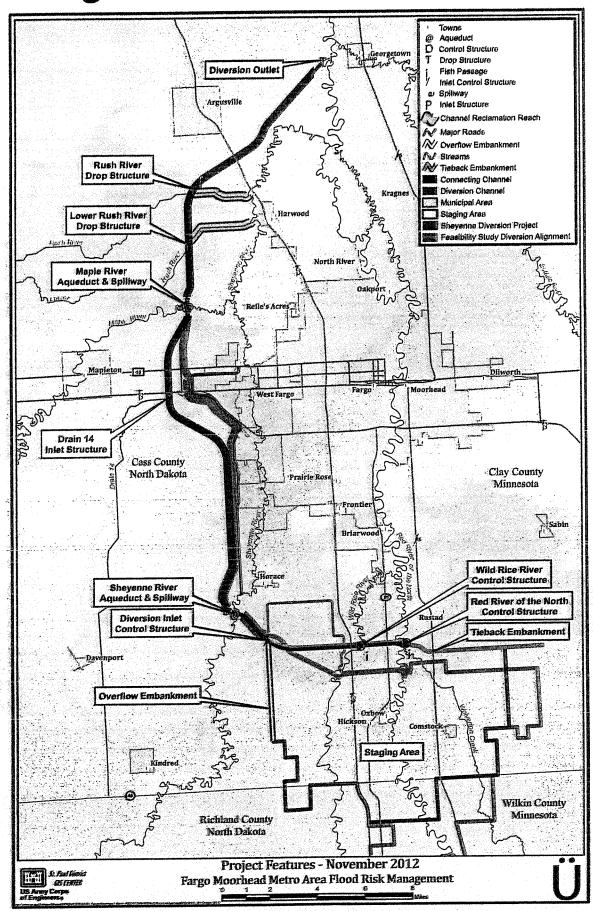
Mr. Chairman, this concludes my testimony relative to House Bill 1020. I will be happy to answer any questions that you or any members of the committee may have at this time.

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### MAP APPENDIX

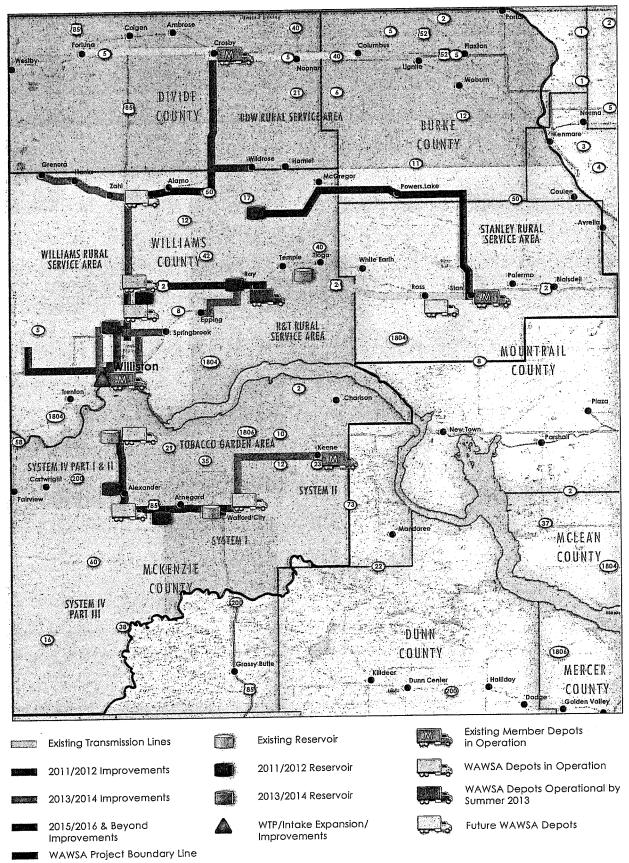


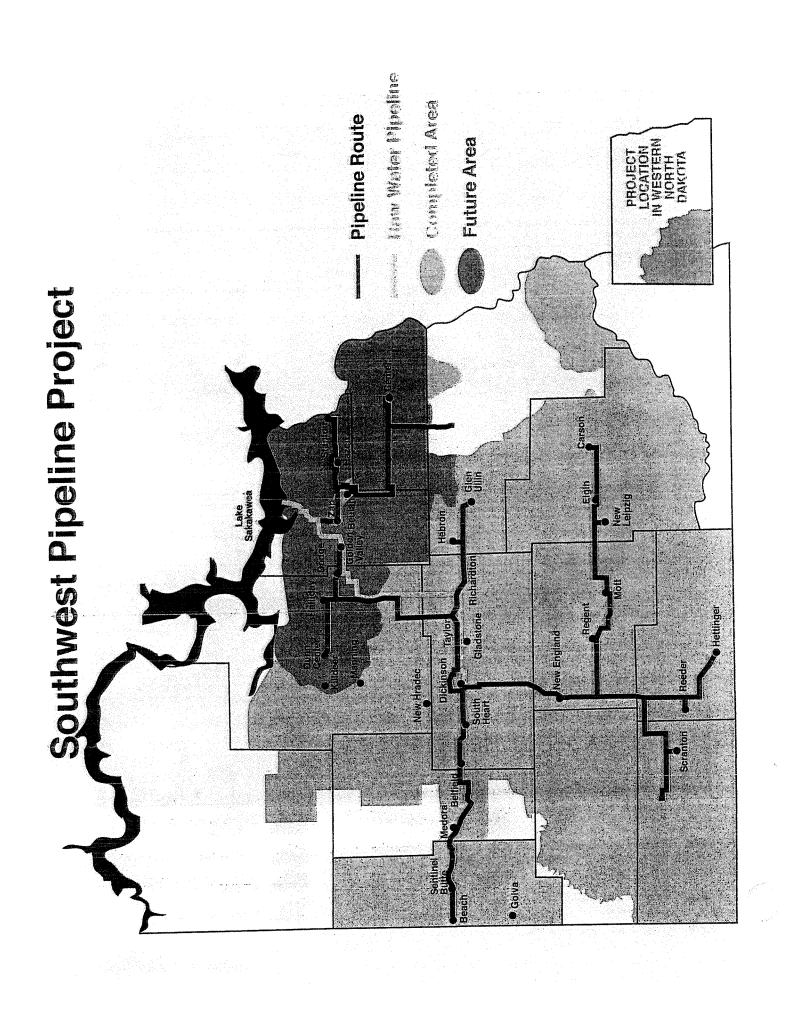
### Fargo-Moorhead Flood Control

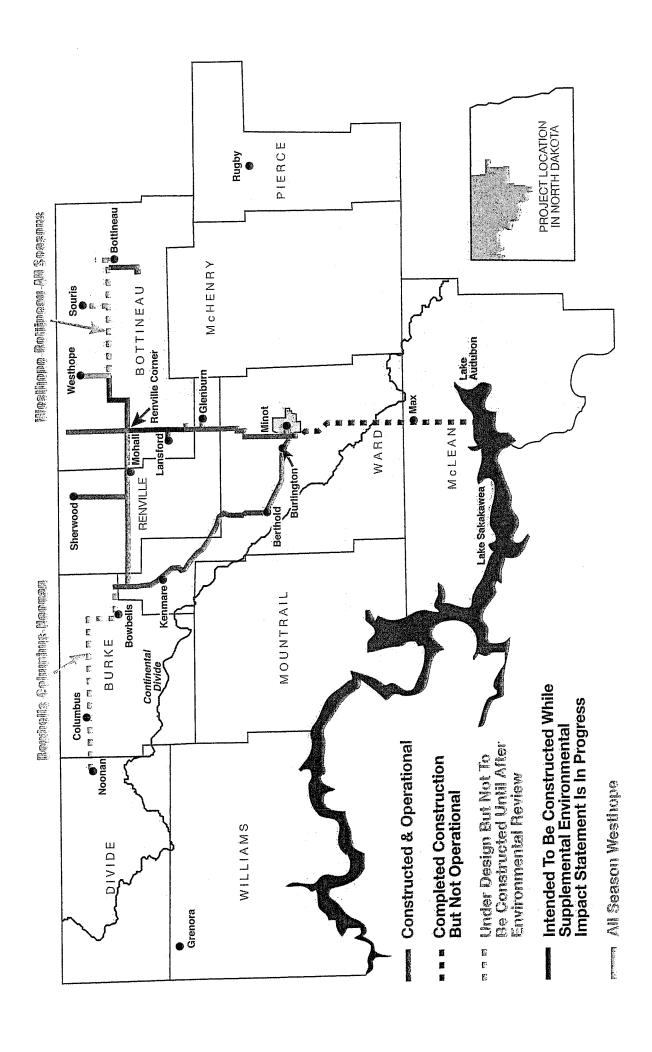


### WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components
VERSION 7

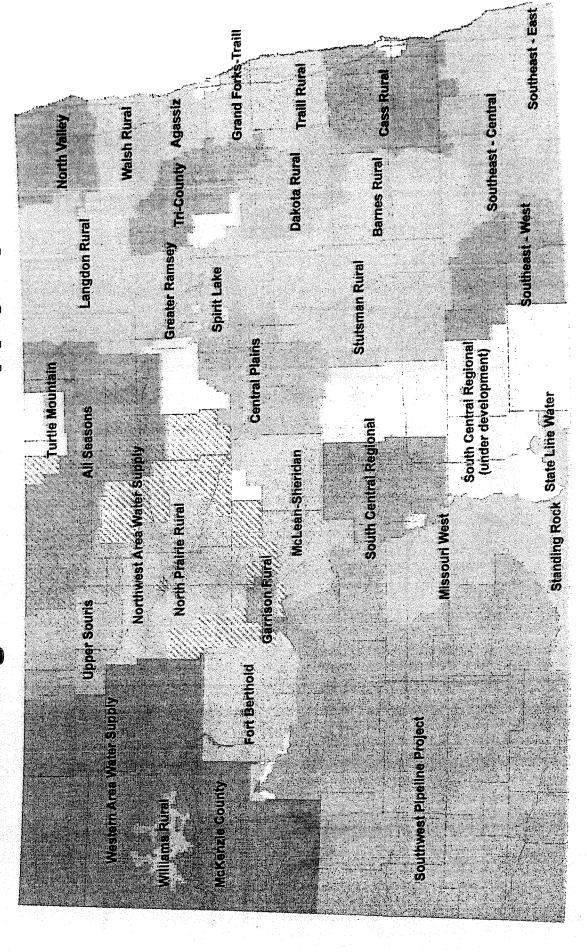




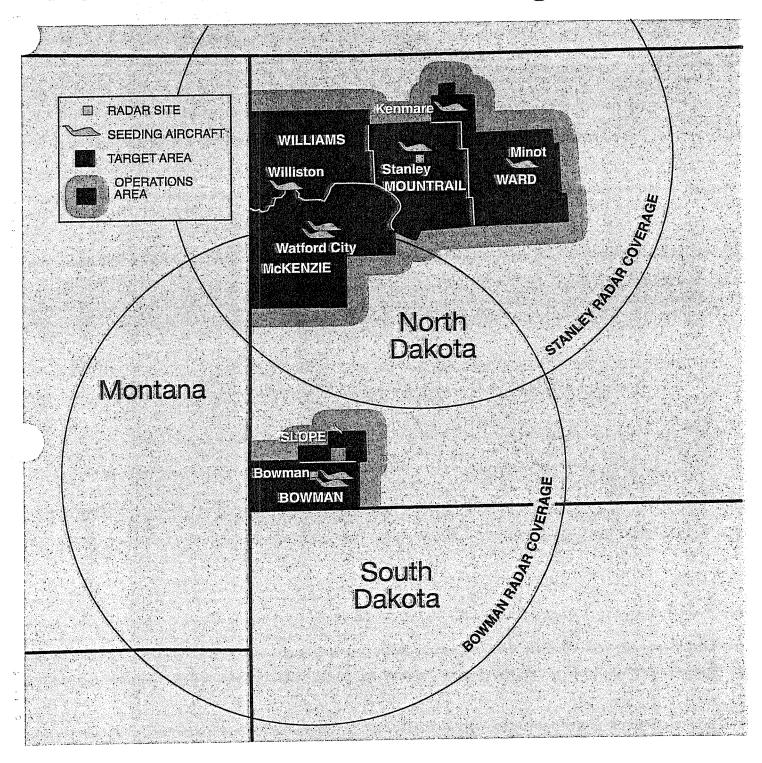


## Northwest Area Water Supply

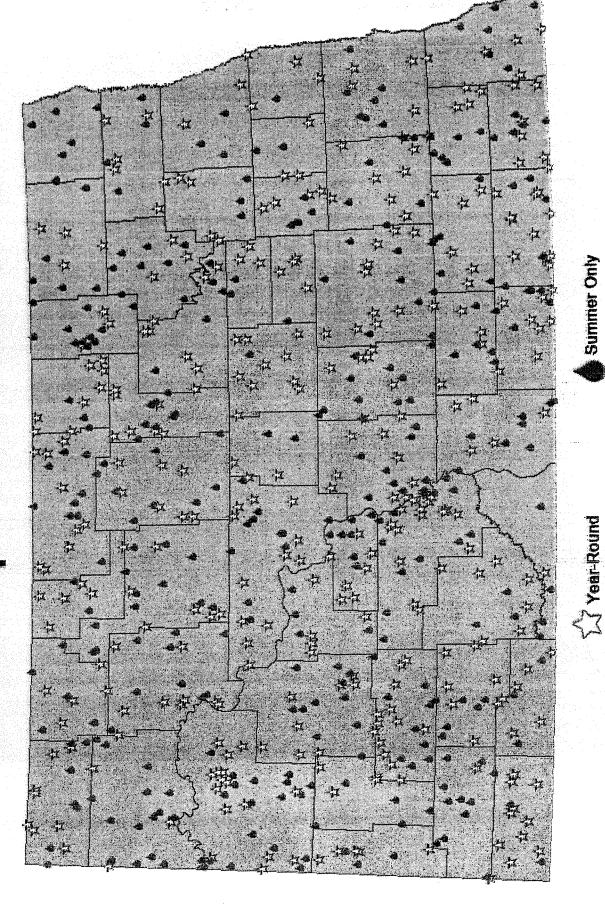
# Rural & Regional Water Supply Systems



### North Dakota Cloud Seeding Program

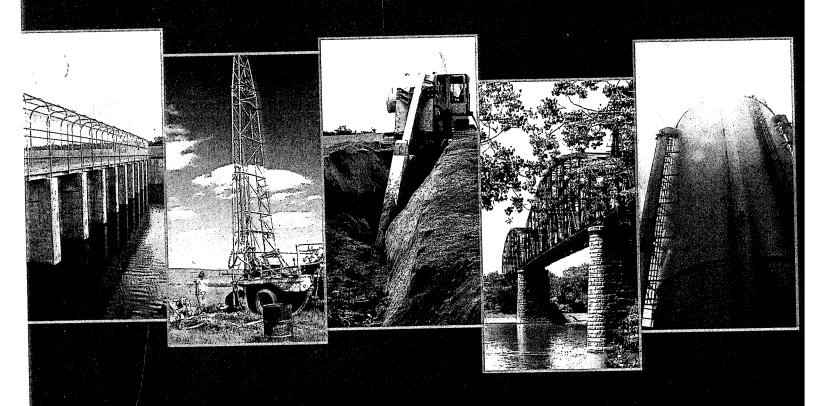


2012 ARB Cooperative Observer Network



### NORTH DAKOTA 2013-2015 Development

An Update To The 2009 State Water Management Plan



North Dakota State Water Commission

January 2013

Table 2: Currently Active Projects, 2011-2013 Biennium 1/10/13

### Currently Active Projects, 2011-2013 Biennium

The projects and project categories listed in Table 2 represent water development efforts that are being pursued in the 2011-2013 biennium. Several individual projects are listed in the table. However, a number of others fall under project categories, such as irrigation development or general water management, and therefore, are not individually identified in the table.

This table also represents the total 2011-2013 SWC project budget as of October 31, 2012, and the project funding the SWC had approved as of that time. As the table suggests, the SWC had approved 95 percent of the project budget by October 31, 2012.

PRODECTIS	SWCBUDGET	APPROVAED
CITY FLOOD CONTROL		
FARGO/RIDGEWOOD	\$50,941	\$50,941
FARGO	\$66,473,088	\$66,473,088
GRAFTON	\$7,175,000	\$7,175,000
MINOT	\$4,476,750	\$4,476,750
WAHPETON	\$1,013,000	\$1,013,000
FLOODWAY PROPERTY ACQUISITIONS		
MINOT	\$17,750,000	\$17,750,000
BURLINGTON	\$1,071,345	\$1,071,345
WARD COUNTY	\$11,500,000	\$11,500,000
VALLEY CITY	\$3,000,000	\$3,000,000
BURLEIGH COUNTY	\$1,425,000	\$1,425,000
SAWYER	\$184,260	\$184,260
LISBON	\$645,000	\$645,000
UNOBLIGATED SB 2371	\$9,310,245	
FLOOD CONTROL		
BURLEIGH COUNTY	\$1,282,400	\$1,282,400
RICE LAKE RECREATION DISTRICT	\$2,842,200	\$2,842,200
RENWICK DAM	\$1,246,571	\$1,246,571
WATER SUPPLY		
REGIONAL & LOCAL WATER SYSTEMS	\$26,652,898	\$25,517,910
VALLEY CITY WATER TREATMENT PLANT	\$15,386,800	\$15,386,800
FARGO REVERSE OSMOSIS PILOT STUDY	\$15,000,000	\$15,000,000
RED RIVER WATER SUPPLY	\$62,224	\$62,224
WESTERN AREA WATER SUPPLY	\$25,000,000	\$25,000,000
SOUTHWEST PIPELINE PROJECT	\$24,019,199	\$24,019,199
NORTHWEST AREA WATER SUPPLY	\$19,432,008	\$19,432,008
IRRIGATION DEVELOPMENT		
IRRIGATION DEVELOPMENT	\$3,608,353	\$1,097,422
GENERAL WATER MANAGEMENT		
GENERAL WATER MANAGEMENT	\$30,172,009	\$29,278,600
DEVILS LAKE		
BASIN DEVELOPMENT	\$92,340	\$92,340
DIKE	\$15,534,603	\$15,534,603
OUTLET	\$2,420,212	\$2,420,212
OUTLET OPERATIONS	\$6,215,627	\$6,215,627
TOLNA COULEE DIVIDE	\$4,366,720	\$4,366,720
EAST END OUTLET	\$71,848,290	\$62,942,273
GRAVITY OUTFLOW CHANNEL	\$13,720,185	\$13,720,185
JOHNSON FARMS STORAGE	\$125,000	\$125,000
WEATHER MODIFICATION		
WEATHER MODIFICATION	\$894,314	\$894,314
TION/ALS	\$403,996,582	\$381,240,992

Attachment 3
General Discussion
SWC has budgeted \$102 million 1/10/13 And toward the project. The total

County, and Clay County (MN) worked jointly to complete an EIS to assess potential measures to reduce the entire metro area's flood risk. The EIS was completed in late 2011, and the Record of Decision was signed by the Assistant Secretary of the Army in April 2012.

The preferred alternative is a 20,000 cfs diversion channel on the North Dakota side of the Red River that will be approximately 35 miles in length. The project is also expected to have a 50,000 acre-foot storage area within the diversion, and a 150,000 acre-foot staging area upstream of the southern-most portion of the diversion.

The U.S. Army Corps of Engineers and local sponsors are moving forward with the design phase, and with the National Environmental Policy Act (NEPA) process scheduled for completion in 2013, construction could proceed that same year.

Fargo is planning to devote over \$390 million (from all sources) to the project during the 2013-2015 biennium, with emphasis on design, land acquisitions, and construction of upstream levees, in-town levees, bridges, and north channels.

In previous biennia, the SWC has budgeted and approved \$75 million for Fargo flood control. In the 2013-2015 biennium, the

SWC has budgeted \$102 million toward the project. The total project cost is estimated at \$1.8 billion.

### Mouse River Flood Protection

On June 25, 2011, Mouse River flood flows peaked in Minot at 27,400 cfs. This was more than five times greater than the city's existing flood control channels and levees had been designed to handle, and almost nine times greater than any documented flood since the construction of major upstream storage reservoirs decades before.

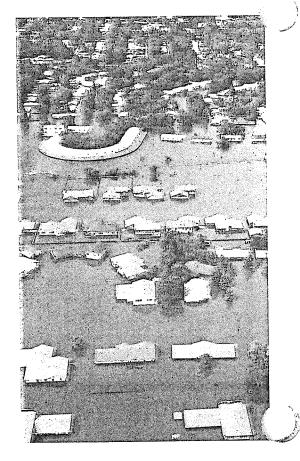
The record breaking flooding of 2011 overwhelmed most

Table 7: Water Development Priorities, 2013-2015 Biennium

PROJECTIS	2013-2015 FUNDING PRIORITIES (Millions)
Community Water Facility Revolving Loan Fund	\$15
Devils Lake Flood Control	\$10
Fargo Flood Control	\$102
Mouse River Flood Control	\$61
Sheyenne River Flood Control <sup>1</sup>	\$21
General Water Management <sup>2</sup>	\$33
Irrigation	\$5
Fargo Water Supply	\$15
Northwest Area Water Supply	\$14
Red River Valley Water Supply	\$9
Southwest Pipeline Project <sup>1</sup>	\$79
Water Supply Program	\$71
Western Area Water Supply <sup>3</sup>	\$79
Weather Modification	\$1
TOWAL	\$515

<sup>&</sup>lt;sup>1</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>3</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.



<sup>&</sup>lt;sup>2</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

HB 10:20 fouse Approp. Educ. 4 En San 16, 2013 Attachment 1

### NORTH DAKOTA STATE WATER COMMISSION TESTIMONY RELATIVE TO HOUSE BILL 1020

### PRESENTED TO THE EDUCATION AND ENVIRONMENT DIVISION OF THE HOUSE APPROPRIATIONS COMMITTEE

### **JANUARY 16, 2013**

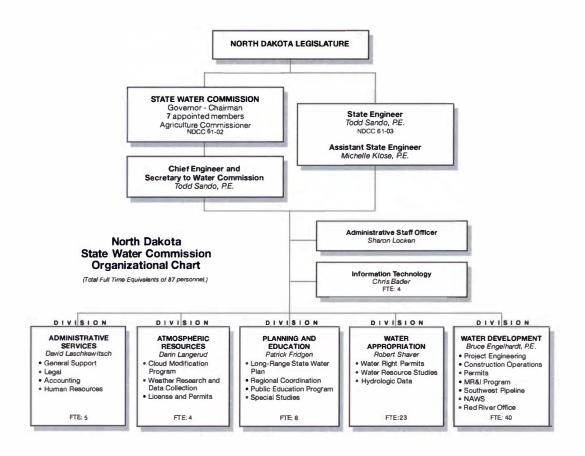
Good morning, Chairman Skarphol, and members of the Education and Environment Division of the House Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding House Bill 1020. As outlined in the December 20 letter from the North Dakota Legislative Council, and per your request, my testimony will include an overview of:

- Financial audit findings included in the most recent audit of our agency;
- Our 2011-2013 appropriation and related spending including major water project updates during the 2011-2013 biennium;
- Project funding needs for the 2013-2015 biennium;
- Changes to available federal funds, anticipated funding available, and one-time spending for the 2013-2015 biennium; and
- 2013-2015 project priorities.

### ORGANIZATIONAL OVERVIEW

In addition to project and financial overviews, I would also like to provide a brief organizational overview. As illustrated by our organizational chart, the State Water Commission and Office of the State Engineer are comprised of 87 Full Time Employees (FTEs). As indicated in my introduction, I serve as both North Dakota's State Engineer, and as Chief Engineer and Secretary to the State Water Commission.



The Assistant State Engineer, Michelle Klose, provides support with water issues across the state, and with interstate and international issues, and serves as Chair of the Water Commission's policy subcommittee.

The Administrative Services Division, directed by Dave Laschkewitsch, provides agency operational support, including accounting, human resources, records management, and legal support coordination for all agency projects and programs.

The Water Appropriations Division, directed by Bob Shaver, is responsible for the processing of water permit applications, water rights evaluations, hydrologic data collection, water supply investigations, and economic development support activities.

The Water Development Division, directed by Bruce Engelhardt, is responsible for project engineering, construction, and maintenance; Municipal, Rural and Industrial water supply program, and State Water Supply Program administration; flood response and recovery; cost-share program administration; Southwest Pipeline and Northwest Area Water Supply projects management; floodplain and sovereign land management; dam safety; Devils Lake outlets construction and operations; and the processing of dam, dike, and drainage permits.

The Planning and Education Division, directed by Patrick Fridgen, develops and maintains the State Water Management Plan, and the agency's Strategic Plan; and manages the agency's information and education programs, including public outreach, and Project WET.

And finally, the Atmospheric Resources Division, directed by Darin Langerud, is responsible for the administration of cloud seeding activities in the state, conducts atmospheric research, and performs weather-related data collection and analysis.

An excellent source of information regarding our agency, and our major projects and programs, is the Water Commission and Office of the State Engineer Strategic Plan. A copy of that document was provided to you last week during our overview to the full Appropriations

Committee. If you would like to review that document in electronic format, it is also available via our website at www.swc.nd.gov.

### FINANCIAL AUDIT FINDINGS

The most recent financial audit report for the Office of the State Engineer and State Water Commission was for the period that ended on June 30, 2011. The report did not contain any formal findings or recommendations.

### 2011-2013 APPROPRIATION & RELATED SPENDING

During the current 2011-2013 biennium, the State Water Commission has spent \$226 million on water projects through November 2012. It is anticipated that an additional \$81.9 million will be spent through June 2013. About \$278 million of that \$307.9 million will come from the Contract Fund, which is made up of a combination of Resources Trust Fund and Water Development Trust Fund revenue. The balance is made up of federal and local funds. We estimate that we will carry \$125.9 million of the committed contract fund projects forward into the 2013-2015 biennium.

To update you on the Water Commission's bonding, we have six bond issues outstanding on the Southwest Pipeline Project. These bond issues have provided the project with \$24 million, of which \$19.8 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by water sales.

We also have two bond issues outstanding for statewide water development projects. The proceeds were used to fund various projects from March 2000 through June 2005. Major projects receiving funding included Grand Forks and Wahpeton's flood control projects; Southwest Pipeline; the Devils Lake outlet; and several other rural-regional water supply projects. These issues totaled \$94.3 million, of which \$68.9 million remains outstanding.

The Water Development Trust Fund provides the funding to make these payments. Scheduled payments for the 2013-2015 biennium total \$16.9 million; however it is our intent to retire all of the Commission's bonds early. The Executive Budget for 2013-2015 contains funding to do so.

### 2011-2013 WATER PROJECT AND PROGRAM OVERVIEW

Having covered the financial aspects of our 2011-2013 appropriation, I would like to provide an overview of what those funds helped to advance. As I begin covering those projects, I would like to reiterate, that much of what I will be covering today is included in our 2013-2015 Water Development Plan, which was provided for your reference. If you need additional copies, we would be happy to provide them – as I believe it will be very useful for your future reference regarding: current biennium project efforts and progress; completed projects; future water project funding needs; 2013-2015 available funding, and funding source descriptions; and 2013-2015 project priorities. If you would prefer to reference the Water Development Plan electronically, it is also available for review and download via our website at www.swc.nd.gov.

### **Flood Control**

I would like to begin the 2011-2013 project updates with statewide advancements in flood control. As all of you are aware, one of the most urgent flood-related issues facing the state over the course of the last two decades has been the ongoing flooding crisis in the Devils Lake basin. On June 27, 2011, Devils Lake set another new record level of 1454.4 feet above mean sea level, surpassing the previous record of 1452.05 feet, set on June 27, 2010 – exactly one year before. At its 2011 record elevation, Devils Lake covered an astonishing 211,000 acres, which was an increase of 167,000 inundated acres since the lake began its rise back in 1993.

As Devils Lake crept within six feet of naturally overflowing back in 2010, the State Water Commission began aggressively pursuing an additional outlet from the east end of Devils Lake (See Map Appendix). With the existing 250 cubic feet per second (cfs) West Devils Lake outlet in place, the purpose was to get an additional outlet operating as quickly as possible – to reduce the risk of additional land being inundated throughout the basin, and to prevent a natural overflow of Devils Lake into the Sheyenne River.

Construction on the East Devils Lake outlet began in late September 2011, and by June 2012, only nine months later, the new 350 cfs outlet project began removing additional Devils Lake water out of the big lake, and into the Sheyenne River. The total cost of the project was about \$70 million.

The combined design capacity of the West and East Devils Lake outlets is 600 cfs. Over the course of last summer, I am happy to report that we were able to remove 157,000 acre-feet of water from Devils Lake. And since the most recent record elevation was set in the summer of

2011, Devils Lake has dropped approximately three feet, with a third of that attributed to outlet operations, and the remainder from evaporation. In that three-foot drop, 32,000 acres of land reemerged from the floodwaters, with some of it going back into agricultural production, and contributing once again to the local economy.

In addition to the completion of the East Devils Lake outlet, the Water Commission worked in cooperation with the U.S. Army Corps of Engineers (Corps) on a Tolna Coulee control structure. This project was also completed this past summer. It is designed to reduce downstream damages should Devils Lake naturally overflow. And thus, adds an extra level of protection for downstream areas. The Corps constructed the control structure, however, the Water Commission will own and operate the project within the guidelines of established protocol. The total cost of this project was about \$9 million, with the Water Commission contributing \$4.3 million.

In relation to downstream impacts, increased sulfate concentrations in the Sheyenne River as a result of outlet operations prompted the Water Commission to provide about \$15 million toward a new water treatment plant in Valley City. I am happy to report, that project has been completed, and it is fully operational. Also because of the Sheyenne River sulfate concentration issue, we approved \$15 million for water treatment plant improvements at Fargo as well. Fargo is currently proceeding with pilot treatment efforts to identify the most optimal treatment options, and we expect that project to proceed in the next biennium – with additional cost-share from the state.

Outlet-related downstream impacts from flooding this past summer were minimal because of dryer conditions, and reduced tributary flows into the Sheyenne River. However, normal or

above average runoff conditions during summer months will likely result in increased downstream mitigation costs in the future.

The last effort in the Devils Lake basin I would like to mention is the ongoing effort by the Corps to raise the city's levee embankment to an elevation of 1,466 feet above mean sea level.

This latest construction effort will raise the levee by about six feet, and extend it by four miles – to twelve miles in total. During this current biennium, the Water Commission provided \$15.5 million, for an overall total of about \$40 million from the Commission.

Moving our attention to other flood control efforts in the Red River basin, I am happy to report that the Grand Forks flood control project performed extremely well during our most recent large-scale flood events in 2009, 2010, and 2011. And in Wahpeton, almost all elements of their permanent flood control project have been completed, with only a few small efforts remaining.

Another large-scale flood control effort that continues to advance is the Fargo-Moorhead metro area flood control project. After narrowly escaping extensive damages during the major floods of 1997 and 2009, it became apparent that a permanent, large-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the Corps, Fargo, West Fargo, Moorhead (MN), Cass County, and Clay County (MN) worked jointly toward the completion of a study that assesses potential measures to reduce the entire metro area's flood risk.

In April 2012, the Assistant Secretary of the Army signed a Record of Decision. Major elements of the locally preferred plan include, among other aspects, acquisitions; internal city protection

efforts; upstream floodwater staging; and a 35-mile long, 20,000 cfs diversion channel on the North Dakota side of the Red River (See Map Appendix).

The estimated cost of the North Dakota diversion alternative is about \$1.8 billion, with an expected North Dakota non-federal share of about \$900 million – to be split in some fashion between local and state sources. The Water Commission has allocated \$75 million to Fargo flood control efforts thus far for land acquisitions, internal levee and other infrastructure construction, studies, and engineering - with additional contributions necessary in the future, and to be discussed later.

Currently, the city of Fargo has been moving forward on several fronts related to this project, and the NEPA process is scheduled for completion in 2013.

In the Mouse, or Souris River Basin - on June 25, 2011, Mouse River flood flows peaked in Minot at 27,400 cfs. This was more than five times greater than the city's existing flood control channels and levees had been designed to handle. The record breaking flooding of 2011 overwhelmed most flood fighting efforts along the entire reach of the Mouse River in North Dakota, causing unprecedented damages to homes, businesses, public facilities, infrastructure, and rural areas.

In response, a State Water Commission-sponsored Mouse River Enhanced Flood Protection

Project Preliminary Engineering Report (PER) was completed in early 2012 – only months after
those devastating events. Phase I of the PER, which focused on flooded communities (from
Mouse River Park to Velva), was completed on a rapid timetable in order to satisfy the desperate

need of displaced residents for relevant information as quickly as possible. It was entirely funded by the Water Commission, and provided preliminary engineering information, project footprints, and key project data, while inviting community input. Phase I of the PER, which focused on a protection level to a 2011 flood event (or 27,400 cfs), consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, and 2011 flood buyouts. Levees comprise about 90 percent of the alignment – totaling 21.6 miles.

The engineering team was also asked to provide cost estimates to scale the 27,400 cfs project down to a level of protection of 20,000, 15,000, and 10,000 cfs. However, the cost savings to construct the project to a 10,000 cfs level of protection versus 27,400 cfs would only yield a cost savings of about \$15 million – of an \$820 million project.

Phases II and III are currently underway, and will extend preliminary engineering to the rural regions of the Mouse River. In addition to these efforts, the Souris River Joint Board has made a request to the U.S. Army Corps to conduct a reconnaissance study to determine the potential for federal involvement in Mouse River flood control. We have also been involved in cooperative efforts involving the International Souris River Board and International Joint Commission to reopen international agreements to modify flow targets, and to identify additional flood storage – including the potential raise of Lake Darling.

Flood events along the Sheyenne River have been another concern in recent years, and have also severely impacted and challenged other North Dakota communities like Valley City, Lisbon, and Fort Ransom. For that reason, each of those communities is working to implement more permanent flood protection.

On a final note related to flood damage reduction efforts, I would like to briefly report on our floodway property acquisition program. During the 2011 special Legislative session, following the devastating floods earlier that same year, the Legislature passed Senate Bill 2371, which allocated \$50 million to flood recovery, and directed the Water Commission to put priority on floodway property acquisitions.

To date, the Water Commission has approved \$17.75 million for Minot, \$1.07 million for Burlington, \$18.29 million for Ward County, \$3 million for Valley City, \$1.43 million for Burleigh County, about \$184,000 for Sawyer, and \$645,000 for Lisbon floodway property acquisitions. In total, we have approved \$42.3 million for acquisitions since the passage of Senate Bill 2371.

#### Water Supply

Moving on to water supply efforts, as the oil industry continues to grow in the western portion of the state, so does the need for water development projects to support drilling processes, and rapidly growing populations.

During the 2011 Legislative Assembly, House Bill 1206 allocated \$110 million in state financing to advance Phases I and II of the newly created Western Area Water Supply (WAWS) project.

Of that amount, \$25 million was provided through the Water Commission's budget.

The focus of this project is to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant, to areas throughout the northwest, oil-producing region of the state for municipal, rural, and industrial purposes (See Map Appendix).

Phases I and II are currently under construction, and Watford City, McKenzie Rural Water, and Williams Rural Water are now receiving water from WAWS. By the end of this biennium, Ray, Tioga, Stanley, Wildrose, Noonan, Columbus, Fortuna, and Burke-Divide-Williams Rural Water will also receive water from WAWS.

In addition, WAWS currently has eight water depots operational and generating water for the project (McKenzie County's System II Keene Depot, McKenzie County's Indian Hills Depot, the city of Williston's 2<sup>nd</sup> Street Depot, the North Williston Depot, 13 Mile Depot, Alexander Depot, Indian Hills Expansion, and Watford City), with another (Ray Depot) scheduled for completion this coming summer.

It was originally estimated that WAWS would serve as many as 35,000 people, but that number is now expected to be about 90,000 by 2025. Currently, WAWS has over 15,000 water service requests for residential, commercial, rural, and temporary housing. And, they are increasing the long-term projected water demands of municipal water systems throughout the service area. Because of this unprecedented growth, project expansion beyond the original \$110 million investment is needed to address overwhelming water supply needs in that region of the state. As mentioned previously, future project financial needs will be covered in greater detail later in my testimony.

In the southwest oil-producing region of the state, we have continued with our track record of substantial progress on the Southwest Pipeline Project. As you will notice on the Southwest Pipeline Project map in the Appendix, this project now covers much of southwest North Dakota west of the Missouri River. Today, Southwest Pipeline serves over 48,000 people, including 31 communities, and about 4,300 rural hook-ups. Like WAWS, Southwest Pipeline is working hard to address the tremendous growth and water needs they're seeing in that region of the state. Since we last reported to you two years ago, the number of people served by Southwest Pipeline has grown by 13,000.

During the current biennium, we completed construction of the Oliver, Mercer, North Dunn (OMND) Water Treatment Plant, and completed construction of two potable water reservoirs one at the OMND Water Treatment Plant site and the other in Oliver County. In addition, construction was completed on a main transmission line in Mercer and Oliver Counties. And, Southwest Pipeline water was delivered to the cities of Stanton, Hazen, Zap, and Center, along with rural customers around Zap and Beulah this past summer.

With the Northwest Area Water Supply (NAWS) project, the first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009.

Before the start of the current biennium, NAWS was serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot. Additions during the current biennium include Sherwood, Mohall, All Seasons Water Users District near Antler, Upper Souris Water District near Sherwood, Minot's North Hill, Minot Air Force Base, Upper Souris Water District near Glenburn, and North Prairie Rural Water near Ruthville, from an interim supply from the Minot Water Treatment Facility (See Map Appendix).

In addition, recent efforts also include upgraded filters and associated piping and controls at the Minot water treatment facility - increasing its capacity from 18 million gallons per day (MGD) to 26.5 MGD. Increases to softening capacity, which still remain at 18 MGD, are scheduled for the 2013-2015 biennium, pending court approval.

With regard to NAWS-related lawsuit efforts, we have continued to work with the Bureau of Reclamation on a Supplemental Environmental Impact Statement (EIS) ordered by a federal court prerequisite to the lifting of an injunction on the project.

With the Red River Valley Water Supply, the Water Commission has continued to work in cooperation with the Garrison Diversion Conservancy District to advance this project, although a Record of Decision has not been signed for the EIS that was completed back in 2007.

As part of the Final EIS, the U.S. Bureau of Reclamation, and the Garrison Diversion

Conservancy District identified the Missouri River Import to the Sheyenne River Alternative as the preferred alternative. However, the project still needs two major steps to occur before construction can start: 1) Congress must authorize the project; and 2) the Record of Decision must be signed. As Fargo continues to grow, and as industrial water supply needs are expected to increase east of the Missouri River, the need for a supplemental water supply in the eastern portion of the state remains.

In other water supply efforts, I think it's important to note that federal funding for water supply projects through the Municipal, Rural, and Industrial (MR&I) Water Supply Program has

decreased dramatically in recent years. For that reason, the state has increased investments in rural and regional water supply system advancements across the state.

In addition to the previously mentioned water supply system advancements, the Water Commission also provided funding assistance for various projects during the current biennium to: Burke, Divide, Williams Water System; Crosby Water Supply; Grand Forks-Traill Water District; McKenzie County Regional Water System; the city of Parshall; North Central Rural Water Consortium; South Central Regional Water District; R&T Water Supply; Stutsman Rural Water District; and Traill Rural Water District (See Map Appendix).

Thanks to North Dakota's Water Supply Program and the MR&I program, there are now 31 regional water systems in North Dakota providing quality drinking water to over 200,000 people in 319 cities, 88 various water systems, and over 90,000 rural residents. Currently, all or part of North Dakota's 53 counties are served by regional and rural water systems, with several having plans to expand.

#### **Weather Modification**

With regard to atmospheric resources efforts, cloud seeding services continued in Bowman, McKenzie, Mountrail, Slope, Williams, and Ward Counties (See Map Appendix) – with the dual purpose of reducing hail and enhancing rainfall. Long-term evaluations indicate that the cloud seeding program reduces crop hail losses by 45 percent, and increases rainfall by 5-10 percent. A 2009 NDSU study shows the program creates \$12 million to \$19.7 million annually in direct agricultural benefits, or \$5.16 to \$8.41 on a per acre basis – yielding a benefit-cost ratio of 16 and 26 to 1. Gross business volume ranges from \$37 million to \$60 million, annually.

This past summer was the 36th year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 608 active volunteer observers throughout the state (See Map Appendix), with nearly half of our observers now measuring snow, which is extremely valuable, as it fills data gaps and improves forecasting of spring runoff and flood risks. All of this information – including precipitation data, charts, and maps is now easily accessed via the Water Commission's website.

### **General Water Management**

Significant progress was also made on statewide general water management projects through our cost-share program. These types of projects include rural flood control; other flood control; dam safety, repairs, and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation. During the current biennium, the Water Commission has approved funding for 123 general water management projects, totaling about \$20 million.

#### **Importance of Funding Flexibility**

As a final comment on 2011-2013 biennium efforts, I would like to recap and bring your attention to the fact that in the week preceding the start of this biennium, the Mouse River at Minot peaked on June 25, leaving unimaginable damages in its wake. Two days later, Devils Lake peaked on June 27. And on July 1, 2011, the first day of the current biennium, the Missouri River peaked in Bismarck at 19.23 feet – more than three feet above flood stage. While all of this was occurring, the Red River at Fargo remained at, or above flood stage for almost all of April, May, June, July and August 2011.

The images and stories associated with these events are ones that we will not soon forget. The thousands of North Dakotans evacuated, the inundated homes, and the ongoing fear of the potential for lives lost.

Then, as we turned the calendar to the summer of 2012, much of the nation, including large portions of North Dakota, were in the grips of a severe drought. And unfortunately, drought conditions continue to persist for much of the Midwest today.

The reason I bring your attention to these most recent unprecedented flood and drought events, is that neither were part of our discussion as I stood before you only two years ago. No matter how much effort we put into project planning and financing, the unpredictable nature of North Dakota's climate requires that we be able to respond to the unexpected. And for that reason, it is imperative that we maintain flexibility in our project funding efforts – as we never know what the next year, month, or even day may bring in the water world.

#### WATER PROJECT FUNDING NEEDS: 2013-2015 & BEYOND

Moving on to project funding needs - as part of the Water Commission's water planning efforts, we once again solicited project and program information from potential project sponsors, beginning about this time last year. The results provide us with an updated inventory of water projects and programs that could come forward for Water Commission cost-share in the upcoming 2013- 2015 biennium and beyond.

In addition to the project information forms collected by the Water Commission, we also continued to work closely with project sponsors throughout the course of the last year, and with the North Dakota Water Coalition. Through our inventory process, and through our cooperative

efforts with project sponsors, I believe we are continually improving our efforts to identify future project funding needs for budgeting purposes.

In the interest of time, I will not cover all individual project funding needs that we compiled for the 2013-2015 biennium. However, for your reference, note that Table 3, beginning on page 11 of the Water Development Plan, contains projects that could possibly move forward and request Water Commission cost-share in the 2013-2015 biennium.

This accounting of projects simply represents a non-prioritized list of needs as submitted by project sponsors. It does not guarantee, in any way, that all of the projects listed will receive funding. In addition, upon further review of the projects listed, the state's potential cost-share contribution may change based on the agency's cost-share policy and requirements for eligible items.

### **Project Funding Needs Beyond 2013-2015**

As a final note related to water development funding needs, I would like to stress that many of North Dakota's largest water projects cannot be completed in one or even two biennia. But rather, require longer-term financial planning. This is particularly the case for some of North Dakota's larger water project funding priorities, like flood control and water supplies. For that reason, project funding needs for future biennia are also requested from project sponsors — beyond the 2013-2015 biennium.

### **HOUSE BILL 1020 & AVAILABLE FUNDING FOR 2013-2015**

House Bill 1020 contains the Executive Budget recommendation for the State Water Commission for the 2013-2015 biennium. The recommendation totals \$827,139,032.

Our agency budget includes two line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriations, Water Development, and Atmospheric Resources Divisions, as well as project funding.

Administrative and Support Services	\$4,042,784
Water and Atmospheric Resources	823,096,248
Total	\$827,139,032
0 - 1 - 1	<b>017.770</b> (44
General Funds	\$17,779,644
Federal Funds	37,322,577
Other Funds	772,036,811
Total	\$827,139,032

### **Available Funding**

In the 2011-2013 biennium, general funds totaling \$15 million were included in the budget. The 2013-2015 budget recommendation contains \$17.8 million, an increase of \$2.8 million from the 2011-2013 budget. This increase in general fund dollars provides the funding required for the salary and benefit package included in the Executive Budget, funding for one-time equipment and office space renovation, and two additional positions.

Federal funds totaling \$37.3 million have been included in the Executive Budget recommendation. This is a decrease of \$16.7 million from the 2011-2013 biennium. This decrease is due to the anticipated reduction of federal funding available through the Municipal,

Rural, and Industrial water supply program, and the elimination of additional federal stimulus funds.

Revenues into the Resources Trust Fund for the 2011-2013 biennium are expected to total \$392.3 million. When combined with the fund's beginning balance of \$148.1 million, less the estimated expenditures of \$275.2 million, the balance in the Resources Trust Fund at the beginning of the 2013-2015 biennium could be \$265.2 million. Because revenues from the oil extraction tax are highly dependent on world oil prices and production, it is very difficult to predict future funding levels. With that in mind, the September 2012 forecast includes \$547 million for the 2013-2015 biennium from oil extraction.

Additional revenue into the Resources Trust Fund will come from Southwest Pipeline Project reimbursements, State Water Commission water supply program loan repayments (which amount to \$800,000 per biennium through year 2017), interest, and oil royalties. These are estimated to total an additional \$9.9 million.

The proposed budget also includes \$515 million for new projects; \$125.9 million for uncompleted projects from the previous biennium; and \$60 million to pay off outstanding bonds. Even though this is an increase of \$317.8 million from the current biennium, it would still leave an unobligated balance in excess of \$100 million in the Resources Trust Fund. We anticipate these funds will be needed to partially fund major water projects such as the Fargo and Minot flood control projects, Red River Valley Water Supply project, and NAWS - that will all require significant funding in future biennia.

The other large funding source for the Water Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in \$18 million in new revenue this biennium. When combined with an estimated beginning balance of \$26.3 million, the proposed budget includes \$44.3 million and is an increase of \$7.1 million from the 2011–2013 biennium.

This large increase in the agencies special funds will enable us to meet the anticipated water project needs for the 2013-2015 biennium.

#### **One-Time Funding**

The 2011-2013 budget included one-time project funding in the line items titled Federal Stimulus Funds and Grants Local Cost-share. The Federal Stimulus Funds line contains the estimated unexpended stimulus funds carried forward from the 2009-2011 biennium for the Southwest Pipeline water treatment plant, which totaled \$7,271,773. The Grants Local Cost-share line contains the estimated unexpended funds for the Ray-Tioga, Burke-Divide-Williams, Wildrose and Stanley water project funding from the permanent oil trust fund, which totaled \$500,000. There is no one-time funding included in the 2013- 2015 budget for these projects.

We do have \$288,200 of one-time funding included in the 2013-2015 budget. This includes \$243,200 to replace the Water Commission's excavator, and \$45,000 to renovate additional office space in the lower level of the State Office Building.

#### **Additional FTEs**

With regard to staff additions, we are requesting a Water Resource Project Manager and a Water Resource Engineer. Currently the Water Appropriation Division employs one water resource senior manager to manage the state's water use monitoring/reporting system and two water

resource engineers to manage the surface waters of the state. With the advent of oil development in western North Dakota, the demand for water has increased dramatically. More temporary and conditional water permits for industrial water use have been issued but the backlog continues to grow. Given the large profits gained from selling water for oil field industrial use, there is greater concern about unauthorized water use. To better monitor water use, effective January 1, 2012, the State Engineer required industrial water permit holders who are providing water to the oil industry, to submit monthly water use reports. The new positions are needed to address this additional workload.

Also requested is an additional position to operate the East Devils Lake outlet. We currently have one operator for both outlets, but with the completion of the east end outlet, an additional operator is needed. When the outlets are operating, one employee is on-call 24 hours a day, 7 days a week. In addition, on-site at the projects, it requires at least one hour to travel from the west outlet to the east outlet. We anticipate this position would also be available to support the operation of the Northwest Area Water Supply project in the future when necessary as well.

#### **House Bill 1020 Emergency Measure**

You will also note that Section 8 of House Bill 1020 provides that the Water and Atmospheric Resources line item in Section 1 is declared to be an emergency measure. With the unprecedented growth we are seeing in the oil-producing region of the state, and the speed at which it is occurring, the need for supporting water-related infrastructure has never been greater. With the emergency measure in place, it would allow several critical water-infrastructure projects to proceed in a more timely and cost-effective manner. And, would substantially reduce the risk of potentially missing an entire construction season for several project phases.

### 2013-2015 FUNDING PRIORITIES

In developing water project funding priorities for the 2013-2015 biennium, the Water Commission worked closely with project sponsors from all corners of the state, and the North Dakota Water Coalition. The project priorities that I am about to cover are the result of those cooperative efforts, and include our current road map for water project development in the upcoming biennium. More detailed information on each of the priorities is included in the Water Development Plan, beginning on page 21 for your future reference.

The following table represents the Water Commission's funding priorities for the 2013-2015 biennium.

SWC Priority Projects	Potential 2013-2015 Allocations
Community Water Facility Rev. Loan Fund	\$15,000,000
Devils Lake Flood Control	10,000,000
Fargo Flood Control	102,000,000
Mouse River Flood Control	61,000,000
Sheyenne River Flood Control	21,000,000
General Water Management <sup>2</sup>	33,000,000
Irrigation	5,000,000
Fargo Water Supply	15,000,000
Northwest Area Water Supply	14,000,000
Red River Valley Water Supply	9,000,000
Southwest Pipeline Project	79,000,000 <sup>1</sup>
Water Supply Program	71,000,000
Western Area Water Supply	$79,000,000^3$
Weather Modification	1,000,000
Project Totals	\$515,000,000

I would like to emphasize that the project priorities I just covered are for the 2013-2015 biennium only. I feel it's important to reemphasize that many of our state's priority water

<sup>1</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>2</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

<sup>&</sup>lt;sup>3</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.

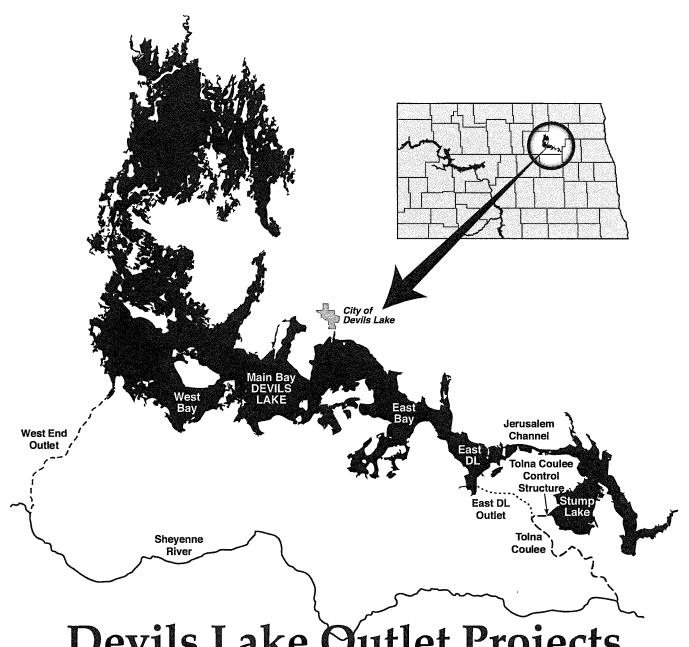
projects are far too large to complete in one, or even several biennia. For that reason, many larger projects – particularly those related to flood control and water supply, will require additional funding to move forward in future biennia. I simply mention this to again highlight the fact that even though we are now able to fund projects at unprecedented levels, the financial needs of water projects have also grown tremendously.

### **CONCLUSION**

I would like to conclude by saying – now is the time to make long-term investments in our critical water infrastructure. Our state is in a unique situation where we can create and shape our future, and improve the lives of North Dakotans for generations to come.

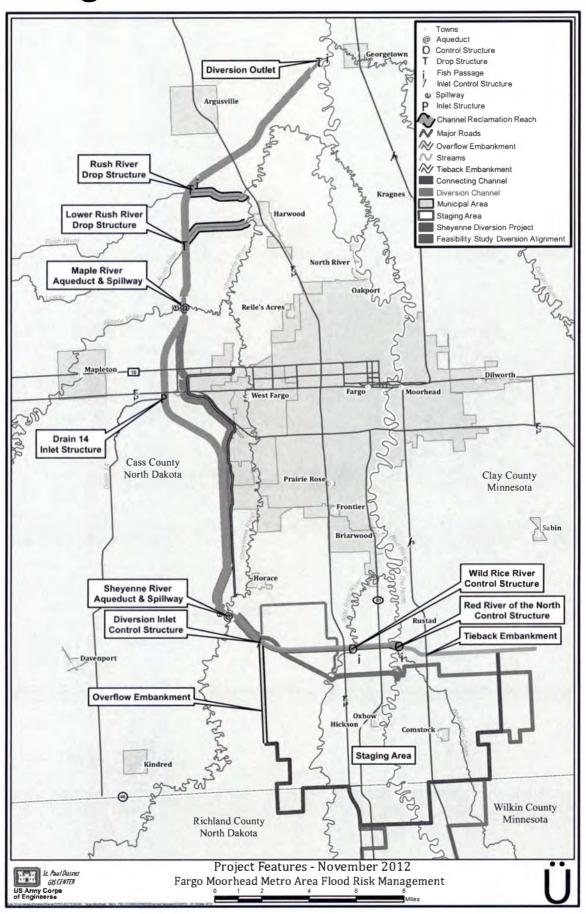
Mr. Chairman, this concludes my testimony relative to House Bill 1020. I will be happy to answer any questions that you or any members of the committee may have at this time.

### MAP APPENDIX



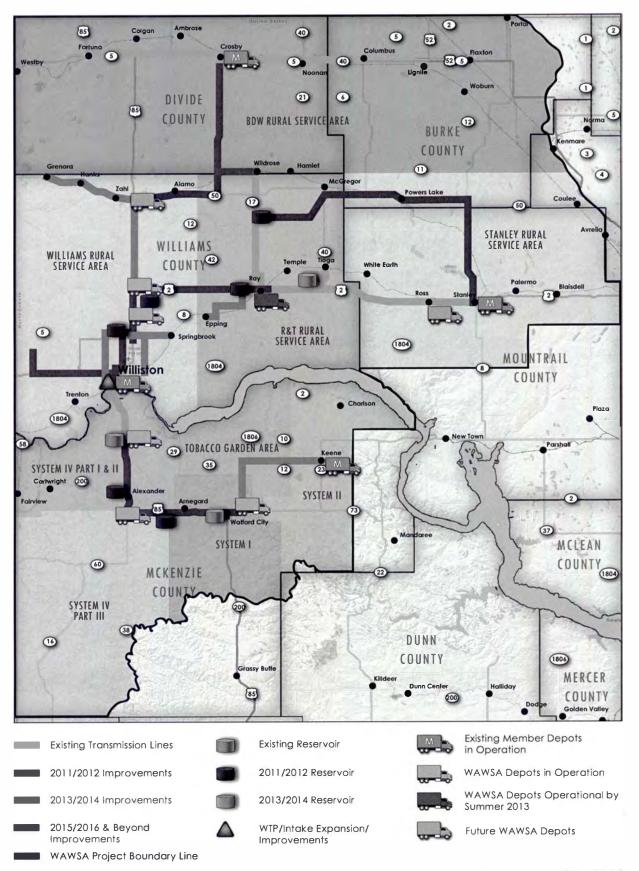
Devils Lake Outlet Projects

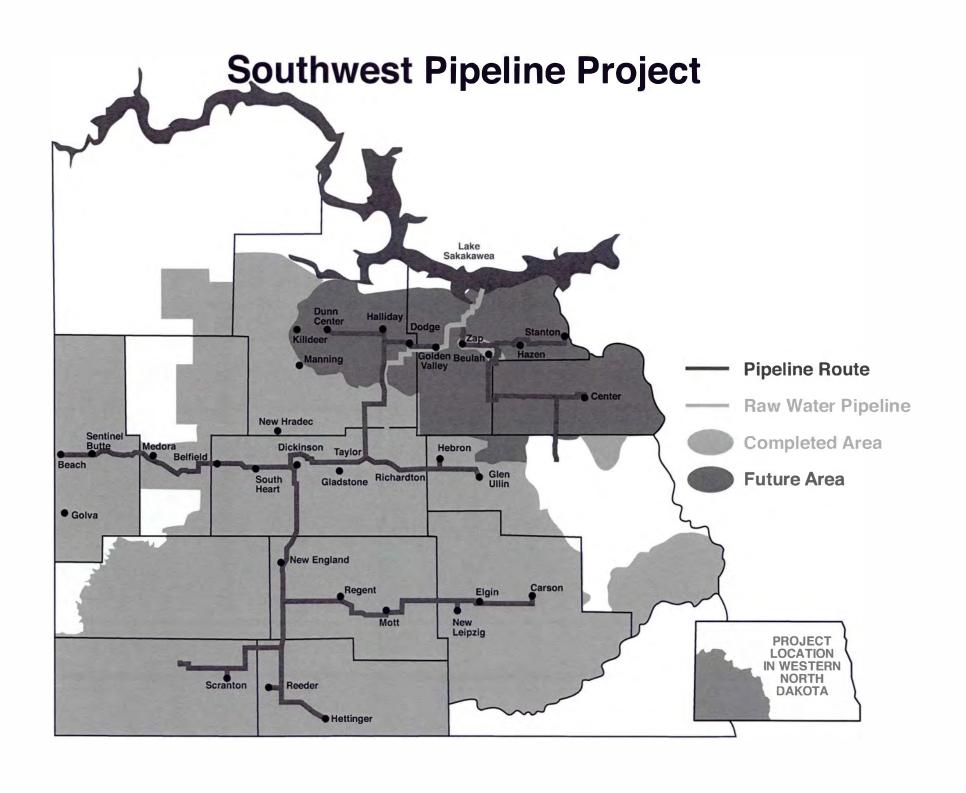
### **Fargo-Moorhead Flood Control**

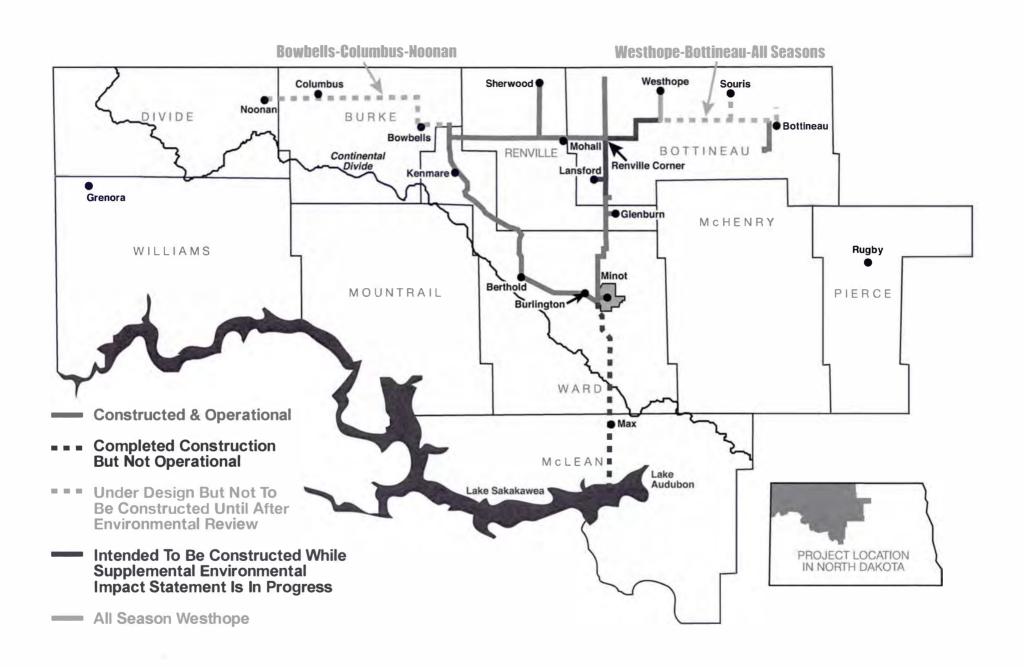


#### WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components VERSION 7

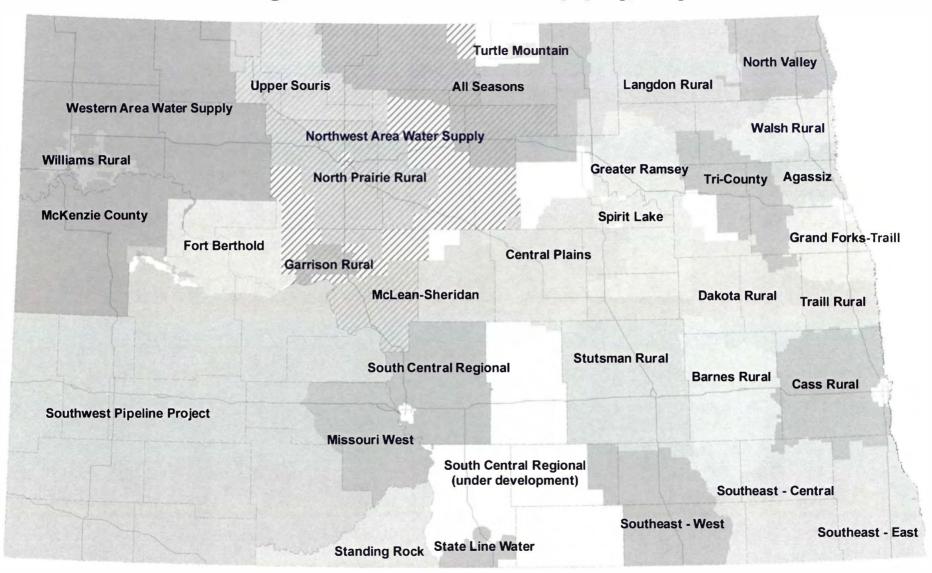




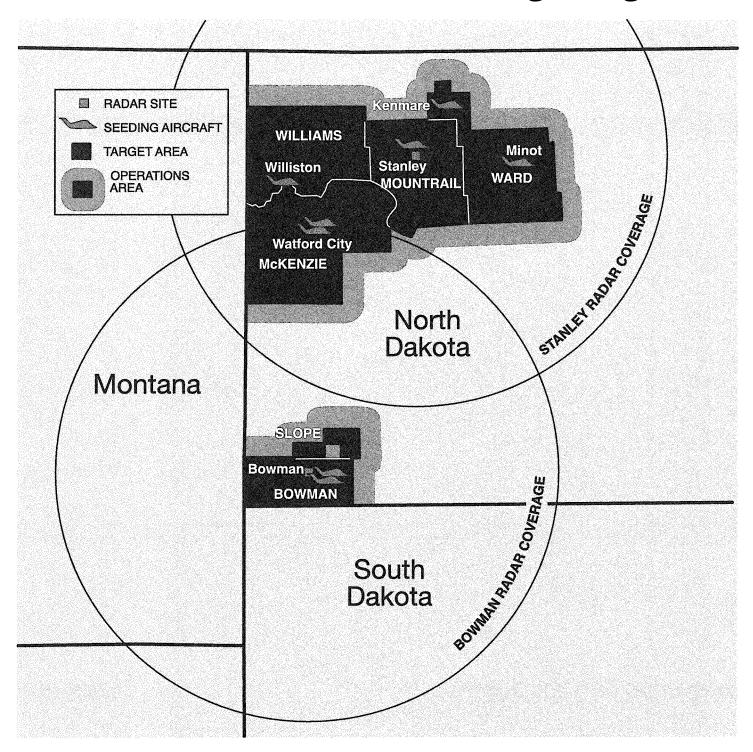


**Northwest Area Water Supply** 

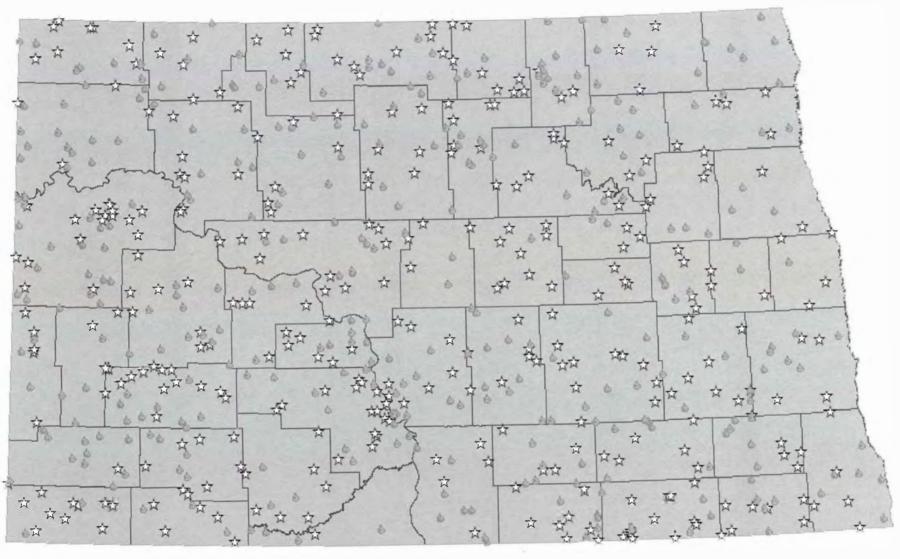
### Rural & Regional Water Supply Systems



### North Dakota Cloud Seeding Program



### 2012 ARB Cooperative Observer Network









# Strategic Plan 2013 - 2015



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(Total Full-Time Employees\* ......87)



### A message from the State Engineer:

We are proud to present the North Dakota State Water Commission and Office of the State Engineer's latest Strategic Plan. This new plan was completed to incorporate and adjust for new expectations that have developed since our previous plan was published back in 2011.

As in the past, the primary purpose of our 2013-2015 Strategic Plan is to clearly document agency direction and expectations we have set for ourselves through our strategic planning timeframe. Through the planning process, we have reevaluated our agency's goals to ensure that we are achieving the standards expected by the people of North Dakota. In addition, we have laid out objectives for many of our key projects and programs, to help us more effectively meet our goals. More specifically, we have defined tasks and actions that our divisions and management need to take to achieve desired outcomes.

In having this plan at our disposal, the agency will be better equipped to document the progress it is making in the management of North Dakota's water resources. To measure our progress, we will continue to voluntarily publish agency biennial reports, which outline our activities for each biennium – providing an accurate measure of goal achievement. By publishing this plan, I believe we are continuing a tradition of setting a high standard for ourselves that can be monitored by all interests in the water management community.

Sincerely,

Todd Sando, P.E.

North Dakota State Engineer

### VISION

Present and future generations of North Dakotans will enjoy an adequate supply of good quality water for people, agriculture, industry, and fish and wildlife; Missouri River water will be put to beneficial use through its distribution across the state in order to meet ever increasing water supply and quality needs; and successful management and development of North

Dakota's water resources will ensure health, safety, and prosperity, and balance the needs of generations to come.



To improve the quality of life and strengthen the economy of North

Dakota by managing the

water resources of the state for the benefit of its people.

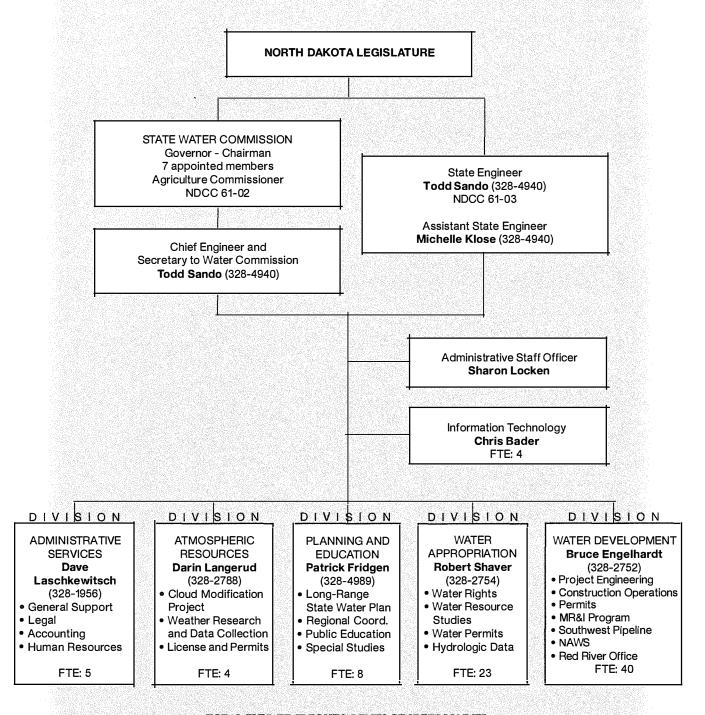
## PHILOSOPHY and VALUES

In the delivery of services to the citizens of North Dakota, we, the employees of the State Water Commission and the Office of the State Engineer value fairness, objectivity, accountability, responsiveness, and credibility. We pledge to use professional and scientific methods to maintain only the highest of standards in our delivery of services to our constituents.

### **AGENCY GOALS**

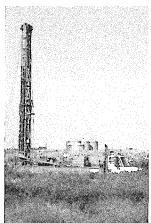
- Regulate the use of water resources for the future welfare and prosperity of the people of North Dakota
- Develop water resources for the future welfare and prosperity of the people of North Dakota
- Manage water resources for the future welfare and prosperity of the people of North Dakota
- Educate the public regarding the nature and occurrence of North Dakota's water resources
- Collect, manage, and distribute information to facilitate improved management of North Dakota's water resources
- Conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources

# Organizational Chart

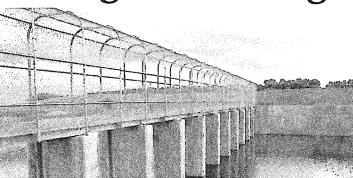


TOTAL FULL TIME EQUIVALENTS OF 87 PERSONNEL





### Strategic Planning



While the State Water Commission (SWC) and the Office of the State Engineer (SE) are separate state agencies with different directives, many of their responsibilities are entwined and overlap at several levels. For that reason, the activities of these two agencies have been merged into one strategic plan.

Listed here are the projects and programs that were the focus of our strategic planning process. It should be noted that this is by no means a comprehensive list of all efforts pursued by the SWC and the SE, rather it is simply a collection of those efforts that were deemed appropriate to include in our strategic planning process.

Further, the projects and programs identified here have been separated by the divisions that are *primarily* responsible for their management. However, in several instances, many of our projects and programs require staff contributions from multiple divisions.

# Administration Dave Laschkewitsch, Director Administration & **Support Services**

### Atmospheric Resources

Darin Lasagerud, Director

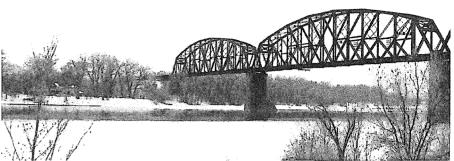
ARB Cooperative Observer Network

Atmospheric Research Program

North Dakota Cloud Modification Project

### Focus Projects & Programs





### Water Appropriations

Robert Shaver, Director

Community Water Supply Studies

Water Resource Data Information Dissemination

> Water Resource Monitoring

Water Resource-Related Economic Development

Water Resource Research

Water Rights Administration & Processing

Water Rights Evaluation & Adjudication

### Water Development

Bruce Engelhardit, Director

Cost-Share Program

Dam Safety Program

Design and Construction

Devils Lake Flood Control

Floodplain Management

Investigations

Municipal, Rural & Industrial Water Supply

Northwest Area Water Supply

Regulatory Program

Silver Jackets Program

Southwest Pipeline Project

### Planning & Education

Patrick Fridgen, Director

State Water Management Plan

Water Education

Watershed Planning & Coordination

The Administrative Services Division provides the overall direction of agency powers and duties as described in the state's water laws. The activities include both the State Engineer and State Water

# Administration & Support Services

Commission's operations, as well as accounting, information technology (I.T.), human resources, records management, legal support, and support services for all agency projects and programs.

Budget and fiscal control work is accomplished within the provisions of statutory law and principles or rules of that law. Agency accounting consists of keeping adequate financial records, preparation of financial statements and

reports, project and program cost accounting, preparation of budgets, responding to audit requests and recommendations, and proper control of various funds appropriated by the Legislature.

Human Resources works as a business partner with, and for, the divisions of the State Water Commission in developing, implementing, and supporting workforce programs that seek to recruit, develop, and retain a qualified, diverse, and engaged workforce.

The division also works on contracts and agreements that are necessary to carry out investigations, planning, and cooperation with various other agencies in water resources management.

Information Technology supports general agency business operation in areas related to workflow management and office automation. Information Technology also supports and enhances agency data collection and management functions, and broader engineering and scientific functions.

### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.

TASKS	TARGET DATES
Prepare and submit the agency's budget	Sept. 2014
Coordinate the timing of agency bonding	As needed
Coordinate development of agency testimony for egislative appropriations hearings	Dec. 2014
Maintain accounting records, and provide information echnology and records management services	Ongoing
Bill federal, state, and local entities for their share of project costs	Ongoing
Provide legal support, including research and contract development	Ongoing
Maintain an agency I.T. strategic plan, and coordinate agency I.T. efforts with external and statewide initiatives	Ongoing
Support, maintain, and evolve agency I.T. infrastructure	Ongoing

### **Project Program Objective:**

 Provide umbrella administrative and technology services that support the projects and programs of the agency.

The Atmospheric Resource Board's (ARB) Cooperative Observer Network has collected growing season rainfall and hail data from volunteer observers statewide since 1977. Since that time, participation has ranged between 650 and 1,000 observers annually, making it one of the highest density precipitation observation networks

ARB Cooperative
Observer Network

in the U.S. In October of 2010, the ARB Cooperative Observer Network began conducting snowfall observations to address gaps in winter precipitations recording.

TASKS	TARGE
Manage the program for daily observation of rainfall, hall, and snow, including data entry, quality control, and GIS mapping	0
Produce growing-season map products and manage volunteer renewal for following years	Fall, ai
Recruit new volunteers	Spring, a
Mail reporting instructions, reporting cards, and rain gauges to volunteer observers	Marrch 2014 a
Expand the online reporting program	Wilnter, ar
Expand snowfall measurements in critical areas	Winter, au

### Agency Goal(s) Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

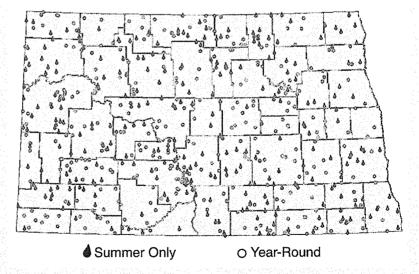
### **Project Program Objectives:**

- Make high-resolution precipitation and hail data available to county, state, and federal agencies, private organizations, and the public.
- Provide the entire database online for data download or review.
- Increase online reporting and produce value added products that will be useful to a larger audience.
- Expand snowfall measurements in critical areas to assist with spring flood forecasting.

### Assumptions and Obstacles

Continuation and expansion of existing statewide precipitation observations will require continued funding for agency operations and equipment.

### 2012 ARB WEATHER OBSERVERS



North Dakota has a long history of research in weather modification. Since the mid-1980s, eight field research programs have been conducted in the state, most recently through focused campaigns in 2008, 2010, and 2012. Historically, the Bureau of Reclamation and the National Oceanic and Atmospheric Administration have provided program funding. Current program funding is being provided by the state.

### Atmospheric Research Program

### Agency Goal(s) Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To conduct research into processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

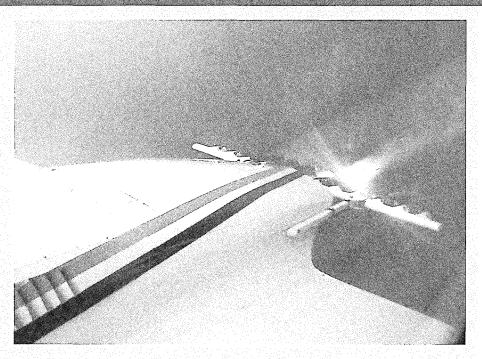
### Project Program Objectives:

- Better observe and quantify the physical processes of rainfall and hail formation.
- Improve operational application of cloud seeding technologies.
- Better quantify seeding effects through development and application of improved evaluation techniques.

### Assumptions and Obstacles

Funding is the primary obstacle for the Cooperative Research Program.

Action Plan:		
IASKS	TARGET DATES	
Continue the Polarimetric Cloud Analysis and Seeding Test (POLCAST) hygroscopic seeding research program	Summer 2014	
Collaborate with other states and organizations/institutions doing similar research to improve and enhance North Dakota's program	Ongoing	
Operate Bowman weather radar on a year-round basis in collaboration with eight regional counties	Ongoing	



Rural water entities and municipalities in need of help with their water supply can access staff for interpretation of existing data. They can also apply for cost-share assistance from the SWC for water supply studies. Rural water entities and municipalities use the reports of the water resource studies to help with their decisions regarding water supply concerns and options.

### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle in order to improve the managemen of North Dakota's water resources.

### **Project Program Objectives:**

- Provide interpretation of existing water resource data.
- Conduct studies of potential water reso rces.
- Publish reports on water resource studies.
- Provide guidance and/or recommendations with regard to water supply concerns.
- Process appropriate paperwork to establish or maintain water rights.

# **Community Water Supply Studies**

### Action Plan:

TASKS

TARGET DATES

Conduct water supply studies

As requested

# As more communities tiein to expanding regional water supply systems, the need for individual community water supply studies have declined in recent bienniums.

Assumptions and Obstacles



The SWC cost-share program ident fies projects that are eligible for cost-share assistance per the agency policy. Currently, as determined by that policy, the SWC cost-shares on several types of projects, and has existing agreements to fund: drainage and diversion channels, ring dikes, flood acquisitions, water supply pipelines, engineering and other studies, miscellaneous education and research projects,

### Cost-Share Program

emergency actio plans, imagery acquisition, dam safety reconstructions, recreation-based lake facilities, dikes, levees, woody debris snagging and clearing, non-point source pollution, central irrigation system supply lines, rip-rap bank stabilizations, dam removals, and technical assistan e projects.

Upon determining a proposed project's eligibility, and approval of funding, an agreement/contract is entered into with the project's sponsor describing the scope of work, how funds will be disbursed, and insurance

and indemnification requirements, and other terms as applicable. Request for payments are processed per the terms of the agreement. At the discretion of the SWC, projects are reviewed and/or inspected upon final payment.

### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

### **Action Plan:**

TASKS TARGET DATES

Review approximately 130-150 cost-share inquiries/ applications for cost-share eligibility and assistance. (By the end of 2015, this is expected to increase by 15%) June 30, annually

Present 100-110 cost-share proposals for approval and authorization by the SWC and 30-40 cost-share proposals for approval and authorization by the State Engineer. (By the end of 2015, this is expected to increase by 15%)

Develop agreements/contracts for 130-140 approved and authorized projects. (By the end of 2015, this is expected to increase by 15%)

Process requests for payment, monitor agreement/contract compliance, and review and inspect work for approximately 150 active projects. (By the end of 2015, this is expected to increase by 10%)

June 30, annually

June 30, annually

June 30, annually

• To educate the public regarding the nature and occurre ce of North Dakota's water resources.

### **Project Program Objectives:**

• To financially assist federal and state agencies and political subdivisions with eligible projects categorized as rural flood control, water supply, flood control, flood acquisitions, dam safety, recreation, snagging and clearing, studies, irrigation, bank stabilization, dam removal/breach, and technical assistance.

### **Assumptions and Obstacles**

The amount of funds available for the cost-share program is dependent on state appropriations and agency budgeting from the contract fund.

The purpose of North Dakota's Dam Safety Program is to minimize the risk to life and property associated with the potential failure of dams in the state. There are currently 3,028 dams in North Dakota's dam inventory. Of these, 31 dams are classified as high hazard and 97 are classified as medium hazard, meaning that there is the potential for loss of life or significant property damage downstream if one of those dams were to fail. A national dam inspection program took place in 1978-1982 under the direction of the U.S. Army Corps of Engineers following a series of dam failures across the country in the 1970s. The North Dakota Dam Safety Program was initiated to continue and build on that inspection program.

#### Agency Goal(s) Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

### Dam Safety Program

#### **Project Program Objectives:**

- Identify deficient dams in need of maintenance or repair.
- On a rotational basis, conduct full periodic inspections of all non-federally owned high hazard dams at least once every four years, and all non-federally owned medium hazard dams greater than 10 feet high, at least once every 10 years.
- Conduct annual partial inspections of non-federally owned high and medium hazard dams, and selected low hazard dams.
- Report inspection findings and recommendations to the dam owners.
- Maintain and update an inventory of all dams in North Dakota.
- Encourage the development of Emergency Action Plans (EAPs) for high and medium hazard dams, including the development of inundation maps for high hazard dams.
- Increase awareness of dam safety issues among dam owners and the public.

I ASKS	TARGET D
Conduct full periodic inspections of an average of 21 dams per year	Oct. 31, annu
Conduct partial inspections of 146 dams each spring	June 30, anni
Report inspection findings and recommendations to dam owners	Ong
Maintain and update North Dakota's dam inventory	Ong
Submit data to the National Inventory of Dams (NID)	As reque
Assist dam owners with developing EAPs, and review and approve EAPs as th	ney are submitted Ong

### **Assumptions and Obstacles**

Federal grants through Federal Emergency Management Agency (FEMA) and the National Dam Safety Program provide annual funding for training, equipment, salary for one part-time position, and other projects such as the development of EAPs and dam owner workshops. The availability of these grants is uncertain from year to year, making program planning a challenge.

The Design and Construction Sections are involved with assisting dam owners throughout the state in

## Design and Construction

designing repairs and modifications to existing water facilities. The section works with the North Dakota Game and Fish Department (Department) to maintain outlet structures and install low-level drawdowns used by the Department to manage fisheries. The section is also involved in directing emergency actions when needed.

#### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- Action Plan:

  TASKS
  TARCET DATES

  Assist dam owners with design and repairs of existing water facilities
  Ongoing

  Repair and maintain North Dakota's stream gauge network through cooperative efforts with the United States Geological Survey (USGS)

  Conduct general construction projects

  Summer, annually
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

### Project Program Objectives:

- Maintain water resource facilities within the state to ensure public safety, and enhance quality of life by meeting multiple uses such as flood control, water supply, and recreation opportunities.
- Work with the United States
   Geological Survey (USGS)
   to maintain the network of stream gauges throughout the state, thereby ensuring reliable data
   necessary for managing North Dakota's water resources.

### **Assumptions and Obstacles**

Weather is the primary obstacle for timely completion of annual construction and repair efforts.

Since 1993, Devils Lake has risen over 30 feet. The lake reached a record elevation of 1454.4 in June 2011 and covers about 200,000 acres including Stump Lake, which is now part of Devils Lake. The state's approach to solving the flooding problems in the Devils Lake region has included a three-pronged approach: basin water management, infrastructure protection, and emergency outlets to the Sheyenne River.

Landowner payments for floodwater retention, which involves the upper-basin water management element of the three-pronged approach, have been ongoing for more than a decade. The state completed an emergency outlet from the west end of Devils Lake to the Sheyenne River in 2005 that was sized for a maximum discharge of 100 cubic feet per second (cfs). In the spring of 2010, its capacity was increased to 250 cfs. An East Devils Lake outlet was

completed in June 2012. That outlet has a 350 cfs pumped capacity. The combined total of the two outlets is 600 cfs, and together they are capable of removing about one foot of water per pumping season (based on a lake elevation of 1454).

Regarding the infrastructure portion of the three-pronged approach, the city of Devils Lake continues to face a threat from the swelling lake. The city is working with the U.S. Army Corps, the SWC, and other state and federal agencies to raise the embankment protecting the city.

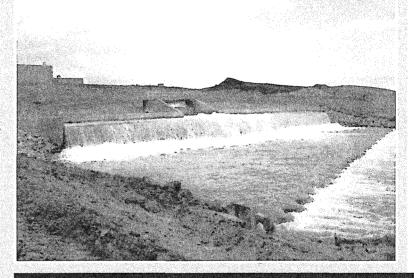
### Agency Goal(s) Satisfied:

 To manage water resources for the future welfare and prosperity of the people of North Dakota.

### **Project Program Objectives:**

 Reduce the risk of flooding around Devils Lake by implementing a three-pronged approach, which includes, upper-basin water management, infrastructure protection, and operation of emergency outlets.

## **Devils Lake Flood Control**



Action Plan:		
ASKS	TARGET DATES	
Maintain and operate the Devils Lake emergency outlets	Ongoing	
Develop discharge monitoring reports for outlet operation	As Needed	
Nork with local and federal entities to remove additional water from the lake.	Ongoing	
mplement an Outlet Mitigation Plan and respond o damage claims	Ongoing	

(For a map of the state's emergency Devils Lake outlet projects, see the Appendix.)

### Floodplain Management

### Project/Program Overview:

The National Flood Insurance Program (NFIP) works on a partnership formed of federal, state, and local governments. Local governments use state laws concerning planning, zoning and development as a basis to practice floodplain management. The NFIP trades availability of flood insurance for structures, in return for communities guiding development in identified flood hazard areas.

The North Dakota Floodplain Management Act of 1981 adopts the NFIP by reference in Chapter 61-16.2 of the North Dakota Century Code. This chapter was amended in 1999 and again in 2003 by the Sta e Legislature, which broadened and refined the duties of the State Engineer.

FEMA provides partnership funding to states for their role in the Community Assistance Program

(CAP), Map Modernization and its successor program, Risk Map.

### Agency Goal(s) Satisfied:

- To anage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

### **Project Program Objectives:**

- Manage the state's floodplains to reduce flood damages throughout the state.
- Collect an distribute information relating to flooding and floodplain management.
- Coordinate local, state and federal floodplain management activities.
- · Assist communities in their floodplain management activities.
- Fulfill responsibilities under the annual Community Assistance Program of FEMA.
- Support the digital flood map conversion process as part of FEMA's Map Modernization and its su cessor program, Risk Map.

### **Assumptions and Obstacles**

Successful management of the state's floodplain and flood prone areas will continue to require active participation and involvement of cities, counties, and townships enrolled in the NFIP.

#### **Action Plan:**

TASKS

TARGET DATES

Monitor community floodplain management compliance under the CAP and provide technical assistance regarding the NFIP

September 30, annually

Conduct floodplain management training workshops and participate in related training workshops under CAP

September 30, annually

Promote the availability of mapping products produced as part of Map Modernization and its successor program – Risk Map

September 30, annually

Conduct floodplain determinations for the Bank of North Dakota

Quarterly



The Investigations Section is responsible for the preliminary engineering of surface water projects throughout the state. These projects include flood control, irrigation development, recreation dams, and bank stabilizations. The Investigations Section also conducts and reviews hydrologic and hydraulic models for floodplain management and dam design and repair. This includes reviewing proposed modifications to existing regulatory floodways that require State Engineer approval, and hydraulic and hydrologic analyses and review for dam safety and emergency planning and response.

In addition, the Investigations Section provides technical expertise in dealing with the management of the Missouri River, flood response, and other water issues, as well as providing government survey information to the public.

Investigations

#### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

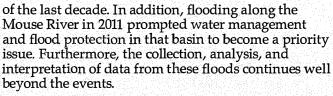
#### **Project Program Objectives:**

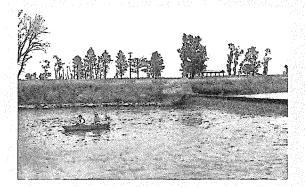
- Conduct preliminary engineering, hydrologic, and hydraulic studies, and review studies done by others.
- Provide engineering services for surface water projects throughout the state.

Action Plan:	
TASKS	TARGET DATE
Provide technical reviews of Missouri River management issues, including federal policy changes	As neede
Continue to represent the State of North Dakota as part of the Missouri River Recovery Implementation Committee (MIRRIC)	Ongoin
Manage government survey information	Ongoin
Conduct water resource investigations	As meede
Provide technical support in response to flooding and other disasters	As neede
Review proposals for modifications of regulatory floodways	As neede

### Assumptions and Obstacles

Severe flooding problems throughout the state, flood response and recovery activities, and concerns over changes to management of the Missouri River system have consumed much of the Investigations Section's time over the course





The Municipal, Rural, and Industrial (MR&I) water supply program is one source of federal funding used for public water systems. North Dakota's MR&I program was originally established by the 1986 Garrison Diversion Reformulation Act. At that time, Congress authorized \$200 million in the form of a maximum grant of 75 percent. The state has since received the original \$200 million from the 1986 Act. Later, the Dakota Water Resources Act of 2000 added an additional \$200 million for the MR&I program, which is indexed, and the state has received \$122 million. Funding used for the MR&I program is provided through the U.S. Bureau of Reclamation (USBOR). The Garrison Diversion Conservancy District (GDCD) signed a cooperative agreement with the USBOR to receive the federal funding. Further, the SWC and GDCD signed a joint powers agreement to administer the program based on a memorandum of understanding.

## Municipal, Rural, & Industrial Water Supply Program

Because of North Dakota's MR&I program, regional and rural water systems have continued to expand throughout the state. As a result of this added assistance, there are now 31 regional water systems in

North Dakota, providing quality drinking water to over 200,000 people in 319 cities, 88 various water systems, and over 90,000 rural residents. Currently, all or part of North Dakota's 53 counties are served by regional water systems, with several having plans to expand.

#### Agency Goal(s) Satisfied:

• To develop water resources for the future welfare and prosperity of the people of North Dakota.

### Project Program Objectives:

- Coordinate alternative funding solutions for water supply and water treatment projects to help water users in cities and rural water areas obtain an adequate supply of quality water for municipal, rural, and industrial purposes.
- Provide planning and technical assistance to water supply systems to promote wise use of water resources throughout the state.

ASKS	TARGET DATES
nplement a five-year plan for MR&I project funding request	s Ongoing
articipate in meetings with communities and rural attended attended attended attended and planning assistance.	Ongoing
rovide MR&I budget estimates for project development	Ongoing
oordinate meetings with various funding entities odiscuss projects	Ongoing
Fork with North Dakota's Congressional delegation of increase federal MR&I appropriations	Ongoing
oordinate with the GDCD in the prioritization and location of MR&I funds	Ongoing
ontinue to represent the State of North Dakota as part of the Jestern Area Water Supply (WAWS) Authority	ongoing

### **Assumptions and Obstacles**

Because federal funding has been greatly reduced in recent years, the state has taken on a much larger role in funding water supply projects.

(For a map of North Dakota's rural and regional water systems, see the Appendix.)

The North Dakota Cloud Modification Project (NDCMP) is a long-running, operational cloud seeding program with the dual purposes of hail suppression and rainfall enhancement. The target area covers nearly 10,500 square miles in six western North Dakota counties during the months of June,

July, and August. Counties partner with the state through ARB, employing contractors that provide the aircraft, pilots, seeding equipment, and radar maintenance services. The ARB owns and operates two radar systems, and employs the meteorologists to coordinate seeding operations. In addition, the program offers two intern programs; one for students studying meteorology, and another for pilots studying at the University of North Dakota's J.D. Odegaard School for Aerospace Sciences.

Evaluations of the NDCMP indicate that the program reduces hail damage to crops by 45 percent, increases wheat yields by 5.9 percent, and increases rainfall between 5 and 10 percent. A 2009 economic study estimates the NDCMP increases the value of

North Dakota Cloud Modification Project



agricultural production by \$12 to \$19.7 million annually, which equates to a benefit of \$16-\$26 return for every dollar spent.

TASKS	TARGET DATES
Hire NDCMP field personnel	May, annually
Conduct pre-project ground school	May, annually
Conduct NDCMP operations	June-August, annually
Conduct data analysis and final reporting to participating counties	Winter, annually
Complete peer evacuations and program review	S
with pilots and meteorologists participating in internship programs	August, annually

### Agency Goal(s) Satisfied:

 To manage water resources for the future welfare and prosperity of the people of North Dakota.

### Project Program Objectives:

- Reduce hail damages in the NDCMP target area.
- Enhance summer rainfall from thunderstorms in NDCMP target area.

### **Assumptions and Obstacles**

The project assumes continued participation by western North Dakota counties and cost-sharing of one-third of project costs by the state.

(For a map of the area covered by the North Dakota Cloud Modification Project, see the Appendix.)

North Dakota Century Code (NDCC), Section 61-24.6 declares necessary the pursuit of a project "...that would supply and distribute water to the people of northwestern North Dakota through a pipeline transmiss on and delivery system..." NDCC 61-24.6 authorizes the SWC to construct, opera e, and manage a project to

deliver water throughout northwestern North Dakota.

## Northwest Area Water Supply

The SWC began construction on the Northwest Area Water Supply (NAWS) project in April 2002. The first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, Mohall, Sherwood, the All Seasons Water District, and Minot (also serves North Prairie Water District). NAWS is getting interim water supply

through a 10-year contract with Minot, which expires in 2018.

In 2002, a lawsuit was filed by Manitoba; primarily arguing that NAWS could increase the risk of transferring non-native biota between the Missouri River and Hudson Bay drainage basins. In 2009, the state of Missouri filed against the U.S. Bureau of Reclamation and the Corps of Engineers; primarily arguing NAWS would negatively affect depletions of the Missouri River. The Missouri filings were ultimately combined with Manitoba's. Various elements of project construction have been allowed to proceed by court order, despite the pending lawsuit. The court found that the Environmental Impact Statement (EIS) completed in 2009 was not adequate and needed to address impacts to Canada and Missouri River depletions. Scoping for a Supplemental EIS to address the court's May 2009 order was started in July 2010 - evaluating all feasible options.

When complete, the project is designed to provide up to 26 million gallons of water per day to tens of thousands citizens in northwest North Dakota.

#### Agency Goal(s) Satisfied:

 To develop water resources for the future welfare and prosperity of the people of North Dakota.

### Project Program Objectives:

 Finish construction of the pretreated water delivery system to Minot.

### Assumptions and Obstacles

Adequate federal funding m st be received in a manner that does not impede progress. Completion of the Supplemental EIS in the

TASKS	TARGET DATES
Complete construction of pipeline between Renville Corner and Westhope	2013-2014
Complete construction of pipeline between the Glenburn and Renville Corner	2014-2015
Assist the USBOR with preparation of a Supplemental EIS to address the court's May 2009 order	2010- Spring 2013
Complete court filings to lift the injunction	Summer 2013
nitiate design work on water supply infrastructure	Summer 2013
Develop plans and manuals as required by EIS commitments	Summer 2013

spring of 2013, and decisions on the level of treatment greatly affect funding needs, and design and construction schedules. If Minot's aquifers continue to decline, and progress is not made in getting the needed water supply from Sakakawea, then the existing communities and rural water systems will need to return to their inadequate ground water supplies.

(For a map of the NAWS project, see the Appendix.)

As authorized by NDCC 61-03, 61-04, and 61-16.1, the State Engineer has been responsible for regulating the construction of dams, dikes, and other water control facilities since approximately 1935. Since 1957, NDCC 61-32 and NDCC 61-15 have authorized the State Engineer to regulate drainage. The

State Engineer also has been responsible for managing sovereign lands since 1989, as authorized by NDCC 61-33. The State Engineer coordinates these regulatory activities with the county water resource districts (WRD's) across the state.

In addition to these permitting processes, the Regulatory Program provides technical assistance to local water resource districts, makes flow determinations in accordance with NDCC 24-03-08, makes watercourse determinations in accordance with NDCC 61-01-06, provides appeal review of WRD decisions, serves as a source of



information to the public, handles easement releases for abandoned dams, participates in training workshops, represents the State Engineer on various interagency committees, and provides agency review of Public Service Commission mining permits and U.S. Army Corps Section 404 permits.

#### Agency Goal(s) Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

TASKS	IJ AIRGIFT ID
Process 100 percent of all incoming construction, drainage, and sovereign land permit applications	Anınu
Provide technical assistance to WRDs as requested	l Ongo
Address 100 percent of all incoming WRD decision	n appeals Annu
Digitally map $100$ percent of all permitted assessmedrains and dams that are currently in the agency's	
Provide 100 percent of flow determinations reques per NDCC 24-03-08 $$	ted Annu
Review 100 percent of incoming Public Service Corand U.S. Aimy Corps Section 404 permits	mmission Annu
Implement Sovereign Land Management Plan recommendations	Ongo

### Project Program Objectives:

- Regulate, where appropriate, the construction of dams, dikes, water control facilities, drainage works, and projects on sovereign lands, to ensure proper management of North Dakota's water resources and public safety.
- Interact with the public, continue involvement on interagency committees, and participate in training workshops, to facilitate education and information dissemination to other water resource managers, especially at the local level.

### **Assumptions and Obstacles**

Enforcement of various sovereign land-related regulations will require continued cooperative efforts with the Game and Fish Department and other law enforcement entities.

### Silver Jackets Program

#### **Project/Program Overview:**

North Dakota's Silver Jackets Program was initiated in January 2010 (in response to the extensive flooding of 2009) with the intent to identify comprehensive, long-term flood solutions through a collaborative, interagency effort between state and federal authorities. A Silver Jackets charter was completed and signed between the SWC, North Dakota Division of Emergency Services,

FEMA Region VIII, and the U.S. Army Corps of Engineers (St Paul and Omaha districts) in May 2010. The Corps of Engineers initiated the Silver Jackets concept through a partnership with FEMA in 2005 with a goal of establishing Silver Jackets teams in at least one state in each Corps division, and ultimately one in each state.

Action Plan:	
TARGET DATES	
Ongoing/As Needed	

### Agency Goal(s) Satisfied:

- To manage water resources for the future welfare and prosperity of the people of ND.
- To educate the public regarding the nature and occurrence of ND's water resources.

### **Project Program Objectives:**

- Educate state agencies, county water boards, and communities about the Silver Jackets Program.
- Educate communities on FEMA's levee recertification requirement or Provisionally Accredited Levee (PAL) program.
- Assist communities with project requests in support of flood control or long term flood mitigation projects through the SWC and other federal or state agencies as appropriate.
- Assist communities with flood-related Emergency Operation Plans.
- Assist in educating counties and communities on the importance of maintaining current Hazard Mitigation Plans.
- Coordinate with Silver Jacket charter agencies to discuss state flood-related priorities, recommendations, efforts and improve communication.

### Assumptions and Obstacles

The need for local, state, and federal coordination in support of comprehensive long-term flood control and mitigation efforts must continue throughout the state to ensure success. Continued funding support of the program is also critical.

The Southwest Pipeline Project (SWPP) is a regional water supply system that draws water from Lake Sakakawea and serves over 48,000 people in southwest North Dakota, including 31 communities, and 4,300 rural hookups — with plans to expand.

**Southwest Pipeline Project** 

NDCC, Section 61-24.3 declares necessary that the SWPP "...

be established and constructed, to provide for the supple entation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses." The SWC has been working to develop the SWPP ever since – with construction beginning in 1986. NDCC 61-24.6 authorizes the SWC to construct, operate, and maintain the project.

Action Plan:		
TASKS	TARGET DATES	
Bid the Center Service Area rural distribution pipeline	Summer 2013	
Continue construction of transmission facilities and rural distribution in the Center and Dunn Service Areas	Summer 2013	
Continue design and construction to upgrade the Dickinson Water Treatment Plant	Summer 2014	
Begin design to expand the raw water transmission capacity to the Dickinson Water Treatment Plant	Summer 2014	

Private contractors are constructing the project according to designs developed by the SWC's engineering contractor. The SWC oversees the design and construction of the project.

### Agency Goal(s) Satisfied:

 To develop water resources for the future welfare and prosperity of the people of North Dakota.

### Project Program Objectives:

• Continue construction of the Oliver, Mercer, North Dunn Regional Service Area and expand the raw water transmission capacity and water treatment plant capacity at Dickinson to meet the growing needs in southwest North Dakota.

### Assumptions and Obstacles

Adequate state and federal funding must be received in a manner that does not impede progress.



(For a map of North Dakota's Southwest Pipeline Project, see the Appendix.)

By virtue of North Dakota Century Code, Section 61-02-14, Powers and Duties of the Water Commission; and Secti n 61-02-26, Duties of State Agencies Concern d with Intrastate Use or Disposition of Waters, the Commission is required to develop and maintain a comprehensive State Water Management Plan

### State Water Management Plan

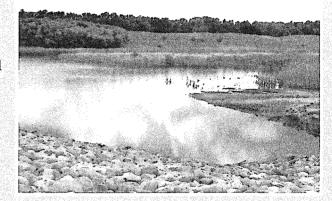
(SWMP) for the sound management of North Dakota's water reso rces. The most recent comprehensive SWMP was completed in 2009. Following major water plan revisi s, Water Development Reports (WDR) are published on a biennial basis to assist with agency budgeting efforts, and to provide updated project and funding information during Legislative Assemblies.

#### Agency Goal(s) Satisfied:

- To develop comprehensive plans in order to meet North Dakota's water resource needs.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurr nce of North Dakota's wat r resources, and water development efforts.

### **Project Program Objectives:**

• Develop a new 2015 State Water Management Plan by January 2015.



### **Assumptions and Obstacles**

Active participation and accurate input from local water managers and project sponsors, including coordination with the North Dakota Water Coalition regarding project funding needs will be critical to more accurate budget development, and successful statewide water planning efforts.

TASKS	TARGET DATES
Contact local water managers to request updated water project/program information, including funding timeframes for the 2015-2017 biennium and beyond	Jan. 2014
Coordinate project information collection efforts with the North Dakota Water Coalition and its membership	Spring 2014
Develop a preliminary water resource project/program inventory for the 2015-2017 biennium and beyond	May 2014
Compile water use and other general water resource information	Spring/Summer 2014
Review and update SWC water planning goals, objectives, and policies.	Spring/Summer 2014
Process project information for use in SWC budget development	Aug. 2014
Assist with the advancement of proposed new legislation for the 2015 Legislative Ass	embly Fall 2014
Develop a final 2015 SWMP	Dec. 2014
Present the 2015 SWMP to the Legislative Assembly – outlining funding needs	Jan. 2015

Project WET (Water Education for Teachers) is a balanced, supplemental and interdisciplinary water science and education program for formal and non-formal K-12 educators and students. Project WET facilitates and promotes learning, awareness, appreciation, knowledge, and exploration to promote stewardship of North Dakota's water resources. Project WET programs are designed to help youth learn how to think, and not just what to think, while providing means for teachers and students to grasp fundamental concepts related to water resources, watersheds, and the environment. Through Project

WET programs, educators, and students obtain skills for acquiring and applying knowledge, and to evaluate the results of their actions toward North Dakota's water resources.

### Agency Goal(s) Satisfied:

 To educate the public regarding the nature and occurrence of North Dakota's water resources and water development efforts.

### Water Education

#### **Project Program Objectives:**

• Develop, promote, and provide opportunities statewide to K-12 formal and non-formal educators and students to expand their knowledge and understanding of water resources by:

Action Plan:	
TASKS	TAIRCIEI IDA
Maintain Project WET classroom-ready teaching aids and service contracts in support of water resource education efforts	As need
Provide in-service and pre-service credit and non-credit educational programs for K-12 educators and resource personnel	Ongo
Provide varying educational programs/events for K-12 students, communities and general public statewide	Ongo
Recruit and maintain a Project WET facilitator network by providing leadership training and development opportunities	March 2
Provide funds for the Keep North Dakota Clean water education poster contest Mar	ch 2012 and 2
Complete all Section 319 EPA grant development and reporting requirements	Ongo
Complete two Project WET Watershed Institutes Su	ummer 2013-2

- Conducting and supporting classroom events, youth camps, water festivals, community water awareness and youth service events.
- **Assumptions and Obstacles**

Continued funding through EPA's Section 319 Grant is critical to the success and continuation of the WET program.

- Maintaining supplies and availability of indoor and outdoor water science/ education programs and training resources.
- Acquiring and distributing a balanced inventory of water resource information, education tools, services, programs, and resource materials.
- Conducting institutes, workshops, in-service and preservice educational opportunities.



### Water Resource Data Information Dissemination

### Project/Program Overview:

Significant volumes of data are contained in the SWC's Water Resources Information Management Systems (WRIMS). Private individuals and private enterprise, as well as local, county, state, federal,

and international entities routinely make use of various portions of these data sets. Staff facilitate the ability of interested parties to access data of interest to them. A web-based interactive interface is available to allow for direct access to the data on the part of the interested parties. Additionally, numerous interpretive reports are available for various water resources in the state.

#### Agency Goal(s) Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

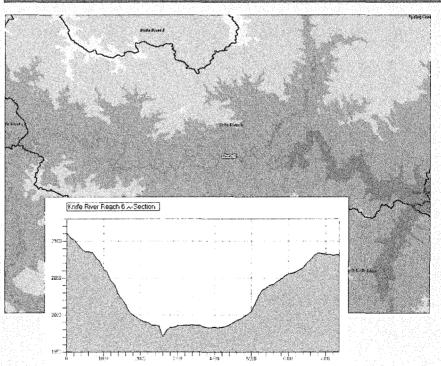
### Project Program Objectives:

- Maintain quality water resource data.
- Develop and maintain databases for retrieval of data.
- Maintain trained staff to interpret data.
- Develop and maintain web-based integration for access to data.

### Assumptions and Obstacles

The continuation of the inhouse and online retrieval system will depend on the ability of the SWC to maintain the 4-D Database.

SICS.	TARGET DATES
nticipate uses for which the data would be needed	Ongoing
ducate staff on the use of WRIMS as improvements re implemented	As needed
ommunicate with interested parties to determine netrinformational needs	As requested
reate unique programs in order to satisfy requests f an unanticipated nature	As requested
mage and store well drilling completion reports	Ongoing



Water resource data pertaining to water levels, water quality, and well information is collected on a continuing basis. This data is stored in a web accessible database. The database currently contains about 1.5 million water-level measuremen s, 35,000 site locatio s, 68,000 water quality analyses, and 25,000 sites with lithological descriptions. Additional data acquisition sites are implemented as needed through time. Aquifer parameters and properties are evaluated through an aquifer-testing program.

#### Agency Goal(s) Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.



# • To collect, administer, and distribute Water Resource Monitoring

- and distribute information to facilitate improved management of North Dakota's water res urces.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

#### **Project Program Objectives:**

- Collect water resource data.
- Organize and store water resource data.
- Evaluate water-resource data and future data needs.

### **Assumptions and Obstacles**

Due to federal budget constraints, State Water Commission costshare has increased to support the USGS Cooperative Program. This may continue in the future.

Action Plan:	
TASKS	TARGET DATES
Install test holes and plug obsolete observation wells	AprDec., annually
nstall 125-175 monitoring wells	AprDec., annually
Install 20-30 staff gauges, and monitor water levels and flows	AprMay, annually
Measure 25,000-30,000 water levels in wells and surface water bodies	AprDec., annually
Collect data from 60-70 continuous water level recorders	JanDec., annually
Collect 1,500-2,000 samples from wells and surface-water bodies	AprDec., annually
Analyze samples for various chemical constituents	AprJan., annually
Repair and maintain 3,500-4,000 measurement and sampling locations	AprDec., annually
Enter data into database	Ongoing
Coordinate USGS cooperative water resource monitoring program	March-Dec., annually
Conduct aquifer tests	As requested/needed

## Water Resource-Related **Economic Development**

### Project/Program Overview:

Water utilization is a key ingredient to many potential opportunities for economic development. Numerous studies and reports have documented poten ial water supplies for economic development. Additionally, existing reports and/or water-

resource data are interpreted by staff in the form of short reports to aid industries in determining the viability of various water resources with respect to their water needs in their consideration of loca ing in North Dakota.

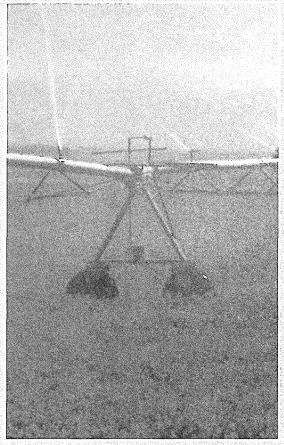
The SWC also provides cost-share support for several activities designed to strengthen the sta e's economy. The SWC, in conjunction with the Bank of North Dakota, provides cost-share for new irrigation under the auspices of the AgPACE program. The SWC also provides support to the North Dakota Irrigation Association (NDIA).

#### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

- Identify and evaluate potential water supplies for economic development.
- Support programs to encourage water-usi g industries.
- Support programs to encourage irrigation.



### **Assumptions and Obstacles**

There is a limited amount of groundwater of a quality su table for irrigation and industry. The one significant water resource in the state, the Missouri River, is not located where some potential water users want to locate.

In addition, recent U.S. Army Corps of Engineers actions blocking access to Missouri River water along mainstem reservoir boundaries is a major impediment.

Action Plan:	
FASKS	TARGET DATES
Produce 'synopsis' reports on water supplies for interested entities	As requested
Produce or provide water resource nterpretive reports Ong	going/As requested
Administer the AgPACE program	Ongoing
Support NDIA's efforts to expand rrigation development	Ongoing

Water resource research involvement falls into three categories. The first is where the SWC provides monetary support for water resource-related research, which is generally conducted by the USGS or

universities. The second category is where the SWC enters into a cooperative study, again generally with university researchers or the USGS. The third category is where the entire study is conducted by the SWC.

### Agency Goal(s) Satisfied:

• To conduct research into the processes affecting the hydrologic cycle in order to improve the management of North Dakota's water resources.

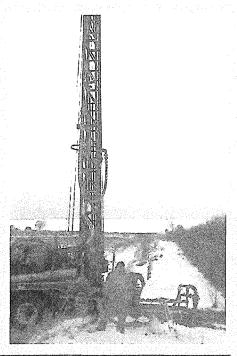
### **Project Program Objectives:**

- Support research into water resources of the state.
- Conduct studies of the nature and occurrence of water in order to optimize its conservation and development throughout the state.

### **Assumptions and Obstacles**

Continuing or reformulated research could result from the interpretations that result from these studies.

### Water Resource Research



Action Plan:	
TIASKS	TARGET
Annual review and decisions for graduate water resource investigations (ND Water Resources Institute)	And
Cooperate with the USGS to develop a "Stream Stats" website in North Dakota	
Cooperate with the USGS to develop a report entitled, "Evaluation of Water Quality Sampling Programs and Sulfate Standards for Stream Classes and Designated Uses, North Dakota"	
Conduct an evaluation of nitrate contamination and remediation in the Karlsruhe aquifer	Amr
Assist with study of irrigation through tile drains in Richland County	

## Water Rights Administration & Processing

### Project/Program Overview:

NDCC 61-04-02 requires that all water uses except for domestic, livestock, fish, wildlife, and other recreational uses (unless the aforementioned are greater than

12.5 acre-feet per year) apply for a water permit before putting water to beneficial use. Set procedures are mandated by NDCC and regulations. Staff guide applicants through this process. In addition, records, documents, and a relational database are meticulously maintained. Upon completion of a water use development, inspections are conducted to verify the ability of the applicant to put the water to beneficial use. Based upon the inspection report, a conditional permit is perfected and filed with the appropriator with the county as a water right associated with the land. Annual, self-reported, water use forms are recorded to document that the water is being put to beneficial use and the water right is being maintained. Beginning January 1, 2012, all industrial water use permits serving the oil industry

and approved for annual appropriations greater than 15 acre-feet, are required to file monthly water use reports. Technicians in the Water Appropriations Division periodically inspect water meters at water depots serving the oil industry.

### Agency Goal(s) Satisfied:

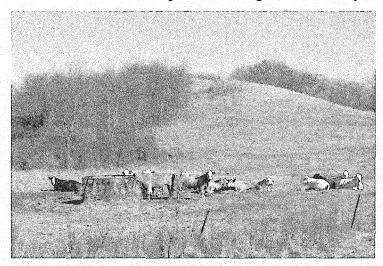
 To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.

### **Project Program Objectives:**

- Process water permit applications.
- Maintain meticulous water right records.
- Perfect conditional water rights.
- Document permitted water use.

### Assumptions and Obstacles

Water use records are dependent upon self-reporting of annual water use, which is strongly encouraged. Some conditional water permits take long periods of time to resolve water and legal complications.



LASK\$	TARGET DAMES
Guide applicants through the water permit application process	Ongoing
Maintain records in each water permit application file	Ongoing
Enter appropriate data into water permit database	Ongoing
Conduct 65-85 inspections of 'completed' conditional water permits	Annually
Perfect 50-70 inspected, completed, and conditional water permits	Annually
Send out requests for annual use reports to permit holders Nov. a	and Jan., annually
Complete the annual water use data collection process	May, annually
Develop a summary report on annual water use in North Dakota	Sept., annually
vleasure pumping rates to help establish water rights	Ongoing
Maintain water use records to quantify water rights	Ongoing

The allocation of water resources for beneficial use can result in competition for those resources. This competition may cross political boundaries. Efforts are continually underway to protect prior rights

while maximizing benefits. These efforts are extended outside of the state, into other states and provinces, as well as internally with respect to other state agencies with various regulatory authorities. In the assessment of the degree to which the state's water resources can be utilized beneficially, the rights of prior appropriators need

## Water Rights Evaluation & Adjudication

to be assessed and protected. Staff prepares recommendations for the State Engineer on the basis of encouraging beneficial use while protecting prior rights.

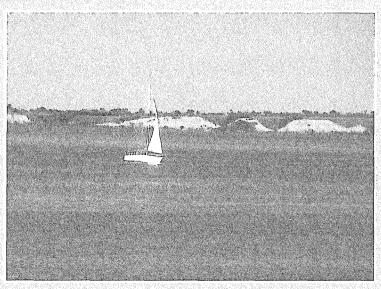
The State of
TARGET DATES
As needed
' As needed
Ongoing
As needed
Ongoing

### Agency Goal(s) Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.

### **Project Program Objectives:**

- Pursue cooperative efforts with neighboring states and provinces to plan for beneficial water management of shared water resources.
- Cooperate with agencies that have regulatory authority over North Dakota's water to protect and enhance the quality and quantity of North Dakota's water resou ces.
- Evaluate water permit applications and recommend decisions to the State Engineer.



### **Assumptions and Obstacles**

Different organizations and different states and provinces have different perspectives and laws pertaining to the best way to manage water resources. In the evaluation of groundwater permit applications, the state's groundwater resources are becoming more fully appropriated. Thus, the process of allocating additional water while protecting prior water rights is becoming more difficult and time consuming.

In addition to water manage ent planning efforts at the state level, the SWC believes that it is also beneficial for stakeholders that live and work within key watersheds of the sae, to guide the management of water resources in their region through the development of regional water plans. In order for regional planning efforts and studies to proceed and evolve in a productive manner, it is oft no required that local, state, and federal government officials participate in those planning processes as technical advisors.

## Watershed Planning & Coordination

In recent years, the SWC has provided technical assistance to the Devils Lake, Upper Sheyenne, Red, and Missouri River joint water boards toward the development of water management plans and other watershed planning efforts. In addition, in the Red River basin, which is the focus of many projects and planning efforts, the SWC has an office with a full-time engineer, in West Fargo.

Beyond participating in regional planning and coordination efforts within the state, SWCs aff members are also involved with international and national organizations involved with interjurisdictional water ma age ent. Examples include the International Joint Commission, the Red River Basin Commission, the Red River Water Resources Council, the International Red River Board, the International Souris River Board, the International Water Institute, the Red River Retention Authority, the Western States Water Council, Association of Western Sta e Engineers, and the Missouri River Association of State and Tribes.

#### Agency Goal(s) Satisfied:

 To manage water reso rces for the future welfare and prosperity of the people of North Dakota.

### **Project Program Objectives:**

 Provide technical expertise and assistance toward the development and implementation of regional watershed management planning efforts, and studies.

### Assumptions and Obstacles

In order for all of the above organizations and planning/coordination efforts to succeed in the future, they will require continued commitment and dedication from all stakeholders involved in those processes.

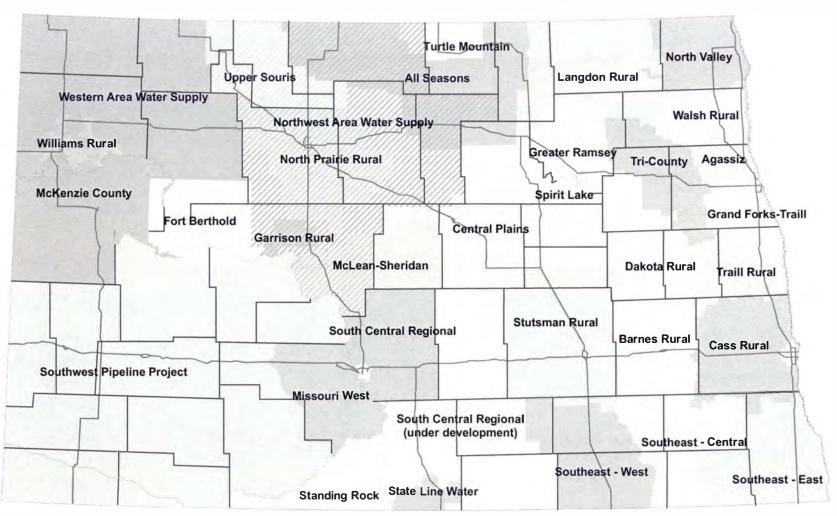


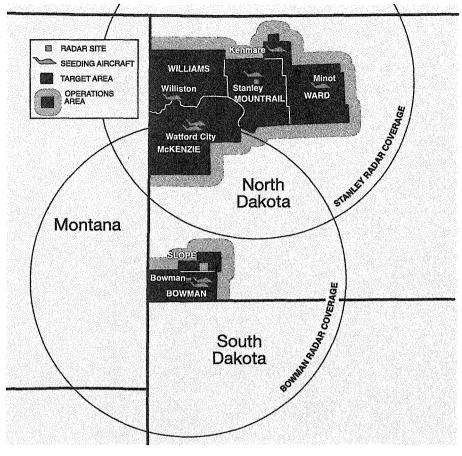
TASKS	TARGETRATE
IASKS	TARGET DATES
Provide technical assistance toward the implementation of the Red River Basin Commission's Natural Resource Framework Plan	Ongoing
Provide technical assistance toward the implementation of joint water board, water management plans	Ongoing
Continue to participate as board members and technical advisors for regional, international, and national watershed planning and coordination efforts	Ongoing

## Map Appendix

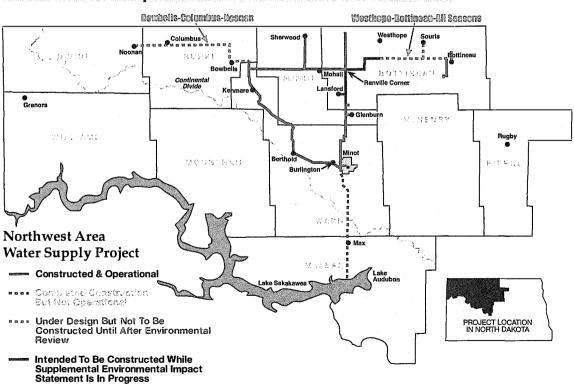


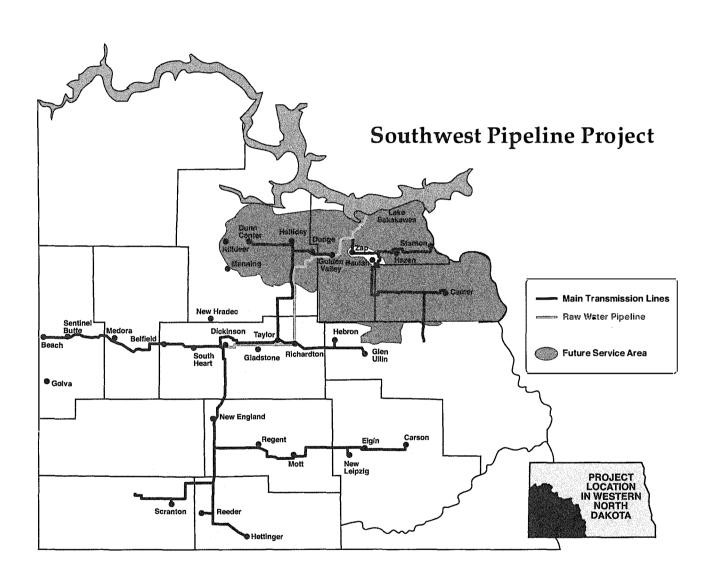
### Rural & Regional Water Supply Systems

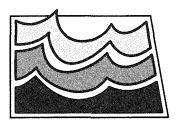




North
Dakota
Cloud
Modification
Project



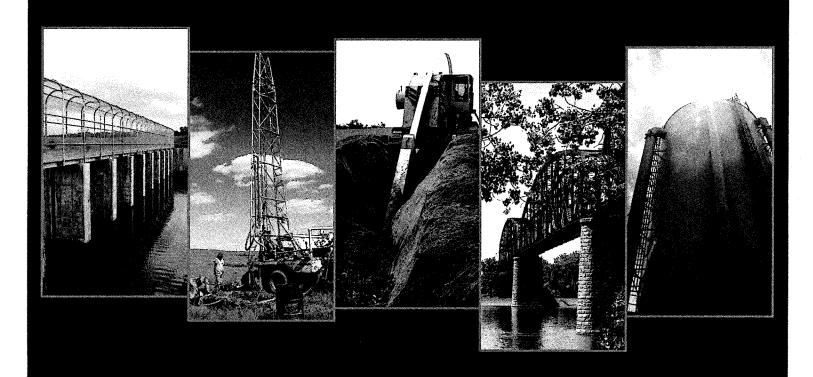




North Dakota State Water Commission 900 East Boulevard Ave. Dept. 770 Bismarck, ND 58505-0850 www.swc.nd.gov

## 

An Update To The 2009 State Water Management Plan



North Dakota State Water Commission

January 2013

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## NORTH DAKOTA PLAN 2013-2015 PLAN Water Development

An Update To The 2009 State Water Management Plan

GOVERNOR Jack Dalrymple

COMMISSIONER OF AGRICULTURE Doug Goehring

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Graphic Artist Sheila Fryer

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Dawn Petersen

January 2013



#### A MESSAGE FROM THE STATE ENGINEER:

I am pleased to present you with the 2013-2015 North Dakota Water Development Plan, which is our second update of the 2009 State Water Management Plan (SWMP).

The State of North Dakota has made a tremendous amount of progress on many water development projects – all of which have positively impacted citizens and businesses all across the state. As I've said many times before, this success has only been accomplished because of the water community's dedication and cooperation to advance much-needed projects, and through the Governor and Legislature's continued support of water projects.

With the success of our state's business climate, increased demands to provide basic water services to our growing workforce, and in response to the unprecedented floods of 2009 and 2011, the financial needs of water projects is now greater than ever before. This most certainly provides challenges. However, because of increasing revenues available for water projects through the Resources Trust Fund (oil extraction tax), the state is positioned to help meet many of these difficult water development challenges facing North Dakota's citizenry.

With that, I hope that you will find this plan to be informative. And on behalf of North Dakota's Water Commission, I sincerely appreciate your interest and continued support of North Dakota's future water management and development efforts.

Sincerely,

Todd Sando, P.E. State Engineer

Chief Engineer-Secretary

### Introduction

It is the vision of the North Dakota State Water Commission that, "Present and future generations of North Dakotans will enjoy an adequate supply of good quality water for people, agriculture, industry, and fish and wildlife; Missouri River water will be put to beneficial use through its distribution across the state to meet ever increasing water supply and quality needs; and successful management and development of North Dakota's water resources will ensure health, safety, and prosperity, and balance the needs of generations to come." The elements outlined in this plan provide steps toward achieving that vision.

#### **Background and Purpose**

In biennia following the last two North Dakota State Water Management Plans in 1999 and 2009, the State Water Commission (SWC or Commission) has produced Water Development Plans as interim measures to:

- Serve as supplements to state water plans;
- Provide a progress report on the state's priority water development efforts;
- Provide up-to-date information regarding North Dakota's current and future water development project needs and priorities;
- Provide current information regarding North Dakota's revenue sources for water development; and
- Serve as formal requests for funding from the Resources Trust Fund.

This 2013-2015 Water Development Plan will also serve those purposes.

#### **Authority**

By virtue of North Dakota Century Code (NDCC), Section 61-02-14, Powers and Duties of the Commission; and Section 61-02-26, Duties of State Agencies Concerned with Intrastate Use or Disposition of Waters, the Commission is required to develop and maintain a comprehensive water management plan.









### **Project Progress Summary**

Two years ago, unprecedented revenues into the Resources Trust Fund enabled the SWC and the water community to plan for tremendous progress on several water development priorities across the state. At that time, some of the major priorities outlined in the 2011-2013 Water Development Plan included the following:

- Devils Lake Flood Control
- Devils Lake Downstream Impacts
- Fargo Flood Control

- General Water Management
- Irrigation
- Northwest Area Water Supply
- Red River Valley Water Supply
- Southwest Pipeline Project
- Water Supply Program
- Weather Modification
- Western Area Water Supply

But like anything involving water management and development, there is always an element of unknown. And in the case of the 2011-2013 biennium, that unknown became the incredible, and unforeseen impacts that resulted from the historic flood events of 2011. In the wake of that event, state priorities were adjusted toward additional flood control measures, including floodplain property acquisition efforts; particularly in the Mouse, Sheyenne, and Missouri River basins – as directed by the Legislature during the 2011 special session.





The following section provides an overview of water development progress that occurred during the 2011-2013 bien nium.

#### **Devils Lake Flood Control**

- Continued to implement the state's three-pronged approach to solving the Devils Lake region's flooding problems, including: infrastructure protection, upper-basin water management, and operation of the state's emergency outlets.
- Completed a 350 cubic feet per second (cfs) emergency outlet from East Devils Lake in the summer of 2012. The maximum total discharge of the previously existing west, and new East Devils Lake outlets is now 600 cfs (See Map Appendix). Construction of the \$70 million East Devils Lake outlet was completed in only nine months.
- Completed a Tolna Coulee Control Structure in the summer of 2012 to reduce

the risk of a catastrophic natural overflow of Devils Lake. The control structure was developed in cooperation with the U.S. Army Corps of Engineers. That project is now owned and operated by the SWC.

### Devils Lake Downstream Impacts

- Provided \$15.4 million in funding to Valley City for a new water treatment plant, capable of handling increased sulfate concentrations in the Sheyenne River from Devils Lake outlet operations.
- Approved \$15 million in cost-share for the city of Fargo for water treatment improvements that are also needed to address increased sulfate concentrations in the Sheyenne River from Devils Lake outlet operations. An additional \$15 million from the state will likely be requested in the 2013-2015 biennium.

### **Fargo Flood Control**

 Provided technical and financial support to advance the Fargo-Moorhead Metro Area Flood Diversion Project.

- A Record of Decision was signed by the Assistant Secretary of the Army in April 2012.
- The city of Fargo has been moving forward with design efforts on upstream levees, in-town levees, bridges, and north-channel work. Land acquisitions for upstream and in-town levees are also underway, along with some additional construction on in-town levees.

### General Water Management

- Approved \$29.3 million in funding for general water management projects across the state
- General water management projects include rural flood control, snagging and clearing, channel improvements, recreational projects, dam repairs, planning efforts, special studies, and mitigation for operation of the Devils Lake outlets.



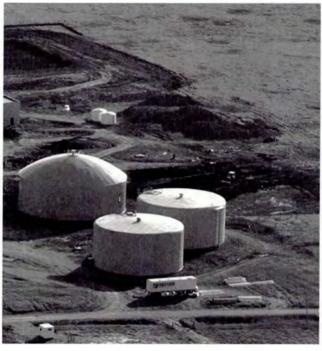












#### Irrigation

- Approved \$1 million for the McClusky Canal Mile Marker 7.5 Irrigation Project, which was developed in cooperation with the Garrison Diversion Conservancy District.
- Phase I of that project included 3,500 acres. Phase II could add an additional 3,500 acres in the future.

### Northwest Area Water Supply

• Provided water service to Sherwood, Mohall, All Seasons Water Users District near Antler, Upper Souris Water District near Sherwood, Minot's North Hill, Minot Air Force Base, Upper Souris Water District near Glenburn, and North Prairie Rural Water near Ruthville, from an interim supply from the Minot Water Treatment Facility (See Map Appendix).

- Upgraded filters and associated piping and controls at Minot Water Treatment Facility increasing its capacity from 18 million gallons per day (MGD) to 26.5 MGD. Increases to softening capacity, which still remain at 18 MGD, are scheduled for the 2013-2015 biennium, pending court approval.
- Continued to work with the Bureau of Reclamation on a Supplemental Environmental Impact Statement (EIS) ordered by a federal court prerequisite to the lifting of an injunction.

### Red River Valley Water Supply Project

- An EIS for the Red River Valley Water Supply Project (RRVWSP) was released back in 2007.
- Currently, the RRVWSP is awaiting a record of decision from the Secretary of the

Interior, and Congressional authorization to use federal works. Until these two issues are addressed, the project is delayed.

#### **Southwest Pipeline Project**

- Completed construction of the Oliver, Mercer, North Dunn (OMND) Water Treatment Plant (WTP), and completed construction of two potable water reservoirs
   one at the OMND WTP site and the other in Oliver County (See Map Appendix).
- Completed construction of a main transmission line (MTL) in Mercer and Oliver County.
- Southwest Pipeline water was delivered to the cities of Stanton, Hazen, Zap, and Center, along with rural customers around Zap and Beulah during the summer of 2012.
- Began construction of the Zap service area rural

distribution system, and began design of the MTL for the Dunn service area and supplemental raw water intake (See Map Appendix).

#### **Water Supply Programs**

- Federal funding for water supply projects through the Municipal, Rural, and Industrial (MR&I) Water Supply Program has decreased dramatically in recent years. For that reason, the state has increased investments in rural and regional water supply system advancements across the state.
- Provided state funding assistance for Burke, Divide, Williams Water System; Crosby Water Supply; Grand Forks-Traill Water District expansion; the city of Fargo; McKenzie County Regional Water System (Phase II and Phase IV); the city of Parshall; North Central Rural Water Consortium (Anamoose-Benedict): North Central Rural Water Consortium (Berthold-Carpio); North Central Rural Water

- Consortium (Mountrail
  Phase II); Northwest
  Area Water Supply; South
  Central Regional Water
  District (Emmons County);
  R&T Water Supply water
  treatment; Southwest Pipeline
  Project; Stutsman Rural
  Water District expansions;
  Traill Rural Water District
  Phase III; Valley City Water
  Treatment Plant; and Western
  Area Water Supply (See Map
  Appendix).
- MR&I funding assistance was provided for projects involving the Northwest Area Water Supply, South Central Regional Water District (Emmons County), and Southwest Pipeline Project (Oliver, Mercer, North Dunn).

#### Weather Modification

- The Atmospheric Resource Board (ARB) successfully operated weather modification programs in six counties in western North Dakota
- The ARB Cooperative
   Observer Network had 608
   active precipitation observers
   in 2012 its thirty-sixth
   year of operation. Of those

observers, 331 reported rainfall amounts, and 277 reported both rain and snow measurements. The snow data has helped fill gaps in existing snow data networks, assisting forecasters in predicting spring runoff and flooding risks.

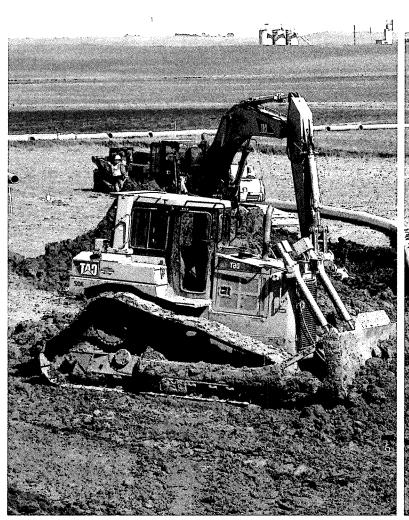
#### Western Area Water Supply

- Western Area Water Supply (WAWS) has service contracts with the communities and rural water systems that will be served by the system (See Map Appendix).
- The following water supply systems will have water provided to them through the WAWS transmission lines by the end of the biennium: Watford City, Ray, Tioga, Stanley, Wildrose, Crosby, Noonan, Columbus, and Fortuna, as well as McKenzie Rural Water, Burke-Divide-Williams Rural Water, and Williams Rural Water districts.
- Construction of the McKenzie County Phase IV rural distribution project was started this spring with a portion of western McKenzie





- County being substantially completed in fall 2012, and final completion in August 2013. As of fall 2012, the system is serving over 80 residents.
- Construction contracts have been awarded for five system reservoirs, the pipeline from Williston to Ray, the pipeline from Williston to Watford City, and the pipeline from R&T Water to the city of Crosby and Burke-Divide-Williams Rural
- Water. All contracts are to be substantially complete by the end of the 2012 construction season.
- WAWS currently has the following water depots operational and generating water for the project:
  McKenzie County's System II Keene Depot, McKenzie County's Indian Hills Depot, the city of Williston's 2nd Street Depot and the North Williston Depot. As of November 2012, the 13 Mile
- Depot, Alexander Depot and the Indian Hills Expansion were complete. The Watford City and Ray Depots are scheduled for completion in early 2013.
- Direct water pipeline connections have also been made available by WAWS to oil companies interested in a direct supply line to drilling locations.







#### Completed Projects, 2011-2013 Biennium

Table 1 lists the projects, programs, and studies that were completed by September 2012, or 63 percent of the way through the 2011-2013 biennium.

Table 1: Completed Projects, 2011-2013 Biennium

PROJECT SPONSOR	PROJECT NAME
Barnes County Water Resource District (WRD)	Sheyenne River Snagging & Clearing Project
Barnes County WRD	Clausen Springs Dam Emergency Spillway Repair
Barnes County WRD	Clausen Springs Dam Emergency Action Plan
Bismarck State College	ND Water Quality Monitoring Conference
Burleigh County WRD	Fox Island 2010 Flood Hazard Mitigation Evaluation
Cass County WRD	Rush River Drain #69, Armenia Township
Cavalier County WRD	Mulberry Creek Drain Partial Improvement Phase III
City of Argusville	City of Argus ville Flood Control Levee Project
City of Fort Ransom	City of Fort Ransom Riverbank Stabilization
City of Pembina	FEMA Levee Certification
Dickey County WRD	Pheasant Lake Dam Emergency Action Plan
Grand Forks County WRD	Kolding Dam Emergency Action Plan
McKenzie County Weed Control Board	McKenzie County Weed Control on Sovereign Lands
<b>M</b> issouri River Joint Board	Missouri RiverRecovery Implementation Committee - Terry Fleck
Missouri River Joint Board	Missouri River Joint Water Resource Board Goal Implementation
Morton County WRD	Square Butte Dam#5 Emergency Action Plan
Mountrail County WRD	White Earth Dam Emergency Action Plan
ND Game & Fish Department	Sovereign Land Rule Enforcement
ND Water Education Foundation	2012 Summer Water Tours
NDSU	NDSU Soil & Water Sampling
NDSU	NDSU Dept, of Soil Science - NDAWN Center
Nelson County WRD	Tolna Dam Emergency Action Plan
Nelson County WRD	Peterson Slough into Dry Run
Oak Creek WRD	Oak Creek Snagging & Clearing Project
Red River Basin Commission	Natural Resource Framework Plan Implementation

PROJECT SPONSOR	PROJECT NAME
Red River Basin Commission	Long-Term Red River Flood Control Solutions Study
Richland County WRD	Richland County Drain #7 Improvement Reconstruction
Richland County WRD	Richland County Drain #14 Improvement Reconstruction
Richland County WRD	Sheyenne River Snagging & Clearing Project
Richland County WRD	Wild Rice River Snagging & Clearing Project - Reach 2
Richland County WRD	Phase II Wild RiceRiver Snagging & Clearing
Rush River WRD	Cass County Drain #12 Improvement Reconstruction
Southeast Cass WRD	Cass County Drain #45 Extension Project
Southeast Cass WRD	Wild Rice River Snagging & Clearing
State Water Commission	Dale Frink Consultant Services
Traill & Steele County WRDs	Elm River Detention Dam #1 Emergency Action Plan
Traill County WRD	Elm River Detention Dam #2 Emergency Action Plan
Traill CountyWRD	Elm River Detention Dam #3 Emergency Action Plan
Traill County WRD	Buffalo Coulee Snagging & Clearing
Traill County WRD	Goose River Snagging & Clearing
U.S. Army Corps of Engineers	Bottineau County LiDAR Collect
U.S. Geological Survey	Mobile Stream Gages
Walsh County WRD	Digital Flood Insurance Rate Map Project
Walsh County WRD	Chyle Dam Emergency Action Plan
Walsh County WRD	Soukop Dam Emergency Action Plan
Walsh CountyWRD	Whitman Dam Emergency Action Plan
Walsh Count <b>y W</b> RD	Walsh County Drain #4a
Walsh County WRD	Walsh County Assessment Drain 10, 10-1, 10-2
Walsh County WRD	Walsh County Drain #73 Construction Project
Ward County WRD	Land Survey-Harriston Township Dike Complaint

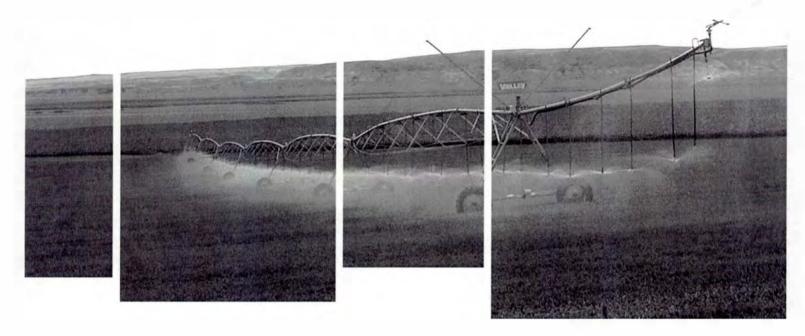
## Currently Active Projects, 2011-2013 Biennium

The projects and project categories listed in Table 2 represent water development efforts that are being pursued in the 2011-2013 biennium. Several individual projects are listed in the table. However, a number of others fall under project categories, such as irrigation development or general water management, and therefore, are not individually identified in the table.

This table also represents the total 2011-2013 SWC project budget as of October 31, 2012, and the project funding the SWC had approved as of that time. As the table suggests, the SWC had approved 95 percent of the project budget by October 31, 2012.

Table 2: Currently Active Projects, 2011-2013 Biennium

PROJECTS	SWC BUDGET	APPROVED
CITY FLOOD CONTROL		V
FARGO/RIDGEWOOD	\$50,941	\$50,941
FARGO	\$66,473,088	\$66,473,088
GRAFTON	\$7,175,000	\$7,175,000
MINOT	\$4,476,750	\$4,476,750
WAHPETON	\$1,013,000	\$1,013,000
FLOODWAY PROPERTY ACQUISITIONS		
MINOT	\$17,750,000	\$17,750,000
BURLINGTON	\$1,071,345	\$1,071,345
WARD COUNTY	\$11,500,000	\$11,500,000
VALLEY CITY	\$3,000,000	\$3,000,000
BURLEIGH COUNTY	\$1,425,000	\$1,425,000
SAWYER	\$184,260	\$184,260
LISBON	\$645,000	\$645,000
UNOBLIGATED SB 2371	\$9,310,245	
FLOOD CONTROL		
BURLEIGH COUNTY	\$1,282,400	\$1,282,400
RICE LAKE RECREATION DISTRICT	\$2,842,200	\$2,842,200
RENWICK DAM	\$1,246,571	\$1,246,571
WATER SUPPLY		
REGIONAL & LOCAL WATER SYSTEMS	\$26,652,898	\$25,517,910
VALLEY CITY WATER TREATMENT PLANT	\$15,386,800	\$15,386,800
FARGO REVERSE OSMOSIS PILOT STUDY	\$15,000,000	\$15,000,000
RED RIVER WATER SUPPLY	\$62,224	\$62,224
WESTERN AREA WATER SUPPLY	\$25,000,000	\$25,000,000
SOUTHWEST PIPELINE PROJECT	\$24,019,199	\$24,019,199
NORTHWEST AREA WATER SUPPLY	\$19,432,008	\$19,432,008
IRRIGATION DEVELOPMENT		
IRRIGATION DEVELOPMENT	\$3,608,353	\$1,097,422
GENERAL WATER MANAGEMENT		
GENERAL WATER MANAGEMENT	\$30,172,009	\$29,278,600
DEVILS LAKE		
BASIN DEVELOPMENT	\$92,340	\$92,340
DIKE	\$15,534,603	\$15,534,603
OUTLET	\$2,420,212	\$2,420,212
OUTLET OPERATIONS	\$6,215,627	\$6,215,627
TOLNA COULEE DIVIDE	\$4,366,720	\$4,366,720
EAST END OUTLET	\$71,848,290	\$62,942,273
GRAVITY OUTFLOW CHANNEL	\$13,720,185	\$13,720,185
JOHNSON FARMS STORAGE	\$125,000	\$125,000
WEATHER MODIFICATION		
WEATHER MODIFICATION	\$894,314	\$894,314
TOTALS	\$403,996,582	\$381,240,992



## State Water Development Program: Working with Project Sponsors

This section briefly describes the inventory process used by the SWC to identify future water project and program funding needs. A summary of those funding needs, as provided by project sponsors, is also presented.

#### The Inventory Process

As part of the SWC's water planning efforts, the Planning and Education Division once again solicited project and program information from potential project sponsors. The results provide the SWC with an updated inventory of water projects and programs that could come forward for SWC costshare in the upcoming 2013-2015 biennium and beyond. As in the past, the product of this effort becomes the foundation that supports the State Water Commission's budget request to the Governor and Legislature.

To obtain updated and new project and program information from sponsors, the Planning and Education Division sent project information forms to water boards, joint water boards, the North Dakota Irrigation Association, communities, and government agencies with an interest in water development projects and programs. The managers of major water projects, including rural water systems, Northwest Area Water Supply Project, Southwest Pipeline Project, Red River Valley Water Supply Project, and the Western Area Water Supply were also surveyed. Information requested on the forms included

general project descriptions, location, permit information, and identification of potential obstacles, among other basic aspects of the projects.

More importantly, sponsors were asked to assign the most realistic start dates possible to projects they expected to present to the SWC for cost-share consideration - particularly during the 2013-2015 and later biennia. As part of that effort, project sponsors needed to take into consideration when a funding commitment from the SWC will be needed, and to identify when state dollars will be necessary for projects or programs to proceed.

As the project information forms were received by the SWC, each project was reviewed to determine if portions of the project were eligible for costshare, and if the proposed timeframes for project advancement were reasonable and justified by supporting information. After project reviews were completed, the information was transferred into a water project database. This provides the SWC with updated project information for older projects and an accounting of new projects that have developed since the last inventory process, during the 2011-2013 biennium. Of course, circumstances change, and so do project costs over time. Therefore, the database is updated regularly leading up to the Legislative Assembly.

In addition, SWC staff work closely with the North Dakota Water Coalition (which is made up of project sponsors from across the state), and the project sponsors themselves to maintain the most up-to-date project information possible. The result of this inventory process is a comprehensive list of water projects throughout North Dakota that could come

forward for new or additional cost-share in future biennia. As stated earlier, this is an important tool for budget planning purposes for the SWC, the Office of Management and Budget, the Governor's Office, and the Legislature.

#### Water Development Funding Needs, 2013-2015 Biennium

Table 3 contains projects that could move forward and request SWC cost-share in the 2013-2015 biennium. This accounting of projects simply represents a non-prioritized list of needs as submitted by project sponsors. It does not guarantee, in any way, that all of the projects listed will receive funding. In addition, upon further review of the projects listed, the state's potential cost-share contribution may change based on the SWC's cost-share policy and requirements for eligible items.

The list is organized into nine categories including: flood control; studies and planning; dam repairs and reconstructions; irrigation; rural flood control; multi-purpose; municipal, rural,

and regional water supply; and snagging and clearing. The total financial need to implement all of the projects in the 2013-2015 inventory is about \$886 million. The state's share of that total could be about \$527 million. However, that number will evolve pending closer analyses of cost-share requirements once a request for funding has been made to the SWC. The federal government and local project sponsors would be responsible to make up the balance.

The 2013-2015 totals do not account for projects that may receive additional funding in the current 2011-2013 biennium. It should also be noted that water development projects can be delayed as a result of local or federal funding problems, permits, or environmental issues, which can substantially influence the actual need for any given biennium. Furthermore, the unpredictability of floods, droughts, and other unforeseen events can result in new funding needs that were not documented at the time this report was developed. As a result, the actual need for the upcoming biennium has the potential to change from what is portrayed here.





Table 3: Water Development Needs, 2013-2015 Biennium

	FLOOD CONTROL						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015		
Barnes County WRD	Ten Mile Lake Control Outlet	\$0	\$600,000	\$400,000	\$1,000,00		
Burleigh County	Fox Island Flood Control	\$0	\$1,115,500	\$1,184,500	\$2,300,00		
Burleigh County	Sibley Area Flood Control	\$0	\$592,370	\$611,630	\$1,204,00		
Burleigh County	Harbor Drive Flood Control	\$0	\$129,878	\$762,757	\$892,63		
Burleigh County	Hogue Island Flood Control	\$0	\$540,000	\$360,000	\$900,00		
Burleigh County	Missouri River Correctional Area Flood Control	\$0	\$501,834	\$334,556	\$836,39		
Fargo	Permanent Flood Protection	\$22,000,000	\$102,000,000	\$102,000,000	\$226,000,00		
Fort Ransom	Permanent Flood Protection	\$0	\$2,800,000	\$0	\$2,800,00		
Grafton	Grafton Flood Control Project	\$28,350,000	\$455,000	\$2,780,000	\$31,585,00		
Lisbon	Permanent Flood Protection	\$0	\$9,460,000	\$0	\$9,460,00		
Lower Heart River WRD	Mandan Flood Levee	\$0	\$100,000	\$100,000	\$200,00		
Maple River WRD	Upper Maple River Dam Design and Construction	\$0	\$4,000,000	\$2,250,000	\$6,250,000		
Maple River WRD	General Retention Development	\$0	\$150,000	\$150,000	\$300,00		
Mapleton	Levee Improvement	\$0	\$900,000	\$700,000	\$1,600,00		
Minot, Ward, Souris Joint WRD	Mouse River Valley Flood Control Project	\$0	\$61,000,000	\$40,700,000	\$101,700,000		
Pembina	Flood Protection System Recertification	\$0	\$1,200,000	\$800,000	\$2,000,00		
Red River Retention Authority	Wetlands Reserve Program for Flood Damage Reduction	\$8,000,000	\$1,200,000	\$420,000	\$9,620,000		
Richland County WRD	Richland County Drain #67-8 Water Retention	\$0	\$702,000	\$378,000	\$1,080,000		
Richland County WRD	Richland County Drain #95 Water Retention	\$0	\$185,900	\$100,100	\$286,000		
Sargent County WRD	Shortfoot Creek Retention Site	\$0	\$100,000	\$100,000	\$200,000		
Southeast Cass WRD	Sheyenne Diversion Improvement	\$0	\$180,000	\$120,000	\$300,000		
State of North Dakota	Devils Lake Outlet Mitigation	\$0	\$5,000,000	\$0	\$5,000,000		
State of North Dakota	Devils Lake Outlet Operations	\$0	\$10,000,000	\$0	\$10,000,000		
Valley City	University District Phase II Acquisitions	\$0	\$1,050,000	\$350,000	\$1,400,000		
Valley City	Clay Levees and Flood Walls	\$0	\$10,250,000	\$0	\$10,250,000		
Walsh County WRD	North Branch Park River Floodplain Management	\$0	\$750,000	\$750,000	\$1,500,000		
	FLOOD CONTROL TOTAL	\$58,350,000	\$214,962,482	\$155,351,543	\$428,664,025		

STUDIES AND PLANNING						
LOCAL SPONSOR	PROJECT NAME	FEDER/AL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
North Cass WRD	Elm River Retention Study	\$0	\$75,000	\$75,000	\$150,000	
Pembina County WRD	Hamilton-Bathgate-Carlisle Watershed Study	\$0	\$37,500	\$37,500	\$75,000	
Ransom County WRD	Maple River Subwatersheds Detention Projects Study	\$0	\$15,000	\$15,000	\$30,000	
Ransom County WRD	Wild Rice Watershed Detention Study	\$0	\$15,000	\$15,000	\$30,000	
Sargent County WRD	Upper Wild Rice Retention Plan	\$0	\$65,000	\$65,000	\$130,000	
Southeast Cass WRD	Wild Rice Comprehensive Retention Plan	\$0	\$100,000	\$100,000	\$200,000	
Southeast Cass WRD	Wild Rice Retention Site Development (Mantador)	\$0	\$250,000	\$250,000	\$500,000	
Southeast Cass WRD	Wild Rice Retention Site Development (Additional)	\$0	\$375,000	\$375,000	\$750,000	
Southeast Cass WRD	Sheyenne River Retention Site Development	\$0	\$250,000	\$250,000	\$500,000	
Traill County WRD	Garfield Dry Dam	\$0	\$125,000	\$125,000	\$250,000	
Traill County WRD	Goose River Dry Dam	\$0	\$125,000	\$125,000	\$250,000	
USGS and State of North Dakota	Water Monitoring Agreement	\$800,000	\$900,000	\$0	\$1,700,000	
	STUDIES & PLANNING TOTAL	\$800,000	\$2,332,500	\$1,432,500	\$4,565,000	

DAM REPAIRS & RECONSTRUCTIONS							
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015		
Mountrail County WRD	White Earth Dam Repair	\$0	\$11,000	\$10,000	\$21,000		
Pembina County WRD	Renwick Dam Reconstruction	\$4,550,000	\$1,225,000	\$1,225,000	\$7,000,000		
DAM REPA	IRS & RECONSTRUCTIONS TOTAL	\$4,550,000	\$1,236,000	\$1,235,000	\$7,021,000		

IRRIGATION						
LOCAL SPONSOR	PROJECT NAME	FEDER/AL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Dickey-Sargent Irrigation Dist.	Oakes Test Area Project	\$0	\$2,500,000	\$2,500,000	\$5,000,000	
Garrison Diversion	McLean County Irrigation Development	\$0	\$2,500,000	\$2,500,000	\$5,000,000	
Horse Head Irrigation Dist.	Pump Site Improvements	\$0	\$100,000	\$100,000	\$200,000	
	IRRIGATION TOTAL	\$0	\$5,100,000	\$5,100,000	\$10,200,000	

RURAL FLOOD CONTROL						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Cavalier County WRD	Rose Lake Drain	\$0	\$72,000	\$88,000	\$160,000	
Dickey-Sargent Joint WRD	Jackson Township Improvement District 1	\$0	\$500,000	\$1,568,000	\$2,068,000	
Dickey-Sargent Joint WRD	Riverdale Township Improvement District 2	\$0	\$500,000	\$611,111	\$1,111,11	
Maple River WRD	Cass Drain #14	\$0	\$405,000	\$495,000	\$900,000	
Maple River WRD	Cass Drain #37	\$0	\$270,000	\$330,000	\$600,000	
Maple River WRD	Cass Drain #39	\$0	\$270,000	\$330,000	\$600,000	
North Cass WRD	Cass Drain #55	\$0	\$337,500	\$412,500	\$750,000	
North Cass WRD	Cass Drain #32	\$0	\$405,000	\$495,000	\$900,000	
North Cass WRD	Cass Drain #23	\$0	\$500,000	\$1,300,000	\$1,800,000	
North Cass WRD	Cass Drain #13	\$0	\$180,000	\$220,000	\$400,000	
Pembina County WRD	Pembina Drain #73	\$0	\$405,000	\$495,000	\$900,000	
Pembina County WRD	Pembina Drain #78	\$0	\$337,500	\$412,500	\$750,000	
Pembina County WRD	Pembina Drain #39	\$0	\$225,000	\$275,000	\$500,000	
Pembina County WRD	Pembina Drain #4	\$0	\$189,000	\$231,000	\$420,000	
Ransom County WRD	Tri-county Drain	\$0	\$22,500	\$27,500	\$50,000	
Richland County WRD	Richland County Drain #2	\$0	\$200,000	\$300,000	\$500,000	
Richland County WRD	Richland County Drain #7	\$0	\$160,000	\$240,000	\$400,000	
Richland County WRD	Richland County Drain #14	\$0	\$120,000	\$180,000	\$300,000	
Richland-Sargent Joint WRD	Richland-Sargent Drain #1	\$0	\$225,000	\$275,000	\$500,000	
Sargent County WRD	Sargent Drain #9	\$0	\$270,000	\$330,000	\$600,000	
Sargent County WRD	Sargent Drain #8	\$0	\$247,500	\$302,500	\$550,000	
Southeast Cass WRD	Cass Drain #21C	\$0	\$450,000	\$550,000	\$1,000,000	
Southeast Cass WRD	Cass Drain #50	\$0	\$112,500	\$137,500	\$250,000	
Traill County WRD	Garfield Township Drain	\$0	\$300,000	\$700,000	\$1,000,000	
Traill County WRD	Traill County Drain #23-40	\$0	\$500,000	\$700,000	\$1,200,000	
Walsh County WRD	Walsh County Drain #67A	\$0	\$225,000	\$275,000	\$500,000	
Walsh County WRD	Walsh County Drain #90	\$0	\$225,000	\$275,000	\$500,000	
Walsh County WRD	Walsh County Drain #87 and McLeod Drain	\$0	\$225,000	\$275,000	\$500,000	
R	URAL FLOOD CONTROL TOTAL	\$0	\$7,878,500	\$111,830,611	\$19,709,111	

MULTI-PURPOSE						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Atmospheric Resource Board	Atmospheric Resource Board Projects	\$1,500,000	\$1,000,000	\$2,800,000	\$5,300,000	
	MULTI-PURPOSE TOTAL	\$1,500,000	\$1,000,000	\$2,800,000	\$5,300,000	

	MUNICIPAL, RURAL, & REGIONAL WATER SUPPLY						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015		
All Seasons Water Users	Bottineau County Expansion Project	\$0	\$675,000	\$225,000	\$900,000		
Barnes Rural Water	System Improvement and Treatment Plant	\$0	\$2,000,000	\$2,000,000	\$4,000,000		
Cass Rural Water District	Phase II Water Treatment Plant Expansion	\$0	\$500,000	\$500,000	\$1,000,000		
Central Plains Water District	Treatment Plant Improvements	\$0	\$2,500,000	\$2,500,000	\$5,000,000		
Central Plains Water District	Additional Storage and Emergency Power	\$0	\$900,000	\$300,000	\$1,200,000		
Crosby	Water Tower and Main Upsizing	\$0	\$1,965,750	\$655,250	\$2,621,000		
Fargo	Treatment Plant Improvements	\$0	\$15,000,000	\$15,252,000	\$30,252,000		
Fort Berthold Rural Water	Twin Buttes Expansion	\$0	\$1,662,100	\$1,662,100	\$3,324,200		
Fort Berthold Rural Water	Twin Buttes Water Treatment Plant	\$0	\$3,000,005	\$3,000,005	\$6,000,010		
Grafton	Phase III Treatment Plant Rehabilitation	\$2,022,350	\$2,603,825	\$2,603,825	\$7,230,000		
Grand Forks	Regional Water Treatment Plant	\$0	\$4,992,791	\$4,992,791	\$9,985,582		
Grand Forks Trail Water District	Regional System Expansion - Phase II	\$0	\$4,338,750	\$1,446,250	\$5,785,000		
Greater Ramsey Water District	Southwest Nelson and North Benson County Exp.	\$0	\$3,000,000	\$1,000,000	\$4,000,000		
Lake Agassiz Water Authority	Red River Valley Water Supply	\$0	\$9,000,000	\$500,000	\$9,500,000		
Langdon Rural Water District	Regional Water Supply Project	\$0	\$9,750,000	\$3,250,000	\$13,000,000		
Langdon Rural Water District	Adams City Reservoir	\$0	\$303,750	\$101,250	\$405,000		
Langdon Rural Water District	ABM Pipeline Replacement	\$0	\$1,562,100	\$520,700	\$2,082,800		
Langdon Rural Water District	ABM/Nekoma Pump Station Improvements	\$0	\$362,222	\$120,740	\$482,962		
Mandan	New Raw Water Intake	\$0	\$1,902,099	\$634,033	\$2,536,132		
Mandan	Treatment Plant Improvements	\$0	\$189,512	\$63,171	\$252,683		
McLean Sheridan Rural Water	Blue and Brush Lakes Expansion	\$0	\$800,000	\$800,000	\$1,600,000		
McLean Sheridan Rural Water	Mine Reclamation Area Expansion	\$0	\$250,000	\$250,000	\$500,000		
McLean Sheridan Rural Water	Wolf Creek Area Expansion	\$0	\$280,000	\$280,000	\$560,000		
Missouri West Water System	South Mandan System Improvements	\$0	\$600,000	\$200,000	\$800,000		
North Central Rural Water	City of Plaza	\$0	\$250,000	\$250,000	\$500,000		
North Central Rural Water	Granville-Deering Rural Water Project	\$0	\$3,300,000	\$1,100,000	\$4,400,000		
North Central Rural Water	Mountrail Phase II	\$0	\$3,675,000	\$1,225,000	\$4,900,000		

North Central Rural Water	Berhold/Carpio Phase II	\$0	\$1,732,500	\$577,500	\$2,310,000
North Valley Water District	93rd St. Pipeline Improvements	\$0	\$1,931,250	\$643,750	\$2,575,000
North Valley Water District	ABM Corridor Pipeline Replacement Phase I	\$0	\$843,954	\$281,318	\$1,125,272
Park River	Water Tower	\$0	\$1,875,000	\$625,000	\$2,500,000
South Central Regional Water	Kidder County Expansion	\$0	\$3,750,000	\$1,250,000	\$5,000,000
Southeast Water Users	West Membrane Softening Plant	\$0	\$250,000	\$250,000	\$500,000
Southwest Water Authority	Southwest Pipeline Project	\$0	\$90,000,000	\$0	\$90,000,000
Spirit Lake Rural Water District	Tokio Service Area Expansion	\$0	\$1,750,000	\$1,750,000	\$3,500,000
Spirit Lake Rural Water District	Warwick Service Area Expansion	\$0	\$1,750,000	\$1,750,000	\$3,500,000
Standing Rock Rural Water District	Selfridge Service Area	\$0	\$4,050,000	\$4,050,000	\$8,100,000
State of North Dakota and Minot	Northwest Area Water Supply	\$0	\$14,000,000	\$7,538,461	\$21,538,461
Stutsman Rural Water District	Phase II-B and Phase III	\$0	\$10,000,000	\$3,600,000	\$13,600,000
Surrey	Water Supply Improvements	\$0	\$2,046,108	\$682,037	\$2,728,145
Tri County Water District	Treatment Plant Improvements	\$0	\$520,000	\$520,000	\$1,040,000
Turtle Mountain Band of Chippewa	Phase II of Hwy 43 Expansion	\$0	\$1,350,000	\$1,350,000	\$2,700,000
Walsh Rural Water District	Ground Storage Expansion	\$0	\$1,026,225	\$342,075	\$1,368,300
Washburn	Horizontal Collector Well	\$0	\$2,700,000	\$900,000	\$3,600,000
Western Area Water Supply Authority	Western Area Water Supply	\$0	\$79,000,000	\$41,000,000	\$120,000,000
MUNICIPAL, RURAL, & REG	IONAL WATER SUPPLY TOTAL	\$2,022,350	\$293,937,941	\$112,542,256	\$408,502,547

SNAGGING AND CLEARING						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Richland County WRD	Antelope Creek Snag and Clear	\$0	\$25,000	\$25,000	\$50,000	
Richland County WRD	Wild Rice River Snag and Clear	· \$0	\$50,000	\$50,000	\$100,000	
Richland County WRD	Sheyenne River Snag and Clear	\$0	\$50,000	\$50,000	\$100,000	
Southeast Cass WRD	Wild Rice and Sheyenne River Snag and Clear	\$0	\$250,000	\$250,000	\$500,000	
Traill County WRD	Buffalo Coulee Snag and Clear	\$0	\$27,650	\$27,650	\$55,300	
Traill County WRD	Goose River Snag and Clear	\$0	\$97,014	\$102,986	\$200,000	
Walsh County WRD	Park River South and Main Branch Snag and Clear	\$0	\$500,000	\$500,000	\$1,000,000	
	SNAGGING AND CLEARING TOTAL	\$0	\$999,664	\$1,005,636	\$2,005,300	

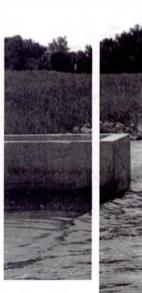
Table 3 Cont.: Summary of Water Development Needs, 2013-2015 Biennium

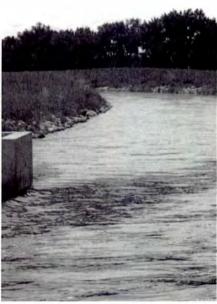
PROJECT CATEGORY	FEDERAL COST	STATE COST	LOCAL COST	TOTAL COST
Flood Control	\$58,350,000	\$214,962,482	\$155,351,543	\$428,664,025
Studies & Planning	\$800,000	\$2,332,500	\$1,432,500	\$4,565,000
Dam Repairs & Reconstructions	\$4,550,000	\$1,236,000	\$1,235,000	\$7,021,000
Irrigation	\$0	\$5,100,000	\$5,100,000	\$10,200,000
Rural Flood Control	\$0	\$7,878,500	\$11,830,611	\$19,709,111
Multi-purpose	\$1,500,000	\$1,000,000	\$2,800,000	\$5,300,000
Municipal, Rural, & Regional Water Supply	\$2,022,350	\$293,937,941	\$112,542,256	\$408,502,547
Snagging and Clearing	\$0	\$999,664	\$1,005,636	\$2,005,300
TOTAL	\$67,222,350	\$527,447,087	\$291,297,546	\$885,966,983

# WATER DEVELOPMENT Funding Needs Beyond 2013-2015

Many of North Dakota's largest water projects cannot be completed in one or even two biennia, but rather, require longer-term financial planning. This is particularly the case for some of North Dakota's larger water project funding priorities, like flood control and water supply efforts. For that reason, project funding needs for future biennia are also requested from project sponsors – beyond the 2013-2015 biennium.

The potential funding reported by project sponsors beyond the 2013-2015 biennium, through 2021, likely will approach \$5 billion dollars in total project costs, with a large share attributed to water supply and flood control projects. According to information provided by flood control and water supply project sponsors, they have indicated potential funding needs from the state of \$938 million and \$640 million, respectively – for those two project categories through 2021. Taking into consideration the fact that project costs increase over time, and the likelihood of additional projects coming forward, funding needs beyond 2013-2015 will most certainly increase.









## **Water Project Funding**

North Dakota funds a majority of its water projects through the SWC. Funding that is funneled through the SWC for water development has come from several sources, including: the state's General Fund; the Dakota Water Resources Act, the federal Municipal, Rural, and Industrial (MR&I) Water Supply Program; the Resources Trust Fund; and the Water Development Trust Fund. In addition to these sources, the SWC is also authorized to issue revenue bonds for water projects, and the SWC has shared control of the Drinking Water State Revolving Loan Fund. There are also other federal funding sources that will be briefly discussed.

#### **General Fund**

The proposed SWC budget includes almost \$16.6 million in general fund dollars for agency operations. This is significant for statewide water development efforts because it frees-up other trust fund revenue for projects.

#### Municipal, Rural, and Industrial Water Supply Program

A major source of grant funding for water supply development in North Dakota in previous biennia has been through the federal MR&I Water Supply Program. Funding of this program was authorized by Congress though the 1986 Garrison Diversion Unit Reformulation Act, and it is jointly administered by the Garrison Diversion Conservancy District, and SWC.

The 1986 Garrison Reformulation Act authorized a federal MR&I grant program of \$200 million. All of that funding has been expended. Additional federal funding authorization for the MR&I program resulted from the passage of the Dakota Water Resources Act of 2000. An additional \$600 million, indexed for inflation, was authorized; which includes a \$200 million grant for state MR&I, a \$200

million grant for North Dakota Tribal MR&I, and a \$200 million loan for a Red River Valley Water Supply Project. The act provides resources for general MR&I projects, the Northwest Area Water Supply Project, the Southwest Pipeline Project, and a project to address water supply issues in the Red River Valley.

Annual MR&I funding is dependent upon U.S. Congressional appropriation. As of October 2012, \$270 million in federal funds had been approved for North Dakota's MR&I program with \$19.3 million for federal fiscal years 2011 and 2012 (Table 4).

#### Resources Trust Fund

Section 57-51.1-07.1 (2) of North Dakota Century Code requires that every legislative bill appropriating monies from the Resources Trust Fund (RTF), pursuant to subsection one, must be accompanied by a SWC report. This Water Development Plan satisfies that requirement for requesting funding from the RTF for the 2013-2015 biennium.

The RTF is funded with 20 percent of the revenues from the oil extraction tax. A percentage of the RTF has been designated by the Legislature to be used for water-related projects and energy conservation. The SWC budgets for cost-share based on a forecast of oil extraction tax revenue for the biennium, which is provided by the Office of Management and Budget.

Revenues into the RTF for the 2011-2013 biennium are expected to total \$392.3 million. When combined with the fund's 2011 beginning balance of \$148.1 million, less the estimated expenditures of \$275.2 million, the balance in the RTF at the

beginning of the 2013-2015 biennium could be \$265.2 million. Of that amount, \$139.3 million has not been committed to projects.

Because revenues from the oil extraction tax are highly dependent on world oil prices and production, it is very difficult to predict future funding levels. With that in mind, the September 2012 forecast includes \$547 million for the 2013-2015 biennium from oil extraction. Additional revenue into the RTF will come from Southwest Pipeline Project reimbursements, State Water Commission water supply program loan repayments (which amount to \$0.8 million per biennium through 2017), interest, and oil royalties. These are estimated to total an additional \$9.9 million (Table 5).

#### Water Development Trust Fund

Senate Bill 2188 (1999) set up the Water Development Trust Fund as a primary means of repaying the bonds it authorized. House Bill 1475 allocated 45 percent of

the funds received by the state from the 1998 tobacco settlement into the Water Development Trust Fund.

Revenues into the Water
Development Trust Fund for the
2011-2013 biennium are expected
to total about \$18 million. The
Office of Management and
Budget estimates revenues of
\$18 million for the 2013-2015
biennium (Table 6).

The passage of Measure 3 in 2008 by North Dakota voters redirects a portion of the tobacco settlement, known as the Strategic Contribution Fund (SCF), toward a statewide tobacco prevention program. The SCF portion of the settlement is North Dakota's compensation for work done by the state's Attorney General in finalizing the national tobacco settlement agreement. It is this increase in the settlement amount that is used for the tobacco prevention program. Reductions in revenue into the Water Development Trust Fund from Measure 3 have been factored into the aforementioned projections.

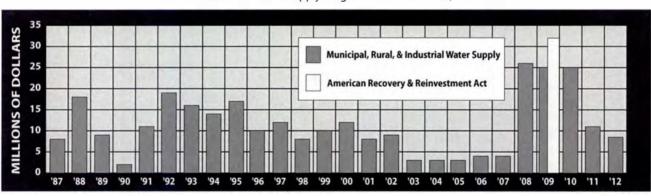


Table 4: Federal MR&I Water Supply Program Dollars Received, 1987-2012

Payments into the fund are scheduled through 2025 at a level based on inflation and tobacco consumption.

#### **Bonding**

The SWC has bonding authority (NDCC 61-02-46) to issue revenue bonds of up to \$2 million per project. The Legislature must authorize revenue bond authority beyond \$2 million per project. In 1991, the Legislature authorized full revenue bond authority for the Northwest Area Water Supply Project, in 1997 it authorized \$15 million of revenue bonds for the Southwest Pipeline, and in 2001 it raised the Southwest Pipeline authority to \$25 million. As of June 30, 2012, the SWC had outstanding bonds totaling \$19.8 million for the Southwest Pipeline Project. There are no outstanding bonds for the Northwest Area Water Supply project.

In 1999, the SWC was authorized to issue up to \$84.8 million in appropriation bonds under

provisions of Senate Bill 2188. The Legislature's intent was to partially fund flood control projects at Grand Forks, Devils Lake, Wahpeton, and Grafton, and to continue funding for the Southwest Pipeline. In March 2000, the SWC issued bonds generating \$27.5 million, thus reducing available bonding authority to \$57.3 million. Recognizing the need for water development projects in addition to those identified in SB 2188, the 2003 Legislature allowed authority for the unissued \$57.3 million to expire, but then authorized \$60 million of bonding authority for statewide water development projects. In June 2005, the SWC did issue bonds generating \$60 million. As of June 30, 2012, the SWC had outstanding bonds totaling \$68.9 million for other statewide water projects.

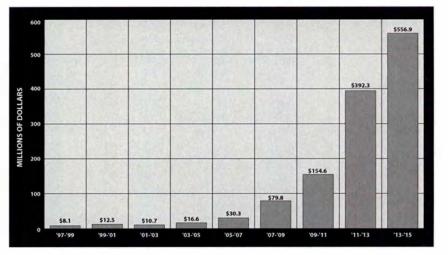
Because the tobacco settlement dollars were not projected to remain uniform each year, the SWC set up a repayment schedule to correspond with the projected tobacco receipts. Although the repayment amounts are based on the projected receipts, the scheduled repayments must be made regardless of the actual receipts. Scheduled payments for existing water development bonds will be \$16.9 million for the 2013-2015 biennium; however it is the SWC's intent to retire the bonds early. The Commission's 2013-2015 budget contains \$75.3 million to retire all of the outstanding bonds.

#### Drinking Water State Revolving Loan Fund

An additional source of funding for water supply development projects is the Drinking Water State Revolving Loan Fund (DWSRLF). Funding is distributed in the form of a loan program through the Environmental Protection Agency and administered by the North Dakota Department of Health. The DWSRLF provides below market-rate interest loans



Table 5: Resources Trust Fund Revenues, 1997-2015





of 2.5 percent to public water systems for capital improvements aimed at increasing public health protection and compliance under the federal Safe Drinking Water Act.

The SWC's involvement with the DWSRLF is two-fold. First, the Department of Health must administer and disburse funds with the approval of the SWC. Second, the Department of Health must establish assistance priorities and expend grant funds pursuant to the priority list for the DWSRLF, after consulting with, and obtaining SWC approval.

The process of prioritizing new or modified projects is completed on an annual basis. Each year, the Department of Health provides an Intended Use Plan, which contains a comprehensive project priority list and a fundable project list. The 2013 comprehensive project priority list includes 172 projects with a cumulative total project funding need of \$690 million. The funded list of 164 projects includes \$154 million in loans from federal grants of \$320 million

for fiscal years 1997 through 2013. Available funding for the DWSRLF program for 2013 is anticipated to be approximately \$20 million.

#### Other Federal Funding

With regard to other federal funding, the U.S. Army Corps of Engineers provides significant assistance to North Dakota for flood control and water supply projects. The Environmental Protection Agency, U.S. Bureau of Reclamation, U.S. Geological Survey, U.S. Army Corps of Engineers, and the Natural Resources Conservation Service also contribute to the state's water development efforts in many different ways, including studies, project design, and construction.

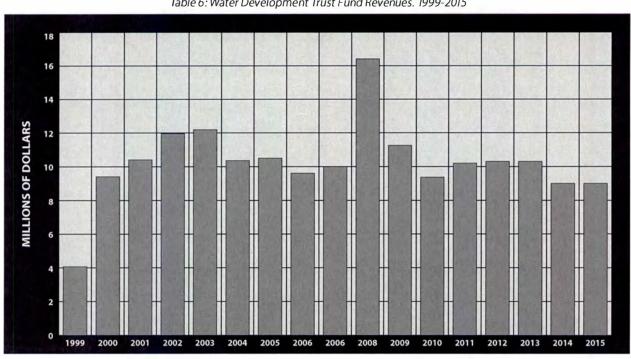


Table 6: Water Development Trust Fund Revenues. 1999-2015









## Project Funding Priorities: 2013-2015 Biennium

This section discusses the state's priority water development efforts and funding for the 2013-2015 biennium. It includes one course of action for water development in North Dakota that is subject to change during the 63rd Legislative Assembly, further review of SWC cost-share requirements and eligibility, and other unforeseen events that may occur during the biennium.

The Water Commission's prioritized water development new funding needs totaling \$515 million are listed by project or project category in Table 7, and they are summarized hereafter.

## Community Water Facility Revolving Loan Fund

The SWC has budgeted \$15 million for the Community Water Facility Revolving Loan Fund (CWFRLF). Monies transferred to this fund are used primarily for supplemental financing in conjunction with the U.S. Department of Agriculture's Rural Development program for community water projects. The CWFRLF is administered by the Bank of North Dakota.

The CWFRLF was established to provide financing for community water projects when the project is above the maximum loan limits set by the Rural Development program. It is also the intent of this program to provide supplemental financing for federal loan programs associated with community water projects. Loans from this fund are made in accordance with N.D.C.C. 6-09.5.

### Devils Lake Outlet Operations

The state's west end Devils Lake outlet was initially completed in 2005 with an operational capacity of 100 cubic feet per second (cfs). In the summer of 2010, an expansion was completed, increasing the outlet's capacity to 250 cfs.

During the summer of 2012, the SWC completed an additional outlet from East Devils Lake. This outlet has a maximum operating capacity of 350 cfs. Together, the combined operating capacity of the west end and East Devils Lake outlets is 600 cfs.

The SWC has budgeted \$10 million for costs related to the operation and maintenance required to keep both outlets operating to the maximum extent allowable during the 2013-2015 biennium.

#### **Fargo Flood Control**

After narrowly escaping extensive damages during the major floods of 1997, 2009, 2010, and 2011, the city of Fargo and Cass County have been working diligently toward the development of permanent flood control projects that would protect Fargo and the greater metro area from future flood events.

Initially, the project that the city of Fargo pursued following the 1997 flood was the Southside Red River and Wild Rice River Levee Alternative, which was primarily designed to protect areas in south Fargo. But after the flood of 2009, it became apparent that a larger-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the U.S. Army Corps of Engineers, in cooperation with Fargo, Moorhead (MN), Cass

County, and Clay County (MN) worked jointly to complete an EIS to assess potential measures to reduce the entire metro area's flood risk. The EIS was completed in late 2011, and the Record of Decision was signed by the Assistant Secretary of the Army in April 2012.

The preferred alternative is a 20,000 cfs diversion channel on the North Dakota side of the Red River that will be approximately 35 miles in length. The project is also expected to have a 50,000 acre-foot storage area within the diversion, and a 150,000 acrefoot staging area upstream of the southern-most portion of the diversion.

The U.S. Army Corps of Engineers and local sponsors are moving forward with the design phase, and with the National Environmental Policy Act (NEPA) process scheduled for completion in 2013, construction could proceed that same year.

Fargo is planning to devote over \$390 million (from all sources) to the project during the 2013-2015 biennium, with emphasis on design, land acquisitions, and construction of upstream levees, in-town levees, bridges, and north channels.

In previous biennia, the SWC has budgeted and approved \$75 million for Fargo flood control. In the 2013-2015 biennium, the

SWC has budgeted \$102 million toward the project. The total project cost is estimated at \$1.8 billion.

#### Mouse River Flood Protection

On June 25, 2011, Mouse River flood flows peaked in Minot at 27,400 cfs. This was more than five times greater than the city's existing flood control channels and levees had been designed to handle, and almost nine times greater than any documented flood since the construction of major upstream storage reservoirs decades before.

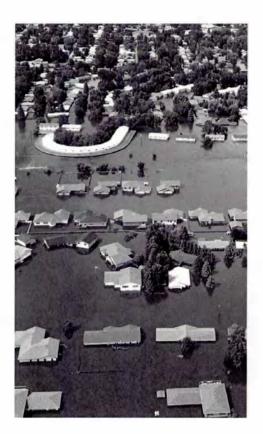
The record breaking flooding of 2011 overwhelmed most

Table 7: Water Development Priorities, 2013-2015 Biennium

PROJECTS	2013-2015 FUNDING PRIORITIES (Millions)	
Community Water Facility Revolving Loan Fund	\$15	
Devils Lake Flood Control	\$10	
Fargo Flood Control	\$102	
Mouse River Flood Control	\$61	
Sheyenne River Flood Control <sup>1</sup>	\$21	
General Water Management <sup>2</sup>	\$33	
Irrigation	\$5	
Fargo Water Supply	\$15	
Northwest Area Water Supply	\$14	
Red River Valley Water Supply	\$9	
Southwest Pipeline Project <sup>1</sup>	\$79	
Water Supply Program	\$71	
Western Area Water Supply <sup>3</sup>	\$79	
Weather Modification	\$1	
TOTAL	\$515	

<sup>&</sup>lt;sup>1</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>3</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.



<sup>&</sup>lt;sup>2</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

flood fighting efforts along the entire reach of the Mouse River in North Dakota, causing unprecedented damages to homes, businesses, public facilities, infrastructure, and rural areas. The U.S. Army Corps of Engineers estimates that 4,700 commercial, public, and residential structures in Ward and McHenry counties sustained structural and content damages totaling almost \$700 million. Had no emergency flood fighting measures been implemented, it is estimated that number could have totaled about \$900 million.

A SWC-sponsored Mouse River Enhanced Flood Protection Project Preliminary Engineering Report (PER) was completed in early 2012. Phase I of the PER, which focused on flooded communities (from Mouse River Park to Velva), was completed on a rapid timetable in order to satisfy the desperate need of displaced residents for relevant information as quickly as possible. It was funded 100 percent by the

SWC, and provided preliminary engineering information, project footprints, and key project data, while allowing for community input. Phase I of the PER, which focused on a protection level to a 2011 flood event (or 27,400 cfs), consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, and 2011 flood buyouts. Levees comprise about 90 percent of the alignment – totaling 21.6 miles.

The engineering team was also asked to provide cost estimates to scale the 27,400 cfs project down to a level of protection of 20,000, 15,000, and 10,000 cfs. However, the cost savings to construct the project to a 10,000 cfs level of protection versus 27,400 cfs would only yield a cost savings of about \$15 million.

Phases II and III are currently underway, and will extend preliminary engineering to the rural regions of the Mouse River.

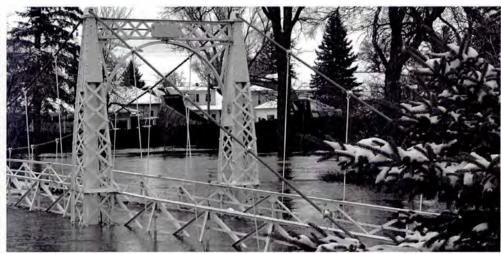
In addition to these efforts, the Souris River Joint Board has made a request to the U.S. Army Corps to conduct a reconnaissance study to determine the potential for federal involvement in Mouse River Flood control.

The SWC has budgeted \$61 million to advance various elements of the Mouse River Enhanced Flood Protection Project. During the 2013-2015 biennium, project efforts will be focused on planning, engineering and design, acquisitions, corridor preparation, and advanced construction.

#### Sheyenne River Flood Control

Flood events along the Sheyenne River in recent years have severely impacted and tested communities like Valley City, Lisbon, and Fort Ransom. For that reason, each of those communities is working to implement more permanent flood protection.





With several property acquisitions already in the works, Valley City is looking ahead to Phase II of their permanent flood protection plan in the 2013-2015 biennium. Phase II will involve additional property acquisitions; a series of flood walls, with four emergency road closures; and permanent clay levees that will protect Valley City State University campus.

Lisbon has broken their permanent flood protection project into two phases – beyond the current acquisition efforts that are underway in the 2011-2013 biennium. Phase I, which they intend to pursue in the 2013-2015 biennium, involves 25 property acquisitions, bank stabilizations, earthen levees, flood walls, road closure structures, and sewer modifications.

In Fort Ransom, their permanent flood control project will involve acquisitions and levees, in addition to a diversion channel.

Recognizing the need for improved flood control efforts along the Sheyenne River, the SWC has budgeted \$21 million to advance projects in those communities. It is expected that a portion of the budgeted amount

will be provided in the form of loans to address SWC cost-share policy requirements for local match.

#### General Water Management

General water management projects include rural flood control, small-scale flood control, snagging and clearing, channel improvements, recreational projects, dam repairs, planning efforts, special studies, and downstream mitigation for operation of the Devils Lake outlets.

The \$33 million that is budgeted for general water management projects will be used to fund a portion of the state's general projects that are ready to proceed during the 2013-2015 biennium.

#### Irrigation

The Dakota Water Resources Act of 2000 authorized 23,700 acres of irrigation along the McClusky Canal, and 5,000 acres in the Oakes Test Area (OTA).

Irrigation efforts planned for the 2013-2015 biennium include an OTA project, and McLean County irrigation development. The OTA project, which is part of the Dickey-Sargent Irrigation District, is authorized to irrigate 5,000 acres. However, a reliable water supply is currently not available. The SWC has budgeted \$5 million for irrigation, with half of that amount potentially available for the OTA project to develop a more reliable water supply.

Along the McClusky Canal in McLean County, it has been determined that in order to develop more of the authorized acres, central supply works must be constructed to deliver water beyond the immediate reaches of the canal. The other half of the \$5 million budgeted by the SWC for irrigation could be used to construct those central supply works – making it economical for growers to deliver water up to ten miles from the canal.

#### Fargo Water Supply

In response to Devils Lake outlet operations, Fargo is moving forward with upgrades to their water treatment plant to address increased sulfate levels in the Sheyenne River. The SWC has budgeted \$15 million in the 2013-2015 biennium for this purpose.

The Fargo Water Treatment Plant sulfate treatment improvements





are vital to Fargo's ability to continue to provide high quality drinking water to its growing user base, which includes the city of Fargo and outside users in the Cass Rural Water Users District. The water treatment plant upgrade project is also expected to help facilitate service discussions with other surrounding communities and water users, like West Fargo.

Fargo has completed two sulfate treatment pilot scenarios, and will conduct two additional piloting efforts during the winter of 2012-2013, with completion later that spring. It is expected that the city will make a decision on their preferred method for sulfate treatment at that time, and will proceed with design and construction. Preliminary design for pre-treatment and reverse osmosis elements of the treatment plant upgrade have already been completed.

### Northwest Area Water Supply

NDCC, Section 61-24.6 declares necessary the pursuit of a project "...that would supply and distribute water to the people of northwestern North Dakota through a pipeline transmission and delivery system..." NDCC

61-24.6 authorizes the SWC to construct, operate, and manage a project to deliver water throughout northwestern North Dakota.

The Northwest Area Water Supply (NAWS) project is a regional water supply project that will eventually supply much of a ten county area in northwestern North Dakota. The SWC began construction on NAWS in April 2002. The first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, Mohall, Sherwood, the All Seasons Water District, and Minot (also serves North Prairie Water District and the Minot Air Force Base). NAWS is getting an interim water supply through a 10-year contract with Minot, which expires in 2018.

State funding of \$14 million for the NAWS project has been budgeted to: complete construction of the pipeline between Glenburn and Renville Corner; upgrade and rehabilitate the softening basins and affiliated facilities at the Minot Water Treatment Plant; assist the

Bureau of Reclamation with preparation of a Supplemental EIS to address the court's May 2009 order; complete court filings to lift the injunction; initiate design work on the raw water supply facilities; and develop plans and manuals as required by EIS commitments.

## Red River Valley Water Supply

With most of the Red River Valley's population relying on the Red River and its tributaries as their sole source of water, the impacts of a prolonged drought would be devastating to that region. And, as the population and economy of the Red River Valley continues to grow, the need for a more reliable source of quality water has become more important than ever before.

The Final EIS has been completed for the Red River Valley Water Supply Project (RRVWSP), and the U.S. Bureau of Reclamation and the State of North Dakota have identified the Garrison Diversion Unit to Sheyenne River alternative as the preferred alternative. This alternative would supplement existing water supplies to meet future water needs with a combination of Red River, other North Dakota





in-basin sources, and imported Missouri River water. The primary feature of this alternative will be a 125-mile, 66-inch (122 cfs) pipeline from the McClusky Canal to Lake Ashtabula.

As mentioned previously, the RRVWSP is awaiting a record of decision from the Secretary of the Interior, and Congressional authorization to use federal works.

To advance the RRVWSP, the SWC has budgeted \$9 million.

#### **Southwest Pipeline**

NDCC, Section 61-24.3 declares necessary that the Southwest Pipeline Project "...be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses." The SWC has been working to develop the SWPP ever since - with construction beginning in 1986. NDCC 61-24.6 authorizes the SWC to construct, operate, and maintain the project.

Today, the Southwest Pipeline Project is a regional water supply system that draws water from Lake Sakakawea. Since the beginning of the 2011-2013 biennium when Southwest Pipeline Project was serving 35,000 people, they are now serving 13,000 additional people, for a total of 48,000. Included in that total are 31 communities and 4,300 rural hookups. With unprecedented growth continuing in that portion of the state, the need for reliable water supplies to support that growth has never been greater.

The \$79 million budgeted for the Southwest Pipeline Project will be used to: move forward with the construction of transmission facilities in the Dunn County, Center Service Area, and Dunn Service areas rural distribution pipelines; continue design and construction to upgrade the Dickinson Water Treatment Plant, and the supplemental intake facility; and begin design to expand the raw water transmission capacity to the Dickinson Water Treatment Plant.

#### Water Supply Program

Because of North Dakota's municipal, rural, and industrial (MR&I) water supply program, regional and rural water systems have continued to expand throughout the state. As a result of this added assistance, there are now 31 regional water systems in North Dakota, providing quality drinking water to over 200,000 people in 319 cities, 88 various water systems, and over 90,000 rural residents. Currently, all or part of North Dakota's 53 counties are served by regional water systems, with several having plans to expand.

In previous biennia, a large share of funding directed toward water supply projects came from the federally funded MR&I program. However, substantial reductions in federal funding have required the state to make up the difference. With only \$19.3 million available through the federal MR&I program in federal fiscal years 2011 and 2012, the SWC has budgeted \$71 million for municipal, rural, and regional water supply projects that are not covered under other specifically listed priorities.

#### Western Area Water Supply

As the oil industry continues to grow in the northwest portion of North Dakota, so does the need for water development projects to support that growth – both for drilling processes, and a growing workforce.

Even with current drilling activity in the region, existing water supplies are being stretched to their limits. And, with future drilling expected to expand substantially in the coming years, the strain on water supplies is only expected to intensify. This is particularly true of areas that are relying heavily on ground water resources. For that reason, development of water supply systems that utilize abundant Missouri River water have become a priority in the region.

The Western Area Water Supply project has involved a collaborative effort between the city of Williston, Williams Rural Water District, McKenzie Water Resource District, and R&T Water Supply Association (including the communities of Ray, Tioga, and Stanley). The focus of this collaborative effort has been to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant to areas throughout the northwest, oil producing region of the state.

In 2011, the North Dakota Legislature passed House Bill 1206, that provided \$110 million in loans from the state to the Western Area Water Supply Authority to advance Phases I and II of the project – which are currently under construction.

More recently, the Western Area Water Supply Authority has been canvassing the project service area in 2012 to better identify water supply needs and demands. The result of the canvassing effort has been the identification of water needs far exceeding projected demands in the business plan. It was once estimated that WAWS would serve as many as 35,000, but that number is now estimated to be about 90,000 people by 2025. Currently, WAWS has over 15,000 water service requests for residential, commercial, rural, and temporary housing. And, they are increasing the longterm projected water demands of municipal water systems throughout the service area. Because of this unprecedented growth, project expansion beyond the original \$110 million investment is needed to address overwhelming water supply needs in that region of the state.

In response to this increased demand for water service and the associated planning efforts that have been completed, the WAWS Authority board of directors has requested funding for Phase III during the 2013-2015 biennium - totaling \$120 million. To meet this goal, WAWS has requested \$79 million in funding from the Resources Trust Fund, and they have indicated they will seek a \$40 million loan from another source.

More specifically, during the 2013-2015 biennium, the WAWS Authority will: expand the Williston Water Treatment Plant from 14 million gallons per day (MGD) to 21 MGD at a cost of \$27 million; construct various primary regional transmission lines, pump stations, and reservoirs for communities, rural developments, and rural service areas at a cost of \$49 million; and construct distribution

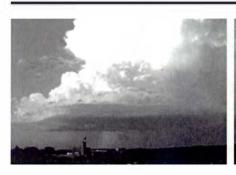
pipelines for rural water service throughout the WAWS service area at a cost of \$44 million.

The SWC has budgeted \$79 million for WAWS in the 2013-2015 biennium. It is expected that half of that amount will be provided in the form of a loan.

#### Weather Modification

State funding in the amount of \$1 million is budgeted for operational cloud seeding costs with counties participating in the North Dakota Cloud Modification Project. The Atmospheric Resource Board currently cost-shares approximately 35 percent of operational costs, with participating counties paying the remaining 65 percent. This funding level will allow the program to continue its current level of capability for the 2013-2015 biennium.

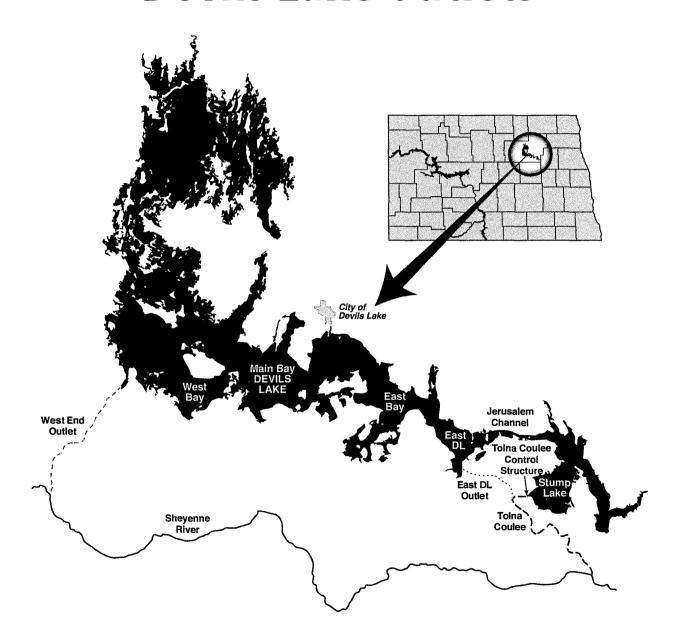
The most recent independent evaluations of the program indicate a 45 percent reduction in crop-hail losses, a six percent increase in wheat yields, and up to a 10 percent increase in rainfall.



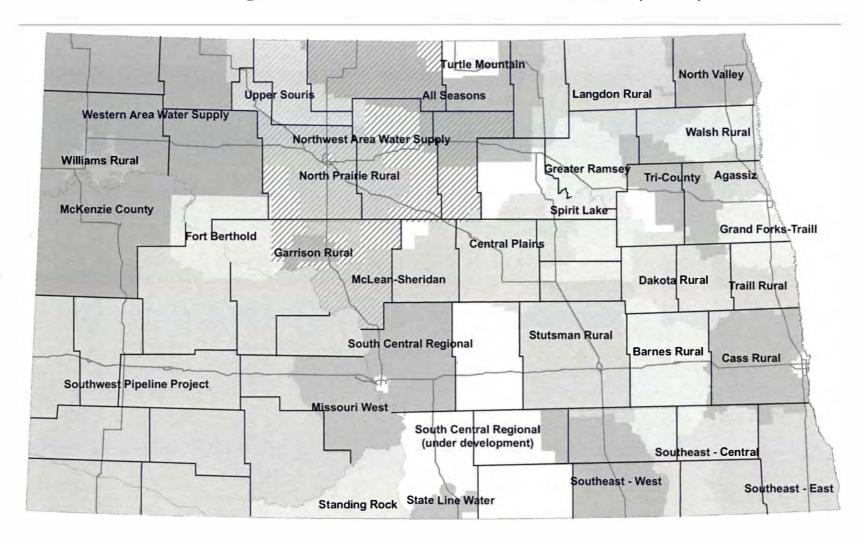


## **Map Appendix**

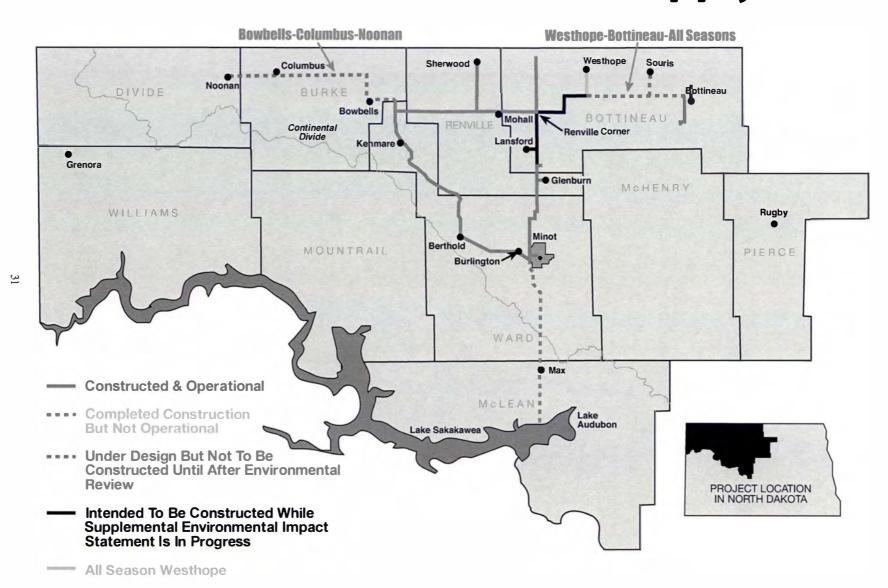
## **Devils Lake Outlets**



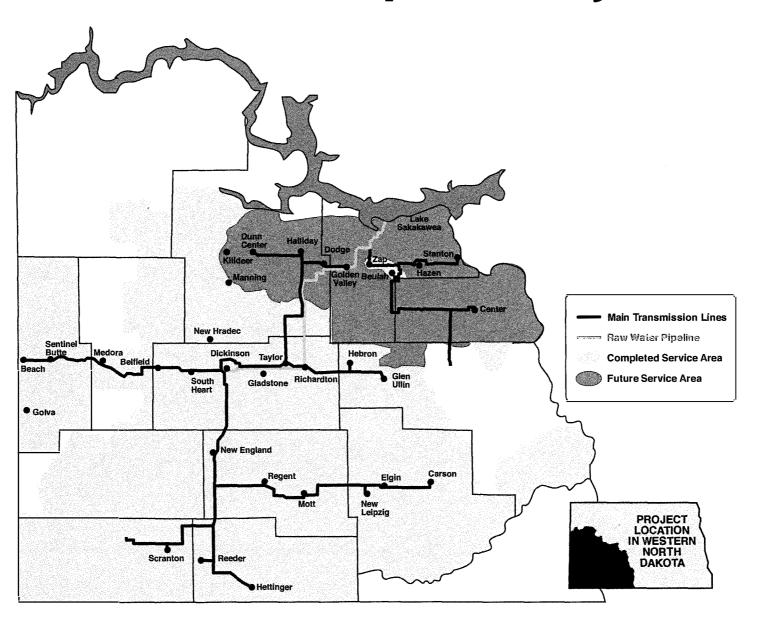
## **Rural & Regional Water Supply Systems**



## **Northwest Area Water Supply**

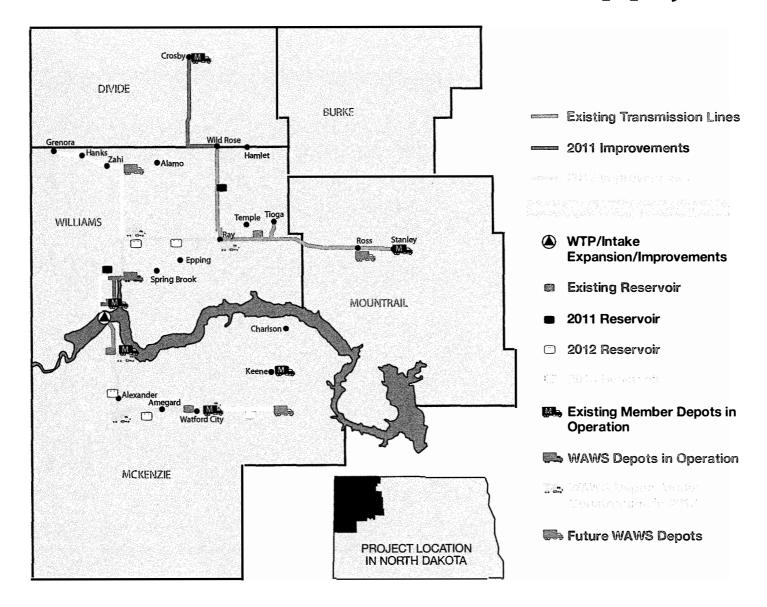


## **Southwest Pipeline Project**



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## **Western Area Water Supply**



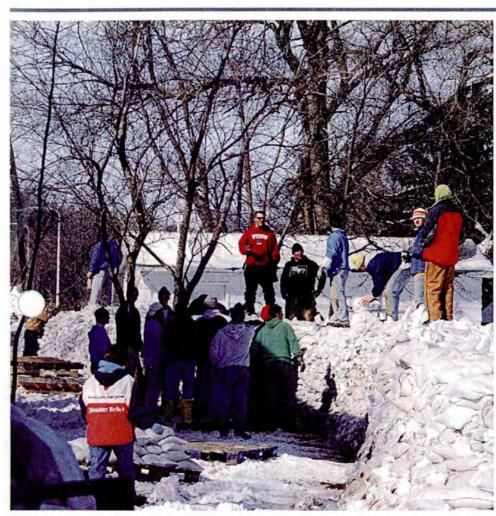
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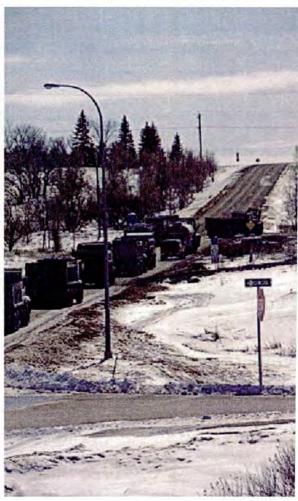


North Dakota State Water Commission 900 East Boulevard Ave. Dept. 770 Bismarck, ND 58505-0850 www.swc.nd.gov Valley City | Fort Ransom | Lisbon

## SHEYENNE RIVER VALLEY

PERMANENT FLOOD PROTECTION





## 2013-2015 BIENNIUM FUNDING REQUEST

HB1020 State Water Commission Funding







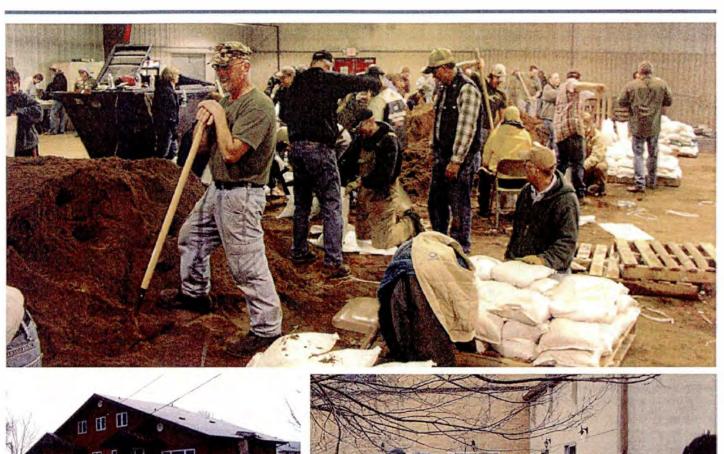
## Chairman Skarphol and Committee Members:

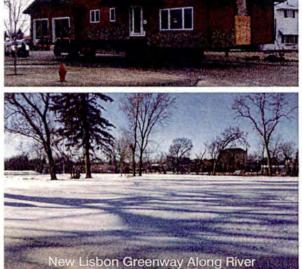
I am Mary Lee Nielson, City Commissioner from Valley City and the representative of Sheyenne Valley Flood Control Committee that includes the communities of Valley City, Fort Ransom and Lisbon. I am asking for your support for House Bill 1020 that includes funding for Sheyenne River Valley Permanent Flood Protection.

Although our communities won flood fights in 2009 and 2011 and didn't get wet – we were devastated by the actions needed to save our towns. The record floods literally brought us to new heights – in the elevation of our dikes and the expenses for recovery. Expenses continue as we are still working on roads ruined by the loaded trucks traveling through our

Communities. The Federal Emergency Management Agency (FEMA) and the North Dakota Legislature made a difference in 2009 assisting with all but three percent of the qualified expenses, but the problem was that qualified expenses didn't fix all that was broken. In Valley City, FEMA approved only 75 percent of the damages the City claimed on the impacted streets. Lisbon completed a city-wide assessment to begin to pay for flood recovery, which was compounded by a duplicate disaster in 2011.

Permanent flood protection discussions began in earnest in all our communities. Engineers were brought in to help determine of what could be done. Phase 1 projects were presented to the State Water Commission. With the special dispensation given by the Legislature for flood inundated communities work began.

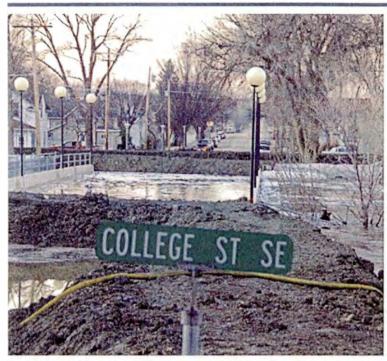






As the Sheyenne River winds through our communities, areas on both sides of the river need protection. In Valley City, dike work covered nearly seven miles. During the last flood, a combination of sandbag, clay dikes, hesco barriers and aqua dams were placed.

During the floods, our concern as city officials was the safety of volunteers and National Guard personnel sandbagging close to a fast moving river. A portion of our request includes funding for more property buyouts. Both Lisbon and Valley City are working with the State Water Commission and finishing Phase 1 which was primarily buyouts. Phase 2 also includes buyouts to clean out the river areas that were inaccessible to heavy equipment. The goal of all three Sheyenne Valley communities is keeping the public safe – no sandbagging on a river bank.





The Sheyenne Valley Flood Control Committee is ready to move on to Phase 2 flood protection. Our request for the 2013-2015 biennium is \$21 million. Below details community plans.

LISBON – The study for levee alignments and evaluation of soil conditions along the banks is complete.

- Move five homes
- Construct earthen levees along the south and west side of the Sheyenne River from Sandager Park to Fourth Avenue West on the north and the east side of the river at Rose Street to Tenth Avenue East
- · Construct flood walls at bridges
- Make storm sewer modifications so city doesn't flood from the inside-out

VALLEY CITY – Phase 2 concentrates on the Valley City State University (VCSU) area. The majority of the buyouts took place in this area as the homes and apartment buildings were built close to the river and required thousands of sandbags for protection.

- Continue property acquisition
- Build flood walls and permanent clay levees along College Street and 5th Avenue SW to protect VCSU and surrounding neighborhoods
- Protect downtown business district with permanent levees along 4th Street SW and 4th Street SE and a flood wall along Main Street
- · Address erosion concerns along Main Street and College Street
- Make storm sewer modifications so city doesn't flood from the inside-out

FORT RANSOM – A flood control study to evaluate soils has been approved through working with the State Water Commission.

- Land acquisition
- Construct a diversion channel

HB 10 20 House Approp. Educ. & En. Jan. 16, 2013 Attachment 3

Testimony to the House Appropriations Education and Environment Co Chairman Robert J. Skarphol Prepared by Jason Sorenson, Assistant Director of Public Works City of Minot Jason.Sorenson@minotnd.org

#### **HOUSE BILL NO. 1020**

Mr. Chairman, my name is Jason Sorenson and I serve as the Assistant Director of Public Works for the City of Minot. I am representing the City of Minot to encourage funding of House Bill 1020.

House Bill 1020 encompasses a number very important water related projects throughout the State of North Dakota, projects specific to the City of Minot in House Bill 1020 are the Northwest Area Water Supply (NAWS) water project and Souris/Mouse River Flood Protection Project. Attached to this testimony, is a one page handout that provides background information on the Mouse River Enhanced flood Protection Project proposed for Minot and the Mouse River Valley.

House Bill 1020 provides sixty-one million dollars (\$61,000,000) in funding toward the Mouse River flood Protection project. The total estimated cost of the project from the Mouse River Park through Minot to Velva is estimated at eight-hundred twenty million (\$820,000,000), with five-hundred forty three million (\$543,000,000) of this associated with the improvements in Minot. This funding is extremely important because it enables the City and County the ability to continue purchasing a large portion of the estimated one-hundred twenty million dollars (\$120,000,000) worth of properties left to acquire in the flood protection project alignment. Currently approximately eighty-one (81) of the required two hundred seventy eight (278) residential properties in Minot have been purchased with funding from the Emergency Legislative Session and Federal CDBG-DR funds. This funding will provide the ability to

continue with the voluntary acquisition of additional residential properties as well as commercial properties in the flood project alignment.

This funding also provides the ability to continue with the next stage of engineering efforts in refining the alignment, completing cultural and environmental assessments, topographic surveys, geotechnical investigations and wetland delineations which are estimated to cost approximately twenty million dollars (\$20,000,000) over the next biennium.

The City of Minot has included funding in our 2013 budget for the cost share on the home acquisitions and engineering costs. The City is also working on a long-term financing plan for the local share of the flood control project.

House Bill 1020 also provides fourteen million dollars (\$14,000,000) for the NAWS Project. This money will allow the NAWS Project to continue through the next biennium.

Construction will continue at the Minot Water Treatment Plant to prepare the plant to deliver the full proposed peak demand of twenty-six million (26) gallons per day to the NAWS system once the system is complete.

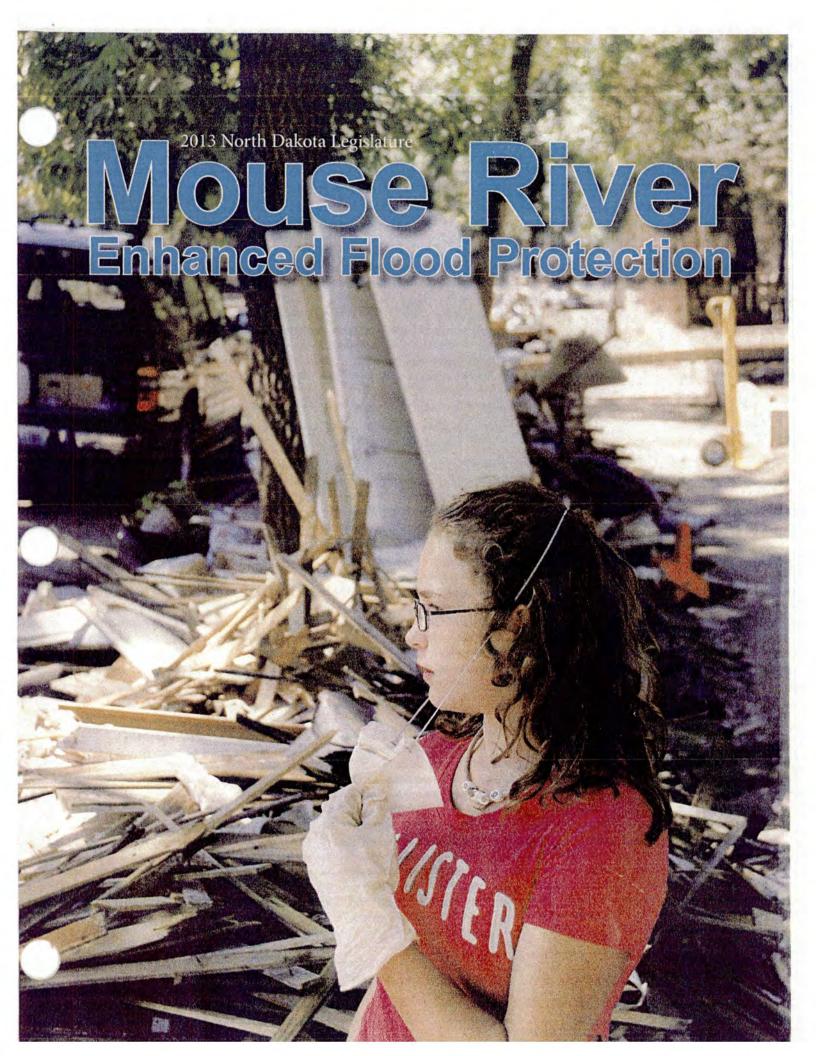
Work on the environmental Impact Statement (EIS) continues. We are working to get the draft EIS completed by June of this year and a record of decision by late 2013. At that point it will be in the hands of the Federal judge again.

Minot has the money to pay the entire 35% local share of the remaining NAWS projects from the one-cent (\$.01) sales tax. House Bill 1020 will provide the remaining money for the next biennium to continue the project.

House Bill 1020 is extremely important to the City of Minot and its residents. Again, it continues to provide funding toward a very important project that ultimately will provide flood protection to residents of Minot and the Mouse river valley from a flood of the magnitude we

saw in 2011 and it provides monies to continue the NAWS Project. Therefore, I encourage you to adopt and fund House Bill 1020.

Thank you for allowing me time to detail Minot's support for this bill and the importance of this funding to the residents of northwest and north central North Dakota awaiting quality drinking water and the citizens of Minot hoping for flood protection.



#### Helping the Minot region recover

A disastrous flood in June 2011 swamped the valley of the City of Minot. With record-breaking flows and a crest six feet higher than the 1969 Mouse River flood, this flood will forever be imprinted on the minds of the thousands impacted. Words will never be able to accurately describe the damage, the heartache or the immense challenge that this disaster brought our residents.

Since this time many millions of dollars have poured into our community, along with thousands of volunteers in an on-going effort to bring back the Magic City. Recovering from a disaster that caused well over \$1 billion in damages takes a long time and a resilient people.

In many ways, the 2011 Mouse River flood will take a long-term recovery effort, similar to efforts in the 90s and 2000s to assist Grand Forks. State and local partnerships have teamed up to formulate an enhanced flood protection plan that will increase our permanent flood protection to the level that occurred in 2011. The Minot City Council supports this plan, and as a community we are already in the process of initial steps, like voluntary property acquisitions, planning and engineering, to bring additional protection to the Mouse River valley.

I would urge you to approve the State Water Commission Budget proposed by the Governor which includes funding of \$61 million to support Minot's flood recovery efforts during the 2013-2015 biennium. These funds will go a long way to accomplish the much needed early steps in the first years of this 10+ year long-term recovery. These early tasks include voluntary property acquisitions and the next level of engineering needed to push the plan forward.

-Mayor Curt Zimbelman

#### **Long-Term Enhanced Protection**

- 278 Residential properties with structures to be purchased
- 21.6 miles of levees
- 2.8 miles of floodwalls
- 30 Transportation closure structures
- \$565 million for construction costs
- \$154 million for property acquisition
- \$101 million for engineering, planning, program management costs
- 8-12 years before the project, with appropriate funding, is complete

The Souris River Flood Protection plan consists of an overall project from the 49th parallel (Sherwood) to 49th Parallel (Westhope).

The preliminary alignment for protection measures is an area from the Mouse River State park to Velva, and consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, ring dikes and residential and commercial property acquisitions in the flood alignment boundary.

Levees comprise nearly 90 percent of the alignment, totaling 21.6 miles. The remainder of the alignment consists of 2.8 miles of floodwalls and 30 transportation closure structures (19 roadway and 11 railroad). In addition, the project would require 33 stormwater pump stations. The estimated project cost is \$820 million, based on the current level of design based on a 27,400 cfs flood event. Of this estimated cost, \$565 million is related to construction, \$154 million is related to property acquisition, and the remaining \$101 million covers planning, engineering, and program management costs.



#### **Flood Facts**

Flow rate of 27,400 cubic feet per second (normal river flows are between 50 and 200 cfs)

Highest crest in recorded history, 1,561.72 above sea level, 13 feet above flood stage and six feet higher than the 1969 flood

- 4,100 structures in the City of Minot impacted based on elevation maps and surveys
- 2,716 homes in Minot suffered main-floor damage or greater

More than 11,000 residents displaced due to the flood

HB 1040
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Jan 16, 2013

Hachmost 4

ND Rural W

#### **ND Rural Water Systems Association**

#### **House Bill 1020**

#### House Appropriations Education and Environment Committee - January 16, 2013

Chairman and members of the committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA) which serves a membership of more than 250 cities, 28 rural/regional water systems, and four tribal systems.

The NDRWSA is committed to ensuring North Dakota's residents receive affordable drinking water of excellent quality and sufficient quantity. NDRWSA is committed to completing North Dakota's water infrastructure for economic growth and quality of life. Today I am submitting testimony in support of a State Water Commission budget that allows for adequate funding to meet the critical water needs of North Dakota.

In addition to the Southwest Pipeline Project, Northwest Area Water System, the Red River Valley Water Supply Project and the Western Area Water Supply Project, there currently are many other rural and regional projects in various stages of development across the state. Some examples of these projects are the large expansion of Stutsman Rural Water District, the further development of the North Central Rural Water Consortium, and the completion of a four county expansion of South Central Regional Water District, in addition to several others – many of them located in the oil impacted areas of our state. The total cost of these regional projects for the next biennium is nearly \$65 million. (Please see attached spreadsheet and map).

These projects are designed to meet similar needs. Those needs include water quality and quantity. On the water quality side, the projects will help communities comply with non-funded federal mandates required by the Safe Drinking Water Act, including arsenic levels, nitrates, uranium, and radon. Quality issues also include water very high in sodium, sulfates, iron, and manganese. On the quantity side, many families do not have a potable source of water and even in this day and age must haul water for their families and livestock.

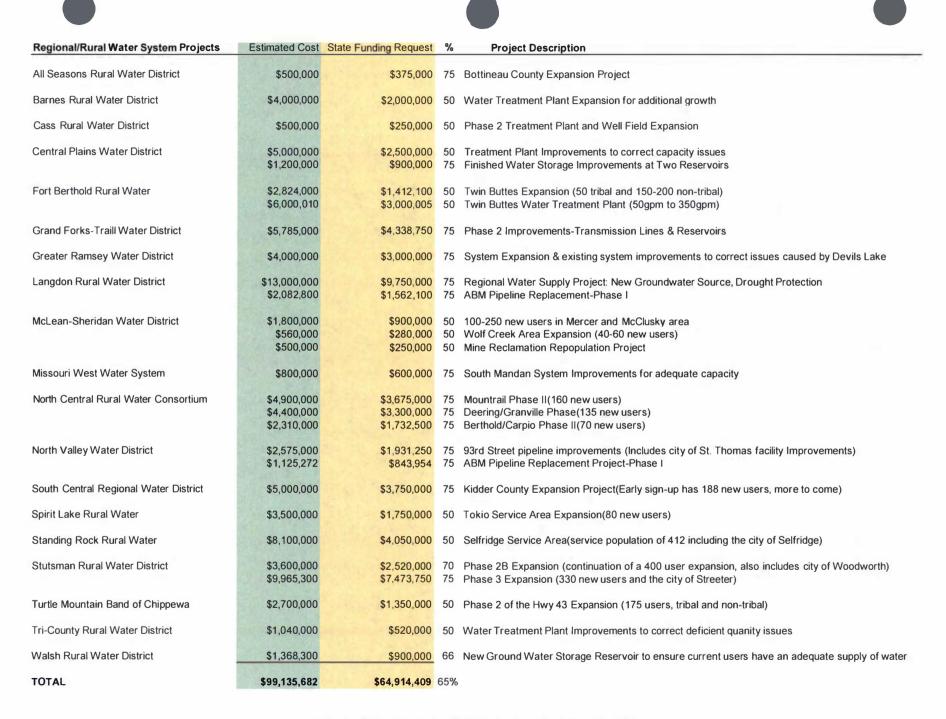
Meeting the demands of repairing & replacing aging infrastructure and complying with rules & regulations are taking its toll on many small and rural water systems. Another major challenge facing rural and small water systems is the ever increasing rural to urban migration, which continues to decrease the population base and which adds to the cost to the individual consumer. This does offer a challenge in finding affordable ways to bring quality water to rural areas. These projects are expensive to fund and without significant state funding, the cost to the consumer is just too much for the average family to afford.

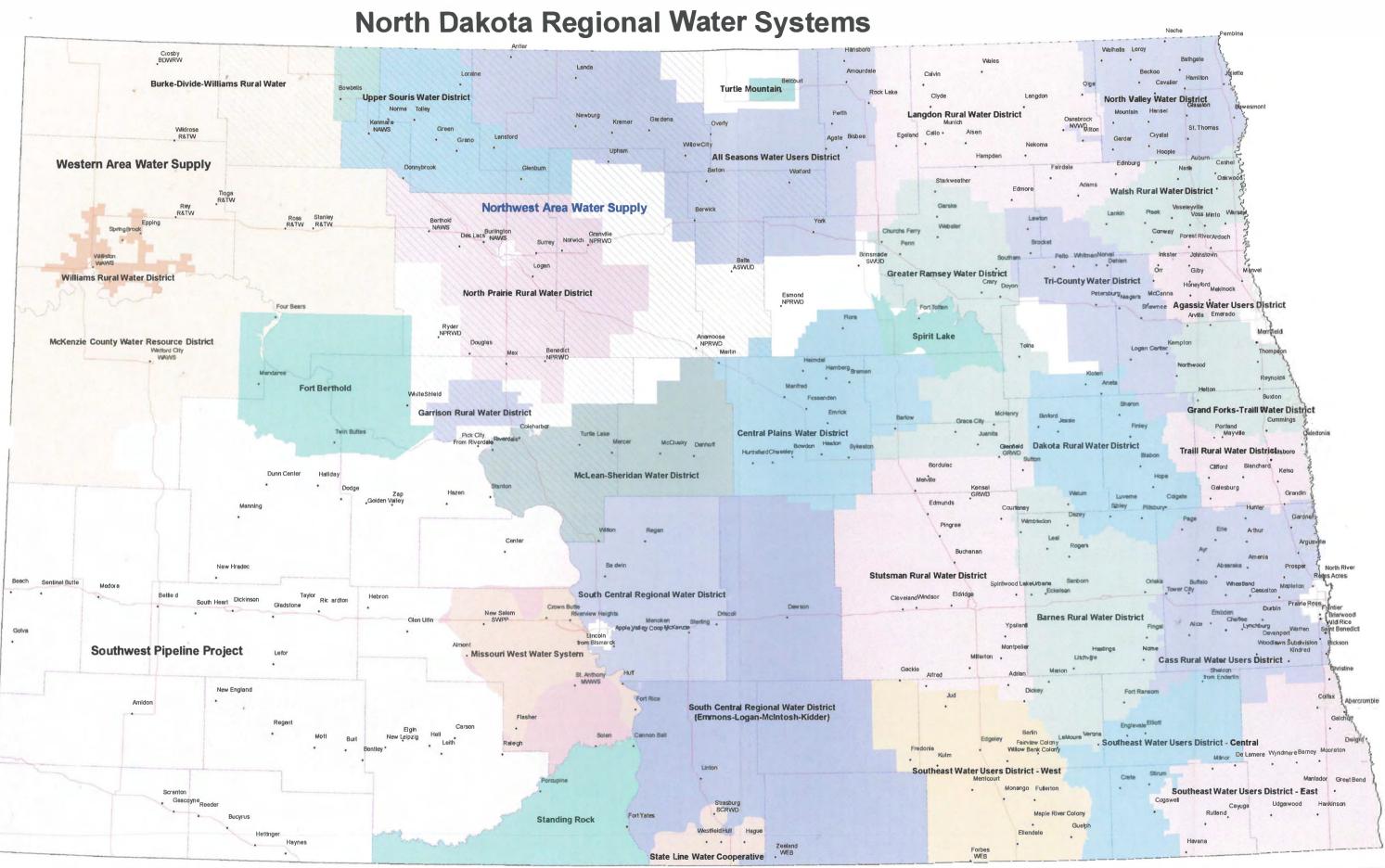
The money spent on water projects in the past has been an investment in the future of North Dakota – an investment in economic development and quality of life for our citizens. Every rural water system that has been built in our state is still operating. They are providing safe, clean water to their customers, reducing their debt, putting money in reserve, complying with every state and federal regulation, and doing so with a prudent rate structure; albeit higher than most municipalities charge (see attached rate survey). Not only do rural water systems serve almost 100,000 rural residents, they also provide water to more than 300 communities and numerous subdivisions, campgrounds, and mobile home parks throughout the state. Of North Dakota's 357 incorporated cities, rural water systems provide water to approximately 63% of those cities.

NDRWSA also strongly supports a transfer of money into the Community Water Facility Loan Fund (CWFLF). The CWFLF is used as supplementary financing in conjunction with the USDA Rural Development (RD) federal loan program for eligible community water projects.

The program provides financing for community water projects when the project is above the maximum loan limits set by RD (supporting information is attached).

With that said, the NDRWSA supports a State Water Commission budget that allows for adequate funding to meet the critical water needs of North Dakota. Thank you for giving me the opportunity to provide testimony on behalf of the members of the NDRWSA.





House Approp. Educ. VER Jan. 16, 2013 Attachment 5

TESTIMONY OF KEN VEIN, CITY COUNCIL MEMBER
CITY OF GRAND FORKS, NORTH DAKOTA
IN SUPPORT OF HOUSE BILL 1020
HOUSE APPROPRIATIONS COMMITTEE
REPRESENTATIVE ROBERT SKARPHOL, CHAIRMAN
WEDNESDAY, JANUARY 16, 2013



Good morning Chairman Skarphol and Members of the House Appropriations Committee – Education and Environmental Division. I am Ken Vein and I am a City Council member from the City of Grand Forks. I'm here today to recommend your support for House Bill 1020.

House Bill 1020 provides a \$500 million appropriation to the State Water Commission to support critical water infrastructure development and improvement across our rapidly growing State. Within this budget, the State Water Commission would provide up to \$16 million to support municipal water projects through the Water Supply Program. The Cities of Grand Forks, Grafton, and Mandan are providing testimony today as representatives of Water Supply Program category of municipal projects.

Construction of a new regional water treatment plant is our number one infrastructure priority for the foreseeable future. The existing facility site has served the City for over 100 years and the existing water treatment plant was constructed in 1956. The facility still utilizes the original base technology. There are a number of challenges with the current facility including: increasing water demands, water quality issues, current and expected regulatory impacts, aging infrastructure and equipment. Additionally, there are new water quality concerns with the growing level of water received from the Devils Lake Outlet.

The City of Grand Forks has been evaluating and planning the development of a new regional water treatment plant since 1995. Previously through Federal, State and Local funding, we have invested nearly \$52.9 million in water system improvements from 2001 to 2009 in preparation for the new facility. We are now ready and need to construct the new approximately

Testimony of Ken Vein, City of Grand Forks House Appropriations Committee House Bill 1020 January 16, 2012 Page 2

\$130 million regional water treatment plant which was deemed the most cost effective alternative to address our long term water requirements.

We believe the City shoulders the primary financial responsibility for capital costs and all operations and maintenance costs of the facility. However, we need the State to partner in this infrastructure investment with us to construct this new facility due to the project's magnitude and impact. We have developed a reasonable financial strategy which includes an important partnership between the City and the State to equally share the cost of this new facility over a three biennia period. Our funding request for the 2013-2015 biennia is \$5 million to work on engineering elements of the project.

The City serves a growing municipal population with provisions to expand regional service as needed in the future, provides regional water service to the Grand Forks Air Force Base, and provides water service to existing and proposed large industrial water users and agricultural processors. Our proposed new 20 million gallons per day (MGD) water treatment plant is expected to serve these sectors of our regional economy well for many decades in the future.

We have studied the expected water rate impact to typical residential users as result of this project based upon monthly water usage of 6,000 gallons. Without the State Water Supply Program investment, annual water rates would increase 118 percent. With the State Water Supply Program investment, annual water rates will increase 64 percent. To the average homeowner, the estimated increase from the current annual water of \$279 to \$459 with State support versus \$607 without State support. JR Simplot, a large potato processing company, utilizes approximately 25 percent of the City's water supply and would be heavily impacted by such a significant increase in water costs.

State Water Supply Program funding is important to keep our water rates affordable to our diverse user base while we implement this core, long-term infrastructure improvement project in northeastern North Dakota. The City of Grand Forks urges your support for HB 1020.

# **Grand Forks Regional Water Treatment Facility**

STATE FUNDING



## 2013-2015 STATE FUNDING REQUEST = \$5 MILLION

#### **BACKGROUND**

# City's #1 infrastructure priority for the foreseeable future

- Existing site challenges, significant aging infrastructure
- Increasing demands
- Water quality issues

Expenditures on water system improvements 2001-2009 in preparation for the new facility

TOTAL	\$51.9 million	100%
Federal	\$12.6 million	24%
State	\$11.7 million	23%
Local	\$27.6 million	53%

#### **MOVING FORWARD**

# Necessary partnership proposed between City and State Government

- City believes it has the primary financial responsibility for capital costs and all operations and maintenance costs of the facility
- City intends to submit additional requests in future biennia
- Developed a reasonable financial strategy to equitably split project costs

	City	State	Total
2013-2015	\$4,992,791	\$4,992,791	\$9,985,582
2015-2017	\$38,698,571	\$38,698,571	\$77,397,142
2017-2019	\$21,587,868	\$21,587,868	\$43,175,736
Total	\$65,279,230	\$65,279,230	\$130,558,460
<b>Share of Cost</b>	50%	50%	100%

#### EXPECTED ANNUAL RATE INCREASES BASED ON 50% LOCAL AND 100% LOCAL FUNDING

		Projected Increase*			
		50% Loca	l Funding	100% Loca	l Funding
	2011 Total Annual Bill	\$	%	\$	%
Typical Residential User (6,000 gal)	\$279	\$180	64	\$328	118
Value Added Industry	\$1.79M	\$1.16M	64	\$2.11M	118

<sup>\*</sup> All City water system operation and maintenance expenses are allocated to the City and the rate impact analysis does not include other City water system projects funded through rates and special assessments.

House Approp. Educ. & Eh Jan. 16, 2013 Affachment 6

#### TESTIMONY OF MAYOR CHRIS WEST

#### CITY OF GRAFTON

#### IN SUPPORT OF HOUSE BILL 1020

#### APPROPRIATION TO STATE WATER COMMISSION

House Appropriations Committee

Wednesday, January 16, 2013

Chairman Skarphol and Members of the House Appropriations Committee, I am Chris West, Mayor of the City of Grafton. I'm here to testify in support of House Bill 1020 – Appropriation to the State Water Commission.

The State Water Commission funds critical municipal and rural water infrastructure projects through the Water Supply Program. Water Supply Program funds are typically matched with local funds to implement core water system improvements. The City of Grafton is seeking assistance to complete the final phase of a three phase, decade-long water treatment plant improvement project. These improvements address issues including regulatory challenges, aging infrastructure, inadequate treatment equipment, and lack of redundancy. The total cost of all three phases is \$9.7 million.

Phases 1 and 2 have been completed through a combination of federal earmarks and local financing secured through the Drinking Water State Revolving Fund. Through our diligent funding development efforts from FY2003 through FY2006, the City has approximately \$2 million in federal funds remaining to invest in Phase 3, which has an estimated cost of \$7.23 million. The balance of the project is proposed to be funded with \$2.6 million in Water Supply Program funds and \$2.6 million local funds. The proposed Water Supply Program funds would represent 36 percent of Phase 3 and only 27 percent of the total project cost.

The City of Grafton has been seeking State Water Supply Program assistance since 2010 when a proposed Federal earmark was eliminated due to the restriction of all Federal earmarks instituted by Congress. Now, the U.S. Environmental Protection Agency has issued a "use it or lose it" deadline to spend the remaining Federal

Testimony of Mayor Chris West, City of Grafton House Appropriations - HB 1020 January 16, 2013 Page 2

funds by the end of 2014. The City has proceeded with Phase 3 planning, but requires additional grant funds through the Water Supply Program to maintain affordable water rates as we've raised water rates 15 percent annually the past two years. Without assistance from the Water Supply Program, the City would need to increase local water rates again which would result in an overall estimated 91 percent rate increase since 2012. Our water rates have been increased steadily the past few years as a direct result of the completed Phase 1 and 2 improvements and the loss of a local ethanol plant which was a large water user.

Lastly, the water treatment plant is core infrastructure in northeastern North Dakota and the City is the only large water provider within a 45-mile radius. The City's water treatment plant has a capacity of 3 million gallons per day (MGD) which serves a population of 4,300. The only regional water system in the area, Walsh Rural Water District in partnership with the City of Park River, does not have adequate water supply or system capacity to serve the City of Grafton based on its capacity of 0.86 MGD. Water supply from the City of Grand Forks would be the only other alternative but this is cost prohibitive due to its 45 mile distance from the City of Grafton. Therefore, the City of Grafton must maintain a stand-alone water system as the most financially viable option.

The State's Water Supply Program is important to communities such as Grafton and I urge your support for House Bill 1020.

Mayor Chris West

mayor@graftongov.com

701-352-1561







January 2013

#### **USE** if or **LOSE** it!

#### Water Treatment Plant Rehabilitation - Phase 3

In 2001, the City of Grafton began planning and implementing a three-phase project to renovate its Water Treatment Plant (WTP) to address multiple issues at this circa 1953 facility. These issues include regulatory challenges, aging infrastructure, inadequate treatment equipment, and lack of redundancy. To date, Phase 1 and 2 have been completed and the City is seeking State Water Supply Program funding assistance to complete Phase 3. For Phase 3, the City is requesting State Water Supply Program funding of \$2,603,835 or 27 percent of the total project cost. The City commits to an equal match to the State Water Supply Program request to support Phase 3 implementation.

#### **EPA** Deadline

Due to the looming EPA deadline on the expenditure of the STAG funds, the City must proceed with design and plans for Phase 3 in 2012 in order to meet the 2014 expiration date. The State Water Supply Program assistance is critical to the City because without the State Water Supply Program assistance, the City would have to consider debt financing on approximately \$5.2 million which would result in an estimated overall 91 percent increase in water user rates. Should the City not meet the EPA project implementation requirements, we anticipate the need to increase to the City's request to the State Water Supply Program. Given the availability of EPA and local funds for Phase 3, the City believes it can

provide possible flexibility of drawing potential State Water Supply

Program funds until 2013-2015 biennium.

The City is the only large water provider within a 45-mile radius and with a population of 4,300; the City is too large to be a consecutive user served by Walsh Rural Water District and transporting water from Grand Forks would not be cost effective.

STAG Funding Summary	STAG
FY 2003	\$867,300
FY 2004	\$867,800
FY 2005	\$962,200
FY 2006	\$692,900
TOTALS	\$3,390,200

Project Expenditures to Date	55% STAG	45% Local (DWSRF)	Total
Phase 1 - Pretreatment and Chemical Feed Improvements	\$697,400	\$570,600	\$1,268,000
Phase 2 - Softening Basin and Chemical Feed Improvements	\$670,450	\$548,550	\$1,219,000
TOTALS	\$1,367,850	\$1,119,150	\$2,487,000
Phase 3 - Filtration, BW Recycle, WTP Improvements (2012 Dollars)			\$7,230,000
STAG Project Funding Secured	\$2,022,350		(\$2,022,350)
BALANCE PHASE 3 FUNDING NEEDED			\$5,207,650

PHASE 3 FUNDING (TOTAL COST \$7,230,000)			
	Federal	State	Local
Total Phase 3	\$2,022,350	\$2,603,825	\$2,603,825
PERCENT OF PHASE 3 FUNDING	28%	36%	36%

TOTAL PROJECT FUNDING (TOTAL COST \$9,71)	7,000)		
	Federal	State	Local
Total Phase 1, 2, and 3	\$3,390,200	\$2,603,825	\$3,722,975
PERCENT OF TOTAL PROJECT FUNDING	35%	27%	38%



HB 10 av House Apprep. Educaten Jan 16, a 013 Attachment 7

Jim Neubauer, City Administrator City of Mandan 205 2<sup>nd</sup> Avenue NW Mandan, ND 58554 701-667-3215

Testimony of the City of Mandan

IN SUPPORT OF HB 1020, STATE WATER COMMISSION APPROPRIATION

House Appropriations – Education and Environmental Division

Representative Skarphol, Chairman

Wednesday, January 16, 2013

Good morning Chairman Skarphol and Committee members. My name is Jim Neubauer, City Administrator for the City of Mandan, and I'm here today in support of House Bill 1020. The funding outlined in the \$500 million proposed budget is critical for water infrastructure needs statewide. The City of Mandan will be seeking funding through the Water Supply Program managed by the State Water Commission to support three large water projects over the next three biennia.

The City's projects touch serve municipal, rural, and industrial users. First, we serve our community. Second, we wholesale water to our regional partners including Missouri West Water System and Southwest Water Authority. And finally, the City shares critical water infrastructure with Tesoro's Mandan Refinery, which is a vital energy industry partner that has been in our community since 1954.

The City's three projects include:

1. New Raw Water Intake. Due to the shifting sediments of the Missouri River, the existing intake has been experiencing significant siltation problems for well over a decade. Study has revealed a new intake in a more stable location on the Missouri River is needed. The cost of this project is estimated at \$18.1 million (2013 \$). This is a common occurrence for communities along the Missouri River as evidence by a similar situation for the City of Washburn.

- Water Treatment Plant Improvements. Several improvements are needed to the water treatment plant, including high service pump station relocation and expansion and facility improvements. The cost of these improvements is estimated at \$7.3 million (2013 \$).
- 3. New 30-Inch Water Transmission Line from the Water Treatment Plant to the Sunset Reservoir. This transmission line is a critical component of our distribution system and has had catastrophic failures over the past few years and needs to be replaced. The cost of this project is estimated at \$5.6 million (2013 \$).

The City is a good steward of its entire infrastructure system and strives to make equitable investments that are needed and paid for by its users rather than passing this burden to future generations. Over the past decade, the City has invested \$20 million in water infrastructure alone. Today, we are in unprecedented times of growth and it is challenging for us to continue making required major infrastructure improvements without financial support from the State.

The Water Supply Program is an instrumental program to help keep water infrastructure statewide at affordable rates to local citizens, rural users, and industry. The total cost of these three water infrastructure projects is \$31 million. As stated earlier, the City has planned to implement these projects over a three biennia period to ease the financial burden to both the City and the State's Water Supply Program. During the 2013-2015 biennium, the City is seeking \$6.3 million from the Water Supply Program to begin implementation of all three projects.

Without the State's Water Supply Program assistance, we estimate a 64 percent increase to our household water rates. This would increase water rates to 2.54 percent of the City's median household income – well above the 1.0 percent "affordability" standard. It's imperative for the Water Supply Program to fund critical water infrastructure improvements statewide to both support continued growth and keep user rates at an affordable level.

Thank you for your time and consideration and I urge your support on HB 1020.

The City of Mandan is submitting three (3) projects that are currently in planning stages for State Water Supply Program funding consideration. The projects are summarized as follows:

#### PROJECT 1

#### **New Raw Water Intake**



#### Problem:

- Existing row water intake has been experiencing significant siltation problems for well over a decode.
- Sediment accumulation severely limits the row water intakes ability to receive water.
- Sediment causes excessive wear on treatment equipment and requires significant manpower to remove settled sediment form various process basins and dredging to keep the intake clean.

#### Solution:

• Construct o new intake in o more stable location on the Missouri River.

#### PROJECT 2

# Water Treatment Plant (WTP) Optimization, High Service Pump Station Relocation and Expansion, and Facility Improvements



#### Problem:

- Existing pretreatment basin, recorbonotion basin, filter rewash valves, bulk lime storage and transfer equipment, and process instrumentation ore in need of repair and upgrades to meet growing demands as well as to meet OSHA requirements.
- The existing clearwell configuration does not allow the high service pumps full access to the entire volume of storage,
  especially when the WTP is not in service (such as overnight), which limits the ability to meet the growing water demands
  of the community. This will be addressed through relocation of the High Service Pump Station.
- Relocation of the High Service Pump Station requires relocation of the administrative spaces including office, laboratory, and control rooms.

#### Solution:

Implement Needed Facility Improvements.

#### **HOW RATES WILL BE EFFECTED:**

If entirely financed through the Drinking Water SRF program, an estimated increase of 64% is anticipated. This would increase rates to 2.54% of the median household income -well above the 1.0% affordability criteria.

#### PROJECT 3

#### 30" Water Transmission Line Replacement



#### Problem:

- The City has experienced catastrophic failures in the pipeline over the post several years.
- Replacement of the remaining two-mile segment of the pipeline will minimize the potential for additional failures.
- By replacing the transmission main prior to failure, the City is ensuring that distribution will not be compromised.
- Due to severe deterioration of the existing pipe material, there is a significant potential for failure of the transmission pipeline.

#### Solution:

Replace existing 30" PCCP transmission pipeline from the WTF to the Sunset Reservoir.

#### Funding Request Breakdown: Mandan Water Treatment

PROJECT	TOTAL COST	STAT	STATE WATER SUPPLY PROGRAM REQUEST PER BIENNIUM				
	(2013 \$)	2013-2015	2015-2017	2017-2019	Total State	% State	Local Funds
					Request	Grant	
Water Intake	\$18,100,000	\$1,900,000	\$11,700,000		\$13,600,000	75%	\$4,500,000
WTP	\$7,300,000	\$190,000	\$550,000	\$4,750,000	\$5,490,000	75%	\$1,810,000
Transmission Line	\$5,600,000	\$4,200,000			\$4,200,000	75%	\$1,400,000
TOTAL	\$31,000,000	\$6,290,000	\$12,250,000	\$4,750,000	\$23,290,000	75%	\$7,710,000

House Approp. Educ. & E4 Jan 16, 2013 Attachment 8

# North Dakota House Appropriations Education and Environment Division House Bill No. 1020 January 16, 2013

Mr. Chairman and members of the committee, my name is Dennis Johnson. I presently serve as the President of the Dickinson City Commission. I am here today to speak in support of House Bill No. 1020.

The City of Dickinson and Southwest North Dakota are currently experiencing significant population growth and multiple oil related infrastructure and social impacts. To help Dickinson prepare for and manage the infrastructure needs due to the oil impacts, Dickinson retained KLJ Engineering in June 2011 to develop a Comprehensive Plan (Dickinson 2035: Roadmap to the Future) and retained North Dakota State University in September 2011 to develop housing and population projections. NDSU issued its report in August 2012 and KLJ issued its Draft Comprehensive Plan in November 2012. These documents are available at www.dickinsonplan.com.

NDSU forecasts Dickinson will reach a service population of 47,000 people by 2022. Dickinson's permanent population is expected to stabilize by 2030 at about 42,000. The 2010 Census lists Dickinson at just under 18,000 people. My estimate is that Dickinson is presently serving about 25,000 people.

Dickinson, in 2010-2011, was the fourth fastest growing small city in the United States. Since that time, as the table below indicates, Dickinson's growth has accelerated.

City of Dickinson	2010	2011	2012
Construction Permit Values	\$75,414,000	\$123,515,000	\$389,495,000
New Building Permits (Res-Com-Ind)	258	255	783
Housing Units	211	331	1,517
City Size	6,734 acres	6,817 acres	8,237 acres

During the past two years the city's new building permit values have grown five times and its footprint has increased by 22%. The Dickinson City Planner expects building permits to approach \$500 million in 2013.

The City of Dickinson does not treat its own water. Dickinson relies on the Southwest Pipeline Project for its treated water. It is Southwest's responsibility to deliver treated water not only to Dickinson but 30 other southwest North Dakota communities.

The Southwest Pipeline Project's present water allocation of 6,000,000 gallons per day for the City of Dickinson is based on Dickinson serving a population of 24,000 people. KLJ Engineering forecasts Dickinson's daily water consumption to increase substantially in the next five years as shown in the following table.

KU writes in the Dickinson Comprehensive Plan, "Water demand from forecast growth far exceeds the city's current water allocation." They further write, "The peak water demand use is expected to exceed the city's water supply during the summer of 2014 and continue during the planning period." As early as the summer of 2014 the city may need to institute water conservation or restriction measures to reduce summer peak day water use."

It is noted in the plan that the daily peak usage is about 130% of the July monthly average. That means in July 2016 peak demand could reach 8,000,000 GPD. By the end of 2016 the City of Dickinson's average daily water usage for July will exceed its 6,000,000 GPD allocation.

	Time Period	Amount	Cumulative Amount
Average Daily Water Usage	July 2012	3,865,000 GPD	
Forecasted Additional Water Usage	2013-2016	2,362,000 GPD	6,227,000 GPD
Forecasted Additional Water Usage	2017-2018	1,220,000 GPD	7,447,000 GPD
Forecasted Additional Water Usage	2019-2035	1,960,000 GPD	9,407,000 GPD

Dickinson is confronted by ample oil impact challenges without facing a shortage of water. The Draft Comprehensive Plan recommends that Dickinson invest a total of \$127 million in water distribution and waste water management projects during the next two years. This is in addition to a waste water treatment facility (under construction), a public works building, and a public safety building that the City is committed to constructing for a total of \$74 million.

Dickinson's population growth is substantial and we believe sustainable. Funding for the Southwest Pipeline Project is included in the Resource Trust Fund appropriations in this bill. Without approval of this funding, Dickinson and portions of South West North Dakota are facing severe water shortages which could impede its development and ability to house the workforce required for North Dakota's energy development.

I urge you to act favorably on House Bill No. 1020.

House Approp-Educ-464
Jan 16, 2013
Attachment 9
Resident

Testimony by Randy Becker, Oliver County Resident
On behalf of the

# Southwest Pipeline Project to the

House Appropriations Committee Hearing on House Bill 1020

Bismarck, ND

January 16, 2013

Good morning Mr. Chairman and members of the committee. My name is Randy Becker. I am here this morning to ask for your continued support of water development projects, more specifically, the funding of the Southwest Pipeline Project in southwest North Dakota. Please support HB 1020.

I am an environmental coordinator in the reclamation field of coal mining. The western half of North Dakota is seeing a very industrialized economic boom in coal mining and the oil industry. Many of the companies here are already using Southwest Pipeline Project water to meet their demands which I can speak to personally. I believe having quality water is essential for continuing to attract businesses which are very lucrative to our state, but I also want to underscore the health importance for our citizens and livestock.

My wife, three sons and I live on about 640 acres that my parents purchased more than 50 years ago and until a few years ago, we raised livestock. Today, about half of the land is used for crops; the other half is pasture land, rented out for livestock. We have a well about 135 feet deep that produces average water. We have issues with manganese which gives off a reddish tint that affects our white clothing and linens, and my wife doesn't like the taste of the well water, so we do have a distiller for drinking water.

The overall quality of health of the population in our region is dependent on a good source of quality water to drink. It is also necessary for the livestock industry. There are many pasture taps signed up to be built in our region. Successful communities and quality water go hand in hand.

Economically, the city of Center in Oliver County, that is already receiving Southwest Pipeline Project water, can see the benefit of not having to invest in expensive, individual water treatment facilities. Everyone benefits from a regionalized economy of scale on one bigger system that the SWPP delivers as a cost-effective operation.

We signed up and paid to be connected to the Southwest Pipeline Project in 1991. I would like to see the whole project finished. In fact, I was a director for Southwest Water Authority for one term from 2000 through 2004. Oliver, Mercer and north Dunn Counties are one of the last phases for rural construction. It is so close, let's build what started as a dream for both now and future generations. It is in the best interest of the North Dakota, businesses, and our residents to do so.

I am hopeful that the requested funds will be approved so the rural communities can also thrive. Please support House Bill 1020 to provide funding for the construction of the Southwest Pipeline Project and bring our most precious resource, quality water, to the rest of us who have been waiting for many years. Thank you.

Respectfully, Randy Becker

Email: rsbecker@westriv.com

House Approp. Gluc-164

San. 16 12013

Testimony by Kent Albers, Oliver County Resident Attachment 10

On behalf of the

#### **Southwest Pipeline Project**

to the

**House Appropriations Committee Hearing on House Bill 1020** 

> Bismarck, ND January 16, 2013

Good morning, Mr. Chairman and members of the committee. My name is Kent Albers, and I am here this morning to ask for your continued support of water development projects, more specifically, the funding for the Southwest Pipeline Project in southwest North Dakota.

I am a local rancher in Oliver County whose great-grandparents homesteaded the farmland that has been in my family for four generations. Our total operation is about 15-16,000 acres. I am 64 years old now, in partnership with both of my adult sons, working as livestock farmers (beef cows).

With respect to water quality, our water comes from wells and we have quality issues despite 55-60 foot deep wells; the water comes out of coal beds. Associated with that, comes a foul odor, unpleasant taste, and hardness issues. We must use water softeners, which is an additional expense, beyond the cost (in the tens of thousands) for drilling and maintaining the well.

The economic importance of having a quality source of water for food producers and families is well worth the continued investment in the Southwest Pipeline Project. Quality water affects the entire population. Our quality of life in ranch country is dependent on free flowing water, but many must still depend on earthen, man-made structures that always result in poor quality water, especially in years of poor rainfall. It's been proven high quality water also produces a higher quality of livestock. The value of a farm and a farmstead or any piece of ground is much more valuable with good, quality water, than digging a 50-200 foot hole to find water for that piece of property.

Our neighbor spent thousands of dollars to drill a well with casing for their livestock. Unfortunately, like so many of us, they still don't have a lot of water, and it isn't quality water. That's why I ask you support House Bill 1020.

Kindly review the track record of the Southwest Pipeline Project as a reliable creditor. Their capital repayment to the state has been and will continue to be a wise investment. With the state of North Dakota enjoying a robust oil industry, it makes sense to me to fund infrastructure needs throughout the state, namely water infrastructure, so pipeline construction can continue in order to serve those of us who have been waiting to be connected and provide the lifeline to future customers.

In our particular area, a main line has been installed and a couple of the nearby towns are hooked up to the system. The rest of the rural countryside, however, is dependent on receiving additional funding. I am hopeful that the requested funds will be approved in this current budget cycle so the rural communities can also thrive. Please support House Bill 1020 to provide funding for the construction of the Southwest Pipeline Project and bringing our most precious resource, quality water, to the rest of us in need now and in the future. Thank you.

Email: kalbers@westriv.com

Respectfully, Kent Albers

HB 1020
House Approp. Educ. 462
Jan. 16, 2013

Southwest Water Authority Pays Back
47% to the Resources Trust Fund

#### Amount Paid back in the form of Capital Repayment

YEAR	TOTAL	YEAR	TOTAL
1991	\$ 11,166.00		
1992	\$ 212,899.00		
1993	\$ 195,973.00	2004	\$ 1,621,239.25
1994	\$ 300,472.00	2005	\$ 1,706,958.33
1995	\$ 504,179.00	2006	\$ 1,948,480.26
1996	\$ 734,994.15	2007	\$ 2,308,065.86
1997	\$ 857,913.00	2008	\$ 2,455,506.88
1998	\$ 915,791.37	2009	\$ 2,618,988.11
1999	\$ 1,025,997.24	2010	\$ 2,776,546.59
2000	\$ 1,146,779.77	2011	\$ 3,076,416.44
2001	\$ 1,308,267.93	2012*	\$ 4,287,275.86
2002	\$ 1,432,224.68	Total	\$ 33,033,598.25
2003	\$ 1,581,284.21	*Through D	ecember 31, 2012

#### SOUTHWEST PIPELINE PROJECT (SWPP) FUNDING SOURCES

State Funding (in millions of dollars)	
Resources Trust Fund	\$ 69.84
Water Development Trust Fund	\$ 8.47
Subtotal	\$ 78.31
Grants	
Garrison Diversion Conservancy District	
Municipal Rural & Industrial Fund	\$ 100.62
United States Department of Agriculture - Rural Development	
Natural Resources Conservation Service PL566	
Subtotal	\$ 116.64
State Bonds Repaid by Users	
Public Revenue Bonds	\$ 7.04
United States Department of Agriculture - Rural Development	\$ 15.70
ND Drinking Water Revolving Loan Fund	
	0.04.04





# It's More Than a Pipeline... It's a Lifeline

The Southwest Pipeline Project (SWPP) is North Dakota's largest multi-county regional rural water project. Today, the SWPP brings quality water to over 50,000 people which includes 31 communities, more than 4,600 rural locations, 22 contract customers, 21 raw-water customers, and two rural water systems. In the energy sector, the SWPP provides raw water for two depots, an ethanol plant and two crew camps. The OMND (online 2012) water treatment plant currently serves the communities of Zap, Hazen, Stanton, and Center. Construction is now underway for the Oliver, Mercer, North Dunn (OMND) counties.

The need for quality water in southwest North Dakota is greater than ever. Given 1,417 rural customers continue waiting for water, southwest North Dakota's population is growing at an unprecedented rate, the raw-water needs of the energy industry, and it's easy to see why the continued funding for the SWPP is so important to the economic development of ALL of North Dakota. To date, SWPP has paid back to the state of North Dakota over \$33 million.

**ECONOMIC VIABILITY.** The communities and rural areas currently being served by the Southwest Pipeline Project (SWPP) are basing their current and future growth on the availability of quality water. That's a fact!

UNPRECEDENTED GROWTH. Here we are experiencing doubling populations due to the oil and energy industries. The communities receiving quality water from the Southwest Water Authority are literally doubling their populations with no sign of slowing down. All of the projections are for continued population growth and incoming businesses.

FUNDING OF THE SWPP IS VITAL. The requested funding for 2013-2015 will not only help ensure water quality for southwest North Dakota, but will strengthen the economic viability of the entire State. With \$79 million in funding over the next two years, the SWPP can continue to meet the water quality needs of existing customers and the growing needs of communities it serves. Together with the funding support of the SWPP, North Dakota will remain a State people want to do business with and a place they want to raise their children.

WATER QUALITY. With a mission of quality water for southwest North Dakota, the Southwest Pipeline Project continues to meet and/or exceed all of the Environmental Protection Agency (EPA) and North Dakota Department of Health's stringent water quality laws and requirements.

PAYING BACK TO NORTH DAKOTA. Through 2012, over \$33 million has been paid back from the Southwest Pipeline Project to the State of North Dakota.

Quality Water for Southwest North Dakota





#### **CURRENTLY SERVING QUALITY WATER TO:**

- More than 50,000 Southwest ND Residents
- 31 Southwest ND Communities
- Over 4,600 farms, ranches & small businesses
- 22 contract customers
- 21 Raw Water customers
- Missouri West Water Rural Water System
- Perkins County Rural Water System
- Red Trail Energy Ethanol Plant
- Two Oil & Gas Crew Camps
- Two Raw Water Depots for Oil & Gas Industry

#### WATER SALES GROWTH:

- 698,867,870 gallons (1995)
- 2,373,063,380 gallons in 2012
- 2013 Projection: 2,622,595,000 gallons 67% INCREASE from 2010

"Your efforts are critical towards providing water for residential, agricultural, and industrial use during this time of rapid growth in western North Dakota. Thank you for your hard work and best wishes as you continue to expand the Southwest Pipeline Project."

-Jack Dalrymple, Governor of North Dakota

#### **EMPLOYMENT:**

Current staff – 34 Hiring – additional 13 in 2013

#### **CURRENT POPULATION:**

50,208 Southwest North Dakota

#### **POPULATION GROWTH:**

Unprecedented population projected growth over the next 10 years

#### REPAYMENT TO NORTH DAKOTA:

Through 2012 over \$33 million has been paid back to the State In 2013, nearly \$5 million in capital repayment budgeted

#### **TOTAL WATER REVENUES:**

2013 Projected Revenue: \$15 million (60% increase over 2012 budget)
Revenue generated through November 2012 is over \$12 million (\$9.9 million budget)

#### **OPERATIONS & MAINTENANCE:**

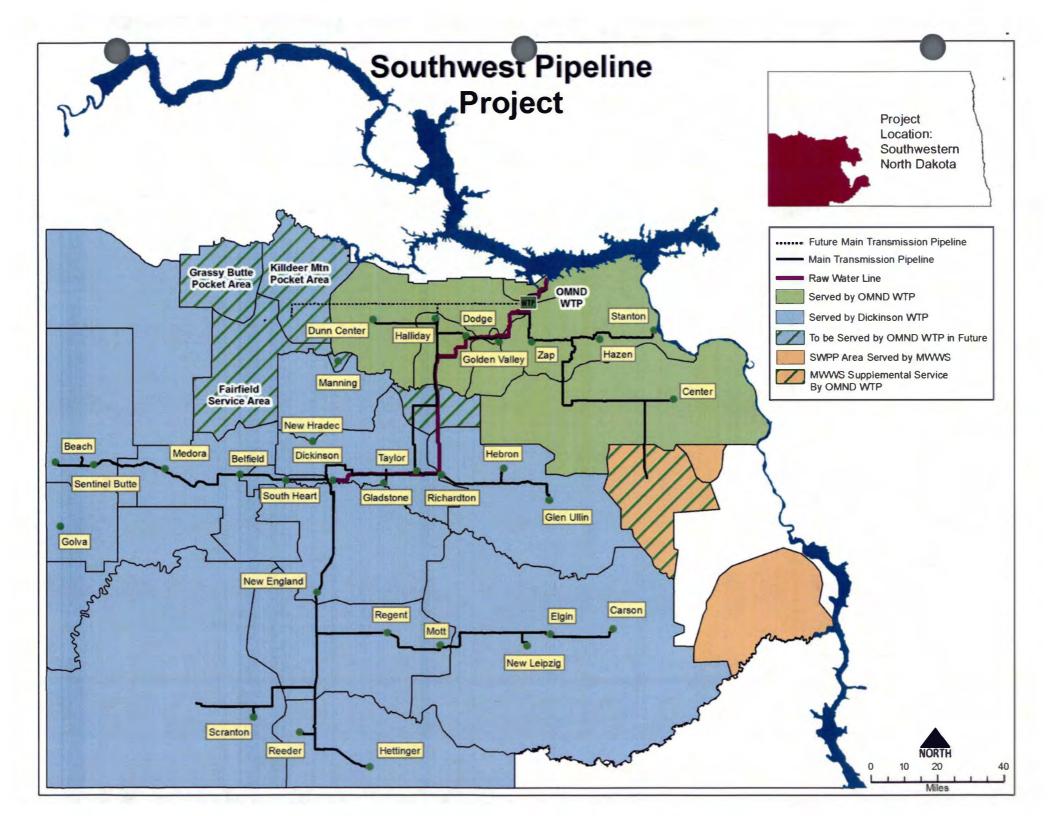
Two Water Treatment Plants
12 MGD and 3.5 MGD capacities
21 Water Storage Reservoirs, vary in size from 197,000 - 6,000,000 gallons

### People and Business Succeeding with Quality Water

Southwest Water Authority does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or disability in employment or the provision of services.

"As a member of the State Water Commission, I have followed the progress of this project, and consider it a landmark in the development of the Southwest Pipeline Project that will bring fresh, treated water to thousands of people."

– Doug Goehring, North Dakota Agriculture Commissioner



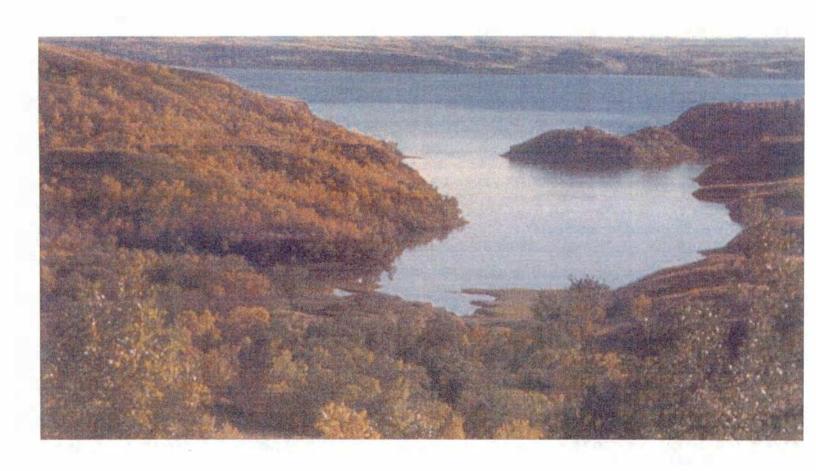


# Mission Statement for Southwest Water Authority

Quality Water for Southwest North Dakota

# Vision Statement for Southwest Water Authority

People and Business Succeeding with Quality Water



## **Learn More by Visiting www.SWwater.com**

Southwest Water Authority does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or disability in employment or the provision of services.

# Southwest Water Authorit





#### What is the Southwest Pipeline Project (SWPP)?

The SWPP is the first large multi-county regional rural water project developed in the State of North Dakota. The SWPP is to provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system. While the SWPP is State owned and administered by the North Dakota State Water Commission (SWC), it has been managed by SWA since 1996.

#### What is the primary focus of the Southwest Pipeline Project?

The SWPP was designed to allow for the transportation of raw water from Lake Sakakawea (the third largest man-made lake in the United States) to the OMND WTP and the Dickinson WTP where it is treated and delivered to the Project's customers in southwest North Dakota and Perkins County, South Dakota.

#### Why did the State Water Commission (SWC) create the Southwest Pipeline Project (SWPP)?

With an annual rainfall of less than 15 inches in southwest North Dakota, there was not enough water to keep wells in the area from running dry and streams and reservoirs from emptying out. Also, the groundwater was, and remains, extremely poor quality.



#### When did the SWA take over management of the SWPP?

SWA took over the management, operations and maintenance on January 1, 1996 from the State Water Commission. SWA also bega managing the City of Dickinson's water treatment plant on April 1, 2000.

#### What does the Southwest Pipeline Project provide to North Dakota?

The Southwest Pipeline Project brings water from Lake Sakakawea to provide clean, safe, quality water supply for residents of the southwestern portion of the State. Without access to the Southwest Pipeline Project, many residents of this region would otherwise have to carry drinking water from elsewhere because their drinking water is unsafe. Currently (2012) 31 communities, more than 4,600 rural-service locations, 22 contract customers, 21 raw water customers, and two rural water systems are served quality water by the Pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps.

#### Where would North Dakota be today without the vision of leaders who believed in the SWPP?

It would have remained a rural, barren land. Farmers and ranchers were moving out due to lack of quality water. Drought was encompassing this part of the State. Mayors could not get people or businesses to move in. Oil and gas companies couldn't get raw water. Thanks to the vision of the North Dakota Legislature, state and local leaders, the Southwest Pipeline Project became a reality.

#### Who manages the Southwest Pipeline Project?

The SWPP is managed by the Southwest Water Authority 15-member Board of Directors representing the following counties: Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Slope and Stark, as well as the cities of Dickinson and Mandan.



#### What construction for expansion of the SWPP is currently underway?

A second intake, raw water upgrades, and expanded treatment capacity at both water treatment plants ar necessary to meet the exponential growth in our region. The OMND (Oliver, Mercer, North Dunn) Regional Service Area is under construction and is essential to meet the growing demand for quality water. Also, there are more than 1,000 rural customers and all energy sector users, including the power plants, coal plants and the oil industry, waiting for water in this region.

#### Does the SWPP generate a revenue stream sufficient to repay the revenue bonds issued for construction?

Yes. To date, more than \$33 million in capital repayment has been paid back to the state of North Dakota. The 2013 budget includes nearly \$5 million in repayment fees, an increase of 63% from the 2012 budget.

# requently Asked Questions

#### Is there a waiting list for water from SWPP to other service areas?

Yes! The southwest region of North Dakota is seeing unprecedented growth with the oil and energy industries. Communities and rural areas being served are in need of much more water. A second intake for the Project is now a bigger need than ever. Expansion of treatment at the water treatment plant in Dickinson is needed for the growth in Dickinson and the region. Upgrades to the Project are needed to meet this fast growth and high demand. There are people today who cannot drink the water from their tap because they are not yet connected to the SWPP. In some cases, people signed up for water and paid their fees more than 20 years ago. There are also people on waiting lists in the areas currently served as the Project is at capacity.

#### With the energy industry having a big economic impact on all of ND, how does SWPP help?

Quality water is essential to keep the State's economic engines growing and moving forward. That's why the SWPP continues to stay true to its vision to help the people and business of southwest North Dakota succeed with quality water.

#### Who funds the Southwest Pipeline Project?

As a State owned project, we are 100% funded by State and federal loan programs. With our customers paying capital repayment, there is no local cost share. The Garrison Diversion Conservancy District's, Municipal, Rural and Industrial (MR&I) Water Supply Grant Program, provides up to 75% of the cost for development of water supply projects. The legislation that created the program gives cost-sharing credit for the funds the State had previously expended on the project. Through November 2012, \$69.84 million from North Dakota's Resources Trust Fund, \$8.47 million from the Water Development Trust Fund and \$100.62 million in MR&I funding has been spent on the SWPP.

#### What funds are needed in the next biennium for the SWPP to continue its mission?

The Southwest Pipeline Project is requesting \$79 million in the next (2013-2015) biennium.

#### What does the needed funding mean to the people and businesses of Southwest ND?

n short, it means building more than 462 miles of pipeline, increasing SWA's pumping capacity of water by the end of 2015, economic development for all of ND, water for the workers coming to ND, and allowing for the ability to serve the citizens who are continuing to repay the State of North Dakota.

#### What happens if Southwest Water Authority does NOT receive all of its needed funding?

Drinking water will need to be rationed to the detriment of existing southwest North Dakota residents. The people already signed up and waiting for quality drinking water will continue to wait. Temporary workers will not want to become permanent residents. Cities will not be able to build the homes needed for incoming workers.

#### What has been accomplished by the Southwest Pipeline Project to date (2012)?

Eurrently (2013) 31 communities, over 4,600 rural service locations, 22 contract customers, 21 raw water customers in North Dakota, and two rural water systems, are served by this pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps. The current population exceeds 50,000 in North Dakota, up from 35,000 a little more han a year ago.

#### What is Southwest Water Authority?

A PARTY OF

he North Dakota State Legislature established Southwest Water Authority (SWA), a political subdivision in 1991. SWA was created to upply and distribute water to the people of southwestern North Dakota through a pipeline transmission and delivery system for pursoses including domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, ural water, and municipal uses. SWA is also to provide for the future economic welfare and prosperity of the people of ND, particularly he people of southwestern North Dakota.

#### What has Southwest Water Authority accomplished since its inception?

or over 27 years, the SWC has been constructing an efficient network of pipelines, pump stations, reservoirs and treatment facilities to uring southwest North Dakota an adequate supply of quality water. To date, (2012), 31 communities and more than 4,600 rural-serice locations are being served by the Pipeline. The SWPP also serves 22 contract customers, 21 raw water customers, as well as two ural water systems. The Pipeline also has two raw water depots serving the oil industry, an ethanol plant and serves potable water to wo crew camps.

#### What services does Southwest Water Authority provide southwest North Dakota?

Currently, SWA provides drinking water to 31 communities, more than 4,600 rural-service locations, 22 contract customers, two crew camps, 21 raw water customers, and two rural water are served by this pipeline. The Project serves an ethanol plant and two raw water depots.

#### What is the water quality that SWA is providing to its customers?

Since the inception of SWA, they have not only met, but also exceeded, all of the Environmental Protection Agency and North Dakota Department of Health's stringent water quality laws. Visit SWA's website to view the Consumer Confidence Reports (CCR) and to lear more at: www.SWwater.com.

#### What infrastructure does SWA manage?

SWA manages, operates and maintains more than 4,000 miles of pipeline as of December 31, 2012; two water treatment plants (12 MGD and 3.5 MGD) capacity, 21 water storage reservoirs varying in size from 197,000 – 6,000,000 gallons.

#### Where is SWA's water treated?

Water for the SWPP is treated at the OMND and at the Dickinson water treatment plants. Both water treatment plants are managed by SWA.

#### How many gallons of water is SWA projecting to be sold in 2013?

It is projected that SWA will sell over 2.6 million gallons of water in 2013, which is an increase of 67% from 2010.

#### How many communities and people does Southwest Water Authority currently serve?

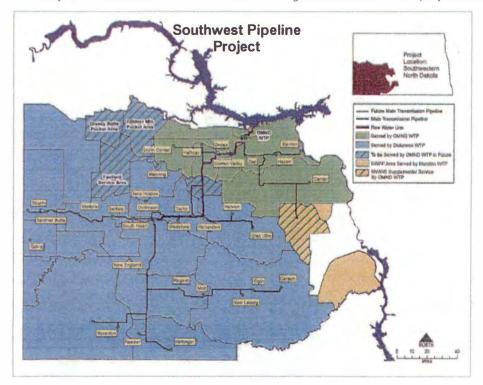
Currently, (2013), 31 communities, over 4,600 rural-service locations, 22 contract customers, 21 raw water customers in North Dakota, and two rural water systems, are served by this pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps. The current population exceeds 50,000 in North Dakota, up from 35,000 eighteen months ago.

#### What are SWA's major expenses for 2013?

In addition to capital repayment fees of nearly \$5 million, power costs of \$1.345 million, an increase of 50% from the 2012 budget, plus salaries and benefits.

#### How many people does Southwest Water Authority employ?

Currently, SWA has a staff of 34 and will be hiring an additional 13 employees in 2013.







HB 1020
House Approp. Educ. 464

Jan 161 2013

Testimony by Dwaine Helmers, Oliver County Resident MHachment / 1

On behalf of the

Southwest Pipeline Project

**Southwest Pipeline Project** to the

**House Appropriations Committee Hearing on House Bill 1020** 

> Bismarck, ND January 16, 2013

Good morning Mr. Chairman and members of the committee. My name is Dwaine Helmers. I am providing written testimony to ask for your continued support of water development projects, more specifically, for funding of the Southwest Pipeline Project (SWPP) in southwest North Dakota. Please support HB 1020.

I am a heavy equipment operator for the Corps of Engineers; however, I was Chair of the County Commission for Oliver County for twelve years. I am very concerned about getting quality water to our area. I signed up for water about a year ago and have lived on my property since 1997. My wife, our three sons (ages 11-14), and I, live on 480 acres just east of Center. The land is used as farm and pastureland for about 30 head of cows.

Our water well is 180 feet deep. We drilled it in 1996-97. We had water at 50 feet through an older well on the property. The water quality was very poor and rusty. We thought going deeper to 180 feet would be better. It wasn't, The water is still rusty, salty, and very hard on our appliances and clothes. In fact, we don't own light colored clothes because they would all turn yellow or orange. We don't drink this water. It's like sucking on nails. So, like our neighbors, we haul drinking water from town; which is about ten miles away.

It cost around \$6,000 to dig our well, but an even bigger expense is we go through a washing machine about every 18 months. The iron buildup completely plugs up the plumbing with the screen in back of the washer. It isn't that we haven't tried to go deeper for better water; we don't believe we'd ever find good water in the wells. There is a lot of coal in the area and I think we're finding that the water near these coal beds contain harsh minerals. To give you an example, you would only have to observe our livestock. If they have a choice, these animals will automatically go to the water they like best, which in our case is a nearby dam, not the closer troughs that contain the well water!

On the road where I live, there are 16 other families who have all signed up for SWPP water. From a county perspective, we are always trying to think of new ways to attract people into the county to keep it economically strong. It's not a coincidence that the development stops right where the water stops. A guy I know built his house and has been waiting for the well driller since August. He can't close on the new home until this is done. There seem to be a lot fewer well drillers; in fact, the ones who drilled my well are not in business anymore.

When SWPP water arrived in the town of Center, a lot of people signed up for it; but it's just been kind of a long, drawn out process. I field a lot of calls from people who know I've been to meetings and one of our residents, an older fellow in his 80's, said it best. He said, "I was a young man when I signed up for quality water, now I hope to see it before I die." I think everybody's been pretty patient.

The economic quality of our State has never been better. There has been a big explosion in the western part of North Dakota due to new development and the oil industry. Our fear is a rural area such as ours will be

postponed in favor of new development growth. We are probably 100 miles from this explosive growth and we are really worried they will get water and we will not, after all these years of waiting. As you know, agriculture and the oil industry are booming here, so let's take advantage of the resources North Dakota now has to include the agricultural communities that provide so much.

I am hopeful that the requested funds will be approved so the rural communities can also thrive. Please support House Bill 1020 to provide funding for the construction of the SWPP and bring our most precious resource, quality water, to the rest of us in need for both now, and for future generations. Thank you.

Respectfully, Dwaine Helmers

Email: <a href="mailto:helmers@westriv.com">helmers@westriv.com</a>

HB 10 + U
House Approp. Educate

Jan 16, 2013

Testimony by Fargo Mayor Dennis Walaker Attachment 13

F-M Flood Diversion Project

To

House Education and Environment Appropriations Committee Hearing on HB 1020

> State Capital January 16, 2013

Good Morning Mr. Chairman and members of the Committee; I'm Dennis Walaker, Mayor of Fargo. I am here today in support of HB 1020 and the proposed funding for the flood protection in Fargo and Cass County.

Since 2009, Fargo and Cass County have directed over \$100 million dollars towards flood protection. We have worked with the State Engineer and the U.S. Army Corps of Engineers in developing a long term solution to the flooding problem in our area of the state. In the past two legislative sessions (2009 and 2011), the legislature has earmarked \$75 million towards flood protection. To date we have expended approximately \$35.5 million of this on flood buyouts, levee construction and design work for the proposed 35-mile diversion around Fargo, West Fargo, Horace and Harwood.

There is a lot more work to do on this project, which also calls for upstream protection in those areas like the Oxbow/Hickson community and farther upstream in Christine, North Dakota. I want to emphasize that we are committed to not only protecting Fargo/West Fargo from major flooding, but also those areas that will be impacted by a diversion. As of September, we have pledged \$25 million to study, design and construct retention projects distributed in the upper reaches of the Red River Valley. We are working with the Red River Basin Commission, the Minnesota Department of Natural Resources and the North Dakota Water Commission to identify locations for retention projects.

Fargo has encouraged basin-wide initiatives for Red River Flood Damage Reduction (FDR). We support the feasibility study in progress to identify potential non-structured FDR techniques such as:

- Structure elevating and flood proofing;
- Structure acquisition, removal and relocation;

• Individualized or group ring dikes.

Fargo has adopted a more comprehensive and stringent ordinance and policy for regulation of building to flood protection standards such as:

- City wide minimum building elevations;
- Minimum building setback from Rivers (Red, Wild Rice and Sheyenne) and unprotected legal drains.

There are four goals for the Diversion project in the next two years.

<u>Goal number 1</u> is to secure federal authorization from Congress for this project. We are working with the Congressional delegations from Minnesota and North Dakota, and the U.S. Army Corps of Engineers to pursue approval through the Water Resource Development Act legislation for the project. We have seen a draft of this legislation and we are optimistic that a new WRDA bill will be forthcoming in the next two years.

**Goal number 2** is to continue to construct levees in Fargo to 42 ½ feet, which will protect the city to a 100-year flood elevation. The cost of this effort is estimated to be about \$240 million dollars. To date, we have expended \$100 million dollars of local and state funds in levee construction. Work on the in-town levees is being done to compliment the Diversion project so that we may ultimately reach the Red River Basin Commission's goal of 500-year protection for major metropolitan areas.

<u>Goal number 3</u> is to undertake ring levee construction for the Oxbow/Hickson community along with rural farmsteads and residences that may be impacted by the Diversion project. We are also working on flowage easements for farmland and crop insurance for crop damage if the Diversion project results in such impacts.

<u>Goal number 4</u> is to begin Diversion construction on the north end of the project, which will benefit the towns of Argusville, Harwood and the area north of West Fargo that are severely impacted by the flooding of the Sheyenne and Maple Rivers.

All of these goals can be done without federal authorization, but will be designed and constructed so as to receive credit from the federal government once the Diversion project is recognized by the Army Corps of Engineers as eligible for federal funding.

This concludes my remarks, I want to thank you for considering our request and I will answer any questions you might have.

HB 10 20
House Approp. Educ. + En
Jan 16,1 2013

Testimony by Bruce Furness, Chairman A Hackment / 4
Lake Agassiz Water Authority

To the

#### **House Education and Environment Appropriations Committee** Hearing on HB 1020

Bismarck, North Dakota January 16, 2013

Mr. Chairman, members of the committee; my name is Bruce Furness. I serve as the Chairman of Lake Agassiz Water Authority. Lake Agassiz Water Authority is a political subdivision of the state created by the Legislature in 2003. Its purpose is to provide for the supply and distribution of water to the people of eastern North Dakota through the Red River Valley Water Supply Project.

The flows in the Red River and the flows from the Red Lake River, which empties into the Red River, have dropped to alarmingly low levels. occurrences greatly concern those water systems up and down the valley depending on the Red River for their water supply. History tells us that we have had more droughts than floods in the Red River Valley. We need to continue to move forward with the Red River Valley Water Supply Project. A \$9 million State Water Commission cost-share will allow the closer examination of an alternate route that has the potential to provide a \$30 million savings for the project and also to exercise options on other areas of the planned pipeline route. It is important to keep moving forward with activities that will shorten the

construction time of the project. Construction of the pipeline will take about 6 years and the Red River Valley only has a one to two year backup water supply in Lake Ashtabula.

Mr. Chairman, members of the committee; Thank you for your time, I will be happy to answer any questions you might have.

HB 1020 House Approp. Educ. 4 Eh Jan. 16, 2013 Attachment 15

# Presentation to Education and Environment Subsection House Appropriation Committee January 16, 2013

# Path Forward Proposal to Eliminate the Dam and Reservoir, and Retain Diversion

The current proposal to build a dam and reservoir in portions of Cass and Richland Counties of North Dakota, and Clay and Wilkin Counties in Minnesota is unacceptable to most of the residents of that area. There is a need to examine alternatives to the current plan that would allow for flood protection for Fargo-Moorhead, as well as minimizing the negative impacts to those upstream and downstream of the project. This proposal has the potential to accomplish that.

The current Fargo flood control proposal has two parts. The first is the diversion channel. The diversion and its banks provide the flood protection for Fargo. The diversion channel is capable of carrying at least 20K cubic feet per second of water in its channel around Fargo and West Fargo. The material removed from digging the channel will be piled on either side to a height of approximately 15 feet.

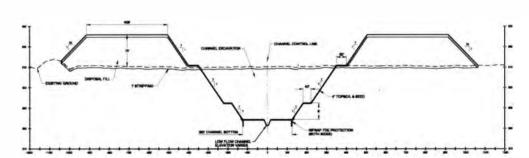


Figure 29 - LPP Typical Cross Section

Protection for the area inside the diversion channel is provided by moving excess water from the river channel and diverting it around the protected

<sup>&</sup>lt;sup>1</sup> Final Environmental Impact Statement, USACE Figure 29

area. As shown in Figure 29 from the Final Environmental Impact Statement by the USACE, the embankment would give virtually certain protection from floodwaters from outside the river channel.

The second major component of the project strategy is the dam and reservoir. The dam is located on the upstream side of the diversion channel and holds back enough water to cover 54,000 acres in a 100 year flood event. Its purpose is to eliminate downstream impacts. . It has almost no impact on flood protection for areas inside the diversion.

Downstream impacts occur when more water arrives at the outlet point of the diversion than would have been there otherwise. There are two reasons why this diversion would cause downstream impacts. First the normal course of the Red River is a winding path through the valley. Every time the water has to turn a corner and change direction, the velocity of the flow is slowed. Obstructions in the channel like trees, debris and old dams cause the water flow to slow down. When a diversion is built, the channel is usually straight with smooth sides and bottom. That allows the water to move faster. Corps officials have estimated that water leaving the river at the inlet would arrive at the diversion outlet up to 36 hours faster than if it followed the normal river course through Fargo. This would effectively add to river levels downstream, making river levels considerably higher. The following chart from the FEIS shows the Corps' projections.

Table 43 - Downstream and upstream water quantity, LPP, FCP and ND35K - 1%

Location	Stage Increase (Inches)		
	LPP	FCP	ND35K
Downstream Locations			
Emerson Gage		0.7	-
Pembina Gage		2.0	
Drayton Gage	1.0	1.7	_
ND SH#17/MN SH317	0.8	1.6	-
Co. Hwy 15	0.6	1.8	_
Osio Gage	0.7	1.1	_
DS Grand Forks Levees	1.8	2.5	-
Grand Forks Gage	2.9	4.1	-
LPP Maximum DS Impact Location	3.5		-
32nd Ave, Grand Forks	3.4	5.8	_
Thompson Gage	0.5	7.0	15.8
Hwy 25/Co.Rd 221	-0.2	10.7	23.6
ND35K Maximum Impact Location			25.4
DS Sandhill River/Climax	-0.5	11.8	25.3
FCP (MN35K) Maximum Impact Location		12.5	
Nielsville	-0.5	12.4	22.8
DS Marsh River	-0.4	10.7	19.4
US Goose River/Shelly	-0.5	9.2	15.1
Halstad Gage	-0.7	6.2	10.4
Hendrum	-0.7	6.6	11.3
Perley	-3.4	6.6	7.6
Georgetown	-3.0	5.8	8.4

The original North Dakota 35K diversion proposal raised the river level by 8.4 inches at Georgetown. You will also note that the Minnesota Diversion(FCP) proposal raised the level at Georgetown by 5.8 inches, and the Locally Preferred Plan(LPP) reduces the level by 3 inches.

If you follow up the chart, you will see that impacts vary further downstream with the maximum impact occurring between Nielsville and Climax. The reason for the difference is the change in shape of the river channel. The channel immediately downstream of the diversion is a wide and flat channel. As you move toward Climax, MN, the banks are narrower, and therefore require more depth to carry the same amount of water. A one inch rise in the river at Georgetown can mean as much as a three inch rise at Climax. Conversely, a once inch decrease in the channel at Georgetown should cause a similar decrease in the river level downstream. The most consistent place to measure the river change caused by the diversion is the Georgetown site.

A second reason a diversion causes downstream impacts is because it removes natural storage areas from the flood plain. If the land wasn't flood

prone, it wouldn't need a diversion. The water that is naturally stored in that area has to go somewhere. A diversion makes it go downstream rather than letting it accumulate in the natural flood plain.

The USACE found the downstream impacts of the ND35K diversion were significant enough to reach the Canadian Border. They said that was unacceptable. They proposed holding water upstream of the diversion to allow less water to travel through the channel and the river, until the peak river flows had passed, and the effects of re-introducing the stored water into the system would not push downstream levels higher than they otherwise would. Project sponsors made the decision that it would cost less to keep the change in river levels downstream at zero, and force all the damage from the project into an upstream storage area.

Downstream impacts are not the reason that the USACE insisted on a dam and reservoir upstream. The critical factor was they could not find a point south of the international border where the effects were zero. The Minnesota Diversion, or FCP, raised river levels at Georgetown by 5.8 inches. That is acceptable to the USACE. The conclusion is that any downstream impacts less than 5.8 inches, should allow the USACE to approve a diversion proposal without the dam and reservoir.

At this point, we need to introduce the topic of Basin Wide Retention(BWR). Many areas around the world have successfully implemented the concept of storing excess water in areas as small as two or three hundred acres throughout a river watershed. The size of the potential sites, are determined by topography of the land. Areas with deep gorges and ravines have a greater potential for easy storage. Flat topography, as is common in the Red River Basin, has few large natural storage sites, but many areas such as marshy grasslands. BWR stores small quantities of water in many places instead of large quantities of water in one place.

There are advantages and disadvantages of both methods of water storage. The main advantage of a large dam and reservoir is that you can build one structure to hold a large quantity of water. The disadvantage is, as in the case of the LPP, that social and economic impacts to the existing residents and property owners is severe. Also, holding large amounts of water behind a single structure carries a significant risk of dam failure.

The advantage of BWR is that everyone living along the watershed where the retention occurs, benefits from reduced river levels. Since the projects are small, the danger of dam failure is minimized. The disadvantage is that identifying and acquiring the property can be a long process. A second disadvantage is that when the storage sites are spread out a distance away from the point where reduced flow is needed, you may need more storage volume in total.

The Red River Basin Commission(RRBC) is an organization funded by the states of North Dakota, South Dakota, Minnesota and the country of Canada. Their goal is to coordinate flood control measures throughout the watershed. The RRBC conducted a study on the possibilities of BWR having an effect on river levels. Data results of the two year study were released in August of 2011. The most significant results are included below.

<sup>2</sup>Table D-18.
Summary of Estimated Stage Reduction at Cities along the Red River

<sup>&</sup>lt;sup>2</sup> Red River Basin Commission Long Term Flood Study Table D-18

	100 Year Flood						
	Original Goal for Peak Flow Reduction		Fainting Conditions		Modified Conditions with Additional Upstream Storage		
City/Location	Percent Reduction	Discharge (cls)	Discharge (cls)	Stage (Pt)	Discharge (cfs.)	Stage (ft)	Change in Stag from Eusting Conditions (%)
ver Main Stem	2001 Ba	seline Hy	drology				
Wahpeton/ Breckenridge	20%	2,600	12,200	17.9	9,600	15.5	2.4
Fargo/ Moorhead - existing without diversion channel	20%	5,700	29,300	40.0	23,600	37 6	2.3
Fango/ Moorhead - proposed with ND diversion channel	20%	5,700	29.300	30.0	23.600	29 2	0.8
Georgetown	20%	11,300	56,600	881.4	45,300	880.6	0.8
Perley	20%	11.300	56,600	8764	45,300	875.4	1.0
Hendrum	20%	11.500	57,700	35.0	46,200	33.6	1.5
Halstad	20%	14,300	62,200	39.9	47,900	34.7	1.7
Shelly	20%	14,600	73,000	22.3	5R,400	19.7	2.6
Nielsville	20%	14,900	74,500	861 1	59,600	B57 2	3.9
Climax	20%	15,500	77,500	37.6	62,000	33.3	4.3
Grand Forks/East Grand Forks	20%	22,200	108,000	52.9	85,800	49.8	3.1
Delo	20%	23,000	109,000	37.8	86,000	36.9	0.8
Drayton	20%	25,700	112.000	45_1	86,300	43.4	1.7
Pembina/St. Vincent	20%	26,000	117.000	54.5	91,000	53.0	1.5
Emerson	20%	26,000	117,000	92.3	91,000	91.0	1.2
ver Main Stem	Sensitiv	ity Analy	sis: 2011	Draft W	et Hydro	ogy	
Fango/ Moorhead - sessing without diversion channel	20%	5,700	34.700	41.3	29,000	39 7	1.4
Fango/ Moorhead proposed with ND diversion channel	20%	5,700	34,7MO	30.4	29,000	30 D	0.0
Georgetown	20%	11,300	\$6,700	882.3	45,400	881.6	0.7
Perley	20%	11,300	56,700	877 4	45,400	876.5	0.9
Hendrum	20%	11,500	58,200	872.6	46,700	B71.5	1.1
Halstad	20%	14,300	70,900	41.4	56,500	40.₽	1.4
Shelly	20%	14,600	82,500	22.3	67,900	19 7	2.6
Nielsville	20%	14,900	82,500	860.6	67,600	857.2	3.4
Climax	20%	15,500	86,800	36.5	71,300	32.9	3.6
Grand Forks/East Grand Forks	20%	22,200	106.800	52.9	84,600	50.3	2.6
Oslo	20%	24.000	112.600	39.2	88,600	38.6	0.7
Drayton	20%	25,700	118.800	45.6	93,100	44.1	1.5

The significant information for our discussion is the column titled "Change in Stage from Existing Condition." This represents how much the river levels can be reduced by BWR. It should also be noted that the results are based on retention sites that have been identified. Results are from the Mike-11 river flow and level modeling program. As a side note, the identified sites contained NO farmsteads or dwellings, as opposed to the 400 homes and 1000 structures beneath the proposed dam and reservoir.

The table shows that a reduction of river levels at Fargo could be reduced by 2.3 feet in a 100 year flood event and by eight tenths of a foot(9.6 inches) at Georgetown using BWR. The USACE estimated the LPP would raise river levels at Georgetown by 8.4 inches. The effect of BWR offsets the impact of the diversion.

The point of this is that if BWR can eliminate downstream impacts of a diversion channel, the dam and reservoir are unnecessary.

We don't understand all the reasons the Army Corps won't include basin wide storage as part of the project. But we do think it is possible to combine

the two aspects of flood control to allow Fargo to pursue its diversion and avoid the dam and reservoir.

We feel the Diversion Authority should explore design alternatives that would reduce downstream impacts. The USACE could then drop its demand for the dam and reservoir. Since the FCP impact of 5.8 inches is acceptable, we can assume that reducing a North Dakota diversion to that level should be acceptable to them as well.

This should be a goal driven process, with the goal being to get the USACE to drop its demand for the dam and reservoir. Three things need to happen to make this work:

First, the Diversion Authority needs to direct their engineering efforts to allow more water to pass through town, and less through the diversion. Less water through the diversion channel means less downstream impacts. They are already in the process of analyzing this at the request of the Minnesota DNR because of fish passage.

Second, the inlet for the project needs to be moved further north to have a smaller impact on the flood plain. A diversion inlet in the area of the original Minnesota plan would leave more natural flood storage, and require less water be diverted from the river. This would also reduce downstream impacts of the channel. This option is being examined currently, but we believe mostly for cost control, and not to reduce flows through the diversion.

Finally, the short term goals for flood protection need to be reduced below 500 year protection. This would also reduce the flow needed through the diversion channel.

If we can get the downstream impacts of the diversion to be less than the Minnesota proposal, the result may allow the USACE to participate in the planning and funding of the North Dakota Diversion without the dam and reservoir. Remember the difference in river change at Georgetown between the acceptable Minnesota plan and the unacceptable North Dakota Diversion is only two and a half inches. Eliminating the dam and reservoir would reduce the cost of the project by at least \$250 million.

The intention is not to reduce flood control for Fargo. The goal is to meet the criteria of the USACE so that the negative impacts of a dam and reservoir could be avoided. At that point, the states of North Dakota and Minnesota could participate in a plan of basin wide retention separate from the USACE. It is likely that construction of the basin wide projects would precede diversion completion. Downstream impacts could be completely eliminated, and protection goals could be once again increased. If it can be demonstrated that upstream protection is in place, the USACE may revise flows allowed through the diversion channel without downstream impacts.

That outcome would preserve our communities, and provide flood protection for everyone in the basin. This would benefit rural North Dakota, Fargo, and the entire Valley.

# Testimony of Jaret Wirtz, Executive Director, WAWSA In Support of the State Water Commission Budget (House Bill 1020) House Appropriations Committee – Education and Environmental Division Bismarck, North Dakota – January 16, 2013

Chairman Skarphol and members of the Committee, for the record my name is Jaret Wirtz, Executive Director for the Western Area Water Supply Authority (WAWSA). I am here to urge your support for House Bill (HB) 1020.

HB 1020 includes additional critical funding for the continued construction of the Western Area Water Supply (WAWS) Project to serve water demands which have more than doubled since the initial legislative approval two years ago.

## What a Difference a Year and Half Can Make – Getting the Authority Off and Running

After garnering overwhelming support in the last legislative session, the WAWSA was created when the founding legislation was signed by Governor Dalrymple in May 2011. In the 19 months since that bill was signed, incredible progress has happened both administratively and within system development, design, and construction. The founding legislation appropriated \$110 million to the development of the WAWS Project.

Local leaders came together, giving endlessly of their personal time to develop the Authority. The WAWSA Board of Directors was developed from Member representatives from the City of Williston, McKenzie County Water Resource District (MCWRD), Williams Rural Water District (WRWD), R&T Water Supply Commerce Authority (R&T), and the Burke-Divide-Williams (BDW) Water System Association. The WAWSA Members have adopted bylaws, and signed multiple agreements including Water Supply Agreements, Output Agreements, Access and Use Agreements, and Infrastructure Operating Agreements.

WAWSA members have come together in a way that no other regional water entities have. They have agreed to pool their infrastructure resources to achieve great progress of the system. For instance, the City of Williston has turned over the management and agreed to sell its Water Treatment Plant to WAWSA in order to better serve the City as well as the entire WAWSP service area. Other WAWSA Members have "turned over" parts of their infrastructure and water fill depots for the benefit of all in the region. The collaborative progress has been, in one word, amazing!

The WAWS Project hit the ground running with unprecedented speed once legislative approval was provided. In 19 short months, WAWSA has executed contracts in excess of \$112 million to implement the initial phases of this project using cash generated through water sales for contracts above the approved \$110 million original appropriation.

#### Making a Real Difference in One Biennium

Out of the necessity to serve the rapidly expanding population in northwest North Dakota, this project is on track to be the fastest built regional water systems in the State of North Dakota. This was apparent as the WAWS Project was able to achieve immediate results in the first six months.

Crucial milestones that have either been achieved or will be achieved in the near-term include:

- Constructed of the interim Williston By-Pass Transmission Line, a 10.5 mile stretch of pipe that extends north and west from Williston to new industrial growth areas and improvements to the 26th Street Pump Station were completed in 2011.
- Extended service to Basin Electric Power Co-op west of the City of Williston, through a
  cost share with WAWS, to serve a new peaking power generation facility as well as
  providing service to several rural residents served by Williams Rural Water District.
- Constructed Five million gallon reservoir northwest of Williston that serves as the primary supply for growth areas around Williston as well as the rest of the northern WAWS service area.
- Extended water service to the City of Watford City began the middle of December 2012 which included 30 miles of 20-inch pipeline crossing the Missouri River. Figure 1 shows the before and after of the sodium and hardness in the Watford City water supply on household drinking glasses. The glass on the left reflects the sodium and hardness from Watford City's groundwater while the glass on the right shows the clarity provided by the WAWS water supply.

Figure 1: Sodium and hardness on household drinking glasses in Watford City before and after WAWSA began service to Watford City in December 2012



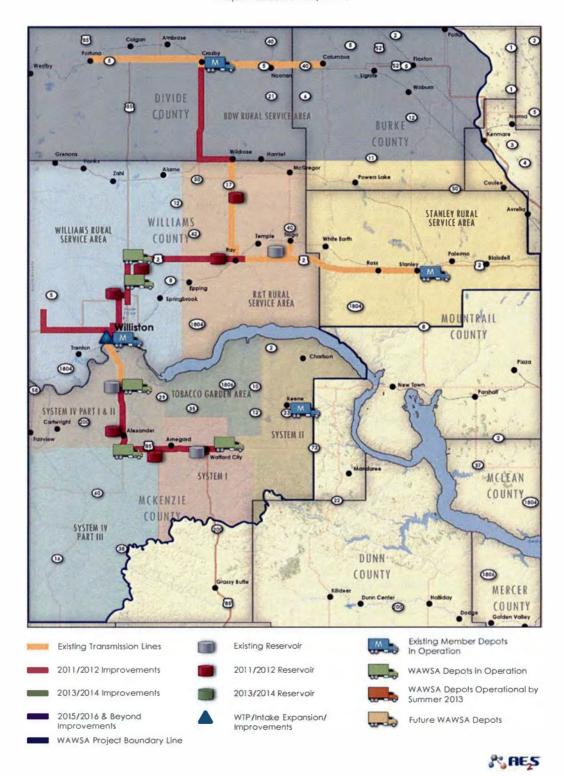
- Built five water depots are operational as well as five member-operated depots which are generating revenue and providing debt service payments.
- Extended rural water service to western McKenzie County through the installation of 150 miles of distribution pipe.
- Developed partnerships with oil companies contracting industrial water service to pay for a portion of the WAWS system.
- Currently expanding the Williston Water Treatment Plant from 10 to 14 MGD.
- Will provide water service to the City of Crosby by the middle of this month following water shortages that delayed completion of this project.
- Will provide water service will be provided to the City of Ray by the end of February 2013.

We are most proud of the fact that we will be serving ten cities within 24 months of WAWSA's creation with high quality water through the installation of 100 miles of transmission mains, five reservoirs, and three pump stations. These major milestones are summarized in Figure 2: Major Infrastructure Components 2011-2013 Biennium.

Figure 2: Major Infrastructure Components 2011-2013 Biennium

#### WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components



#### Looking Forward Into the 2013-2015 Biennium – Facing Unprecedented Growth

It is interesting to look back at 2011, when it was argued we were overbuilding the WAWS Project. At the time, drilling rigs were anticipated to peak at 120 statewide compared to the current level of 185. Today, there are 120 rigs, or 65 percent, operating in the WAWS service area alone. Comparatively, the 2011 WAWSP Business Plan predicted a peak service population within its service area of 48,000.

Fast forward two years. We have a population living in the service area estimated at over 58,000 <u>right now</u> – far exceeding our 2011 peak population estimate. According to the recent 2012 North Dakota Statewide Housing Needs Assessment conducted by the Center for Social Research at NDSU, the study forecasts a total population increase for the five-county region serviced by the WAWS Project to reach almost <u>100,000</u> (practically the size of Fargo). That bears repeating, our peak service population is projected to be more than doubled what it was projected to be just two years ago. Figure 3 shows the 2011 Population Projections and Updated 2013 Population Projections.

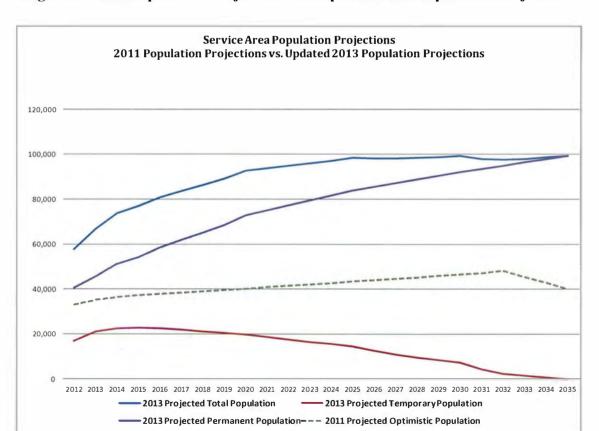


Figure 3: 2011 Population Projections and Updated 2013 Population Projections

The WAWS Project is seeing this population growth first hand. When the WAWS Project planning began in 2010, there were requests for 400 rural users. There were no requests for residential developments, commercial lots, crew camps, or RV parks at that time. Since then, the extraordinary growth in the area has brought the user/service requests to approximately 15,000 – approximately 37 times the original plan. Residents, workers, schools, businesses, healthcare, and industry all need water.

#### Three Critical Funding Needs for 2013-2015 Biennium

In total, we've identified approximately \$119 million in water infrastructure needs for the next two years. HB 1020 is critical to providing a majority of the funding to meet the extraordinary needs of northwest North Dakota by including \$79 million for the WAWS Project.

The funding needs for the coming biennium include:

- \$22 million to expand the Williston water treatment plant from 14 million gallons per day (MGD) to 21 MGD to avoid projected water shortages in 2015 and beyond. We project the 2013 and 2014 water demands to exceed or very nearly exceed the production capabilities without this expansion as illustrated in Figure
  - 4. Based upon the updated population projections, we are very concerned about possible water shortages in 2013, 2014, and potentially 2015 without immediate expansion of the Water Treatment Plant to 21 MGD.
- 2. \$35 million for transmission main improvements in and around the City of Williston and other parts of Williams County to continue to support rapidly increasing population demands. Williams County service will also include service to the communities of Epping, Grenora, and Springbrook. Transmission main to eastern McKenzie County to serve development around the City of Watford City and rural water expansions throughout the county. In addition to providing services for new developments, many of these transmission mains will provide looping capability or redundant transmission systems in the future.
- 3. \$22 million for rural water distribution systems will provide rural service to Williams, McKenzie, and Mountrail Counties. Based upon current water request, it is planned that these transmission and rural water distribution system improvements would service approximately 31,000 rural residents, 225 commercial users, and 3,250 temporary housing units.

The 2013-2015 planned improvements are illustrated in Figure 5.

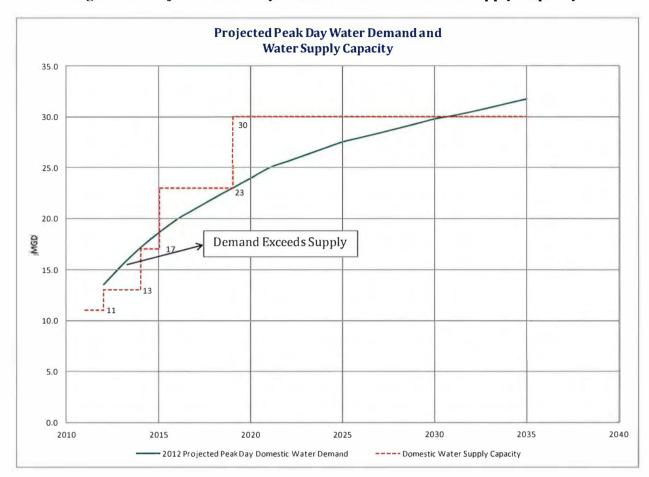


Figure 4: Projected Peak Day Water Demand and Water Supply Capacity

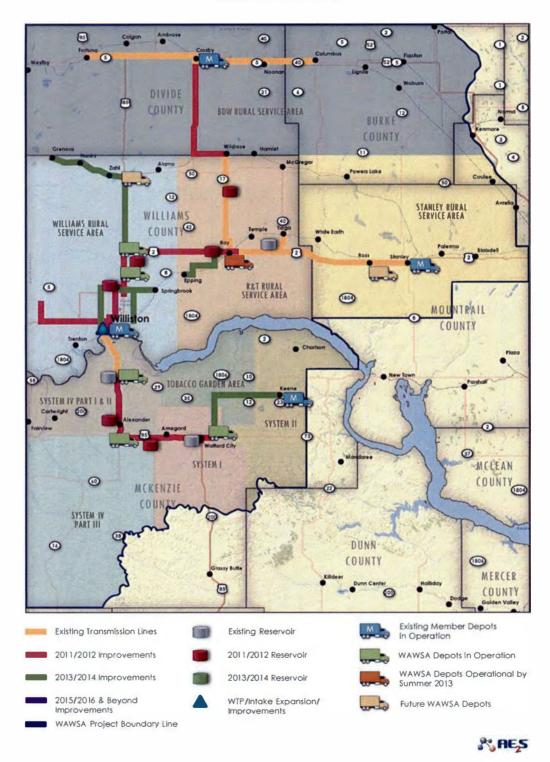
An unbelievable amount has been accomplished in two very short years in northwest North Dakota. We couldn't have achieved this without the hard work of our staff, WAWSA Members, and support from Governor Dalrymple, Todd Sando, and the bill sponsors that brought forth the original WAWS legislation including Representative Skarphol. But there is still much to be done. HB 1020 is essential to continuing the success of the WAWS Project.

Thank you for your time and support of HB 1020.

Figure 5: Major Infrastructure Components 2013-2015 Biennium

#### WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components





House Approp. Educ. 4 En Jan 16, 2013 Attachment 17

House Appropriations Committee Education and Environment Division ND Legislature Jan. 16, 2013

**HB 1020** 

Chairman Skarphol and Members of the Committee:

My name is Robert Harms. I am the lobbyist for the Independent Water Providers, a trade association of private water providers, who are ranchers, farmers, landowners and businessmen in north western North Dakota. Private water providers furnish approximately 75% of the water to the oil industry in our State, which is a vital component to the thriving economy we now enjoy. (Without that water, we would not have the oil production and revenues that it produces).

We SUPPORT providing water to the people of northwestern North Dakota. We OPPOSE providing any funding to Western Area Water Supply (WAWS) unless it is expressly conditioned as outlined in the handout.

WAWS has expressly stated in open, public meetings of the Water Coalition, that <u>all</u> of the funds (\$80,000,000) is for rural and domestic water supply and none is for industrial use. We simply want to hold them to their word by:

- 1. Requiring the need, and proposed water supply to be verified (oversight) and
- 2. Requiring all funds to be used exclusively for domestic and rural water demands; no industrial sales except through 12 depots.

A brief review of WAWS is helpful: WAWS was a \$150 million project to provide water to north western North Dakota. 80% of revenue was to come from industrial water sales to the oil industry through water depots located strategically throughout the region; 100% loan from the State. \$110 million authorized borrowing in 2011, \$40 million to be considered in 2013.

2011—HB 1206: represented a public policy compromise:

- a. Publicly funded project (WAWS) entering a well-developed, private market
- b. But, with some restraint or limitation upon its impact to the private market.

HB 1206 provided: "The western area water supply authority shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers". ......

"The authority shall report to and consult with the state water commission regarding the operation and financial status of the project, as requested by the state water commission. In relation to initial construction of the system and debt repayment, the authority shall present the overall plan and contract plans and specifications for the project to the state water commission for approval". (No "plan" has ever been presented).



HB 1020 House Sperop-Educaten Jan 16, 2013 Attachment 17A

1/16/2013

Amendment to HB1020

IWP requests the Committee Amend Section one of HB 1020 as follows:

\$80,000,000 in grant funds that maybe provided to the Western Area Water Supply Authority shall be subject to following conditions:

- 1. Prior to any expenditure or commitment of funds for rural and domestic water supply the State Water Commission shall obtain independent verification of the domestic or rural water demands and the design and specifications of the system required to meet the demand, in a schedule and manner as determined by the Commission.
- 2. All funds must be used exclusively to meet municipal and rural water needs. Funds and infrastructure resulting from said funds may not be used for industrial water supply.
- 3. All industrial water sales conducted by Western Area Water Supply Authority shall be through 12 water depots approved by the State Water Commission.

#### North Dakota Regional Water Systems North Valley Water District Turtle Mountain Burke-Divide-Williams Rural Water **Upper Souris Water District** All Seasons Water Users District Walsh Rural Water District \* Western Area Water Supply Northwest Area Water Supply Greater Ramsey Water District **Tri-County Water District** Sifawnee Agassiz Water Users District Arvilla Emerado North Prairie Rural Water District Williams Rural Water District Fort Totten Spirit Lake Anamoose NPRWD Martin McKenzie County Water Resource District **Grand Forks-Traill Water District Garrison Rural Water District** Central Plains Water District Gerfeld Dakota Rural Water District Traill Rural Water District Pick City McLean-Sheridan Water District Stutsman Rural Water District New Hradec South Central Regional Water District **Barnes Rural Water District** Cass Rural Water Users District . Golva . Missouri West Water System Southwest Pipeline Project South Central Regional Water District (Emmons-Logan-McIntosh-Kidder) New England Southeast Water Users District - Central Southeast Water Users District - West Southeast Water Users District - East Standing Rock January 2013 State Line Water Cooperative

House Approp Educ. 1Eh Jan 16, 2013 Attachment 18

Testimony Provided to: House Appropriations Education and Environment Subcommittee.

RE: House Bill 1020

**Date: January 16, 2013** 

Provided By: Jon McCreary, President JMAC Resources, Williston, ND

My name is Jon McCreary. I live in Williston and am the owner of JMAC Resources. JMAC and affiliates employ over 200 people in Williston, Minot, Beulah and Bismarck. We provide a number of construction and oilfield services to the oil industry and the community at large. One of my companies is West Dakota Water, an entity that has plans to deliver industrial water to several counties.

We have obtained an industrial permit to put Missouri River water to beneficial use. We have worked since 2008 to obtain an industrial permit from Lake Sacagawea and then later from the Missouri River.

We have spent over \$2 million on the combination of land, easements, leases, and engineering thinking that we were operating within a free market. We have worked closely with all state and federal agencies in obtaining our permit and have asked for no special treatment.

We have plans to have a water pipeline through McKenzie, Dunn and Billings County to supply raw water to the oil industry.

As we were developing our plans, WAWS came into existence, obtained funding and published its plans to sell water through a network of depots. We intentionally stayed out of the WAWS controversy, again believing in a free market, and understanding that WAWS was limiting their industrial sales to approximately 12 depots.

We altered our business strategy and potential pipelines and depot locations within McKenzie County to avoid WAWS depots. This is just common sense on our part. When, after nearly four years, it finally looked like our investment and efforts would be successful, we started receiving threats from the WAWS and Mckenzie County Water Resource District chairman and their attorneys. The threats claimed that they had a monopoly on all water sales within McKenzie County. They claimed protection under both federal and state laws. They claimed these protections over industrial water, and even raw untreated water, and even in areas where they have no plans or no ability to deliver water. When they asked for money last time, no one was informed of their plans to selectively shut out competition.

We met with the WAWS chairman and explained to him that our potential customers wanted water delivered in volumes his system could not accommodate, and in some cases the customers were in need of very large volumes of water at very low prices. In these cases WAWS would not be able to meet the flow requirements, volume requirements or price requirements. We also discussed the fact that WAWS does not have enough water in Mckenzie County to meet even the residential demands, and that we

could fill the void of industrial sales. In the end, legal action was threatened unless we agreed to pay WAWS \$.67 for every barrel of water we sold.

They did not stop at threatening us; they sent letters to the Cops of Engineers, the State Water Commission and the Governor attempting to get someone to deny our permit. We have attached a sampling of the letters with our testimony. They did this in spite of the State's long held policy supporting putting Missouri River water to beneficial use.

WAWS asked for 12 depots last time. This time they garnered the support of the Water Coalition by stating that 100% of their funding will go towards rural residential customers. Hold them accountable to their promises.

In conclusion, we urge you to 1. Restrict the funds allocated to WAWS for residential use only, and 2. Allow private business to play a free market role in supplying water to the oil industry.

## North Dakota

#### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW • (Mailing addr.) 201 5<sup>th</sup> ST. NW, Suite 1456 Watford City, ND 58854

Tel: 701-842-2821 ext. 7 • Fax: 701-842-2822

Denton Zubke, Chairman PO Box 927 Watford City, ND 58854-0927 701-444-6484 work 701-842-3081 home dentonz@dakotawestcu.org

Gene Veeder, Vice-Chairman PO Box 699 Watford City, ND 5885 4-0699 701-444-2804

gveeder@co.mckenzie.nd.us

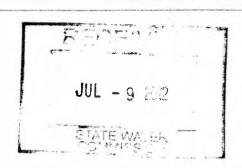
Lee Tjelde, Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 glaseyes@yahoo.com

Leif Jellesed, Board Member 10561 HWY 1806 E New Town, ND 58763-9084 701-675-2490 jellesed@restel.net

Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-828-3555 home 406-489-1704 cell

Clint Hecker Assistant Manager Watford City, ND 58854 701-842-2821 701-290-6791cell checker@co.mckenzie.nd.us July 5, 2012

Todd Sando, P.E., State Engineer State Water Commission 900 East Boulevard Avenue Bismarck, ND 58505



Re: Private Water Permits within McKenzie County

Dear Mr. Sando:

The McKenzie County Water Resource District (MCWRD) is informed of various permit applications and current intentions by private parties who intend to divert water from the Missouri River and create an extravagant pipeline system to sell significant amounts of water to the oil industry within McKenzie County. In some instances, this information has been coupled with demands by the independent water provider community for MCWRD and the Western Area Water Supply Authority to reduce their water sales at water depots so as not to compete with the private water sellers. While MCWRD has historically not objected to the development of isolated private water sellers to meet the demands of the oil industry, the more recent private development plans are simply too extensive to allow to proceed given MCWRD's significant investment in infrastructure and need to generate income to repay its federal loan obligations as well as the state loan obligations authorized in House Bill 1206 during the last legislative session.

MCWRD is requesting the information from these private water sellers, out of concern that these entities may be encroaching on the MCWRD water franchise area. Federal law is ver protective of a rural water system's water sales territory if the rural water system is indebted to the Federal government through a federal loan for the water system's infrastructure. See 7 U.S.C.A. 1926(b). MCWRD has outstanding federal Rural Development loans through the USDA and qualifies for the franchise protection of Section 1926(b).

MCWRD believes that the grant of water appropriation permits by the State Engineer's Office or the access permits and easements by the Corps would constitute governmental action that will provide a private water franchise to develop within the MCWRD jurisdiction. The purpose of this letter is to advise you that MCWRD intends to protect its franchise territory from further encroachment by private water sellers, and to request that you forego the issuance of any permits for private water development within McKenzie County without engaging MCWRD in discussion for each permit requested.

Denton Zubke

Chairman of MCWRD





Water Resources District Board

205 6th St. NW • (Mailing addr.) 201 5th ST. NW, Suite 1456 Watford City, ND 58854

Tel: 701-842-2821 ext. 7 • Fax: 701-842-2822

Denton Zubke, Chairman PO Box 927 Watford City, ND 58854-0927 701-444-6484 work 701-842-3081 home dentonz@dakotawestcu.org July 5, 2012

Jo Ellen Darcy,
Assistant Secretary of the Army, Civil Works
108 Army Pentagon
Washington, DC 20310-0108

Gene Veeder, VIce-Chairman PO Box 699 Watford City, ND 5885 4-0699 701-444-2804 gveeder@co.mckenzie.nd.us

Re: Private Water Permits within McKenzie County

Dear Assistant Secretary Darcy

Lee Tjelde, Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 gfaseyes@yahoo.com The McKenzie County Water Resource District (MCWRD) is informed of various permit applications and current intentions by private parties who intend to divert water from the Missouri River and create an extravagant pipeline system to sell significant amounts of water to the oil industry within McKenzie County. In some instances, this information has been coupled with demands by the independent water provider community for MCWRD and the Western Area Water Supply Authority to reduce their water sales at water depots so as not to compete with the private water sellers. While MCWRD has historically not objected to the development of isolated private water sellers to meet the demands of the oil industry, the more recent private development plans are simply too extensive to allow to proceed given MCWRD's significant investment in infrastructure and need to generate income to repay its federal loan obligations as well as the state loan obligations authorized in House Bill 1206 during the last legislative session.

Leif Jallesed, Board Member 10561 HWY 1806 E New Town, ND 58763-9084 701-675-2490 jellesed@restel.net

MCWRD is requesting information from these private water sellers, out of concern that these entities may be encroaching on the MCWRD water franchise area. Federal law is very protective of a rural water system's water sales territory if the rural water system is indebted to the Federal government through a federal loan for the water system's infrastructure. See 7 U.S.C.A. 1926(b). MCWRD has outstanding federal Rural Development loans through the USDA and qualifies for the franchise protection of Section 1926(b).

Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-828-3555 home 406-489-1704 cell

MCWRD believes that the grant of water appropriation permits by the State Engineer's Office or the access permits and easements by the Corps would constitute governmental action that will provide a private water franchise to develop within the MCWRD jurisdiction. The purpose of this letter is to advise you that MCWRD intends to protect its franchise territory from further encroachment by private water sellers, and to request that you forego the issuance of any permits for private water development within McKenzie County without engaging MCWRD in discussion for each permit requested.

Clint Hecker Assistant Manager Waiford City, ND 58854 701-842-2821 701-290-6791cell checker@co.mckenzie.nd.us

Respectfully.

Denton Zubke

Chairman of MCWRD

## MCKENZIE COUNTY, NORTH DAK GOPY



#### Water Resources District Board

205 6th St. NW = (Mailing addr.) 201 5th ST. NW, Suite 1456 Watford City, ND 58854

Tel: 701-842-2821 ext. 7 • Fax: 701-842-2822

Denton Zutke, Chairman PO Box 927 Wadord City, ND 58854-0927 701-444-6484 work 701-842-3081 home dentonz@dakotawestcu.org July 6, 2012

Redland LLC 5009 139th Avenue NW Williston, ND 58801

Re: Water Appropriation Permit Application No. 6319

Gene Veeder, Vice-Chairman PO Box 699 Wattord City, NO 58854-0699 701-414-2804 gveeder@co.mckenzie.nd.us

Dear Redland LLC:

The McKenzie County Water Resource District (MCWRD) is in receipt of a notice dated June 14, 2012 advising of a modification to a water permit diversion point at Township 152 North, 103 West Section 12, Southeast Quarter.

Lee Tjelde, Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 glaseyes@yahoo.com MCWRD is in the business of selling water to meet McKenzie County water supply needs. MCRW is a rural water district that supplies water for domestic, commercial, rural and industrial uses throughout the entirety of McKenzie County. In order to meet these public water supply demands, MCWRD has invested heavily in infrastructure, including a large transmission line from the Willist Treatment Plant throughout McKenzie County and the construction of a water depot at Indian Hill. You should be advised that much of MCWRD's infrastructure was constructed using federal USDA Rural Development loans.

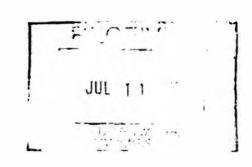
Leif Jellesed, Board Member 10561 HWY 1806 E New Town, ND 58763-9084 701-675-2490 jellesed@restel.net The fact that MCWRD has these federal loans outstanding is significant. Federal law is very protective of a rural water system's water sales territory if the rural water system is indebted to the Federal government through a federal loan for the water system's infrastructure. See 7 U.S.C.A. 1926(b). Pursuant to Section 1926(b), federal law does not allow public or private water systems to develop or expand in a manner that will encroach on an indebted rural water system's territory and take sales from the rural water system.

Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58631 701-626-3555 home 406-489-1704 cell MCWRD has no information about your specific plans for development of the above-referenced wa permit application. Please consider this letter as a request for information for your plans to develop this water supply, with specific information about your intended client base, water supply, and depollocations or pipeline development plans so MCWRD can better assess any 1926(b) franchise energachment concerns.

Clint Hecker Assistant Manager Watford City, ND 58854 701-842-2821 701-290-6791cell checker@co.mckenzie.nd.us You should be advised that MCWRD has historically noted when planned private water developme is not consistent with the County water plan but has not objected to the development of isolated private water sellers within its territory to meet the demands of the oil industry. Yet, the volume of water requested in your water permit may rival the MCWRD's ability to serve its client base with water within its franchise area. Given MCWRD's significant investment in infrastructure and need generate income to repay its federal obligations, MCWRD needs more information to fully evaluate your project.

cc: WA

WAWSA Board Members Todd Sando, State Engineer



120 Plum Tree Road Hickson, North Dakota 58047 (701) 588-4316 January 10, 2013



Attn. Bonnie Greenleaf USACE 180 East Fifth St., Suite 700 St. Paul, MN 55101 Dear Ms. Greenleaf:

You will find our completed "Oxbow/Hickson/Bakke Anonymous Affected Landowner Survey" form enclosed with this cover letter. We found the questions very poorly worded. The author of the survey assumes that everyone supports either the ring levee or the buyout. That is an arrogant attitude! We do NOT support either the ring levee or the buyout. There are many other options that the USACE has NOT seriously considered. We say NO to the Fargo dam and NO to the ring levee.

You wanted our preference in the survey. Our preference is NO Fargo dam and NO ring levee. The form is blatantly biased. We prefer to put our trust in organizations that sincerely represent our best interest. It is clear that neither the USACE nor the Diversion Authority represent our best interest. We have been talked down to and not talked with by both. The MnDak Upstream Coalition and the Joint Powers Authority have viable solutions that should be seriously considered. We trust them!

The Fargo dam is pompously designed to keep water off land that Fargo wants to develop and expand into. Why should county money be spent on expanding the City of Fargo? Why should state money be spent on expanding the city of Fargo, North Dakota? Why should our taxes pay for a dam that will destroy our house and our community? This is a misuse of tax money! Elected politicians should stop this waste!

There are many local examples of cities solving their flood problems without destroying neighboring communities. Grand Forks did not build a dam south of Grand Forks that would flood out Fargo. They calculated an internal solution to potential flood problems of the Red River. Wahpeton and Breckenridge built a diversion to solve their flood problems. West Fargo built a diversion to solve their flood problems. Don't solve potential Fargo problems by causing real problems for others.

The selfish elite that are forcing us to swallow their propaganda have no consideration for the needs of others. The money that North Dakota has should be spent on fixing the infrastructure of western North Dakota such as road repair. North Dakota money should be spent on fixing the damage caused by the floods in Minot and parts of Mandan and Bismarck. The United States government must spend any money it has available on repairing the damage caused by Hurricane Sandy.

Sincerely,

Daniel Rugroden

Cc: Senator John Hoeven

Senator Heidi Heitkamp Governor Jack Dalrymple Congressman Kevin Cramer

State Senator Larry Luick

State Representative Clark Williams

State Representative John Wall

Scott Hendrickson, President of MnDak Upstream Coalition

Sincerely,

Sally Rugroden

jugroder



#### Oxbow/Hickson/Bakke Anonymous Affected Landowner Survey January 8-10, 2013

PURPOSE: The purpose of this survey is to gather affected landowner input on the Ring Levee and Buyout mitigation options. Your responses are voluntary and will remain anonymous. This survey does not serve as an official vote, rather a means for the Corps and Diversion Authority to better understand the preferences and concerns of the affected landowners. Please use the back of tl

his	sheet if you need additional space.
1.	Do you reside in:  a. *Oxbox*  b. Hickson  c. Bakke  d. Other  Sheet if you need additional space.  We say to the France which means  The france of the fran
2.	Would you prefer a ring levee or buyout as mitigation? $\sqrt{A}$ Ring Levee Buyout
•	The state of the state of the first of the state of the s
3.	Is your property in the ring levee footprint or outside the ring levee?
4.	YesNoNo
5.	If a ring levee is pursued and if your residence IS located in the ring levee footprint or outside the ring levee, would you  a. Relocate within the ring levee  b. Leave the Oxbow/Hickson/Bakke area  c. Undecided
6.	If a ring levee is pursued and if your residence IS NOT located in the ring levee footprint or would you want to a. Leave the Oxbow/Hickson/Bakke area
	b. Remain within the ring levee area
	c. Undeoided
	c. Olideolded
7.	What are your comments/concerns with a ring levee option? N/
0	What are your comments to an across with a house traction?

What are your comments/concerns with a buyout option? V / A

Daniel Augroden

Please place this anonymous survey in the box provided or mail to: USACE 180 East Fifth St, Suite 700 Attn: Bonnie Greenleaf, St. Paul MN 55101



# Fargo-Moorhead Discording AB 1020 House approper Ed. & Eine January 30, 2015 Fargo-Moorhead Discording The AB 1020 AB 1020 House approper Ed. & Eine January 30, 2015 AB 1020 January 30, 2015 Fargo-Moorhead Discording The AB 1020 Fargo-Moorhead

**North Dakota State** Legislature

Bismarck, ND January 30, 2013

**Colonel Michael Price** 



**US Army Corps of Engineers** BUILDING STRONG







Flooding is the problem.



## **Estimated Flood Damages**

## Flood Damages:

- 100-year flood event ~\$6 Billion
- 500-year flood event ~\$10 Billion

#### Loss of Life:

- ~200 for 100-year flood event
- ~600 for 500-year flood event



Fact – Fargo-Moorhead cannot achieve 100-year protection with levees alone

## **FMM Project Purpose & Objectives**

#### Purpose:

To identify measures to reduce flood risk in the entire Fargo-Moorhead Metropolitan Area.



#### Objectives:

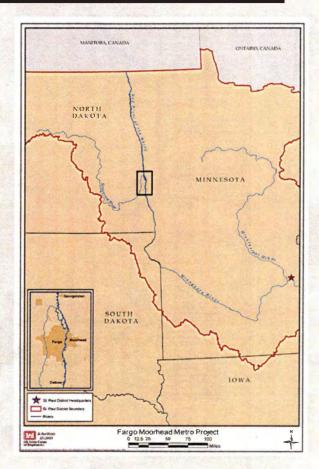
- Reduce flood risk and flood damages in the Metro area
- Restore or improve degraded riverine and riparian habitat
- Provide additional wetland habitat
- Provide recreational opportunities



## Why the diversion?

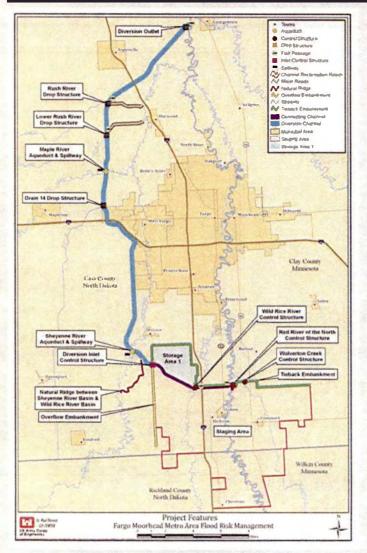
- What does the diversion do?
  - ► Benefits ~200,000 people
  - Provides benefits to more than 70 square miles of existing infrastructure
  - Provides safe and reliable flood risk reductions
  - ▶ Minimized loss of life
  - Significantly minimizes economic damages
  - ► The best possible engineering solution
  - Strong Corps and Administration support

Fact – The diversion was not designed to promote future development – only to provide the safest and most reliable plan for existing infrastructure and population centers





## Federal Recommended Plan (FRP)

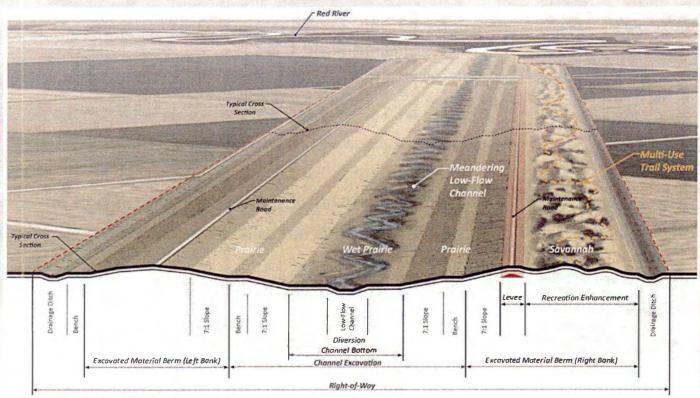


#### Plan components

- ► 20,000 cfs ND diversion channel
- ▶ 33,930 acre staging area
- ▶ 36 mile diversion
- ▶ 11.66 miles of tie-back levees
- Control structures on the Red
   Wild Rice rivers
- Aqueduct & spillway structures on the Sheyenne & Maple rivers
- ▶ Drop structure on the Lower Rush & Rush rivers
- Non-structural mitigation for impacts in the staging area



## **Conceptual Section of the Diversion**

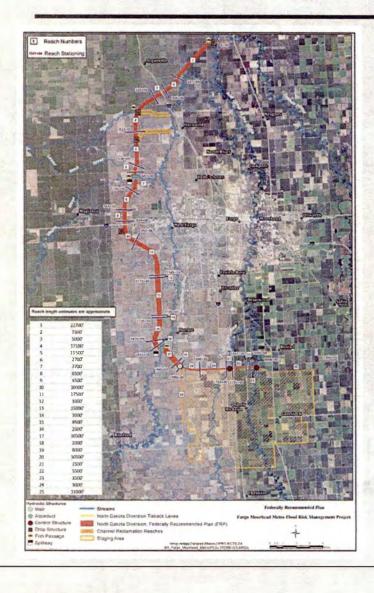


Reach 1 Artist Rendering

- ✓ Detailed Design Items
  - Ditching required for lateral local drainage
  - Meandering low flow channel
  - Excavated
     Material Berms
     (EMB)
     configuration
  - ✓ Recreation



#### **Current Design Reaches**



- Have started design activities for:
  - ▶ Outlet/Design Reach1
  - Design Reach 2
  - Design Reach 3 (sponsors)
  - ▶ Design Reach 4
  - ► Rush River structure
  - ▶ Design Reach 5
  - ▶ Lower Rush River structure
  - ▶ Design Reach 6 (sponsors)
  - ▶ Design Reach 7 (Maple River aqueduct)
  - ► Environmental mitigation projects
- Bridges and associated channel designed by the sponsors
  - ► CR 31/4, 32, 22, 20
  - ► 1-29
  - ► Hwy 81

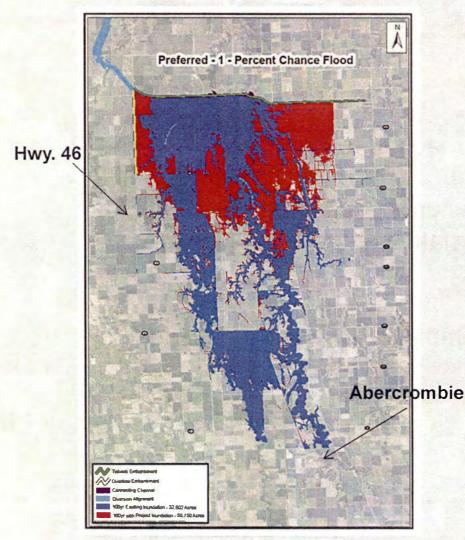


## **Initial Downstream Diversion Impacts**

- Impacts in excess of 2-feet
- Downstream impacts would have reached to Canada
- Impacts on an estimated 4500 structures downstream of project based on pre-feasibility study information (impacts would vary by actual depth and location)
- Mitigated downstream impacts by implementing the most effective and efficient upstream storage



## Upstream Impacts - 1% (100-year) Event

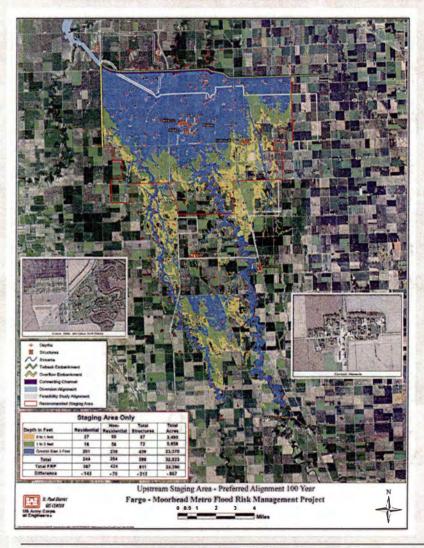


**Preferred Combined Alternative** 

- · Defined area
- Ability to mitigate for impacts
- Impacts on an estimated 800 structures upstream (~ 387 residential)
- Virtually eliminated all downstream impacts
- Further mitigated by:
  - Modifying channel alignment
  - Proposing ring-levee for Oxbow, Hickson, Bakke, and Comstock



## Southern Alignment Shift



- Considered several options; Option A
  is preferred alignment, located roughly
  1 mile north of previous alignment
- 54 fewer residential structures in Staging Area affected. (75 fewer residential structures with levees at Comstock and Oxbow/Bakke/Hickson)
- Eliminates Storage Area 1 and Wolverton Creek Control Structure
- Reduced impacts to Richland and Wilkin Counties

#### **Upstream Impacts**

Richland and Wilkin Counties

Modified channel alignment minimized impacts by:

#### WII KIN

- 50% reduction in residential structures (4 to 2)
- 59% reduction in newly impacted acres (2420 to 995)
- 97% of additional impacts are between 0-1 feet

#### RICHLAND

- 87% reduction in residential structures (23 to 3)
- 55% reduction in newly impacted areas (2401 to 1071)
- 94% of additional impacts are between 0-1 feet



## Ring Levees at Oxbow - Hickson - Bakke



- Option being explored with the communities of Oxbow, Bakke and Hickson
- Would allow partial vs. full buyout (40 structures vs. entire community)
- Would be built with 4 feet of freeboard resulting in greater than 500 year flood level protection
- Would require raising of Cass
   County Highways 81 and 18
- MOU between Oxbow and Diversion Authority

# **Minimizing Upstream Impacts**

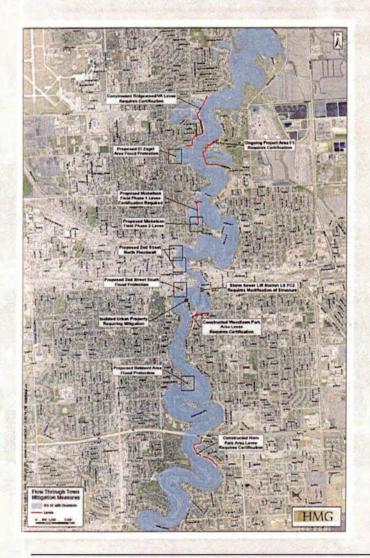
Induced Impacts in the Staging Area (100-year event)				
Impacts	FRP	VE-13A <sup>1</sup>		
Residential Structures (no ring levees)	387	251		
Residential Structures (with ring levees)	N/A	58		
Newly Impacted Residential Structures	N/A	34		
Total Acres Impacted	33,930	32,523		
100 yr Staging Elevation at (Staging area)	923.0	922.1		
Water elevation at Richland/Wilkin County line	923.1	922.5		
Length of Embankment upstream of Sheyenne River (miles) <sup>2</sup>	21.0	23.1		
Cost Savings Relative to FRP (\$ in millions)		59.0		

#### Notes:

- 1. With In-Town Levees and Gates on the Diversion Inlet
- 2. Includes length of ring levee embankments.



### In-Town Levees



### Advantages

- ➤ The use of levees in town to 35 feet (at Fargo gage) will allow project to operate less frequently (10-year event)
- Reduces connectivity and geomorphology concerns
- Significantly reduces the probability of summer operation
- ▶ Based on historical water levels the project would NEVER have operated in the summer months
- Minimizes impacts to farmers



# Mitigation for impacts

- Continue to work with communities and impacted individuals to reduce impacts
- Compensation provided to property owners in form of acquisition or flowage easements when impacts cannot be avoided
- Diversion Authority working with farmers on crop insurance
- Diversion Authority has formed an Agricultural Sub-Committee, made up of farmers from the region and they are working on crop insurance and other agricultural impacts.



# Why not Distributed Storage?

- Not as reliable
- Impacts more land, more landowners, and costs more
- Based on topography and basin characteristics Is not a practical or possible solution.
- Need 400,000-600,000 acre feet of distributed storage
- Would require more dams
- Distributed storage would be beneficial to reduce the frequency of project operation
- It would not replace the upstream storage area as part of the project.



# Why not Distributed Storage?

- 20% Reduction (RRBC)
  - ▶ 1.5 million acre feet for 50 year-event
  - 242,000 acre feet upstream of Fargo-Moorhead
  - ► Cost \$1.5 \$2.25 Billion
  - Large local benefits benefits to Red River are extra.
  - Storage needs to be in "middle" area.
  - Impoundments similar to North Ottawa.

Event	Note	Peak Discharge (cfs)	existing peak stage (ft)	20% Flow Reduction Discharge (cfs)	20% Flow reduction peak stage (ft)	20
500YR	1	61,700	46.69	49,360	45.06	1.6
200YR	1	46,200	44.57	36,960	42.96	1.6
100YR	1	34,700	42.42	27,760	40.36	2.1
50YR	1	29,300	41.01	23,440	38.46	2.5
2009	2	29,500	40.84			
1997	2	28,000	39.57	-		-

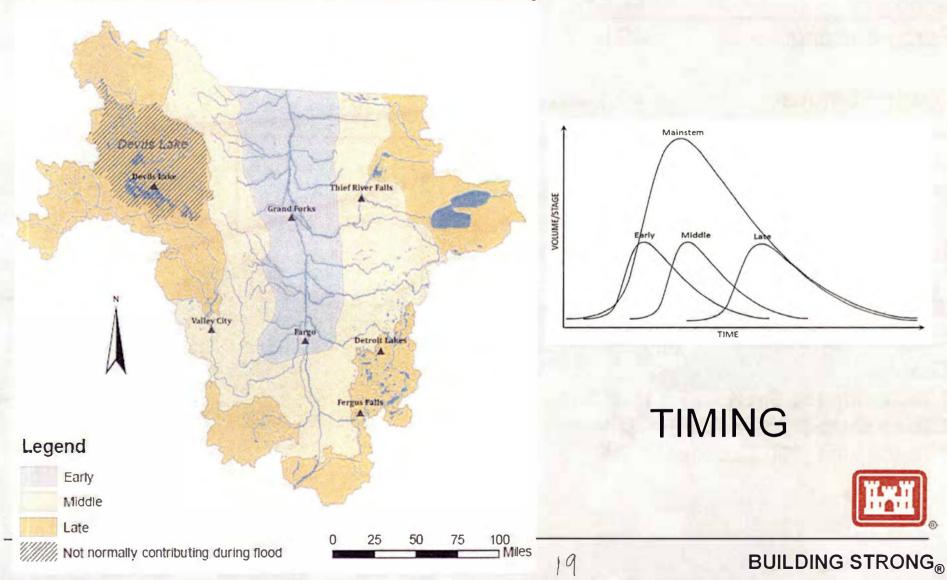
**Note 1: No Protection Stage** 

**Note 2: With Protection** 

Stage



# Early, Middle, and Late Water Concept



# 2009 FLOOD (50-YEAR EVENT) SENSITIVITY ANALYSIS

#### **2009 FARGO ANALYSIS:**

Scenario	FEET
Fargo Existing:	40.6
Lower Removal: Mid Removal: Upper Removal:	40.1 39.7 40.6

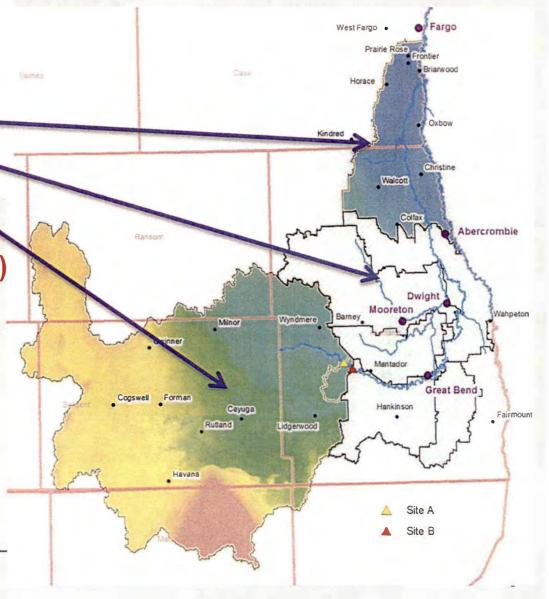
#### **Diversion Goal**

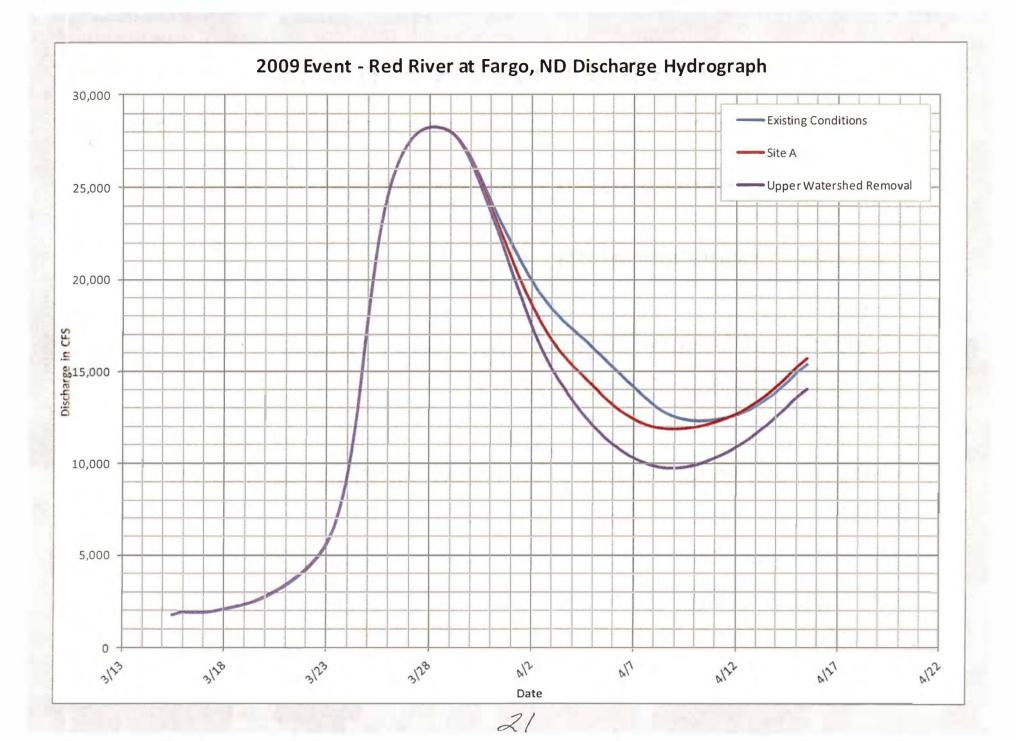
30.0 (100-year)

Wild Rice River represents 300,000 Acre-feet of water

#### That is:

- 1 Township (36 Sections) = 13.0' feet
- 2 Townships (72 Sections) = 6.5'
- 5 Townships (180 Sections) = 2.5'





# **Reducing Impacts and Cost**

- Set the North Alignment Outlet to Maple River
  - ► Reduced length by 1 mile and cost by \$19 Million
  - Affects fewer landowners
- Completed Value Engineering (VE) studies
  - ▶ \$22 M savings at outlet structure
- Revisions to southern alignment, adding gates to the diversion inlet, in-town levees:
  - ► Saves \$59 million
  - Minimized impacts to farmers
  - ▶ Impacts fewer residences

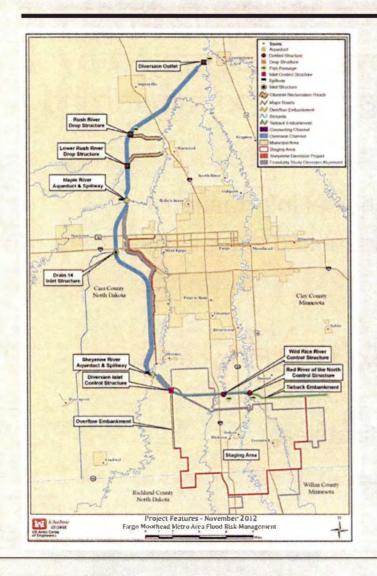


# Improving the Project – Moving Forward

- Continued analysis to improve overall project by increasing value, decreasing risk, and minimizing impacts:
  - ► Continue to develop detailed technical information
  - ► Examine cost saving measures identified in feasibility study
  - Value Engineering studies
  - ▶ Design refinements
  - ► Mitigation Policy development (e.g. OHB Ring Levee)
  - No significant future changes anticipated



# National Environmental Policy Act (NEPA) Items



- North Alignment
- West Alignment
- South Alignment
- Addition of In-Town Levees
- Increased Flow Through Town
- Addition of Gates on the Inlet Structure
- Oxbow/Bakke/Hickson Ring Levee
- Public Comment Period May 2013
- NEPA Completed July 2013



# **Overall Project Construction Schedule**

- Once authorized and funded by Congress
  - ▶ +3 months Sign Project Partnership Agreement
  - ▶ +6 months Earliest construction start
  - ▶ + 8.5 years Project Operable \*
- Earliest construction start
  - ► Fall 2013



\* 8.5 year construction period based on \$240 Million/year funding stream



# **Diversion Authority Website**



#### **About the Project**

This description of the diversion plan focuses on the recommended Federal plan (also known as the Locally Preferred Plan). For full details, read the <u>Final Feasibility Report and Environmental Impact Statement July</u> 2011.

#### THE DIVERSION IN DEPTH

Flooding in the Red River Valley has become increasingly severe and frequent. It threatens our viability and quality of life for the entire region. In fact, during times of severe flooding, the potential damages alone to the Fargo-Moorhead area are estimated at more than \$194 million a year without a flood diversion that includes upstream staging and storage.

A three-year study led by the Corps of Engineers, and also involving local engineering firms, looked at many options; including levees, floodwalls, retention, etc.; and found the current diversion plan is the only concept

The alignment of the 20,000 cfs diversion channel with upstream staging and storage would start approximately four miles south of the confluence of the Red and Wild Rice Rivers and extend west and north around the cities of Horace, Fargo, West Fargo and Harwood. It ultimately would re-enter the Red River north of the confluence of the Red and Sheyenne Rivers near the city of Georgetown, MN. Along the 36 mile path it would cross the Wild Rice, Sheyenne, Maple, Lower Rush and Rush rivers and incorporate the existing Horace to West Fargo Sheyenne River diversion channel.

The basic North Dakota alignment remained the same as in the earlier screening phase, except where it was adjusted northwest of Harwood, ND to avoid Drain 13. Some significant design changes were made for the recommended Federal plan, including the addition of staging and storage, along with optimization of the channel cross section. The plan includes 19 highway bridges and 4 railroad bridges that cross the diversion channel.

The channel capacity was modified from previous phases to account for the storage and staging areas that were included. The inclusion of these areas allowed for the capacity of the diversion channel to be reduced to approximately 20,000 cfs. The diversion channel was designed to keep the 1-percent chance event flood flows below existing ground in the diversion channel as much as possible to limit impacts to drainage outside the channel.



#### The Need for the Project

Learn why the Fargo Moorhead Diversion is critically needed. <u>Click</u> <u>Here</u>

#### **Project History**

Learn about how this project came about. Click Here

#### **Project Timeline**

View a timeline for the project. <u>Click</u> <u>Here</u>

#### Mitigation

Learn about Project Miligation. Click Here



#### Frequently Asked Questions

Find answers to commonly asked questions and learn about common misconceptions about the project.



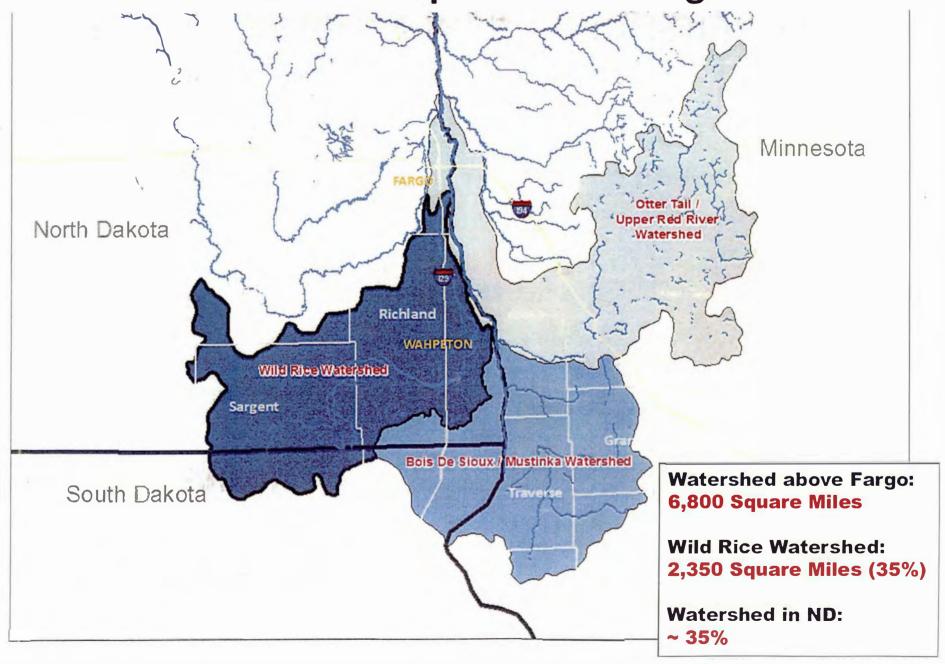
http://www.FMDiversion.com



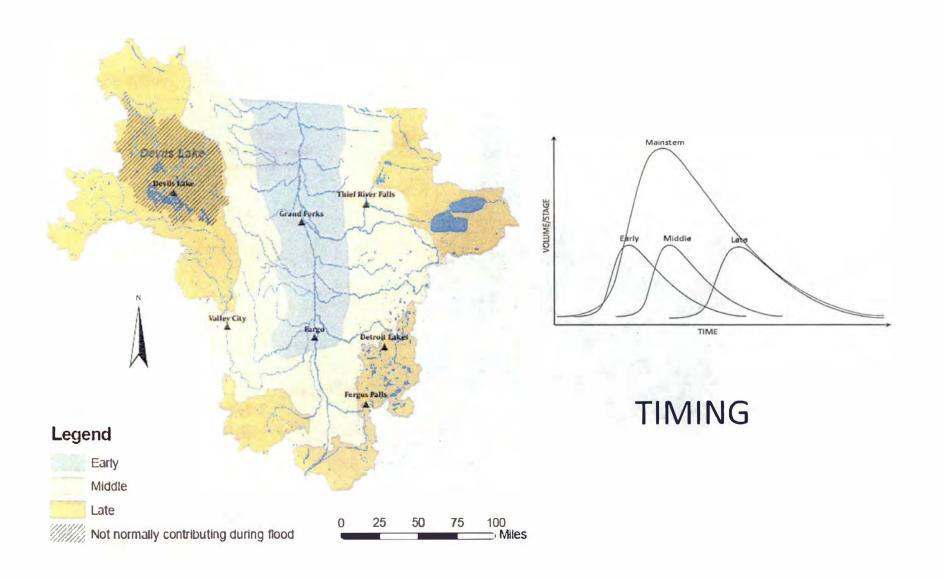
# North Dakota Wild Rice River Watershed Study

**Richland-Cass Joint Water Resource District** 

# **Watershed Upstream of Fargo**



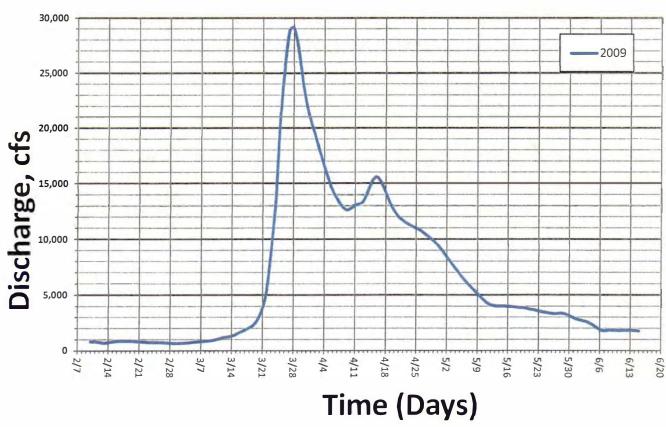
# Early, Middle, and Late Water Concept



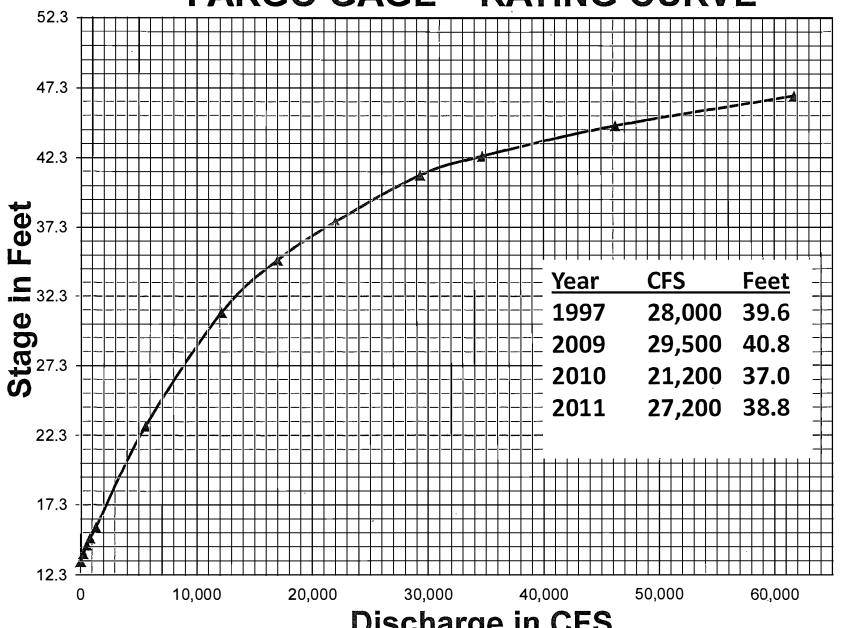


# What is a Hydrograph?

Discharge Hydrograph at Fargo USGS Gage



### **FARGO GAGE - RATING CURVE**



Discharge in CFS

# 20% Flow Reduction Goal - Analysis

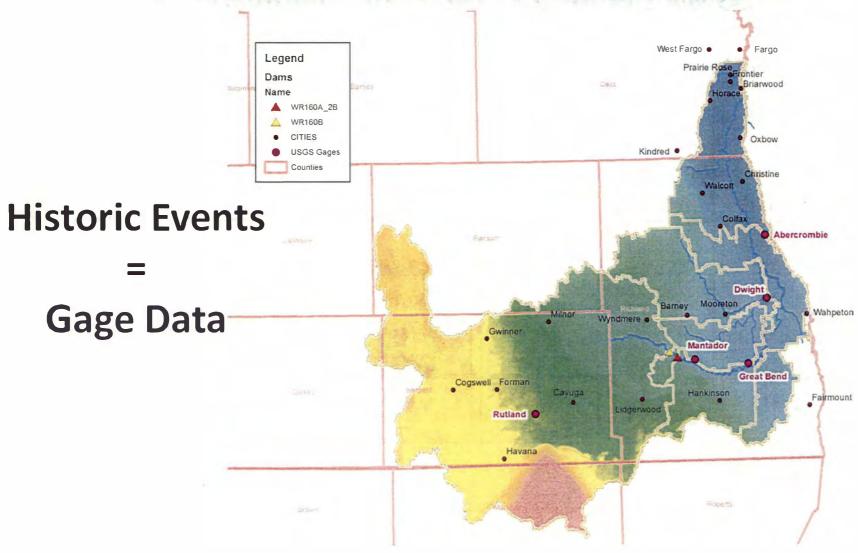
		PEAK DISCHARGE	EXISTING PEAK STAGE	20% FLOW REDUCTION DISCHARGE	20% FLOW REDUCTION PEAK STAGE	STAGE DIFFERENCE
EVENT	NOTE	CFS	FT	CFS	FT	FT
	251					
500YR	1	61,700	46.69	49,360	45.06	1.6
200YR	1	46,200	44.57	36,960	42.96	1.6
100YR	1	34,700	42.42	27,760	40.36	2.1
50YR	1	29,300	41.01	23,440	38.46	2.5
2009	2	29,500	40.84	-	-	-
1997	2	28,000	39.57	<u>-</u>	-	-

Note 1: No Protection Stage

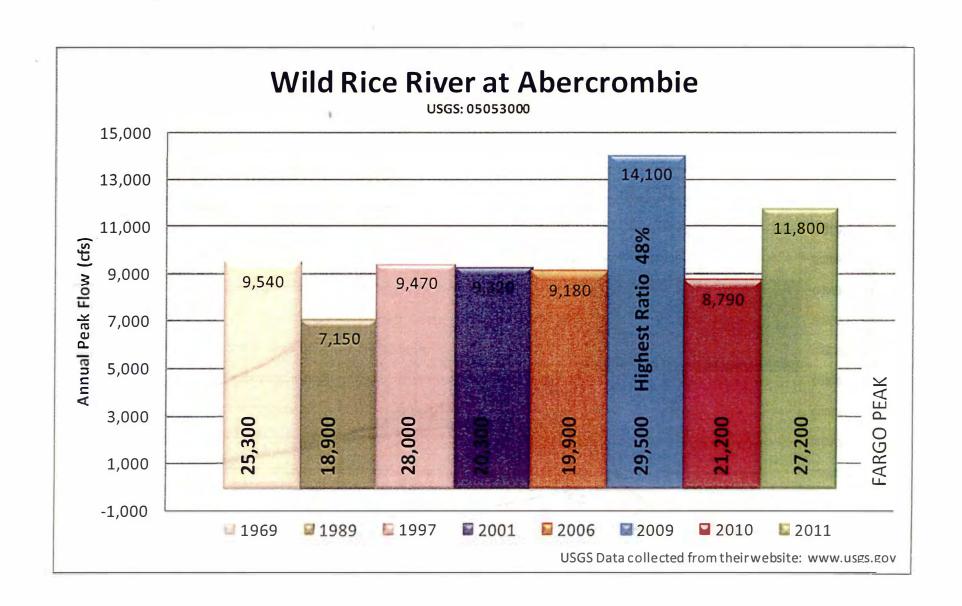
Note 2: With Protection Stage



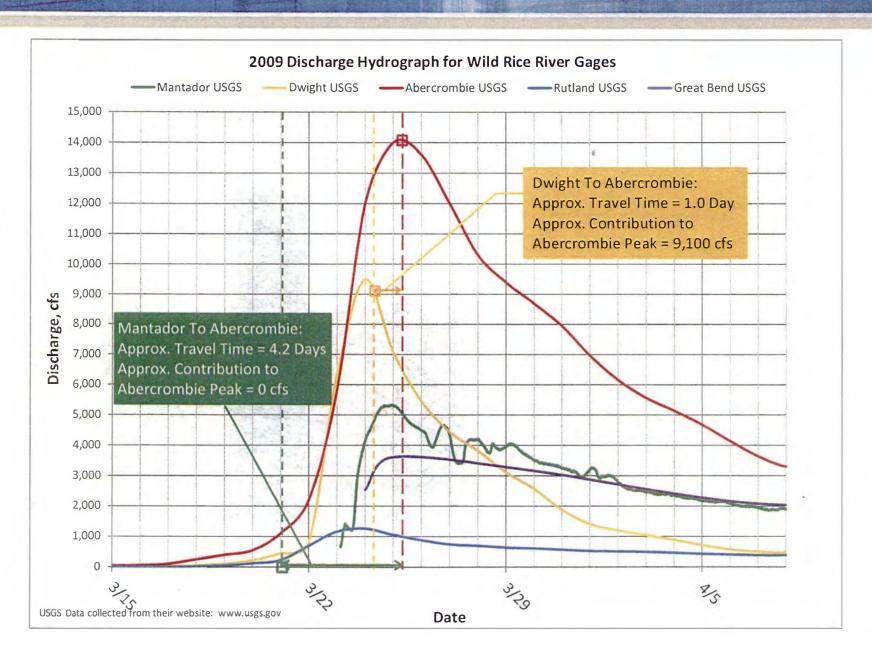
# Wild Rice River Watershed



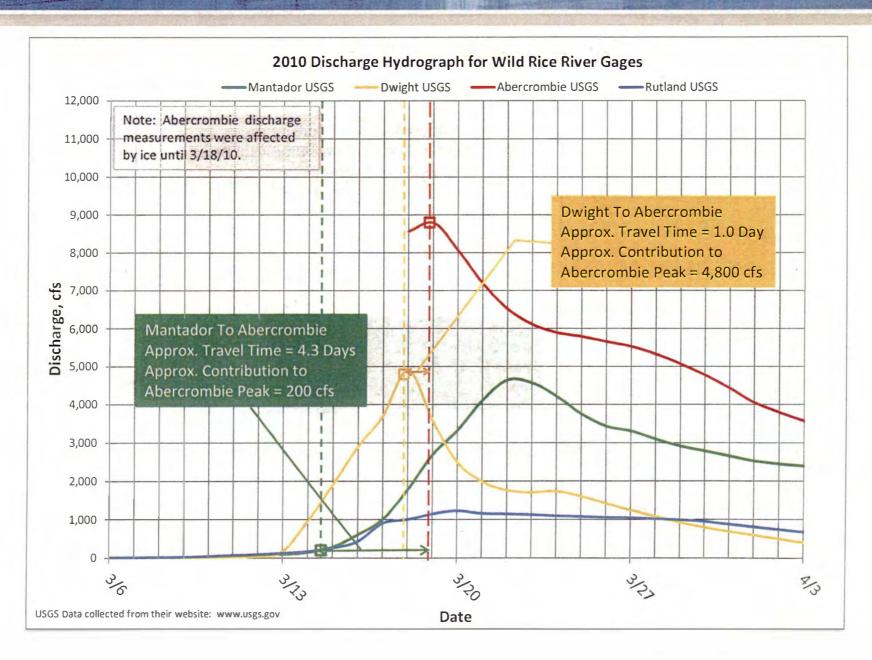




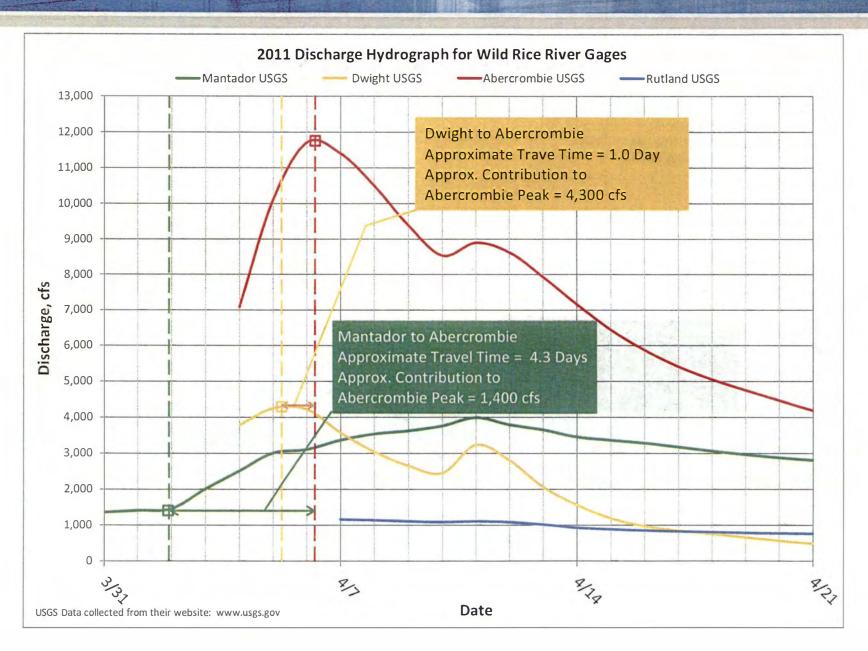












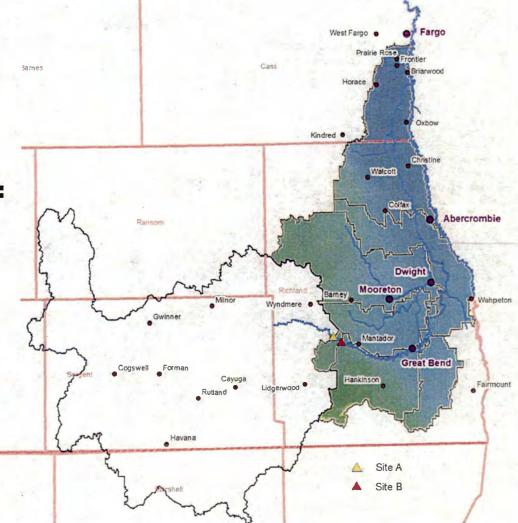
# RETENTION LOCATION SELECTED MANTADOR, ND

Wild Rice River Watershed:

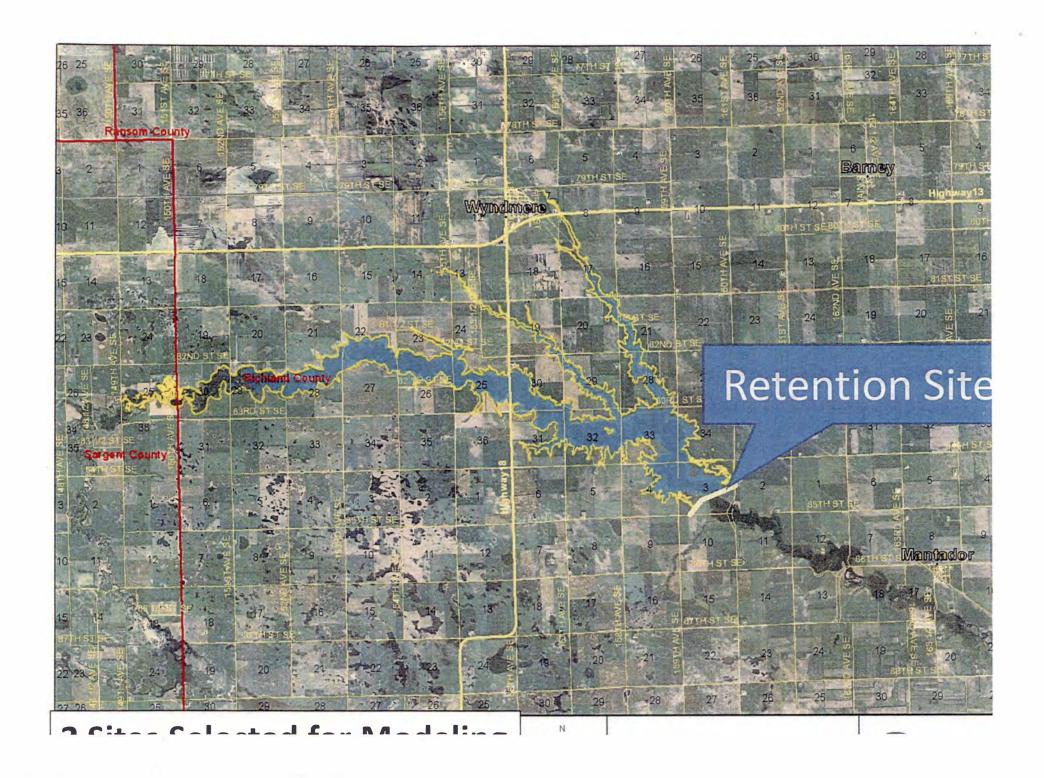
2,350 Square Miles

**Watershed above Mantador:** 

**1,540 Square Miles (66%)** 



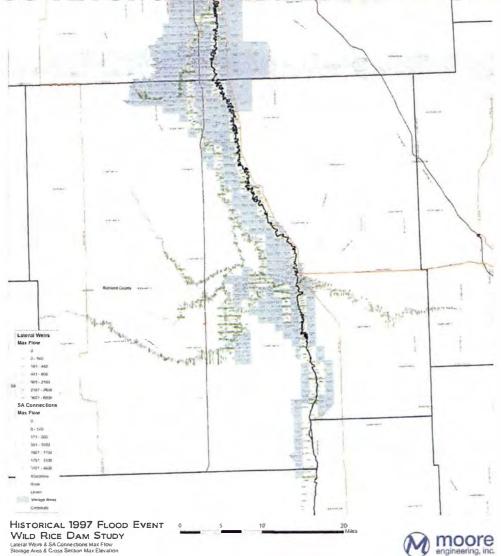


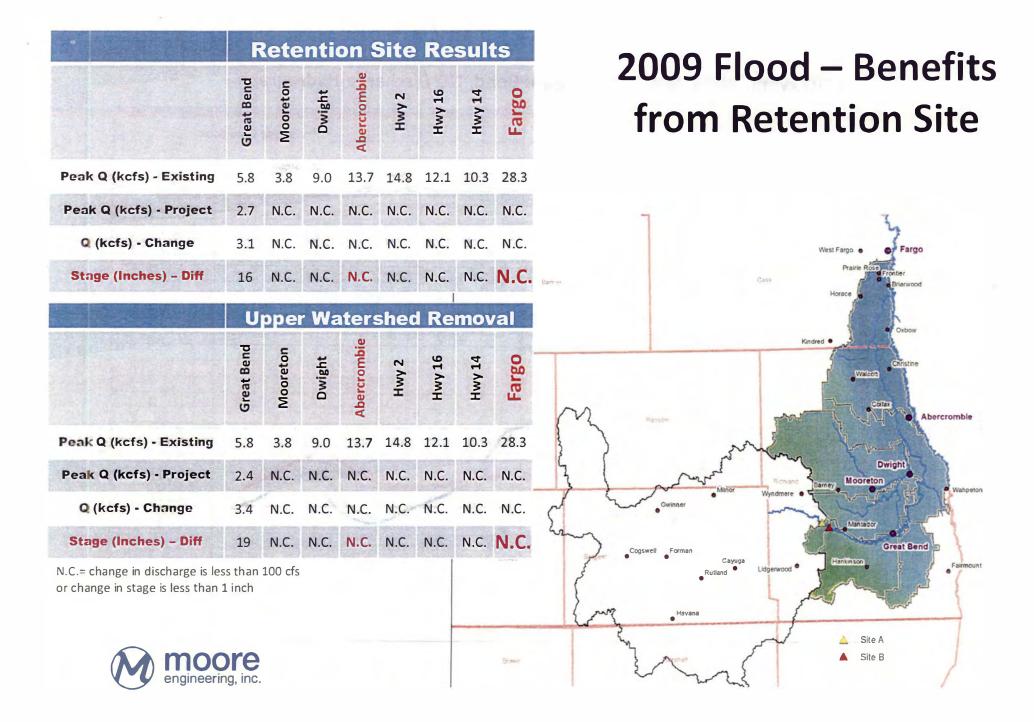


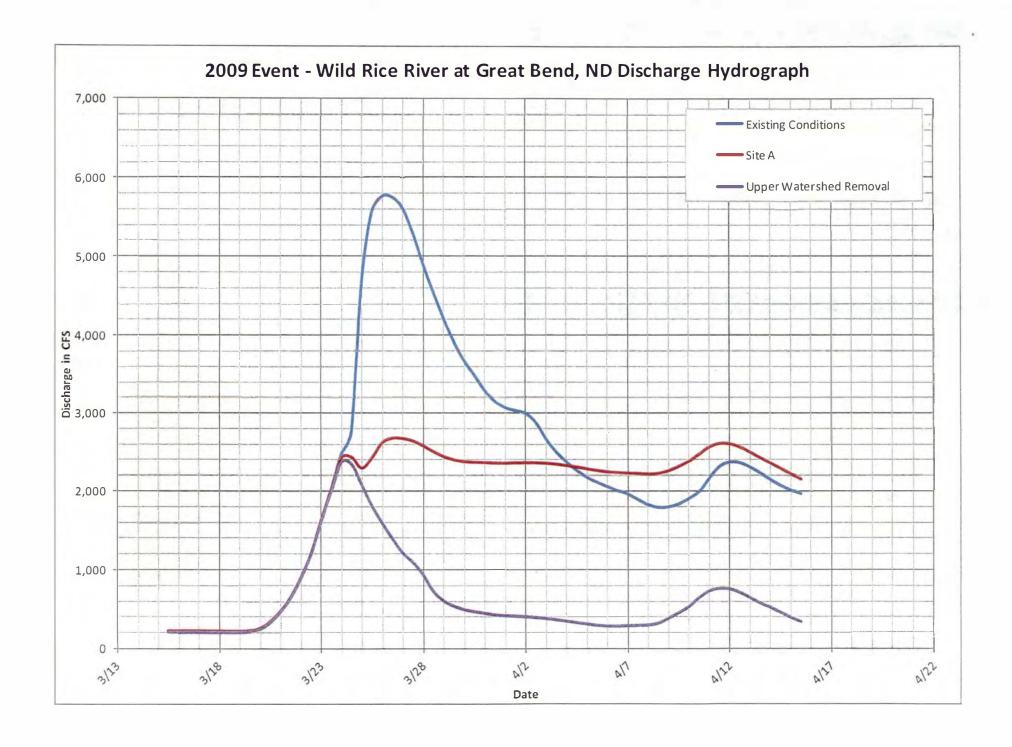
# RETENTION LOCATION SELECTED MANTADOR, ND

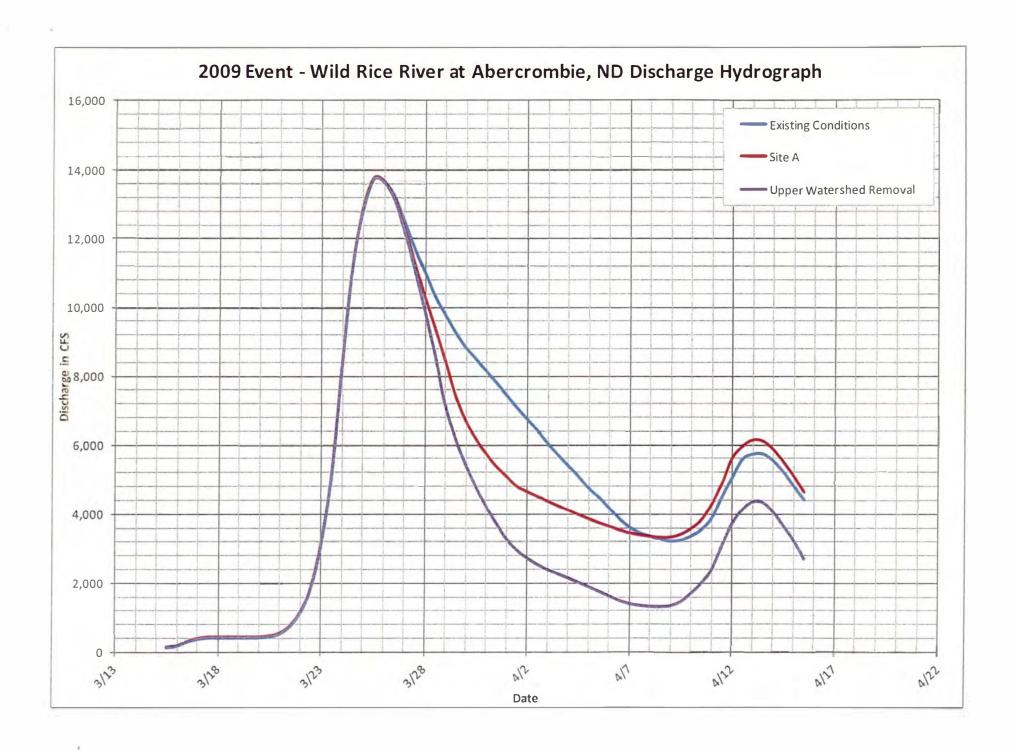
	Retention Site		
Location	Section 3 Liberty Grove Twp. Richland Co. NI		
Invert Elevation	1010 ± (NAVD 88)		
Top Dam Elevation	1048 (NAVD 88)		
Dam Height	38' ±		
Easement Area	4,400± Acre		
Secondary Spillway Elevation	1036.0 (NAVD 88)		
Secondary Spillway Height	26 ±		
Secondary Spillway Volume	29,840 Ac-ft (0.57 inches)		
Water Surface Area	2,600± Acres (4 Square Miles)		
Emergency Spillway Elevation	1043 (NAVD 88)		
Emergency Spillway Height	33' ±		
Emergency Spillway Volume	51,400 Ac-ft (0.98 inches)		
Primary Spillway Dimensions	15'x10' RCB		
Secondary Spillway Dimensions	130' Concrete		
Emergency Spillway Dimensions	1,800' Earth		

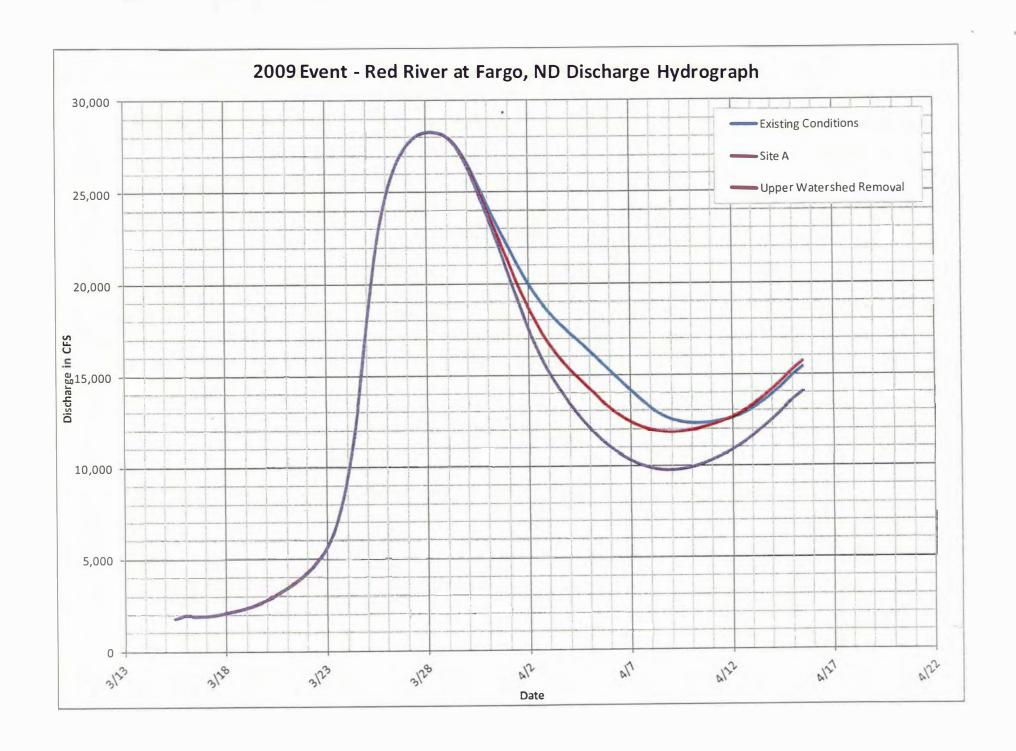
# MODEL EXTENT - HEC-RAS Wild Rice River and Red River of the North



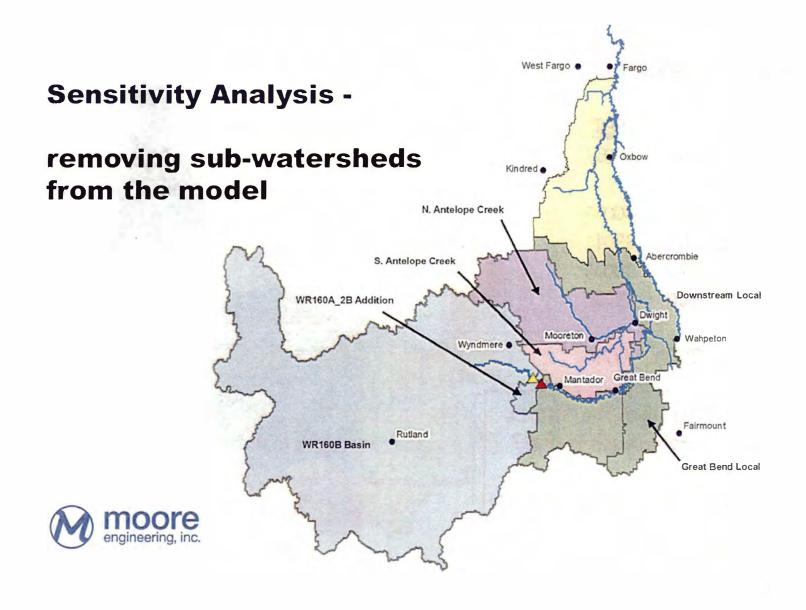








# 2009 HEC-RAS MODELING



### 2009 FLOOD SENSITIVITY ANALYSIS

#### **2009 FARGO ANALYSIS:**

Scenario	CF2	FEET	
Fargo Existing:	28,300	40.6	
Upper Removal: Mid Removal:	28,300 25,800	40.6 39.4	

Lower Removal: 26,900 40.0

**Entire Removal: 22,400 37.8** 

2010 Actual 21,200 37.0

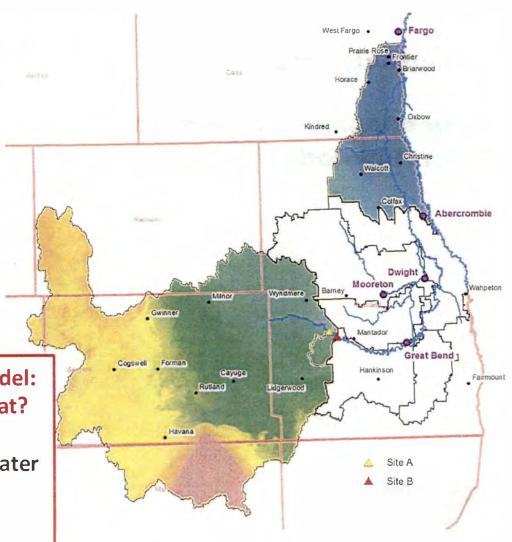
Entire Removal of Wild Rice from the Model: 300,000 AC-FT of Water...How much is that?

1 Township (36 Sections) = 13.0' of Water

2 Townships (72 Sections) = 6.5'

5 Townships (180 Sections) = 2.5'

13 Townships (468 Sections) = 1.0'



# 2009 Flood Flows

Wild Rice @ Abercrombie 14,100 cfs

Red River @ Hickson 23,700 cfs

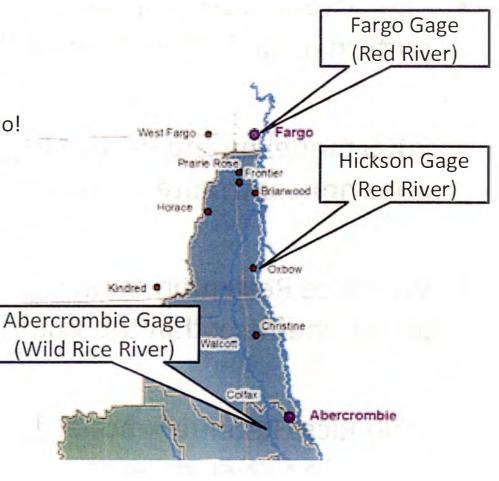
Combined Flow at Fargo??? 37,800 cfs No!

**Actual Flow at Fargo** 

29,500 cfs

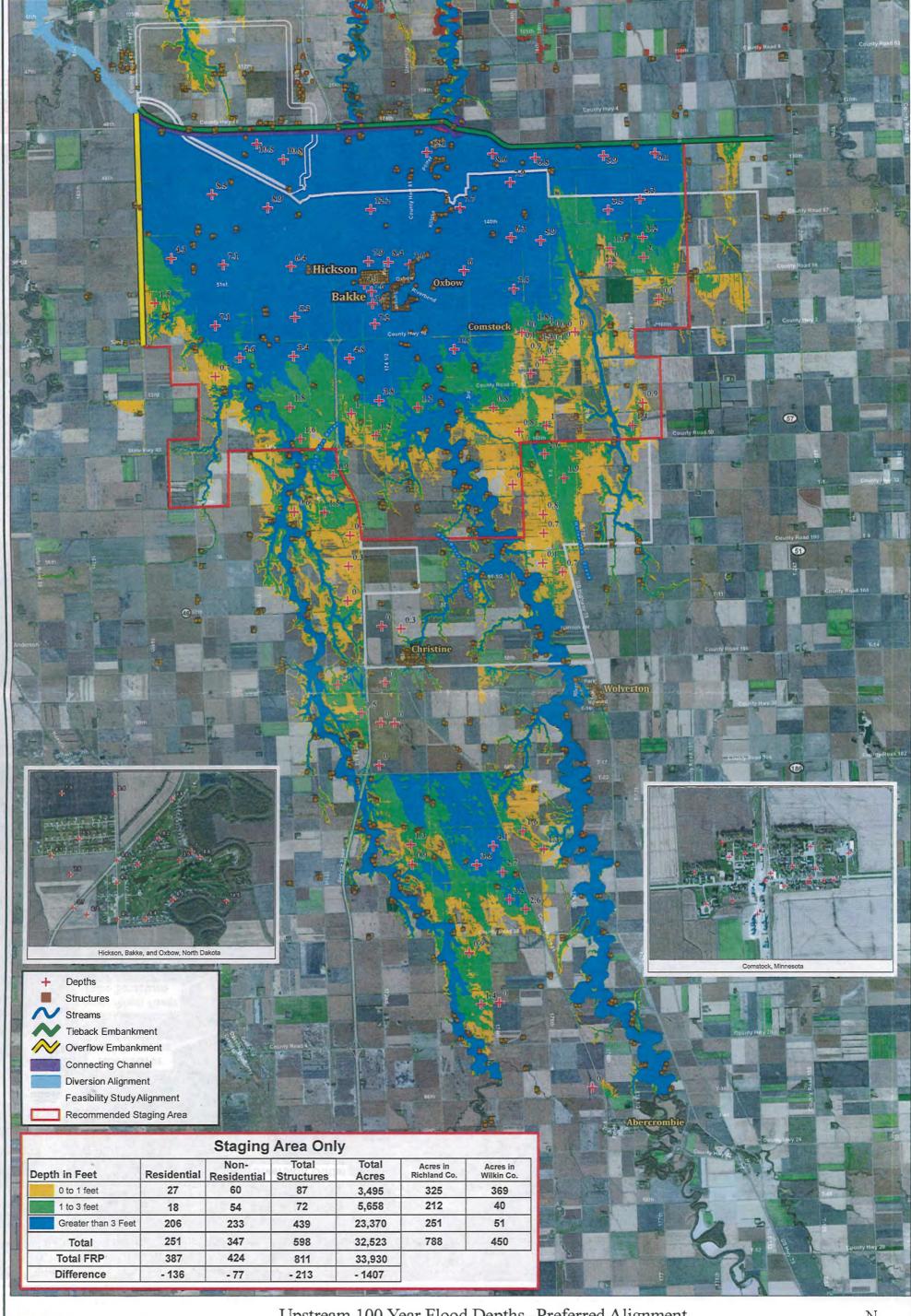
WHY?

Natural storage (ponding) south of Fargo reduced the flood peak.



# CONCLUSIONS

- The historic record of Wild Rice floods shows a repeating pattern of similarity. Namely the floods of 09', 10', & 11'
- 2009 modeling shows the <u>Upper</u> Wild Rice Watershed does not contribute to the crest at Fargo. Timing!
- Wild Rice Retention modeling shows strong potential for local benefits within the Wild Rice Watershed.
- Wild Rice Retention modeling shows diminished benefit to the Red River at Fargo.



St. Paul District
GIS CENTER
US Army Corps
of Engineers®

Upstream 100 Year Flood Depths--Preferred Alignment
Fargo - Moorhead Metro Flood Risk Management Project

0 0.5 1 2 3 4 Miles



#### Sandness, Sheila M.

m:

HB1020 January 31, 2013 House approp. Edve & Envir altachment #1

Sandness, Sheila M.

Monday, January 28, 2013 6:49 PM

To: Skarphol, Bob J.
Cc: Knudson, Allen H.

**Subject:** Fargo flood control costs

#### Representative Skarphol,

This email provides the following information you requested regarding the State Water Commission:

- A comparison of the assessed value and the buy-out price of properties purchased as part of the Fargo flood control project. The State Water Commission does not have information regarding the assessed value of properties purchased as part of the Fargo flood control project. The State Water Commission does not provide cost share for the purchase of properties, however the purchase price is considered when determining local cost share.
- A summary of the policies and procedures used to determine the buy-out price of a property acquired as part of the Fargo flood control project. Because the Water Commission does not participate in the buy-out of property, it does not have information regarding these policies and procedures.
- What is the disposition of loan repayments made to the resources trust fund? Are the loan proceeds
  identified and re-loaned? The Water Commission includes loan repayments in the projected revenues
  of the resources trust fund. The commission does not distinguish between revenue from loan
  repayments and other revenue deposited in the fund. The State Water Commission does not have a
  loan program that would re-loan these funds.
- A summary of how Fargo flood control funding has been spent. The State Water Commission reports total costs of Fargo flood control of \$71,761,405, of which the Water Commission has provided \$35,580,702. Following is a summary of Fargo flood control costs reported to the State Water Commission by the city of Fargo:

	Total Reported Cost
Dwellings	\$26,488,885
Land	7,162,444
Construction	26,771,159
Engineering, legal, and	11,338,917
administrative	
Total	\$71,761,405

If you have any questions or need additional information, please feel free to contact me.

Sheila M. Sandness Senior Fiscal Analyst North Dakota Legislative Council 600 E. Boulevard Avenue Bismarck, ND 58505 701.328.2916 msandness@nd.gov



# North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850 701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: http://swc.nd.gov

#### **MEMORANDUM**

**TO:** Representative Robert Skarphol

Chairman, Appropriations - Education and Environment Division

FROM: Dave Laschkewitsch

Director of Administrative Services North Dakota State Water Commission

**SUBJECT:** Committee Requested Information

DATE: January 23, 2013

At the Water Commission overview presentation on January 16, 2013 we were asked to provide additional information.

We estimate that the beginning balance of the Resources Trust Fund on July 1, 2013 will be \$265.2 million. This includes \$125.9 million of committed project funding carried over from the 2011-2013 and \$139.3 million of unappropriated funding.

We were also asked how other appropriation bills offered to enable several projects to obtain funding early enough to begin construction in the spring of 2013 would affect House Bill 1020. Although the contracts could be awarded and material ordered prior to July 1, 2013 we don't believe substantial dollars would be expended. This would result in raising the amount of committed project funding carried over from the 2011 -2013 biennium by the additional amounts approved. It would be offset by reducing the amount of new funding we planned to use for these projects. Because our appropriation bill includes funding for both carried over projects and new projects the funding contained in the other bills would not change the total project funding in House Bill 1020.

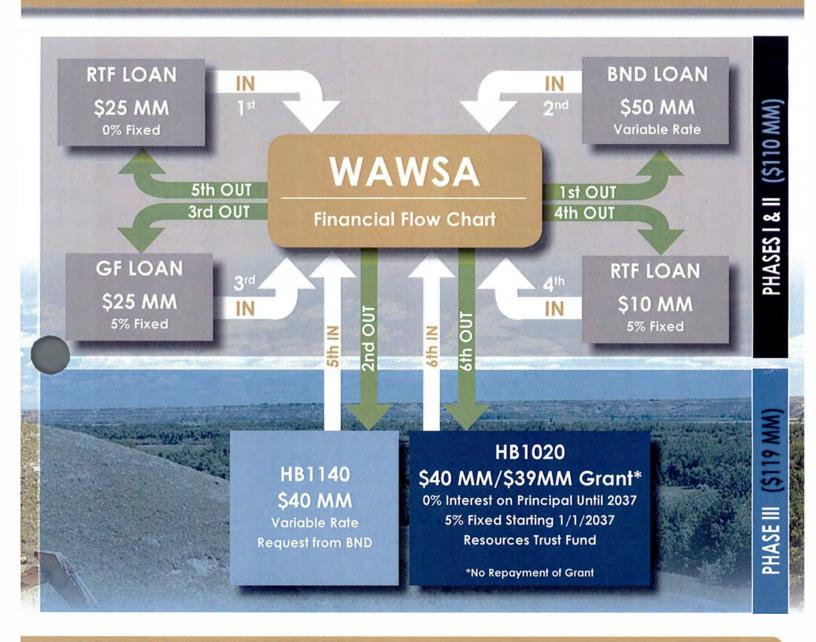
I have also attached a table detailing our outstanding bond issues as requested.

# North Dakota State Water Commission Defeasance Analysis

Issue	Call		Defeased	Defeased	Advance	Defeasance	As Percent of Defeased	Less: Debt Service	
75525	Date	Interest Rate(s)	Maturities	Par	Refundable	Cost	Par	Reserve Fund	Net Deposit
2000A Loan	8/1/13	3.00%	2014-21	\$ 600,000	Yes	\$ 601,500	100%	\$	\$ 601,500
2005A Loan	8/1/13	4.50%	2014-45	1,849,000	Yes	1,855,934	100%	h-m	1,855,934
2005B Loan	8/1/13	4.125%	2014-45	529,000	Yes	530,818	100%		530,818
2007A Loan	8/1/13	4.125%	2014-48	1,357,325	Yes	1,361,991	100%	no de-	1,361,991
2009A Loan	8/1/13	4.375%	2014-49	2,904,258	Yes	2,914,846	100%	***	2,914,846
2005A Bonds	8/1/15	4.00%-5.00%	2014-20	15,460,000	No	17,230,200	111%	(2,741,725)	14,119,076
2005B Bonds	8/1/15	5.00%	2014-25	42,760,000	Yes	47,916,250	112%	(5,826,875)	41,020,375
2007B Bonds	7/1/17	4.50%-5.00%	2014-32	11,500,000	Yes	13,648,750	119%	(986,000)	12,662,750
Total				\$76,959,583		\$86,060,289		(\$9,554,600)	\$75,067,290

WESTERN AREA WATER SUPPLY AUTHORITY (WAWSA) LOTAL # 2

#### **JANUARY 28, 2013**



#### LOAN TERMS AND CONDITIONS

LOAN #	LENDER	LOAN AMOUNT	SCENARIO 1 TERMS	SCENARIO 2 TERMS
Loan #1	State Water Commission	\$25 million	2022 - 2023	2031 - 2036
Loan #2	Bank of North Dakota	\$50 million	2014 - 2017	2014 - 2021
oan #3	General Fund Loan	\$25 million	2020 - 2021	2021 - 2029
Loan #4	Resources Trust Fund	\$10 million	2021 - 2022	2029 - 2031
Loan #5*	Bank of North Dakota	\$40 million	2017 - 2020	2015 - 2028
Loan #6*	Resources Trust Fund	\$40 million	NA	2037 - 2056

<sup>\*</sup> Loan #5 and Loan #6: Loans that WAWSA is seeking in the 2013-2015 biennium



WESTERN AREA WATER SUPPLY PROJECT

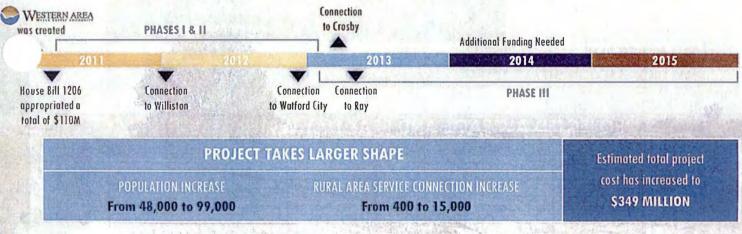
**JANUARY 16, 2013** 

# 2013 BUSINESS PLAN UPDATE

**EXECUTIVE SUMMARY** 

#### PROJECT DEVELOPMENT AND PROGRESS

The WAWSA is governed by a Board of Directors representing the Members, including the City of Williston, McKenzie County Water Resource District (MCRWD), Williams Rural Water District (WRWD), R&T Water Supply Commerce Authority (R&T), and Burke-Divide Williams Rural Water (BDW). The Board of Directors also includes a member of the North Dakota State Water Commission and meets monthly. To date, Water Supply Agreements have been signed by all Members. In addition, Output Agreements for potable water supplies have been signed with the City of Williston and R&T, and Access and Use Agreements and Infrastructure Operating Agreements have been signed between WAWSA and its Members and Sub Members (entities receiving service indirectly from WAWSA through a Member) for use and operation of infrastructure owned either by a Member, Sub Member, or WAWSA.



By the spring of 2013, ten cities beyond Williston are expected to have WAWSA service: Ray, Tioga, Stanley, Ross, Wildrose, Crosby, Columbus, Fortuna, Noonan, and Watford City. The WAWSP will transport Missouri River water that is treated at the Williston Regional Water Treatment Plant to residents in McKenzie, Williams, Divide, Burke, and Mountrail Counties in North Dakota. An additional potable water supply will come from the R&T Water Treatment Plant near Ray to supplement water demand in portions of Williams, Divide, Burke, and Mountrail Counties. Industrial ater supplies will also be supplemented with non-potable water om Crosby, Tioga, Stanley, and Watford City.





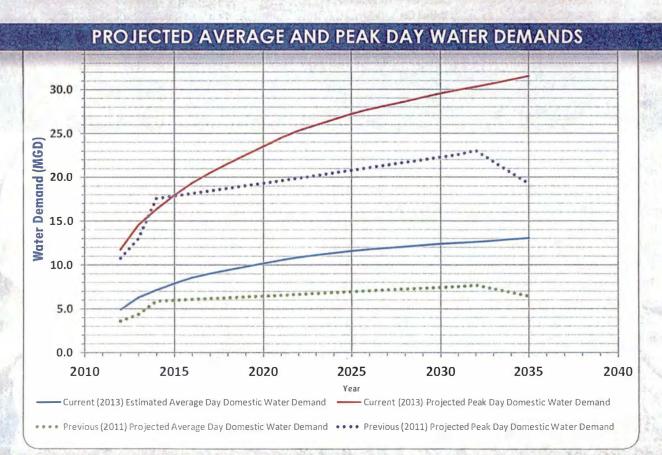


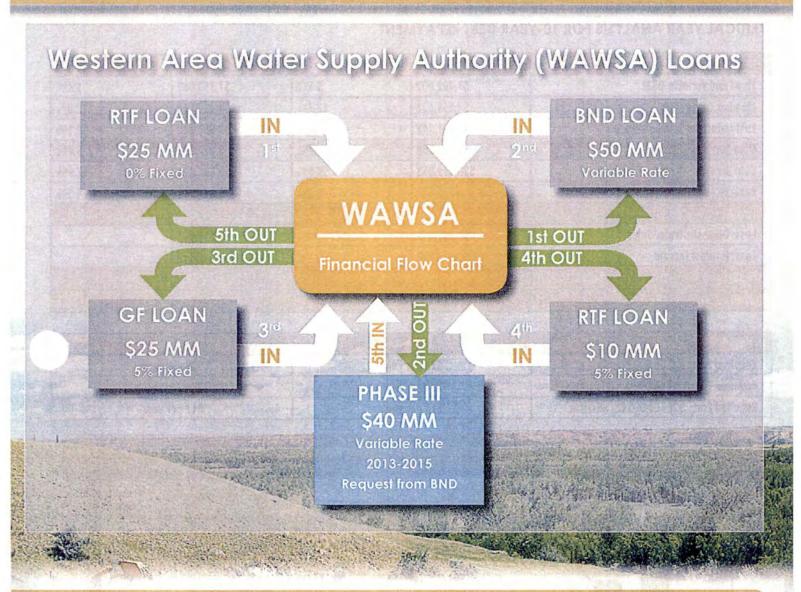
# **UPDATED WATER DEMAND PROJECTIONS**

The 2011 Business Plan was based on water demand projections associated with the best available population data at that time. Growth in the energy industry has exceeded what was originally anticipated, and, as a result, water demands associated with the increased population have exceeded those upon which the 2011 Business Plan was based. As a result, the 2013 Business Plan Update contains revised domestic water demand projections based on population projections completed through housing studies sponsored by the local communities and the North Dakota Housing Finance Agency (2012 North Dakota Statewide Housing Needs Assessment).

SERVICE POPULATI	ON PROJECTIONS FOR THE WA	WSP SERVICE AREA
2010	2012	2025
30,700	58,000	99,000

	2035 WATER DEMAND PROJECTION			
	AVERAGE DAY DEMAND PEAK DAY DEMANI			
2011 BUSINESS PLAN	7.7 MGD	22.9 MGD		
2013 BUSINESS PLAN UPDATE	13.1 MGD	31.7 MGD		





### LOAN TERMS AND CONDITIONS

LOAN#	LENDER	LOAN AMOUNT	SCENARIO 1 TERMS	SCENARIO 2 TERMS
Loan #1	State Water Commission	\$25 million	2022 - 2023	2031 - 2036
Loan #2	Bank of North Dakota	\$50 million	2014 - 2017	2014 - 2021
Loan#3	General Fund Loan	\$25 million	2020 - 2021	2021 - 2029
an #4	Resources Trust Fund	\$10 million	2021 - 2022	2029 - 2031
Loan #5*	Bank of North Dakota	\$40 million	2017 - 2020	2015 - 2028

<sup>\*</sup> Loan #5: Loan that WAWSA is seeking in 2013-2015 biennium



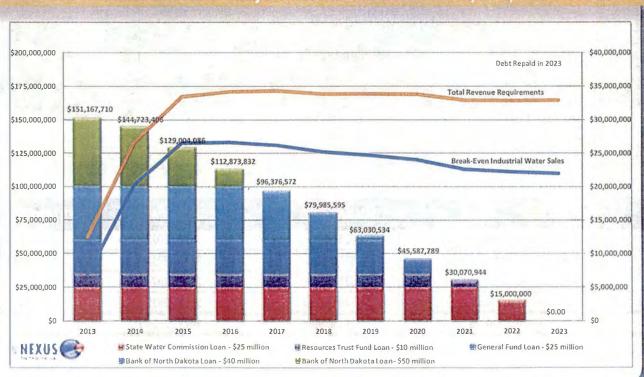
# BREAK-EVEN ANALYSIS | SCENARIO 1

#### CRITICAL YEAR ANALYSIS FOR 10-YEAR DEBT REPAYMENT

REVENUE REQUIREMENTS	2015		2016	
Fixed and Variable O&M	\$1,702,002	5.1%	\$1,753,062	5.1%
Member Entity 0&M	\$4,254,622	12.7%	\$4,382,260	12.8%
Lost Industrial Reimbursements	\$3,801,742	11.4%	\$3,801,742	11.1%
Debt Service — Existing	\$2,920,388	8.7%	\$2,917,063	8.6%
Debt Service — New	\$20,019,053	59.8%	\$19,780,700	57.9%
Reserve Fund Requirements	\$775,807	2.3%	\$1,529,211	4.5%
Total Revenue Requirements	\$33,473,614	100.0%	\$34,164,038	100.0%
Less: Domestic Water Sales	\$6,965,441		\$7,553,041	
Less: Interest Income	\$100		\$100	
Break-Even Industrial Water Sales	\$26,508,073		\$26,610,897	
Required Volume (Barrels)	31,557,229		31,679,639	

reak-Even Frac Requirements		[20]
Required Fracs @ 60,000 barrels/frac	526 per year	528 per year
Required Fracs @ 80,000 barrels/frac	394 per year	396 per year
Required Fracs @ 100,000 barrels/frac	316 per year	317 per year

### Loan Balances and Projected Break-Even Analysis | Scenario 1





#### WESTERN AREA WATER SUPPLY PROJECT

# 2013 BUSINESS PLAN UPDATE EXECUTIVE SUMMARY

### **UPDATED PROJECT DESCRIPTION**

#### 2011- 2013 BIENNIUM LOAN PACKAGE

The loans provided for the WAWSP were supplied through the North Dakota State Water Commission via the Resources Trust Fund, Bank of North Dakota assets, and the General Fund. The package included the following loans in the order of disbursement as defined in NDCC Ch. 61-40:

Loan 1 — Resources Trust Fund (0% interest)	\$25,000,000
Loan 2 — Bank of North Dakota (Variable 1.5% over 30-day LIBOR, floor rate of 2%)	\$50,000,000
Loan 3 — North Dakota General Fund (5% fixed interest rate)	\$25,000,000
Loan 4 — Resources Trust Fund (5% fixed interest rate)	\$10,000,000
TOTAL 2011-2013 WAWSP FUNDING (100% LOANS)	\$110,000,000

#### The loan funding provided in the 2011- 2013 Biennium was used to complete the following projects:

- Williston ByPass Transmission Line & Reservoir: A transmission line and 5 million gallon reservoir to serve growth areas north and west of Williston.
- Williston Water Treatment Plant (WTP) Expansion: Expansion of the Williston WTP capacity from 10 to 14 million gallons per day (MGD).
- Service to Crosby/BDW Rural Water: A transmission line and reservoir to provide service to the City of Crosby and BDW Rural Water from the R&T Water Com-e Authority.
  - e to R&T Water Commerce Authority: Transmission pipeline, pump stations, reservoirs, and fill depots from Williston to Ray.
- Service to McKenzie County/Watford City: Transmission pipeline, pump stations, reservoirs, and full depots from Williston to Watford City.
- McKenzie County Water Resource District System IV: Distribution lines and pump stations to provide partial rural water service to western McKenzie County.

#### 2013-2015 BIENNIUM REQUESTED FUNDING PACKAGE

The following summarizes the funding package the WAWSA is seeking to complete priority projects during the 2013-2015 Biennium:

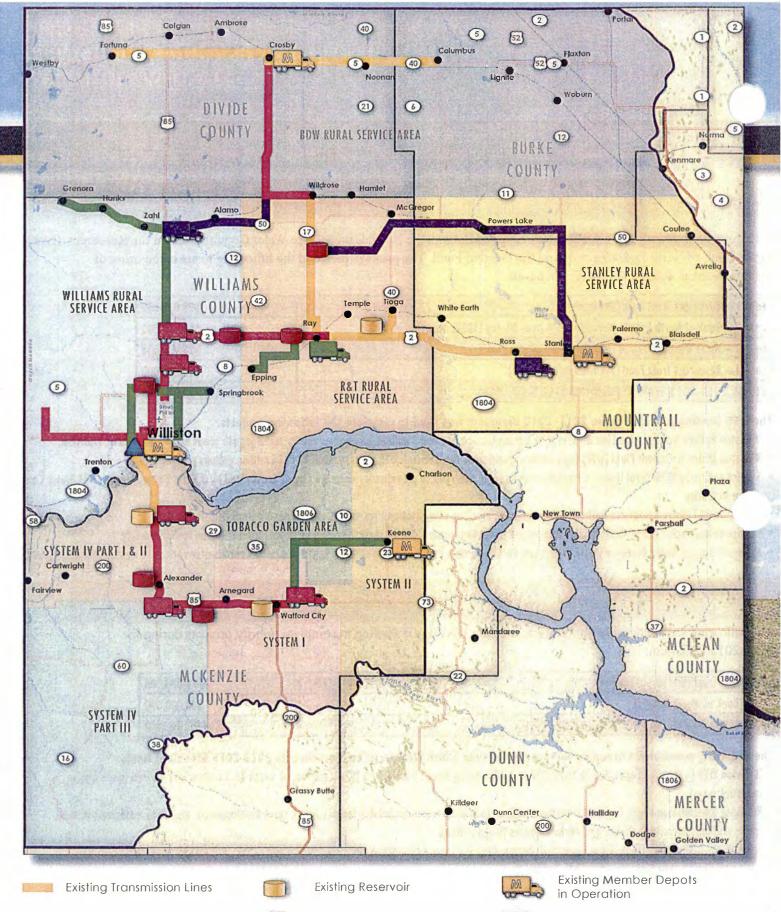
Resources Trust Fund (Grant Funding)	\$79,000,000
Loan (Bank of North Dakota)	\$40,000,000
TOTAL 2013-2015 WAWSP FUNDING REQUEST	\$119,000,000

#### The following summarizes broad project categories over which WAWSA intends to allocate 2013-2015 Biennium funds:

- Williston WTP Expansion: Expansion of the Williston WTP capacity from 14 to 21 MGD (\$26.3 million, of which \$4.3 million was interim funding from industial sales).
- Regional Transmission Lines: Regional transmission lines to expand water availability for municipal, rural developments, and rural residences in McK-enzie, Williams, Mountrail, Divide, and Burke counties (\$47.4 million).
- Rural Water Distribution Lines: Rural water distribution lines for service connections to rural developments and rural residences in McKenzie, Williams, Mountrail, Divide, and Burke counties (\$45.3 million).

#### **FUTURE BIENNIA ANTICIPATED FUNDING**

TOTAL FUTURE BIENNIA WAWSP FUNDING NEEDS (SOURCES TO BE DETERMINED) \$120,000,000







2011/2012 Reservoir



WAWSA Depots in Operation

2013/2014 Improvements

WAWSA Project Boundary Line





WAWSA Depots Operational by Summer 2013





WTP/Intake Expansion/ Improvements



Future WAWSA Depots

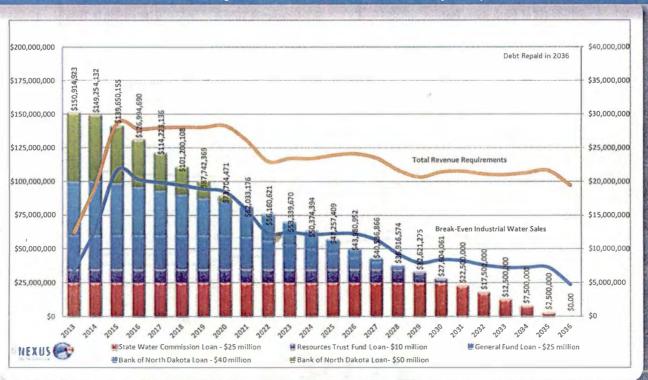
# BREAK-EVEN ANALYSIS | SCENARIO 2

#### CRITICAL YEAR ANALYSIS FOR 23-YEAR DEBT REPAYMENT

REVENUE REQUIREMENTS	2015		20	16
Fixed and Variable O&M	\$1,702,002	6.0%	\$1,753,062	6.3%
Member Entity 0&M	\$4,254,622	14.9%	\$4,382,260	15.8%
Lost Industrial Reimbursements	\$3,801,742	13.3%	\$3,801,742	13.7%
Debt Service — Existing	\$2,920,388	10.2%	\$2,917,063	10.5%
Debt Service — New	\$15,374,646	53.9%	\$14,340,344	51.6%
Reserve Fund Requirements	\$491,136	1.7%	\$584,297	2.1%
Total Revenue Requirements	\$28,544,535	100.0%	\$27,778,768	100.0%
Less: Domestic Water Sales	\$6,965,441		\$7,553,041	
Less: Interest Income	\$100		\$100	
Break-Even Industrial Water Sales	\$21,578,994		\$20,225,627	
Required Volume (Barrels)	25,689,279		24,078,128	

ık-Even Frac Requirements		
required Fracs @ 60,000 barrels/frac	428 per year	401 per year
Required Fracs @ 80,000 barrels/frac	321 per year	301 per year
Required Fracs @ 100,000 barrels/frac	257 per year	241 per year

### Loan Balances and Projected Break-Even Analysis | Scenario 2



# WESTERN AREA WATER SUPPLY PROJECT 2013 BUSINESS PLAN UPDATE EXECUTIVE SUMMARY

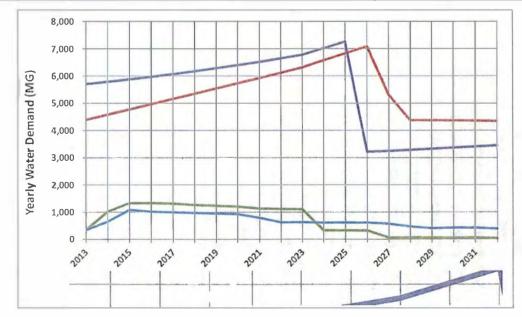


#### PROJECTED WAWSA SERVICE AREA INDUSTRIAL WATER DEMANDS

Industrial water demand plays a critical role in the success of the WAWSP. In an attempt to quantify this demand, AE2S met with the Department of Mineral Recourses (DMR) and the North Dakota State Water Commission (NDSWC) to discuss the key variables associated with projecting industrial water demand. Through continued discussion with the DMR, NDSWC, and industrial water users, AE2S developed a list of key variables associated with industrial water demand and their corresponding values displayed in the table below. The two industrial demand projections used were: 1) DMR based projection – based on the information provided by the DMR and NDSWC, and 2) Adjusted DMR – based on the DMR projection but modified for current rig count, a more conservative frac flow per well, and adjusted for average maintenance flow for all wells over time in the service area. The two projections are displayed graphically along with the 10- and 23-year repayment scenarios to provide an overview of the total industrial water demand within the WAWSA service area compared to the break-even industrial water sales.

#### WAWSA SERVICE AREA INDUSTRIAL WATER DEMANDS VARIABLES

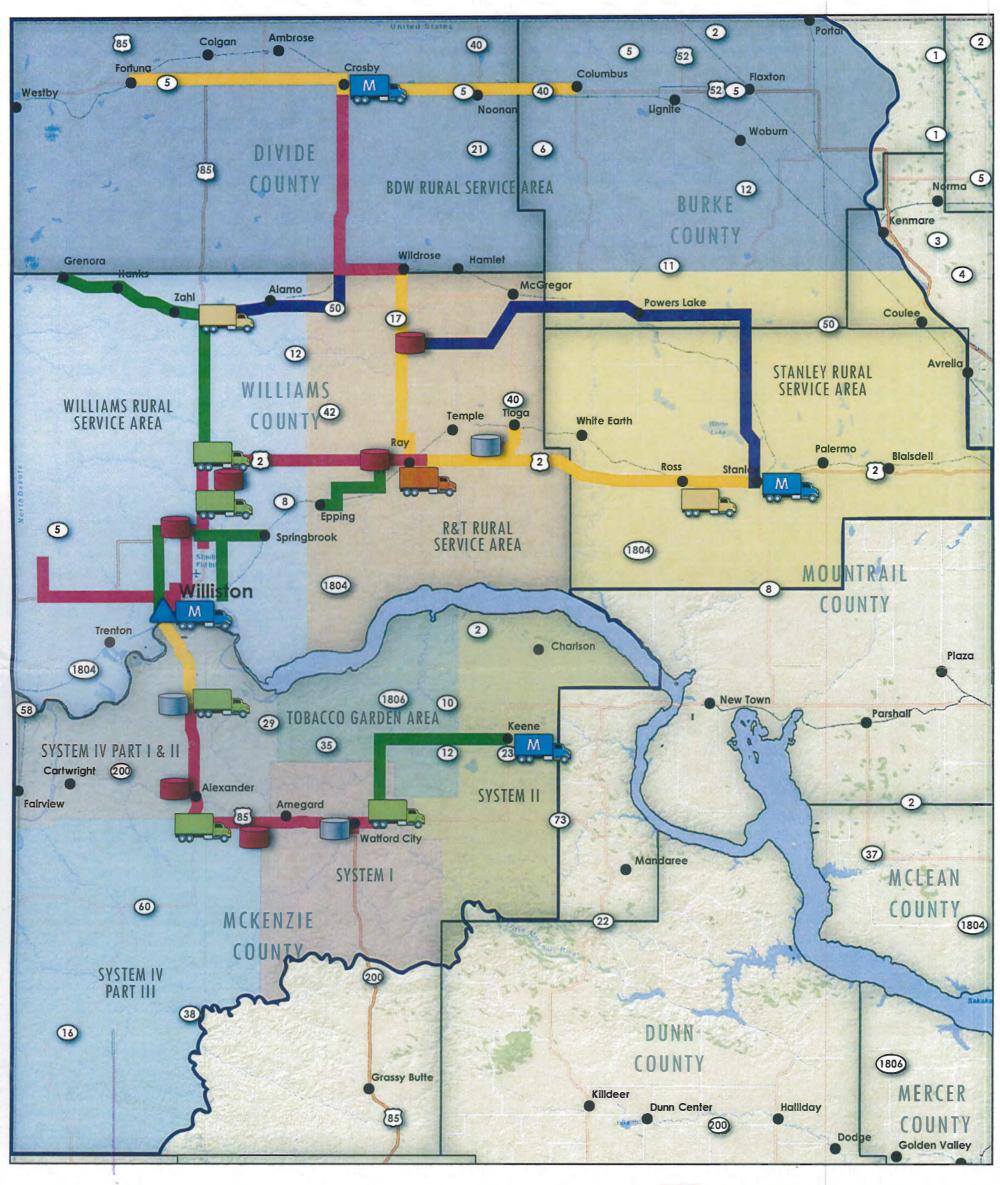
VARIABLE	DMR Projection	Adjusted DMR
Rig Count (#)	126	115
Rig Production (wells/rig/yr)	12	12
Total Future Wells (#)	19,780	19,780
Existing Wells (#)	3,613	3,613
Wells Requiring Maintenance Flow (%)	60 increasing to 100%	60 increasing to 100%
Average Well Production Period (years)	45	45
Maintenance Flow (barrels/well/day)	12.5	20 dropping to 10
Fresh Water Required Per Frac (barrels/well)	80,000	60,000
Recycle (% of fresh water frac)	0 increasing to 20%	0 increasing to 20%





# WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components VERSION 7





2011/2012 Improvements

2013/2014 Improvements

2015/2016 & Beyond **Improvements** 

WAWSA Project Boundary Line

Existing Reservoir



2011/2012 Reservoir



2013/2014 Reservoir



WTP/Intake Expansion/ **Improvements** 



**Existing Member Depots** in Operation



WAWSA Depots in Operation



WAWSA Depots Operational by Summer 2013



Future WAWSA Depots



#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 2, replace "section" with "sections"

Page 1, line 3, after "6-09.5-03" insert "and 54-35-02.7"

Page 1, line 3, after "fund" insert "and the water-related topics overview committee"

Page 3, after line 14, insert:

"SECTION 8. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. (Effective through November 30, 2013) Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. During the 2011-12 interim, the The committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects and prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities. The committee consists of thirteen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees and include the schedule of priorities with its final report to the legislative management.

(Effective after November 30, 2013) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics."

Renumber accordingly

Page No. 1

Any grant funds provided to the Western Area Water Supply Authority shall be subject to following conditions:

- 1. Prior to any expenditure or commitment of funds for rural and domestic water supply the State Water Commission shall obtain independent verification of the local domestic or rural water demands and the design and specifications of the system required to meet the demand, in a schedule and manner as determined by the Commission.
- 2. All funds must be used exclusively to meet municipal and rural water needs. Funds and infrastructure resulting from said funds may not be used for industrial water supply.
- 3. All industrial water sales conducted by Western Area Water Supply Authority shall be through 12 water depots approved by the State Water Commission.
- 4. All funds authorized under this section shall first be applied to any federal loans owed by the authority or its participating entities.

WAWSjow

61 - 40 - 06. Øversight of authority projects.

handout I 40 1020 13 Feb 13

The authority shall comply with the policy of the state water commission as the policy relates to bidding, planning, and construction of the project. The policy must include provisions for insurance, including general liability insurance, in adequate amounts. The authority shall report to and consult with the state water commission regarding the operation and financial status of the project, as requested by the state water commission. In relation to initial construction of the system and debt repayment, the authority shall present the overall plan and contract plans and specifications for the project to the state water commission for approval. The state water commission may require the authority to provide value engineering reviews for segments of the project. The attorney general shall assist the authority at the request of the state water commission. If the twenty-five million dollar zero interest loan from the state water commission has not been repaid, without the written consent of the state water commission the authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of property used in a water system of the authority if the property is used to provide revenue.

Handowt 2

13.8149.01001 Title. Prepared by the Legislative Council staff for Representative Carlson

January 30, 2013

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 3, after "Code" insert "and sections 6 and 7 of chapter 46 of the 2011 Session Laws"

Page 1, line 3, after "fund" insert "and Fargo flood control project funding; to provide for legislative management reports"

Page 2, after line 30, insert:

"SECTION 6. AMENDMENT. Section 6 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING -**EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act. \$45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These Except as otherwise provided, these funds may be used only for land purchases and construction; including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. No more than ten percent of these funds may not be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the sixty-five percent funding requirement contained in Senate-Bill-No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

**SECTION 7. AMENDMENT.** Section 7 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

**SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING** - **EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2011, and ending June 30, 2013. Any funds not spent by June 30, 2013, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by

state funds are eligible for application by the nonstate entity for cost-sharing with the state.

Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. No more than ten percent of these

funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve

SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.

**SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING.** It is the intent of the sixty-third legislative assembly that total Fargo flood control project funding to be provided by the state not exceed \$325,000,000 to provide flood protection for the city of Fargo to the forty-two and one-half foot level, and to provide, to the extent possible, flood protection for areas along the Red River north and south of Fargo. It is further the intent of the legislative assembly that funds appropriated by the legislative assembly for Fargo flood control not be used for a river diversion flood control project.

SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 6, insert:

"SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD CONTROL. During the 2013-14 interim, the state water commission shall study the use of ring dikes as part of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in the Fargo area on flood protection for areas north and south of Fargo. The state water commission shall provide periodic reports to the

SECTION 13. STATE WATER COMMISSION STUDY - RED RIVER VALLEY WATER SUPPLY. During the 2013-14 interim, the state water commission shall study water supply needs in the Red River valley, including projected costs of projects to meet water supply needs and the potential state commitment to supply water to the Red River valley. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

any expenditures made under this section.

This amendment:

Changes legislative guidelines for Fargo flood control project expenditures;

legislative management on the findings resulting from the study.

- Designates \$100 million of the 2013-15 biennium appropriation for the State Water Commission for Fargo flood control to provide a total of \$175 million designated during the 2009-11, 2011-13, and 2013-15 bienniums;
- Limits the state's total contribution for Fargo flood control to \$325 million;
- Designates \$11 million of the 2013-15 biennium appropriation for the State Water Commission for the Red River Valley Water Supply Project; and
- Requires the State Water Commission to study Fargo flood control and water supply needs in the Red River Valley and provide reports to Legislative Management.

Prepared by the Legislative Council staff for House Appropriations - Education and Environment Division Committee
February 13, 2013

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

- Page 1, line 3, after "Code" insert "and sections 6 and 7 of chapter 46 of the 2011 Session Laws"
- Page 1, line 3, after "fund" insert "and Fargo flood control project funding; to provide for legislative management reports"
- Page 2, after line 30, insert:

"SECTION 6. AMENDMENT. Section 6 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING -**EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These Except as otherwise provided, these funds may be used only for land purchases and construction; including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes associated with the Fargo flood control project. No more than ten percent of these funds may not be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section.

**SECTION 7. AMENDMENT.** Section 7 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

**SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium beginning July-1, 2011, and ending June-30, 2013. Any funds not spent by June 30, 2013, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering,

#### This amendment:

- Changes legislative guidelines for Fargo flood control project expenditures;
- Designates \$100 million of the 2013-15 biennium appropriation for the State Water Commission for Fargo flood controlto provide a total of \$175 million designated during the 2009-11, 2011-13, and 2013-15 bienniums;
- Limits the state's total contribution for Fargo flood control to \$325 million;
- Designates \$11 million of the 2013-15 biennium appropriation for the State Water Commission for the Red River Valley Water Supply Project; and
- Requires the State Water Commission to study Fargo flood control and water supply needs in the Red River Valley and provide reports to the Legislative Management.

HB 1020

Prepared by the Legislative Council staff  $2^{-19-13}$ for House Appropriations - Environment and Education February 13, 2013

#### LISTING OF PROPOSED CHANGES TO HOUSE BILL NO. 1020

#### **Department - State Water Commission**

Propo	sed funding changes:	FTE	General Fund	Special Funds	Total	
	Description					
1	Adjusts the funding source from general fund to resources trust fund (Approved 2/13/13)		(\$17,779,644)	\$17,779,644	\$0	Pass
2	Increases the administrative and support services line item and the water and atomospheric resources line item due to a calculation error in the executive recommendation		\$12,448	\$2,026	\$14,474	
3	Adjusts the state employee compensation and benefits package		(\$497,385)	(\$81,489)	(\$578,874)	
4	Transfers \$325,774, of which \$274,660 is from the general fund, from salaries and wages to an accrued leave payments line item				\$0	
5					\$0	
То	tal proposed funding changes		(\$18,264,581)	\$17,700,181	(\$564,400)	

#### Other proposed changes:

- 1 Add an interim committee study of the State Water Commission's policies regarding water project priorites and funding and provide an interim committee develop a water project priority list. 13.8149.01003 (Adopted by E & E)
- 2 Add requirement to audit bidding and bid award policies Not considered yet
- 3 Amend prior session laws and provide for additional funding and studies 13.8149.01005 (Adopted by E & E with addition of "water retention structures" language)

4

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 2, after the first semicolon insert "to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to the development of policies and procedures of the state water commission;"

Page 3, after line 14, insert:

"SECTION 8. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

#### State water commission - Project development and financing.

The state water commission shall adopt policies regarding the development and financing of projects as follows:

- Municipal project funding and financing, including water treatment plants.
   The state water commission shall develop and adopt policies relating to the circumstances under which a project qualifies for a grant and when the project qualifies for a loan.
- Pipelines. The state water commission shall develop and adopt policies relating to:
  - Pipeline expansion;
  - Public and industrial use of water;
  - Cost analyses of future project development;
  - d. Ongoing maintenance cost of current and future projects.
- Technology. The state water commission shall develop and adopt policies relating to the use of technology, including the use of technology for permitting and electronic metering."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

This amendment adds a new section to North Dakota Century Code Chapter 61-02 to require the State Water Commission adopt polices regarding project development and financing.

13.8149.01006 Title.

Fiscal No. 1

Prepared by the Legislative Council staff for House Appropriations - Education and Environment Division

February 20, 2013

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

- Page 1, line 2, after the third semicolon insert "to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to the development of policies and procedures of the state water commission:"
- Page 1, line 2, replace "section" with "sections"
- Page 1, line 3, after "6-09.5-03" insert "and 54-35-02.37"
- Page 1, line 3, after "Code" insert "and sections 6 and 7 of chapter 46 of the 2011 Session Laws"
- Page 1, line 3, after "fund" insert ", the water-related topics overview committee, and Fargo flood control project funding; to provide for legislative management reports"
- Page 1, replace lines 14 through 18 with:

"Administrative and support services	\$3,229,873	\$679,627	\$3,909,500
Water and atmospheric resources	498,413,774	323,925,584	822,339,358
Accrued leave payments	<u>0</u>	<u>325,774</u>	<u>325,774</u>
Total all funds	\$501,643,647	\$324,930,985	\$826,574,632
Less estimated income	<u>486,648,448</u>	<u>339,926,184</u>	<u>826,574,632</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, replace lines 8 and 9 with:

"Total special funds	<u>\$7,771,773</u>	<u>\$288,200</u>
Total general fund	\$0	\$0"

Page 2, line 21, after "appropriated" insert ", subject to budget section approval,"

Page 2, after line 30, insert:

"SECTION 6. AMENDMENT. Section 6 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

**SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING** - **EXEMPTION**. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These Except as otherwise provided, these funds may be used only for land purchases and construction; including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may not be used for administration; engineering, legal, planning, or other similar

purposes; and are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009). The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost sharing with the state.

**SECTION 7. AMENDMENT.** Section 7 of chapter 46 of the 2011 Session Laws is amended and reenacted as follows:

#### SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING -

**EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$30,000,000 is for Fargo flood control projects, for the biennium beginning July-1, 2011, and ending June-30, 2013. Any funds not spent by June 30, 2013, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

#### SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.

Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds not spent by June 30, 2015, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision home rule charter, no public funds may be used for the construction of ring dikes or water retention structures associated with the Fargo flood control project. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section.

SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that total Fargo flood control project funding to be provided by the state not exceed \$325,000,000 to provide flood protection for the city of Fargo to the forty-two and one-half foot level, and to provide, to the extent possible, flood protection for areas along the Red River north and south of Fargo. It is further the intent of the legislative assembly that funds

Page No. 2

appropriated by the legislative assembly for Fargo flood control not be used for a river diversion flood control project.

SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 6, insert:

"SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD CONTROL. During the 2013-14 interim, the state water commission shall study the use of ring dikes as part of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in the Fargo area on flood protection for areas north and south of Fargo. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

SECTION 13. STATE WATER COMMISSION STUDY - RED RIVER VALLEY WATER SUPPLY. During the 2013-14 interim, the state water commission shall study water supply needs in the Red River valley, including projected costs of projects to meet water supply needs and the potential state commitment to supply water to the Red River valley. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

SECTION 14. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER. The state water commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 15. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO THE BUDGET SECTION. The state water commission shall report to the budget section any changes made to the state water commission priority projects list presented to the sixty-third legislative assembly within 90 days of the state water commission approving the change for the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 3, after line 14, insert:

"SECTION 17. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. (Effective through November 30, 20132014) Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters and for any necessary discussions with adjacent states on water-related topics. During the 2011-12 interim, the The committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects and prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities. The committee consists of thirteen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and

procedure governing the operation of other legislative management interim committees and include the schedule of priorities with its final report to the legislative management.

(Effective after November 30, 20132014) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.

**SECTION 18.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

#### State water commission - Project development and financing.

The state water commission shall adopt policies regarding the development and financing of projects as follows:

- 1. Municipal project funding and financing, including water treatment plants.

  The state water commission shall develop and adopt policies relating to the circumstances under which a project qualifies for a grant and when the project qualifies for a loan.
- 2. <u>Pipelines. The state water commission shall develop and adopt policies relating to:</u>
  - a. Pipeline expansion;
  - b. Public and industrial use of water;
  - c. Cost analyses of future project development; and
  - d. Ongoing maintenance cost of current and future projects.
- 3. Technology. The state water commission shall develop and adopt policies relating to the use of technology, including the use of technology for permitting and electronic metering."

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - House Action

	Executive Budget	House Changes	House Version
Administrative and support services	\$4,042,784	(\$133,284)	\$3,909,500
Water and atmospheric resources	823,096,248	(756,890)	822,339,358
Accrued leave payments		325,774	325,774
Total all funds	\$827,139,032	(\$564,400)	\$826,574,632
Less estimated income	809,359,388	17,215,244	826,574,632
General fund	\$17,779,644	(\$17,779,644)	\$0
FTE	90.00	0.00	90.00

#### **Department No. 770 - State Water Commission - Detail of House Changes**

Corrects	Adjusts State	Provides	Changes	Total House
Executive	Employee	Separate Line	Funding Source	Changes

	Compensation Package <sup>1</sup>	Compensation and Benefits Package <sup>2</sup>	Item for Accrued Leave Payments <sup>3</sup>	for the State Water Commission <sup>4</sup>	
Administrative and support services	\$2,160	(\$86,252)	(\$49,192)		(\$133,284)
Water and atmospheric resources	12,314	(492,622)	(276,582)		(756,890)
Accrued leave payments			325,774		325,774
Total all funds Less estimated income	\$14,474 2,026	(\$578,874) (81,489)	\$0 0	\$0 17,294,707	(\$564,400) 17,215,244
General fund	\$12,448	(\$497,385)	\$0	(\$17,294,707)	(\$17,779,644)
FTE	0.00	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup>Funding is added due to a calculation error in the executive compensation package.

<sup>2</sup>This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

<sup>3</sup>A portion of administrative and support services line funding from the general fund (\$49,192) and a portion of the water and atmospheric resources line from the general fund (\$225,468) and from other funds (\$51,114) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>4</sup>This amendment removes funding from the general fund and provides funding for the operations of the State Water Commission from the resources trust fund.

#### In addition, this amendment:

- Adds sections to the bill to amend 2011 Session Laws and 2009 Session Laws, previously
  amended in 2011, related to Fargo flood control funding. The amendments change legislative
  guidelines for Fargo flood control project expenditures.
- Adds sections to the bill to provide that of the funds appropriated to the State Water Commission for grants and projects for the 2013-15 biennium, \$11 million is for the Red River Valley Water Supply Project and \$100 million is for Fargo flood control projects and that total Fargo flood control project funding to be provided by the state not exceed \$325 million.
- Adds sections to the bill directing the State Water Commission to study the use of ring dikes as
  part of a flood protection plan for the city of Fargo and water supply needs in the Red River
  Valley.
- Requires the State Water Commission to adopt policies regarding project development and financing.
- Directs the Water-Related Topics Overview Committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management.
- Requires the State Water Commission to move information technology hardware to the Information Technology Department secure data center.
- Requires the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the 2013 Legislative Assembly.
- Requires Budget Section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium

#### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 2, after the first semicolon insert "to provide western area water supply authority limitations;"

Page 2, after line 13, insert:

"SECTION 3. WESTERN AREA WATER SUPPLY AUTHORITY FUNDING LIMITATIONS. Any funds appropriated under this Act may not be expended by the western area water supply authority unless before any expenditure or commitment of funds for rural and domestic water supply, the state water commission obtains independent verification of the local domestic or rural water demands and the design and specifications of the system required to meet the demand, in a schedule and manner as determined by the commission; unless all funds are used exclusively to meet municipal and rural water needs, and any infrastructure resulting from these funds is not used for industrial water supply; and unless any grant funds are first applied to any federal loans owed by the authority or participating member entities."

Renumber accordingly

Page No. 1

# **EXECUTIVE SUMMARY**



# North Dakota State Water Commission Testimony Relative to Engrossed House Bill 1020

Presented to the Senate Appropriations Committee

**63rd Legislative Assembly** 

March 8, 2013

By Todd Sando, P.E.
North Dakota State Engineer and Chief Engineer-Secretary
to the State Water Commission

#### **EXECUTIVE SUMMARY**

#### NORTH DAKOTA STATE WATER COMMISSION TESTIMONY RELATIVE TO ENGROSSED HOUSE BILL 1020

#### PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE

#### **MARCH 8, 2013**

Good morning, Chairman Holmberg, and members of the Senate Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding Engrossed House Bill 1020. The copy of testimony you have received provides detailed information, such as:

- An organizational overview of the Office of the State Engineer and State Water Commission;
- Our 2011-2013 appropriation and related spending including major water project updates during the 2011-2013 biennium;
- Project funding needs for the 2013-2015 biennium;
- Engrossed House Bill 1020; and
- 2013-2015 project priorities.

In the interest of time, I will not cover all elements of our testimony, but rather, I will cover some of the more important points, per your request.

#### [SWC Testimony Page 3]

#### 2011-2013 APPROPRIATION & RELATED SPENDING

To begin, I would like to cover the agency's 2011-2013 appropriation and related spending. During the current 2011-2013 biennium, the State Water Commission has spent \$249.7 million on water projects through January 2013. It is anticipated that an additional \$58.2 million will be spent through June 2013. About \$278 million of that \$307.9 million will come from the Contract Fund, which is made up of a combination of Resources Trust Fund and Water Development Trust Fund revenue. The balance is made up of federal and local funds. We estimate that we will carry \$125.9 million of the committed contract fund projects forward into the 2013-2015 biennium.

To update you on the Water Commission's bonding, we have six bond issues outstanding on the Southwest Pipeline Project. These bond issues have provided the project with \$24 million, of which \$19.8 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by water sales.

We also have two bond issues outstanding for statewide water development projects. The proceeds were used to fund various projects from March 2000 through June 2005. Major projects receiving funding included Grand Forks and Wahpeton's flood control projects, Southwest Pipeline, the Devils Lake outlet, and several other rural-regional water supply projects. These issues totaled \$94.3 million, of which \$68.9 million remains outstanding.

The Water Development Trust Fund provides the funding to make these payments. Scheduled payments for the 2013-2015 biennium total \$16.9 million; however it is our intent to retire all of the

<sup>&</sup>lt;sup>1</sup> The \$125.9 million of carryover does not include \$31.3 million of emergency funding included in House Bill 1269.

Commission's bonds early. The Executive Budget for 2013-2015 and Engrossed House Bill 1020 were intended to provide funding for us to do so. However, as the language in Section 11 is currently written, we will not be able to retire five of the bond issues as intended. This is purely related to a timing issue of when funds will be available, and requirements of when the bonds can be retired.

#### [SWC Testimony Pages 5-16]

#### 2011-2013 WATER PROJECT AND PROGRAM OVERVIEW

Having covered the financial aspects of our 2011-2013 appropriation, please note that our full testimony provides a detailed overview of what those funds helped to advance. In addition, I would like to point out that much of what I will be covering today is included in our 2013-2015 Water Development Plan, which was provided for your reference.

Project progress updates are summarized in our full testimony, demonstrating the tremendous progress that has been made in recent years. But again in the interest of time, I will not update you on all of those efforts. There were, however, amendments included in Engrossed House Bill 1020 that are specifically related to some of the projects that are worth outlining.

Regarding the Fargo-Moorhead metro area flood control project, Sections 6, 7, and 8 of Engrossed House Bill 1020 include state funding restrictions toward various project elements. Section 8 also caps 2013-2015 biennium state funding at \$100,000,000, which is less than the \$102,000,000 included in the agency's prioritized amount for that project. And Section 9 caps the state's total contribution for Fargo flood control at \$325,000,000.

Amendments specifically related to the Red River Valley Water Supply project are also included in Engrossed House Bill 1020. Section 10 directs \$11,000,000 toward the advancement of this project, or \$2,000,000 more than the \$9,000,000 included in the agency's prioritized amount for that project. Section 13 would require the Water Commission to study water supply needs in the Red River valley. In consideration of the Bureau of Reclamation's comprehensive study process and alternative evaluations as part of the Red River Valley Water Supply EIS, I do not believe that additional studies beyond what has already been completed or are already underway would benefit the advancement of any Red River Valley water supply project alternative.

### Importance of Funding Flexibility

As a final comment on 2011-2013 biennium efforts, I would like to recap and bring your attention to the fact that in the week preceding the start of this biennium, the Mouse River at Minot peaked on June 25, leaving unimaginable damages in its wake. Two days later, Devils Lake peaked on June 27. And on July 1, 2011, the first day of the current biennium, the Missouri River peaked in Bismarck at 19.23 feet – more than three feet above flood stage. While all of this was occurring, the Red River at Fargo remained at, or above flood stage for almost all of April, May, June, July and August 2011.

The images and stories associated with these events are ones that we will not soon forget. The thousands of North Dakotans evacuated, the inundated homes, and the ongoing fear of the potential for lives lost.

Then, as we turned the calendar to the summer of 2012, much of the nation, including large portions of North Dakota, were in the grips of a severe drought. And unfortunately, drought conditions continue to persist for much of the Midwest today.

The reason I bring your attention to these most recent drought and unprecedented flood events, is that neither were part of our discussion as I stood before you only two years ago. No matter how much effort we put into project planning and financing, the unpredictable nature of North Dakota's climate requires that we be able to respond quickly to the unexpected. For that reason, it is imperative that we maintain flexibility in our project funding efforts — as we never know what the next year, month, or even day may bring.

With the need to maintain funding flexibility in mind, I would like to bring the amendments in Sections 15 and 17 of Engrossed House Bill 1020 to your attention. Section 15 would require the State Water Commission to report any changes to our project priorities to the Budget Section. And Section 17 would make water project prioritization the responsibility of the interim Water-related Topics Overview Committee. If the language in these amendments were changed to instead require that the Water Commission report back to the interim Water-related Topics Overview Committee on a regular basis – including updates on the agency's water project prioritization efforts, we would be able to maintain that much-needed flexibility.

## [SWC Testimony Pages 19-24]

### ENGROSSED HOUSE BILL 1020 & AVAILABLE FUNDING FOR 2013-2015

Engrossed House Bill 1020 contains the budget recommendation for the State Water Commission for the 2013-2015 biennium. The recommendation totals \$826,574,632.

Our agency budget includes three line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriations, Water Development, and Atmospheric Resources Divisions, as well as project funding. The Accrued Leave Payments line is a new line item added by the North Dakota House of Representatives. The House also reduced the compensation package that was included in the executive recommendation. As the agency struggles to find and retain qualified staff we urge you to consider restoring that funding.

Administrative and Support Services	\$3,909,500
Water and Atmospheric Resources	822,339,358
Accrued Leave Payments	325,774
Total	\$826,574,632
General Funds	\$0
Federal Funds	37,322,577
Other Funds	789,252,055
Total	\$826,574,632

### **Available Funding**

In the 2011-2013 biennium, general funds totaling \$15 million were included in the budget.

Engrossed House Bill 1020 contains no general fund dollars – making the agency completely dependent on special fund revenue. The executive budget recommendation included almost \$17.8 million from the general fund. Changing this funding to the Resources Trust Fund will mean that these dollars will no longer be available for projects.

Federal funds totaling \$37.3 million have been included in the budget recommendation. This is a decrease of \$16.7 million from the 2011-2013 biennium. This decrease is due to the anticipated

reduction of federal funding available through the Municipal, Rural, and Industrial water supply program, and the elimination of additional federal stimulus funds.

Revenues into the Resources Trust Fund for the 2011-2013 biennium are expected to total \$392.3 million. When combined with the fund's beginning balance of \$148.1 million, less the estimated expenditures of \$275.2 million, the balance in the Resources Trust Fund at the beginning of the 2013-2015 biennium could be \$265.2 million. Because revenues from the oil extraction tax are highly dependent on world oil prices and production, it is very difficult to predict future funding levels. With that in mind, the September 2012 forecast includes \$547 million for the 2013-2015 biennium from oil extraction.

Additional revenue into the Resources Trust Fund will come from Southwest Pipeline Project reimbursements, State Water Commission water supply program loan repayments (which amount to \$800,000 per biennium through year 2017), interest, and oil royalties. These are estimated to total an additional \$9.9 million.

The proposed budget also includes \$515 million for new projects; \$125.9 million<sup>1</sup> for uncompleted projects from the previous biennium; and \$60 million to pay off outstanding bonds. Even though this is an increase of \$317.8 million from the current biennium, it would still leave an unobligated balance of approximately \$98 million in the Resources Trust Fund. We anticipate these funds will be needed to partially fund major water projects such as the Fargo and Minot flood control projects, Red River Valley Water Supply project, and NAWS - that will all require significant funding in future biennia.

<sup>&</sup>lt;sup>1</sup> The \$125.9 million of carryover does not include \$31.3 million of emergency funding included in House Bill 1269.

The other large funding source for the Water Commission is the Water Development Trust Fund.

The Water Development Trust Fund is projected to bring in \$18 million in new revenue this biennium. When combined with an estimated beginning balance of \$26.3 million, the proposed budget includes \$44.3 million and is an increase of \$7.1 million from the 2011–2013 biennium.

This large increase in the agency's special funds will enable us to meet the anticipated water project needs for the 2013-2015 biennium.

### **Additional FTEs**

With regard to staff additions, we are requesting a Water Resource Project Manager and a Water Resource Engineer. Currently the Water Appropriation Division employs one water resource senior manager to manage the state's water use monitoring/reporting system and two water resource engineers to manage the surface waters of the state. With the advent of oil development in western North Dakota, the demand for water has increased dramatically. More temporary and conditional water permits for industrial water use have been issued but the backlog continues to grow. Given the large profits gained from selling water for oil field industrial use, there is greater concern about unauthorized water use. To better monitor water use, effective January 1, 2012, the State Engineer required industrial water permit holders who are providing water to the oil industry, to submit monthly water use reports. The new positions are needed to address this additional workload.

Also requested is an additional position to operate the East Devils Lake outlet. We currently have one operator for both outlets, but with the completion of the east end outlet, an additional operator is needed. When the outlets are operating, one employee is on-call 24 hours a day, 7 days a week. We

anticipate this position would also be available to support the operation of the Northwest Area Water Supply project in the future when necessary as well.

### Information Technology Hardware

Regarding information technology related hardware, I would like to bring to your attention the amendment included in Section 14 of Engrossed House Bill 1020, which would require the State Water Commission to transfer all appropriate technology hardware to the Information Technology Department's (ITD) Secure Data Center.

I have several concerns related to this amendment, including increased risk of server down-time, impacts to the state's capital network as a result of the Water Commission's massive data use and needs, the cost of upgrading server equipment to allow for remote management, and increased security risks. These concerns are also outlined in our full testimony.

### [SWC Testimony Pages 24-25]

### 2013-2015 FUNDING PRIORITIES

In developing water project funding priorities for the 2013-2015 biennium, the Water Commission worked closely with project sponsors from all comers of the state, and the North Dakota Water Coalition. The project priorities that I am about to cover are the result of those cooperative efforts, and include our current road map for water project development in the upcoming biennium. More detailed information on each of the priorities is included in the Water Development Plan, beginning on page 21 for your future reference.

The following table represents the Water Commission's funding priorities for the 2013-2015 biennium. Please note that this table does not reflect priority project funding changes made by the House of Representatives.

SWC Priority Projects	Potential 2013-2015 Allocations
Community Water Facility Rev. Loan Fund	\$15,000,000
Devils Lake Flood Control	10,000,000
Fargo Flood Control	$102,000,000^2$
Mouse River Flood Control	61,000,000
Sheyenne River Flood Control	$21,000,000^3$
General Water Management <sup>4</sup>	33,000,000
Irrigation	5,000,000
Fargo Water Supply	15,000,000
Northwest Area Water Supply	14,000,000
Red River Valley Water Supply	9,000,000 <sup>5</sup>
Southwest Pipeline Project	$79,000,000^{3,6}$
Water Supply Program	$71,000,000^7$
Western Area Water Supply	79,000,000 <sup>8,9</sup>
Weather Modification	1,000,000
Project Totals	\$515,000,000

I would like to emphasize that the project priorities I just covered are for the 2013-2015 biennium only. I feel it's important to reemphasize that many of our state's priority water projects are far too large to complete in one, or even several biennia. For that reason, many larger projects — particularly those related to flood control and water supply, will require additional funding to move forward in future biennia. I simply mention this to again highlight the fact that even though we are

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<sup>&</sup>lt;sup>2</sup> The amendment in Section 8 of Engrossed House Bill 1020 includes \$100 million for Fargo Flood Control in the 2013-2015 biennium.

<sup>&</sup>lt;sup>3</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>4</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

<sup>&</sup>lt;sup>5</sup> The amendment in Section 10 of Engrossed House Bill 1020 includes \$11 million for the Red River Valley Water Supply project.

<sup>&</sup>lt;sup>6</sup> Advanced emergency funding of \$21 million was approved for the Southwest Pipeline in House Bill 1269.

<sup>&</sup>lt;sup>7</sup> Advanced emergency funding of \$10.35 million was approved for three water supply program projects in House Bill 1269

<sup>&</sup>lt;sup>8</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.

<sup>&</sup>lt;sup>9</sup> Engrossed House Bill 1140 provides for an additional \$40 million for WAWS from the state in the form of a loan through the Bank of North Dakota.

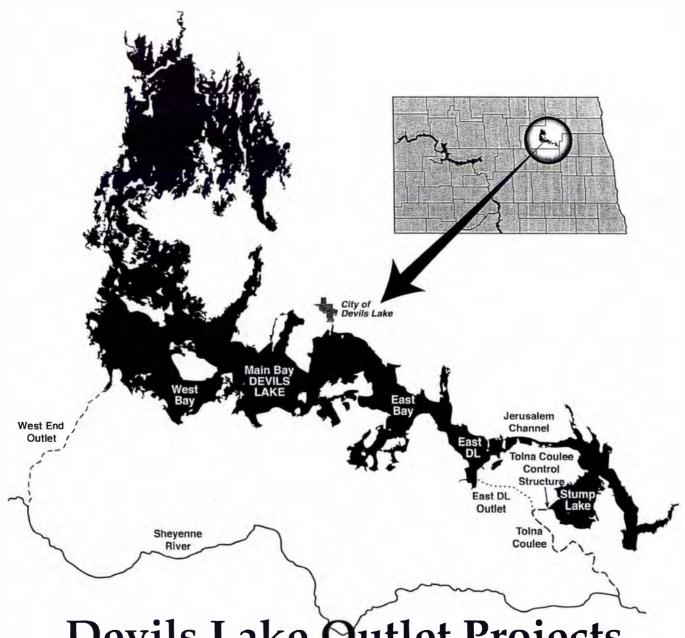
now able to fund projects at unprecedented levels, the financial needs of water projects have also grown tremendously.

## **CONCLUSION**

In conclusion – now is the time to make long-term investments in our critical water infrastructure.

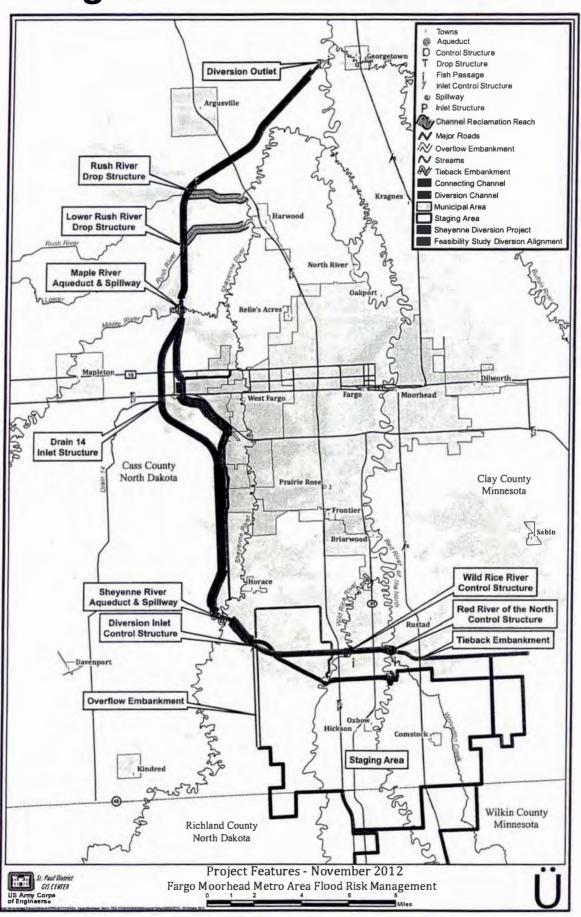
Our state is in a unique situation where we can create and shape our future, and improve the lives of North Dakotans for generations to come.

Mr. Chairman, this concludes my testimony relative to Engrossed House Bill 1020. I will be happy to answer any questions that you or any members of the committee may have at this time.



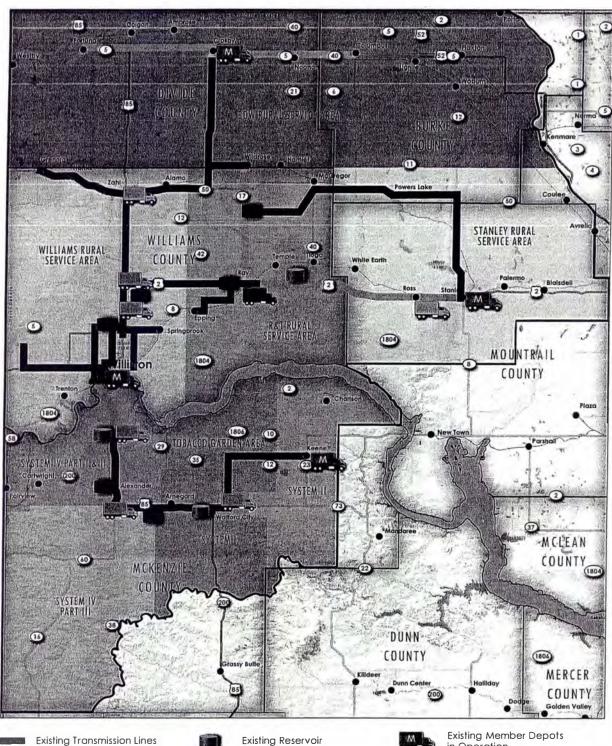
Devils Lake Outlet Projects

## **Fargo-Moorhead Flood Control**

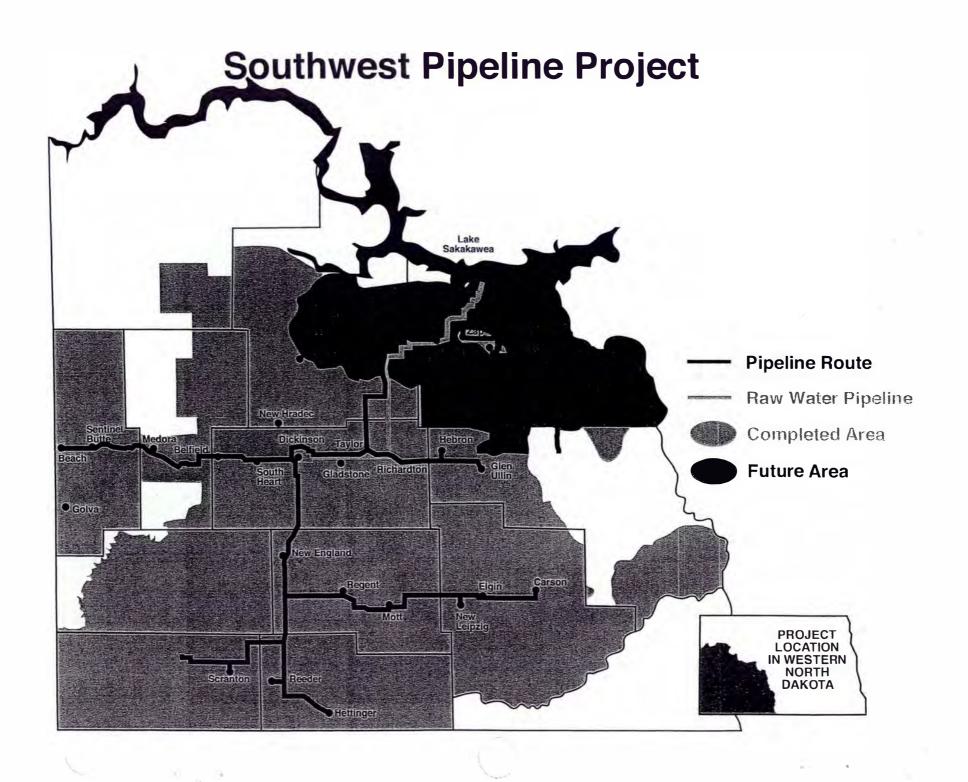


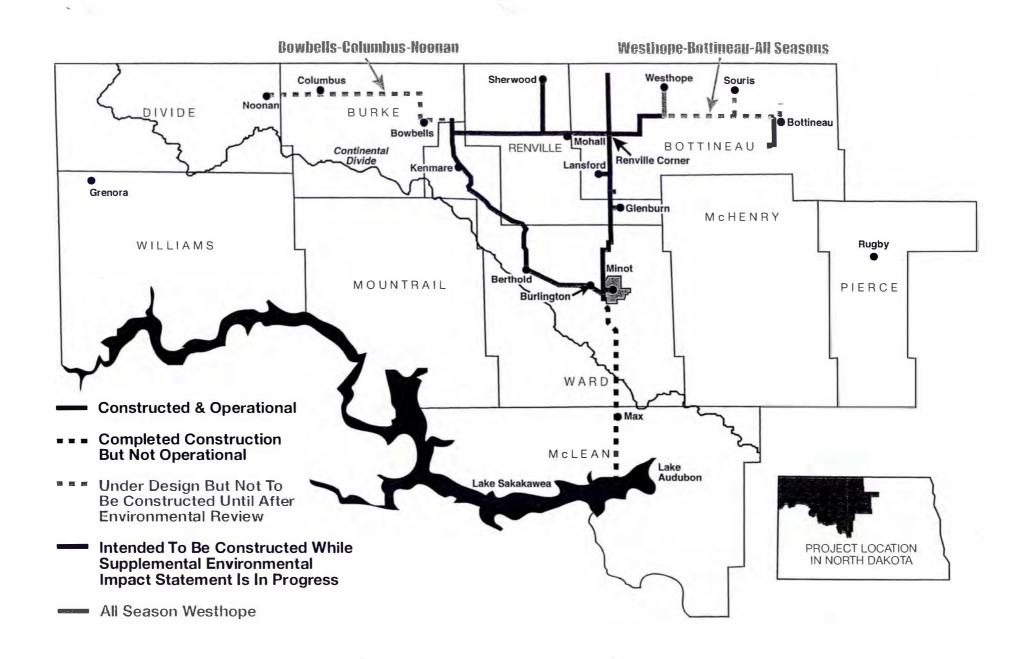
### WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components VERSION 7



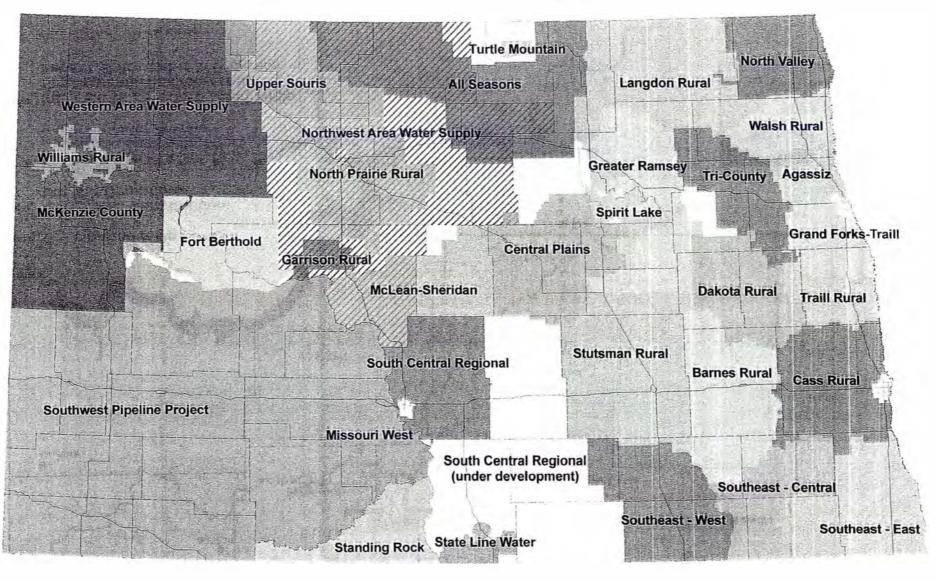




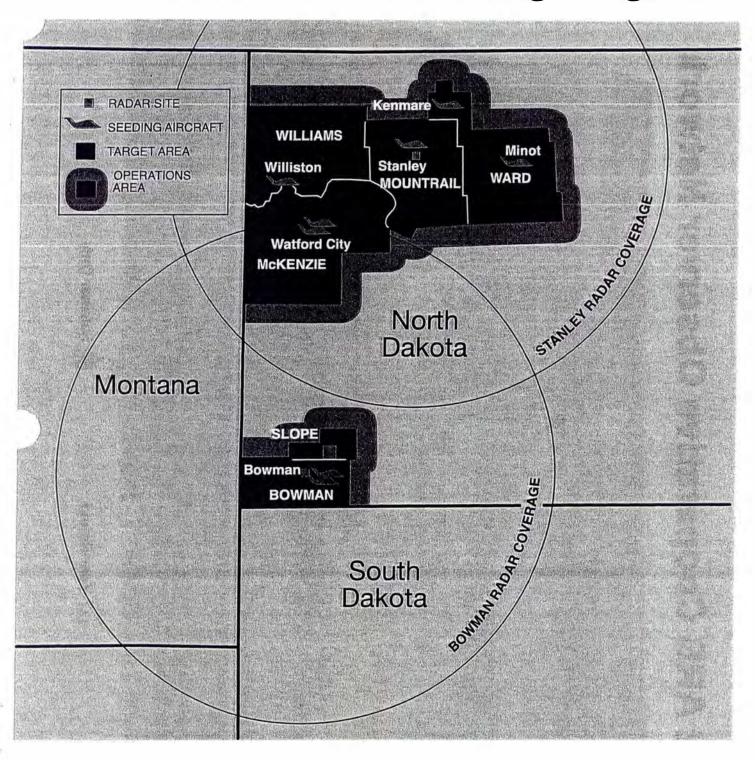


**Northwest Area Water Supply** 

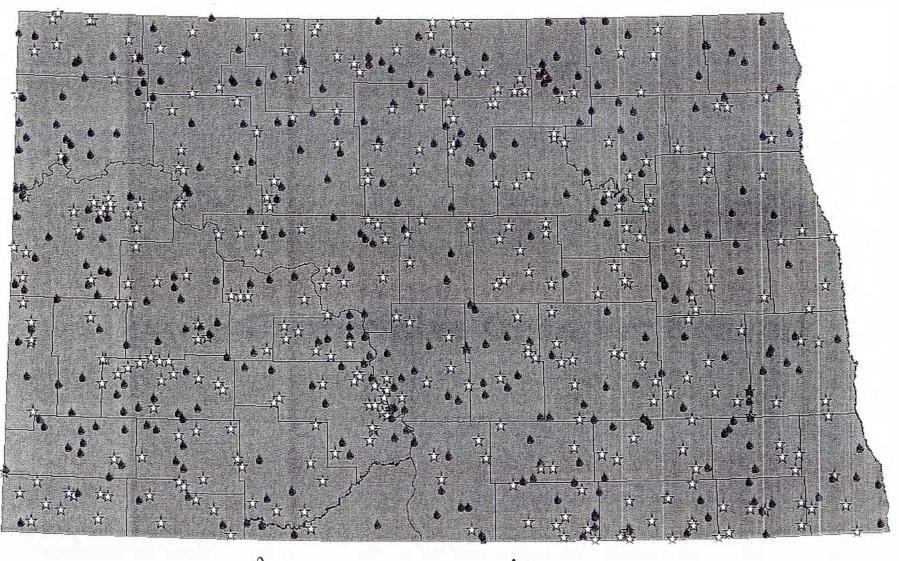
# Rural & Regional Water Supply Systems



## North Dakota Cloud Seeding Program



# **2012 ARB Cooperative Observer Network**









# North Dakota State Water Commission Testimony Relative to Engrossed House Bill 1020

Presented to the Senate Appropriations Committee

**63rd Legislative Assembly** 

March 8, 2013

By Todd Sando, P.E.
North Dakota State Engineer and Chief Engineer-Secretary
to the State Water Commission



# PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE MARCH 8, 2013

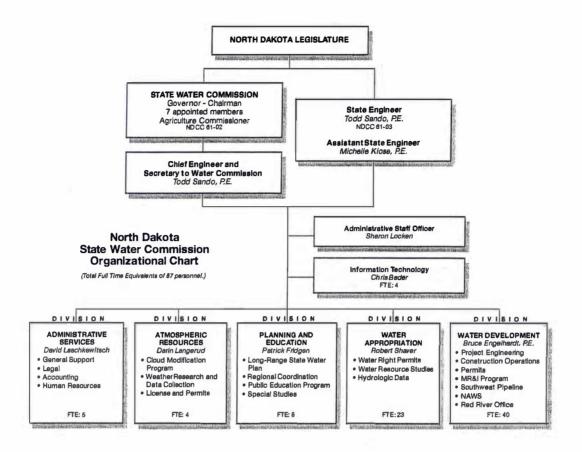
Good morning, Chairman Holmberg, and members of the Senate Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding Engrossed House Bill 1020. My testimony will cover:

- An organizational overview of the Office of the State Engineer and State Water Commission;
- Our 2011-2013 appropriation and related spending including major water project updates during the 2011-2013 biennium;
- Project funding needs for the 2013-2015 biennium;
- Engrossed House Bill 1020; and
- 2013-2015 project priorities.

### **ORGANIZATIONAL OVERVIEW**

As illustrated by our organizational chart, the State Water Commission and Office of the State Engineer are comprised of 87.Full Time Employees (FTEs). As indicated in my introduction, I serve as both North Dakota's State Engineer, and as Chief Engineer and Secretary to the State Water Commission.



The Assistant State Engineer, Michelle Klose, provides support with water issues across the state, and with interstate and international issues, and serves as Chair of the Water Commission's policy subcommittee.

The Administrative Services Division, directed by Dave Laschkewitsch, provides agency operational support, including accounting, human resources, records management, and legal support coordination for all agency projects and programs.

The Water Appropriations Division, directed by Bob Shaver, is responsible for the processing of water permit applications, water rights evaluations, hydrologic data collection, water supply investigations, and economic development support activities.

The Water Development Division, directed by Bruce Engelhardt, is responsible for project engineering, construction, and maintenance; Municipal, Rural and Industrial water supply program, and State Water Supply Program administration; flood response and recovery; cost-share program administration; Southwest Pipeline and Northwest Area Water Supply projects management; floodplain and sovereign land management; dam safety; Devils Lake outlets

construction and operations; and the processing of dam, dike, and drainage permits.

The Planning and Education Division, directed by Patrick Fridgen, develops and maintains the State Water Management Plan, and the agency's Strategic Plan; and manages the agency's information and education programs, including public outreach, and Project WET.

And finally, the Atmospheric Resources Division, directed by Darin Langerud, is responsible for the administration of cloud seeding activities in the state, conducts atmospheric research, and performs weather-related data collection and analysis.

An excellent source of information regarding our agency, and our major projects and programs, is the Water Commission and Office of the State Engineer Strategic Plan. A copy of that document was provided for your reference. If you would like to review that document in electronic format, it is also available via our website at www.swc.nd.gov.

### 2011-2013 APPROPRIATION & RELATED SPENDING

During the current 2011-2013 biennium, the State Water Commission has spent \$249.7 million on water projects through January 2013. It is anticipated that an additional \$58.2 million will be

spent through June 2013. About \$278 million of that \$307.9 million will come from the Contract Fund, which is made up of a combination of Resources Trust Fund and Water Development Trust Fund revenue. The balance is made up of federal and local funds. We estimate that we will carry \$125.9 million<sup>1</sup> of the committed contract fund projects forward into the 2013-2015 biennium.

To update you on the Water Commission's bonding, we have six bond issues outstanding on the Southwest Pipeline Project. These bond issues have provided the project with \$24 million, of which \$19.8 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by water sales.

We also have two bond issues outstanding for statewide water development projects. The proceeds were used to fund various projects from March 2000 through June 2005. Major projects receiving funding included Grand Forks and Wahpeton's flood control projects, Southwest Pipeline, the Devils Lake outlet, and several other rural-regional water supply projects. These issues totaled \$94.3 million, of which \$68.9 million remains outstanding.

The Water Development Trust Fund provides the funding to make these payments. Scheduled payments for the 2013-2015 biennium total \$16.9 million; however it is our intent to retire all of the Commission's bonds early. The Executive Budget for 2013-2015 and Engrossed House Bill 1020 were intended to provide funding for us to do so. However, as the language in Section 11 is currently written, we will not be able to retire five of the bond issues as intended. This is

<sup>&</sup>lt;sup>1</sup> The \$125.9 million of carryover does not include \$31.3 million of emergency funding included in House Bill 1269.

purely related to a timing issue of when funds will be available, and requirements of when the bonds can be retired.

### 2011-2013 WATER PROJECT AND PROGRAM OVERVIEW

Having covered the financial aspects of our 2011-2013 appropriation, I would like to provide an overview of what those funds helped to advance. As I begin covering those projects, I would like to point out that much of what I will be covering today is included in our 2013-2015 Water Development Plan, which was provided with our testimony. If you need additional copies, we would be happy to provide them – as I believe it will be very useful for your future reference regarding: current biennium project efforts and progress; completed projects; future water project funding needs; 2013-2015 available funding, and funding source descriptions; and 2013-2015 project priorities. If you would prefer to reference the Water Development Plan electronically, it is also available for review and download via our website at www.swc.nd.gov.

### **Flood Control**

I would like to begin the 2011-2013 project updates with statewide advancements in flood control. As all of you are aware, one of the most urgent flood-related issues facing the state over the course of the last two decades has been the ongoing flooding crisis in the Devils Lake basin. On June 27, 2011, Devils Lake set another new record level of 1454.4 feet above mean sea level, surpassing the previous record of 1452.05 feet, set on June 27, 2010 – exactly one year before. At its 2011 record elevation, Devils Lake covered an astonishing 211,000 acres, which was an increase of 167,000 inundated acres since the lake began its rise back in 1993.

As Devils Lake crept within six feet of naturally overflowing back in 2010, the State Water Commission began aggressively pursuing an additional outlet from the east end of Devils Lake

(See Map Appendix). With the existing 250 cubic feet per second (cfs) West Devils Lake outlet in place, the purpose was to get an additional outlet operating as quickly as possible – to reduce the risk of additional land being inundated throughout the basin, and to prevent a natural overflow of Devils Lake into the Sheyenne River.

Construction on the East Devils Lake outlet began in late September 2011, and by June 2012, only nine months later, the new 350 cfs outlet project began removing additional Devils Lake water out of the big lake, and into the Sheyenne River. The total cost of the project was about \$70 million.

The combined design capacity of the West and East Devils Lake outlets is 600 cfs. Over the course of last summer, I am happy to report that we were able to remove 157,000 acre-feet of water from Devils Lake. And since the most recent record elevation was set in the summer of 2011, Devils Lake has dropped approximately three feet, with a third of that attributed to outlet operations, and the remainder from evaporation. In that three-foot drop, 32,000 acres of land reemerged from the floodwaters, with some of it going back into agricultural production, and contributing once again to the local economy.

In addition to the completion of the East Devils Lake outlet, the Water Commission worked in cooperation with the U.S. Army Corps of Engineers (Corps) on a Tolna Coulee control structure. This project was also completed this past summer. It is designed to reduce downstream damages should Devils Lake naturally overflow. And thus, adds an extra level of protection for downstream areas. The Corps constructed the control structure, however, the Water Commission

will own and operate the project within the guidelines of established protocol. The total cost of this project was about \$9 million, with the Water Commission contributing \$4.3 million.

In relation to downstream impacts, increased sulfate concentrations in the Sheyenne River as a result of outlet operations prompted the Water Commission to provide about \$15 million toward a new water treatment plant in Valley City. I am happy to report, that project has been completed, and it is fully operational. Also because of the Sheyenne River sulfate concentration issue, we approved \$15 million for water treatment plant improvements at Fargo as well. Fargo is currently proceeding with pilot treatment efforts to identify the most optimal treatment options, and we expect that project to proceed in the next biennium – with additional cost-share from the state.

Outlet-related downstream impacts from flooding this past summer were minimal because of dryer conditions, and reduced tributary flows into the Sheyenne River. However, normal or above average runoff conditions during summer months will likely result in increased downstream mitigation costs in the future.

The last effort in the Devils Lake basin I would like to mention is the ongoing effort by the Corps to raise the city's level embankment to an elevation of 1,466 feet above mean sea level.

This latest construction effort will raise the level by about six feet, and extend it by four miles — to twelve miles in total. During this current biennium, the Water Commission provided \$15.5 million, for an overall total of about \$40 million from the Commission.

Moving our attention to other flood control efforts in the Red River basin, I am happy to report that the Grand Forks flood control project performed extremely well during our most recent large-scale flood events in 2009, 2010, and 2011. And in Wahpeton, almost all elements of their permanent flood control project have been completed, with only a few small efforts remaining.

Another large-scale flood control effort that continues to advance is the Fargo-Moorhead metro area flood control project. After narrowly escaping extensive damages during the major floods of 1997 and 2009, it became apparent that a permanent, large-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the Corps, Fargo, West Fargo, Moorhead (MN), Cass County, and Clay County (MN) worked jointly toward the completion of a study that assesses potential measures to reduce the entire metro area's flood risk.

In April 2012, the Assistant Secretary of the Army signed a Record of Decision. Major elements of the locally preferred plan include, among other aspects, acquisitions; internal city protection efforts; upstream floodwater staging; and a 35-mile long, 20,000 cfs diversion channel on the North Dakota side of the Red River (See Map Appendix).

The estimated cost of the North Dakota diversion alternative is about \$1.8 billion, with an expected North Dakota non-federal share of about \$900 million – to be split in some fashion between local and state sources. The Water Commission has allocated \$75 million to Fargo flood control efforts thus far for land acquisitions, internal levee and other infrastructure construction, studies, and engineering - with additional contributions necessary in the future.

Amendments specifically related to the Fargo-Moorhead metro area flood control project are included in Engrossed House Bill 1020. Sections 6, 7, and 8 of Engrossed House Bill 1020 include state funding restrictions toward various project elements. Section 8 also caps 2013-2015 biennium state funding at \$100,000,000, which is less than the \$102,000,000 included in the agency's prioritized amount for that project. And Section 9 caps the state's total contribution for Fargo flood control at \$325,000,000.

In the Mouse, or Souris River Basin - on June 25, 2011, Mouse River flood flows peaked in Minot at 27,400 cfs. This was more than five times greater than the city's existing flood control channels and levees had been designed to handle. The record breaking flooding of 2011 overwhelmed most flood fighting efforts along the entire reach of the Mouse River in North Dakota, causing unprecedented damages to homes, businesses, public facilities, infrastructure, and rural areas.

In response, a State Water Commission-sponsored Mouse River Enhanced Flood Protection Project Preliminary Engineering Report (PER) was completed in early 2012 – only months after those devastating events. Phase I of the PER, which focused on flooded communities (from Mouse River Park to Velva), was completed on a rapid timetable in order to satisfy the desperate need of displaced residents for relevant information as quickly as possible. It was entirely funded by the Water Commission, and provided preliminary engineering information, project footprints, and key project data, while inviting community input. Phase I of the PER, which focused on a protection level to a 2011 flood event (or 27,400 cfs), consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, and 2011 flood buyouts. Levees comprise about 90 percent of the alignment – totaling 21.6 miles.

The engineering team was also asked to provide cost estimates to scale the 27,400 cfs project down to a level of protection of 20,000, 15,000, and 10,000 cfs. However, the cost savings to construct the project to a 10,000 cfs level of protection versus 27,400 cfs would only yield a cost savings of about \$15 million – of an \$820 million project.

Phases II and III are currently underway, and will extend preliminary engineering to the rural regions of the Mouse River. In addition to these efforts, the Souris River Joint Board has made a request to the U.S. Army Corps to consider a reconnaissance study to determine the potential for federal involvement in Mouse River flood control. We have also been involved in cooperative efforts involving the International Souris River Board and International Joint Commission to reopen international agreements to modify flow targets, and to identify additional flood storage, including the potential raise of Lake Darling.

Flood events along the Sheyenne River have been another concern in recent years, and have also severely impacted and challenged other North Dakota communities like Valley City, Lisbon, and Fort Ransom. For that reason, each of those communities is working to implement more permanent flood protection.

On a final note related to flood damage reduction efforts, I would like to briefly report on our floodway property acquisition program. During the 2011 special Legislative session, following the devastating floods earlier that same year, the Legislature passed Senate Bill 2371, which allocated \$50 million to flood recovery, and directed the Water Commission to put priority on floodway property acquisitions.

To date, the Water Commission has approved \$17.75 million for Minot, \$1.07 million for Burlington, \$18.29 million for Ward County, \$3 million for Valley City, \$1.43 million for Burleigh County, about \$184,000 for Sawyer, and \$888,750 for Lisbon floodway property acquisitions. In total, we have approved \$42.5 million for acquisitions since the passage of Senate Bill 2371.

### **Water Supply**

Moving on to water supply efforts, as the oil industry continues to grow in the western portion of the state, so does the need for water development projects to support drilling processes, and rapidly growing populations.



During the 2011 Legislative Assembly, House Bill 1206 allocated \$110 million in state financing to advance Phases I and II of the newly created Western Area Water Supply (WAWS) project.

Of that amount, \$25 million was provided through the Water Commission's budget.

The focus of this project is to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant, to areas throughout the northwest, oil-producing region of the state for municipal, rural, and industrial purposes (See Map Appendix).



Phases I and II are currently under construction, and Watford City, McKenzie Rural Water, and Williams Rural Water are now receiving water from WAWS. By the end of this biennium, Ray,

Tioga, Stanley, Wildrose, Noonan, Columbus, Fortuna, and Burke-Divide-Williams Rural Water will also receive water from WAWS.

In addition, WAWS currently has nine water depots operational and generating revenue for the project (McKenzie County's System II Keene Depot, McKenzie County's Indian Hills Depot, the city of Williston's 2<sup>nd</sup> Street Depot, the North Williston Depot, 13 Mile Depot, Alexander Depot, City of Crosby Depot, City of Stanley Depot, and Watford City Depot), with another (Ray Depot) scheduled for completion this coming summer.

It was originally estimated that WAWS would serve as many as 35,000 people, but that number is now expected to be about 90,000 by 2025 and 100,000 by 2035. Currently, WAWS has over 17,000 water service requests for residential, commercial, rural, and temporary housing. And, they are increasing the long-term projected water demands of municipal water systems throughout the service area. Because of this unprecedented growth, project expansion beyond the original \$110 million investment is needed to address overwhelming water supply needs in that region of the state. As mentioned previously, future project financial needs will be covered in greater detail later in my testimony.

In the southwest oil-producing region of the state, we have continued with our track record of substantial progress on the Southwest Pipeline Project. As you will notice on the Southwest Pipeline Project map in the Appendix, this project now covers much of southwest North Dakota west of the Missouri River. Today, Southwest Pipeline serves over 50,000 people, including 31 communities, and about 4,400 rural hook-ups. Like WAWS, Southwest Pipeline is working hard to address the tremendous growth and water needs they're seeing in that region of the state.

Since we last reported to you two years ago, the number of people served by Southwest Pipeline has grown by 15,000.

During the current biennium, we completed construction of the Oliver, Mercer, North Dunn (OMND) Water Treatment Plant, and completed construction of two potable water reservoirs one at the OMND Water Treatment Plant site and the other in Oliver County. In addition, construction was completed on a main transmission line in Mercer and Oliver Counties. And, Southwest Pipeline water was delivered to the cities of Stanton, Hazen, Zap, and Center, along with rural customers around Zap and Beulah this past summer.

With the Northwest Area Water Supply (NAWS) project, the first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009.

Before the start of the current biennium, NAWS was serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot. Additions during the current biennium include Sherwood, Mohall, All Seasons Water Users District near Antler, Upper Souris Water District near Sherwood, Minot's North Hill, Minot Air Force Base, Upper Souris Water District near Glenburn, and North Prairie Rural Water near Ruthville, from an interim supply from the Minot Water Treatment Facility (See Map Appendix).

In addition, recent efforts also include upgraded filters and associated piping and controls at the Minot water treatment facility - increasing its capacity from 18 million gallons per day (MGD) to 26.5 MGD. Increases to softening capacity, which still remain at 18 MGD, are scheduled for the 2013-2015 biennium, pending court approval.

With regard to NAWS-related lawsuit efforts, we have continued to work with the Bureau of Reclamation on a Supplemental Environmental Impact Statement (EIS) ordered by a federal court prerequisite to the lifting of an injunction on the project.

With the Red River Valley Water Supply, the Water Commission has continued to work in cooperation with the Garrison Diversion Conservancy District to advance this project, although a Record of Decision has not been signed for the EIS that was completed back in 2007.

As part of the EIS process, which took several years, at a cost of about \$17 million, the U.S. Bureau of Reclamation and the Garrison Diversion Conservancy District analyzed several different alternatives. They ultimately identified the Missouri River Import to the Sheyenne River Alternative as the preferred alternative. However, the project still needs two major steps to occur before construction can start: 1) Congress must authorize the project; and 2) the Record of Decision must be signed. As Fargo continues to grow, and as industrial water supply needs are expected to increase east of the Missouri River, the need for a supplemental water supply in the eastern portion of the state remains.

I would like to bring to your attention that amendments specifically related to the Red River Valley Water Supply project are also included in Engrossed House Bill 1020. Section 10 directs \$11,000,000 toward the advancement of this project, or \$2,000,000 more than the \$9,000,000 included in the agency's prioritized amount for that project. Section 13 would require the Water Commission to study water supply needs in the Red River valley. In consideration of the Bureau of Reclamation's comprehensive study process and alternative evaluations as part of the Red River Valley Water Supply EIS, I do not believe that additional studies would benefit the advancement of any Red River Valley water supply project alternative.

4

In other water supply efforts, I think it's important to note that federal funding for water supply projects through the Municipal, Rural, and Industrial (MR&I) Water Supply Program has decreased dramatically in recent years. For that reason, the state has increased investments in rural and regional water supply system advancements across the state.

In addition to the previously mentioned water supply system advancements, the Water Commission also provided funding assistance for various projects during the current biennium to: Burke, Divide, Williams Water System; Crosby Water Supply; Grand Forks-Traill Water District; McLean-Sheridan Water District; McKenzie County Regional Water System; the city of Parshall; North Central Rural Water Consortium; South Central Regional Water District; R&T Water Supply; Stutsman Rural Water District; and Traill Rural Water District (See Map Appendix).

Thanks to North Dakota's State Water Supply Program and the federal MR&I program, there are now 33 rural and regional water systems in North Dakota providing quality drinking water to over 340 cities, 120 various water systems, and over 43,000 rural connections. Currently, all or part of North Dakota's 53 counties are served by regional and rural water systems, with several having plans to expand.

### Weather Modification

With regard to atmospheric resources efforts, cloud seeding services continued in Bowman,

McKenzie, Mountrail, Slope, Williams, and Ward Counties (See Map Appendix) – with the dual

purpose of reducing hail and enhancing rainfall. Long-term evaluations indicate that the cloud

seeding program reduces crop hail losses by 45 percent, and increases rainfall by 5-10 percent. A 2009 NDSU study shows the program creates \$12 million to \$19.7 million annually in direct agricultural benefits, or \$5.16 to \$8.41 on a per acre basis – yielding a benefit-cost ratio of 16 and 26 to 1. Gross business volume ranges from \$37 million to \$60 million, annually.

This past summer was the 36th year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 608 active volunteer observers throughout the state (See Map Appendix), with nearly half of our observers now measuring snow, which is extremely valuable, as it fills data gaps and improves forecasting of spring runoff and flood risks. All of this information – including precipitation data, charts, and maps is now easily accessed via the Water Commission's website.

### General Water Management

Significant progress was also made on statewide general water management projects through our cost-share program. These types of projects include rural flood control; other flood control; dam safety, repairs, and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation. During the current biennium, the Water Commission has approved funding for 126 general water management projects, totaling about \$20 million.

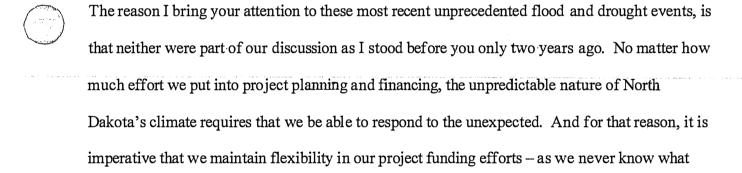
### Importance of Funding Flexibility

As a final comment on 2011-2013 biennium efforts, I would like to recap and bring your attention to the fact that in the week preceding the start of this biennium, the Mouse River at Minot peaked on June 25, leaving unimaginable damages in its wake. Two days later, Devils Lake peaked on June 27. And on July 1, 2011, the first day of the current biennium, the Missouri River peaked in Bismarck at 19.23 feet – more than three feet above flood stage. While all of

this was occurring, the Red River at Fargo remained at, or above flood stage for almost all of April, May, June, July and August 2011.

The images and stories associated with these events are ones that we will not soon forget. The thousands of North Dakotans evacuated, the inundated homes, and the ongoing fear of the potential for lives lost.

Then, as we turned the calendar to the summer of 2012, much of the nation, including large portions of North Dakota, were in the grips of a severe drought. And unfortunately, drought conditions continue to persist for much of the Midwest today.



the next year, month, or even day may bring.

With the need to maintain funding flexibility in mind, I would like to bring Engrossed House Bill 1020 amendments in Sections 15 and 17 to your attention. Section 15 would require the State Water Commission to report any changes to our project priorities to the Budget Section. Section 17 would make water project prioritization the responsibility of the interim Water-related Topics Overview Committee. If the language in these amendments were changed to instead require that the Water Commission report back to the interim Water-related Topics Overview Committee on

a regular basis – including updates on the agency's water project prioritization efforts, we would be able to maintain that much-needed flexibility.

### WATER PROJECT FUNDING NEEDS: 2013-2015 & BEYOND

Moving on to project funding needs - as part of the Water Commission's water planning efforts, we once again solicited project and program information from potential project sponsors, beginning about this time last year. The results provide us with an updated inventory of water projects and programs that could come forward for Water Commission cost-share in the upcoming 2013- 2015 biennium and beyond.

In addition to the project information forms collected by the Water Commission, we also continued to work closely with project sponsors throughout the course of the last year, and with the North Dakota Water Coalition. Through our inventory process, and through our cooperative efforts with project sponsors, I believe we are continually improving our efforts to identify future project funding needs for budgeting purposes.

In the interest of time, I will not cover all individual project funding needs that we compiled for the 2013-2015 biennium. However, for your reference, note that Table 3, beginning on page 11 of the Water Development Plan, contains projects that could possibly move forward and request Water Commission cost-share in the 2013-2015 biennium.

This accounting of projects simply represents a non-prioritized list of needs as submitted by project sponsors. It does not guarantee, in any way, that all of the projects listed will receive funding. In addition, upon further review of the projects listed, the state's potential cost-share

contribution may change based on the agency's cost-share policy and requirements for eligible items.

### **Project Funding Needs Beyond 2013-2015**

But at march

As a final note related to water development funding needs, I would like to stress that many of North Dakota's largest water projects cannot be completed in one or even two biennia. But rather, require longer-term financial planning. This is particularly the case for some of North Dakota's larger water project funding priorities, like flood control and water supplies. For that reason, project funding needs for future biennia are also requested from project sponsors — beyond the 2013-2015 biennium.

### ENGROSSED HOUSE BILL 1020 & AVAILABLE FUNDING FOR 2013-2015

Engrossed House Bill 1020 contains the budget recommendation for the State Water Commission for the 2013-2015 biennium. The recommendation totals \$826,574,632.

Our agency budget includes three line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriations, Water Development, and Atmospheric Resources Divisions, as well as project funding. The Accrued Leave Payments line is a new line item added by the North Dakota House of Representatives. The House also reduced the compensation package that was included in the executive recommendation. As the agency struggles to find and retain qualified staff we urge you to consider restoring that funding.

Administrative and Support Services	\$3,909,500
Water and Atmospheric Resources	822,339,358
Accrued Leave Payments	325,774
Total	\$826,574,632
General Funds	\$0
Federal Funds	37,322,577
Other Funds	789,252,055
Total	\$826,574,632

#### **Available Funding**

In the 2011-2013 biennium, general funds totaling \$15 million were included in the budget. Engrossed House Bill 1020 contains no general fund dollars – making the agency completely dependent on special fund revenue. The executive budget recommendation included almost \$17.8 million from the general fund. Changing this funding to the Resources Trust Fund will mean that these dollars will no longer be available for projects.

Federal funds totaling \$37.3 million have been included in the budget recommendation. This is a decrease of \$16.7 million from the 2011-2013 biennium. This decrease is due to the anticipated reduction of federal funding available through the Municipal, Rural, and Industrial water supply program, and the elimination of additional federal stimulus funds.

Revenues into the Resources Trust Fund for the 2011-2013 biennium are expected to total \$392.3 million. When combined with the fund's beginning balance of \$148.1 million, less the estimated expenditures of \$275.2 million, the balance in the Resources Trust Fund at the beginning of the 2013-2015 biennium could be \$265.2 million. Because revenues from the oil extraction tax are highly dependent on world oil prices and production, it is very difficult to predict future funding levels. With that in mind, the September 2012 forecast includes \$547 million for the 2013-2015 biennium from oil extraction.

Additional revenue into the Resources Trust Fund will come from Southwest Pipeline Project reimbursements, State Water Commission water supply program loan repayments (which amount to \$800,000 per biennium through year 2017), interest, and oil royalties. These are estimated to total an additional \$9.9 million.

The proposed budget also includes \$515 million for new projects; \$125.9 million<sup>1</sup> for uncompleted projects from the previous biennium; and \$60 million to pay off outstanding bonds. Even though this is an increase of \$317.8 million from the current biennium, it would still leave an unobligated balance of approximately \$98 million in the Resources Trust Fund. We anticipate these funds will be needed to partially fund major water projects such as the Fargo and Minot flood control projects, Red River Valley Water Supply project, and NAWS - that will all require significant funding in future biennia.

The other large funding source for the Water Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in \$18 million in new revenue this biennium. When combined with an estimated beginning balance of \$26.3 million, the proposed budget includes \$44.3 million and is an increase of \$7.1 million from the 2011–2013 biennium.

This large increase in the agencies special funds will enable us to meet the anticipated water project needs for the 2013-2015 biennium.

<sup>&</sup>lt;sup>1</sup> The \$125.9 million of carryover does not include \$31.3 million of emergency funding included in House Bill 1269.

#### **One-Time Funding**

The 2011-2013 budget included one-time project funding in the line items titled Federal Stimulus Funds and Grants Local Cost-share. The Federal Stimulus Funds line contains the estimated unexpended stimulus funds carried forward from the 2009-2011 biennium for the Southwest Pipeline water treatment plant, which totaled \$7,271,773. The Grants Local Cost-share line contains the estimated unexpended funds for the Ray-Tioga, Burke-Divide-Williams, Wildrose and Stanley water project funding from the permanent oil trust fund, which totaled \$500,000. There is no one-time funding included in the 2013- 2015 budget for these projects.

We do have \$288,200 of one-time funding included in the 2013-2015 budget. This includes \$243,200 to replace the Water Commission's excavator, and \$45,000 to renovate additional office space in the lower level of the State Office Building.

#### **Additional FTEs**

With regard to staff additions, we are requesting a Water Resource Project Manager and a Water Resource Engineer. Currently the Water Appropriation Division employs one water resource senior manager to manage the state's water use monitoring/reporting system and two water resource engineers to manage the surface waters of the state. With the advent of oil development in western North Dakota, the demand for water has increased dramatically. More temporary and conditional water permits for industrial water use have been issued but the backlog continues to grow. Given the large profits gained from selling water for oil field industrial use, there is greater concern about unauthorized water use. To better monitor water use, effective January 1, 2012, the State Engineer required industrial water permit holders who are providing water to the

oil industry, to submit monthly water use reports. The new positions are needed to address this additional workload.

Also requested is an additional position to operate the East Devils Lake outlet. We currently have one operator for both outlets, but with the completion of the east end outlet, an additional operator is needed. When the outlets are operating, one employee is on-call 24 hours a day, 7 days a week. We anticipate this position would also be available to support the operation of the Northwest Area Water Supply project in the future when necessary as well.

#### Information Technology Hardware

Regarding information technology hardware, I would like to bring to your attention the amendment included in Section 14 of Engrossed House Bill 1020, which would require the State Water Commission to transfer all appropriate technology hardware to the Information Technology Department's (ITD) Secure Data Center.

I have several concerns related to this amendment. They include the following:

- Moving the servers to ITD's secure server facility would actually reduce the level of physical security surrounding the existing Water Commission's server infrastructure.
- Moving the Water Commission's IT server infrastructure to a remote facility would unnecessarily complicate this infrastructure and add additional points of failure that would lead to down time.
- Moving the Water Commission's IT server infrastructure to ITD's secure server facility unnecessarily impacts the backbone of the capital network by pushing significant network traffic, that is currently internal, out over the state's system. The Water

Commission is a highly technical agency that requires tremendous amounts of data for mapping and modeling. Pushing the massive amounts of data required by the Water Commission out over the state's system would result in bottle-necks and impacts to everyone dependent on the system.

- The architecture of the server and storage infrastructure that is currently deployed at the
  Water Commission is not necessarily suited for remote management. Upgrading the
  server equipment to provide these capabilities will add significant costs to the agency's
  server infrastructure.
- As noted in ITD's most recent security audit, end-users represent the single greatest
  threat to the security of any network. By pushing the servers and users into separate
  network paths, it provides additional opportunities for hackers to access the state's
  system.

#### **2013-2015 FUNDING PRIORITIES**

In developing water project funding priorities for the 2013-2015 biennium, the Water Commission worked closely with project sponsors from all corners of the state, and the North Dakota Water Coalition. The project priorities that I am about to cover are the result of those cooperative efforts, and include our current road map for water project development in the upcoming biennium. More detailed information on each of the priorities is included in the Water Development Plan, beginning on page 21 for your future reference.

The following table represents the Water Commission's funding priorities for the 2013-2015 biennium.

SWC Priority Projects	Potential 2013-2015 Allocations
Community Water Facility Rev. Loan Fund	\$15,000,000
Devils Lake Flood Control	10,000,000
Fargo Flood Control	$102,000,000^2$
Mouse River Flood Control	61,000,000
Sheyenne River Flood Control	$21,000,000^3$
General Water Management <sup>4</sup>	33,000,000
Irrigation	5,000,000
Fargo Water Supply	15,000,000
Northwest Area Water Supply	14,000,000
Red River Valley Water Supply	9,000,000 <sup>5</sup>
Southwest Pipeline Project	$79,000,000^{3,6}$
Water Supply Program	71,000,000 <sup>7</sup>
Western Area Water Supply	79,000,000 <sup>8,9</sup>
Weather Modification	1,000,000
Project Totals	\$515,000,000

I would like to emphasize that the project priorities I just covered are for the 2013-2015 biennium only. I feel it's important to reemphasize that many of our state's priority water projects are far too large to complete in one, or even several biennia. For that reason, many larger projects – particularly those related to flood control and water supply, will require additional funding to move forward in future biennia. I simply mention this to again highlight the fact that even though we are now able to fund projects at unprecedented levels, the financial needs of water projects have also grown tremendously.

<sup>&</sup>lt;sup>2</sup> The amendment in Section 8 of Engrossed House Bill 1020 includes \$100 million for Fargo Flood Control in the 2013-2015 biennium.

<sup>&</sup>lt;sup>3</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>4</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

<sup>&</sup>lt;sup>5</sup> The amendment in Section 10 of Engrossed House Bill 1020 includes \$11 million for the Red River Valley Water Supply project.

<sup>&</sup>lt;sup>6</sup> Advanced emergency funding of \$21 million was approved for the Southwest Pipeline in House Bill 1269.

<sup>&</sup>lt;sup>7</sup> Advanced emergency funding of \$10.35 million was approved for three water supply program projects in House Bill 1269.

<sup>&</sup>lt;sup>8</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.

<sup>&</sup>lt;sup>9</sup> Engrossed House Bill 1140 provides for an additional \$40 million for WAWS from the state in the form of a loan through the Bank of North Dakota.

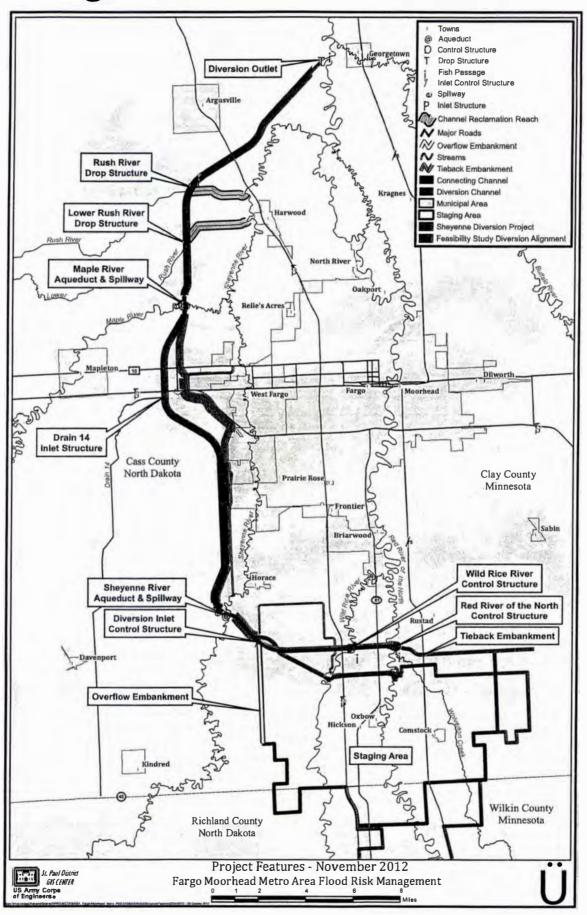
#### **CONCLUSION**

I would like to conclude by saying – now is the time to make long-term investments in our critical water infrastructure. Our state is in a unique situation where we can create and shape our future, and improve the lives of North Dakotans for generations to come.

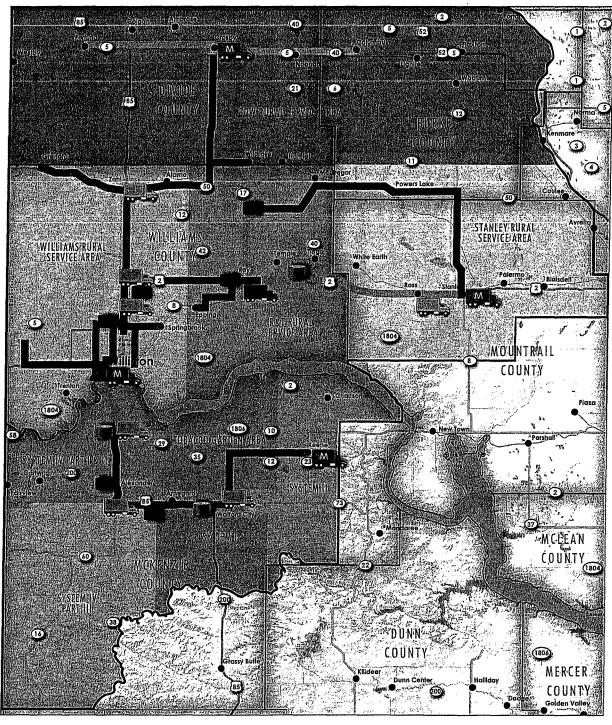
Mr. Chairman, this concludes my testimony relative to Engrossed House Bill 1020. I will be happy to answer any questions that you or any members of the committee may have at this time.

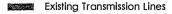
Devils Lake Outlet Projects

# **Fargo-Moorhead Flood Control**



# WESTERN AREA WATER SUPPLY PROJECT Major Infrastructure Components VERSION 7





2011/2012 Improvements

2013/2014 Improvements

2015/2016 & Beyond Improvements

WAWSA Project Boundary Line

**Existing Reservoir** 

2011/2012 Reservoir

2013/2014 Reservoir

WTP/Intake Expansion/ Improvements

Existing Member Depots in Operation



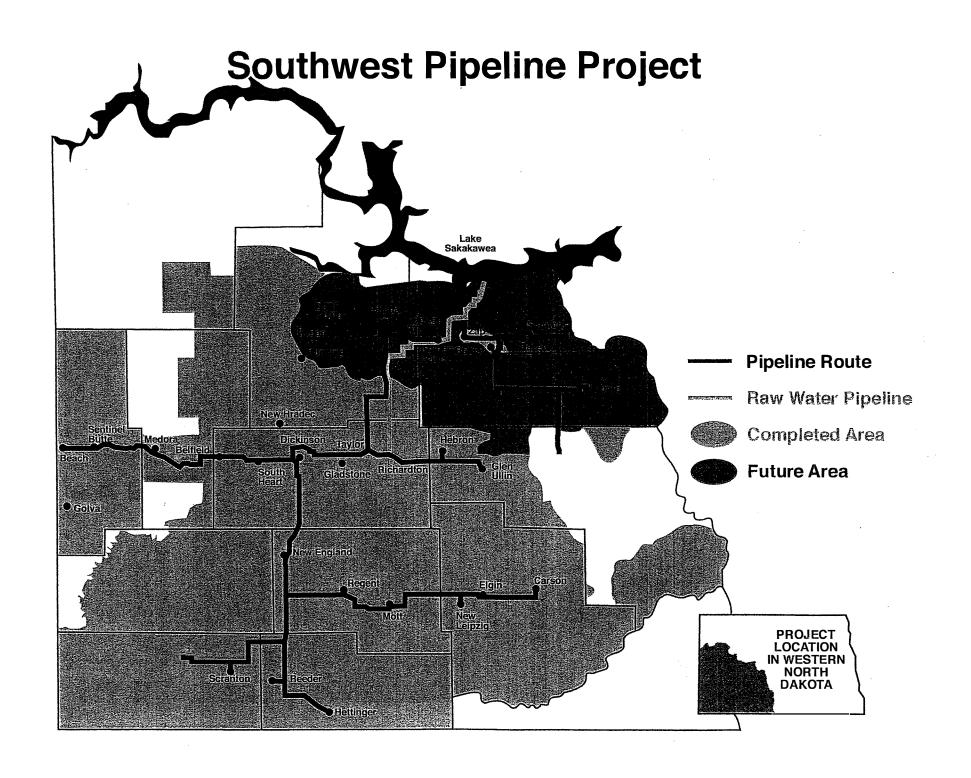
WAWSA Depots in Operation

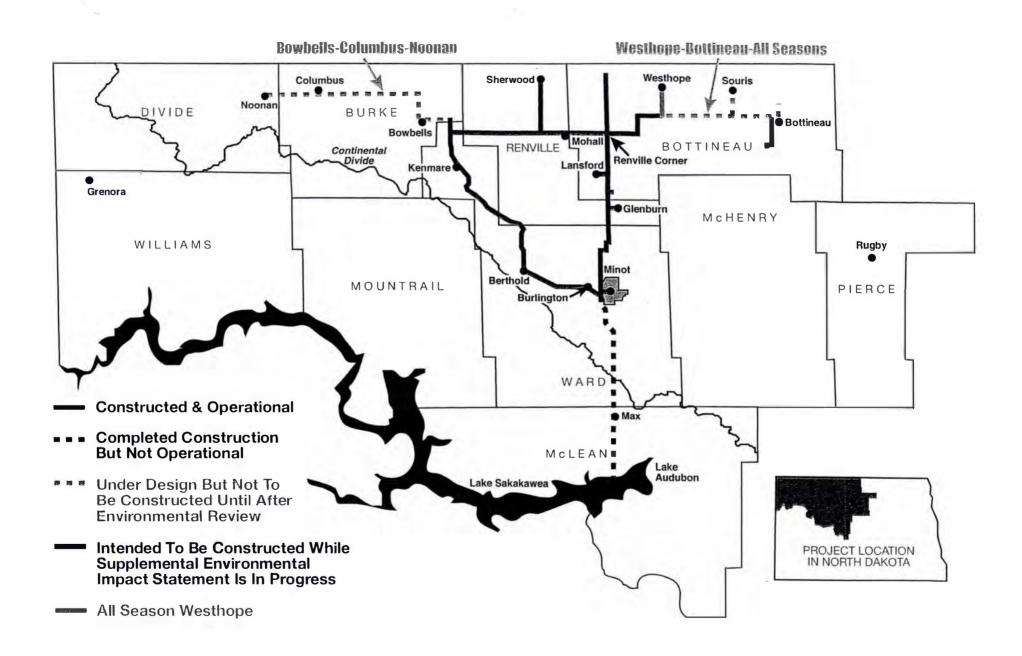


WAWSA Depots Operational by Summer 2013



Future WAWSA Depots

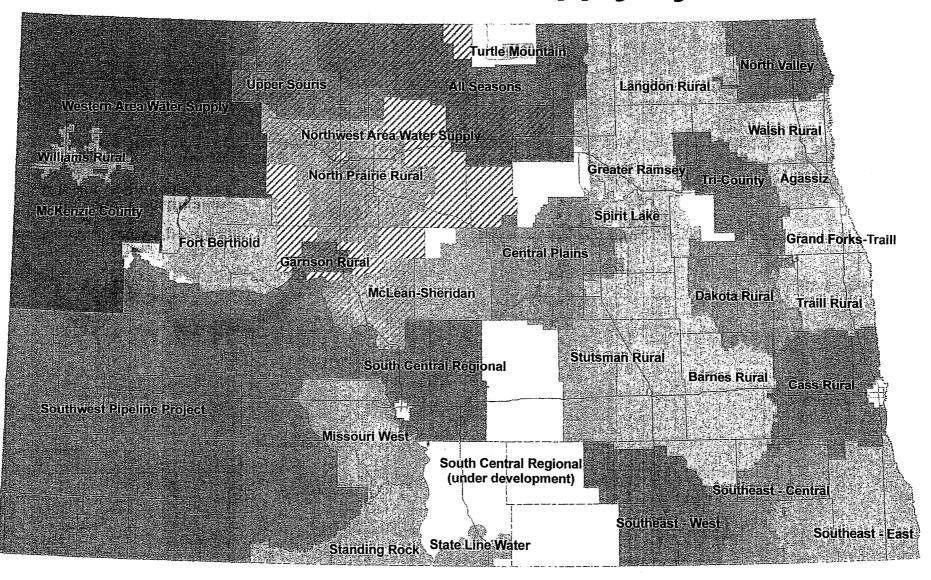




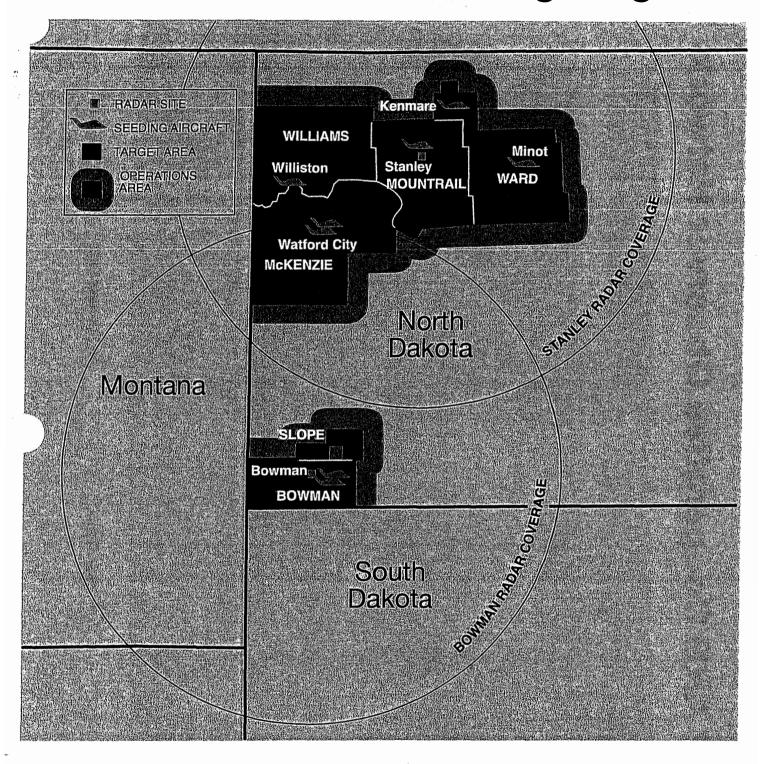
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**Northwest Area Water Supply** 

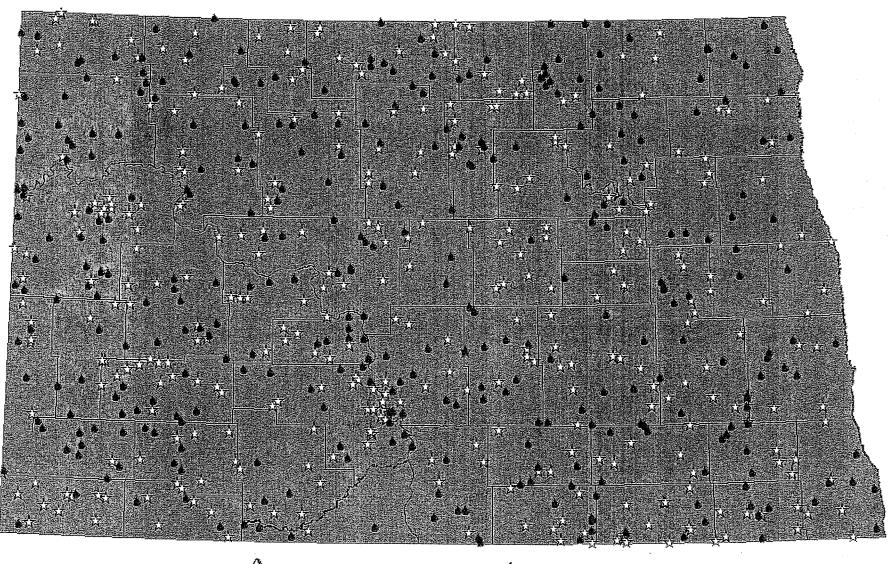
# **Rural & Regional Water Supply Systems**



## North Dakota Cloud Seeding Program



# **2012 ARB Cooperative Observer Network**







# NORTH DAKOTA DE LA Mater Development

An Update To The 2009 State Water Management Plan



North Dakota State Water Commission

January 2013

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# NORTH DAKOTA PLAN 2013-2015 PLAN Water Development

An Update To The 2009 State Water Management Plan

GOVERNOR Jack Dalrymple

COMMISSIONER OF AGRICULTURE Doug Goehring

#### **WATER COMMISSIONERS**

Arne Berg, Maurice Foley, Larry Hanson, Douglas Vosper, Jack Olin, Harley Swenson, Robert Thompson

STATE ENGINEER & CHIEF ENGINEER SECRETARY Todd Sando, P.E.

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Natural Resource Economist
Michael Noone

Water Education Program Manager Tina Harding

Graphic Artist Sheila Fryer

Administrative Assistant Dawn Petersen

January 2013



#### A MESSAGE FROM THE STATE ENGINEER:

I am pleased to present you with the 2013-2015 North Dakota Water Development Plan, which is our second update of the 2009 State Water Management Plan (SWMP).

The State of North Dakota has made a tremendous amount of progress on many water development projects – all of which have positively impacted citizens and businesses all across the state. As I've said many times before, this success has only been accomplished because of the water community's dedication and cooperation to advance much-needed projects, and through the Governor and Legislature's continued support of water projects.

With the success of our state's business climate, increased demands to provide basic water services to our growing workforce, and in response to the unprecedented floods of 2009 and 2011, the financial needs of water projects is now greater than ever before. This most certainly provides challenges. However, because of increasing revenues available for water projects through the Resources Trust Fund (oil extraction tax), the state is positioned to help meet many of these difficult water development challenges facing North Dakota's citizenry.

With that, I hope that you will find this plan to be informative. And on behalf of North Dakota's Water Commission, I sincerely appreciate your interest and continued support of North Dakota's future water management and development efforts.

Sincerely,

Todd Sando, P.E. State Engineer

Chief Engineer-Secretary

# Introduction

It is the vision of the North Dakota State Water Commission that, "Present and future generations of North Dakotans will enjoy an adequate supply of good quality water for people, agriculture, industry, and fish and wildlife; Missouri River water will be put to beneficial use through its distribution across the state to meet ever increasing water supply and quality needs; and successful management and development of North Dakota's water resources will ensure health, safety, and prosperity, and balance the needs of generations to come." The elements outlined in this plan provide steps toward achieving that vision.

#### **Background and Purpose**

In biennia following the last two North Dakota State Water Management Plans in 1999 and 2009, the State Water Commission (SWC or Commission) has produced Water Development Plans as interim measures to:

- Serve as supplements to state water plans;
- Provide a progress report on the state's priority water development efforts;
- Provide up-to-date information regarding North Dakota's current and future water development project needs and priorities;
- Provide current information regarding North Dakota's revenue sources for water development; and
- Serve as formal requests for funding from the Resources Trust Fund.

This 2013-2015 Water Development Plan will also serve those purposes.

#### **Authority**

By virtue of North Dakota Century Code (NDCC), Section 61-02-14, Powers and Duties of the Commission; and Section 61-02-26, Duties of State Agencies Concerned with Intrastate Use or Disposition of Waters, the Commission is required to develop and maintain a comprehensive water management plan.









# **Project Progress Summary**

Two years ago, unprecedented revenues into the Resources Trust Fund enabled the SWC and the water community to plan for tremendous progress on several water development priorities across the state. At that time, some of the major priorities outlined in the 2011-2013 Water Development Plan included the following:

- Devils Lake Flood Control
- Devils Lake Downstream Impacts
- Fargo Flood Control

- General Water Management
- Irrigation
- Northwest Area Water Supply
- Red River Valley Water Supply
- Southwest Pipeline Project
- Water Supply Program
- Weather Modification
- Western Area Water Supply

But like anything involving water management and development, there is always an element of unknown. And in the case of the 2011-2013 biennium, that unknown became the incredible, and unforeseen impacts that resulted from the historic flood events of 2011. In the wake of that event, state priorities were adjusted toward additional flood control measures, including floodplain property acquisition efforts; particularly in the Mouse, Sheyenne, and Missouri River basins – as directed by the Legislature during the 2011 special session.





The following section provides an overview of water development progress that occurred during the 2011-2013 biennium.

#### Devils Lake Flood Control

- Continued to implement the state's three-pronged approach to solving the Devils Lake region's flooding problems, including: infrastructure protection, upper-basin water management, and operation of the state's emergency outlets.
- Completed a 350 cubic feet per second (cfs) emergency outlet from East Devils Lake in the summer of 2012. The maximum total discharge of the previously existing west, and new East Devils Lake outlets is now 600 cfs (See Map Appendix). Construction of the \$70 million East Devils Lake outlet was completed in only nine months.
- Completed a Tolna Coulee Control Structure in the summer of 2012 to reduce

the risk of a catastrophic natural overflow of Devils Lake. The control structure was developed in cooperation with the U.S. Army Corps of Engineers. That project is now owned and operated by the SWC.

# Devils Lake Downstream Impacts

- Provided \$15.4 million in funding to Valley City for a new water treatment plant, capable of handling increased sulfate concentrations in the Sheyenne River from Devils Lake outlet operations.
- Approved \$15 million in cost-share for the city of Fargo for water treatment improvements that are also needed to address increased sulfate concentrations in the Sheyenne River from Devils Lake outlet operations. An additional \$15 million from the state will likely be requested in the 2013-2015 biennium.

#### **Fargo Flood Control**

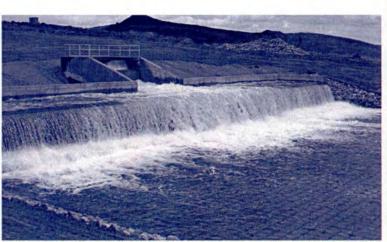
 Provided technical and financial support to advance the Fargo-Moorhead Metro Area Flood Diversion Project.

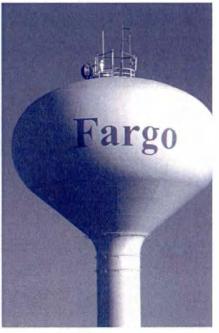
- A Record of Decision was signed by the Assistant Secretary of the Army in April 2012.
- The city of Fargo has been moving forward with design efforts on upstream levees, in-town levees, bridges, and north-channel work. Land acquisitions for upstream and in-town levees are also underway, along with some additional construction on in-town levees.

#### General Water Management

- Approved \$29.3 million in funding for general water management projects across the state.
- General water management projects include rural flood control, snagging and clearing, channel improvements, recreational projects, dam repairs, planning efforts, special studies, and mitigation for operation of the Devils Lake outlets.



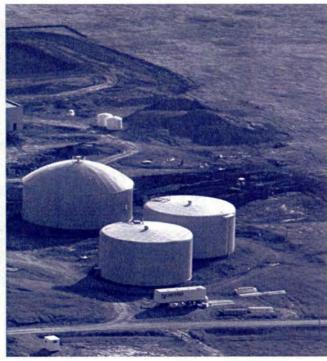












#### **Irrigation**

- Approved \$1 million for the McClusky Canal Mile Marker 7.5 Irrigation Project, which was developed in cooperation with the Garrison Diversion Conservancy District.
- Phase I of that project included 3,500 acres. Phase II could add an additional 3,500 acres in the future.

# Northwest Area Water Supply

• Provided water service to Sherwood, Mohall, All Seasons Water Users District near Antler, Upper Souris Water District near Sherwood, Minot's North Hill, Minot Air Force Base, Upper Souris Water District near Glenburn, and North Prairie Rural Water near Ruthville, from an interim supply from the Minot Water Treatment Facility (See Map Appendix).

- Upgraded filters and associated piping and controls at Minot Water Treatment Facility increasing its capacity from 18 million gallons per day (MGD) to 26.5 MGD. Increases to softening capacity, which still remain at 18 MGD, are scheduled for the 2013-2015 biennium, pending court approval.
- Continued to work with the Bureau of Reclamation on a Supplemental Environmental Impact Statement (EIS) ordered by a federal court prerequisite to the lifting of an injunction.

#### Red River Valley Water Supply Project

- An EIS for the Red River Valley Water Supply Project (RRVWSP) was released back in 2007.
- Currently, the RRVWSP is awaiting a record of decision from the Secretary of the

Interior, and Congressional authorization to use federal works. Until these two issues are addressed, the project is delayed.

#### **Southwest Pipeline Project**

- Completed construction of the Oliver, Mercer, North Dunn (OMND) Water Treatment Plant (WTP), and completed construction of two potable water reservoirs

   one at the OMND WTP
   site and the other in Oliver
   County (See Map Appendix).
- Completed construction of a main transmission line (MTL) in Mercer and Oliver County.
- Southwest Pipeline water was delivered to the cities of Stanton, Hazen, Zap, and Center, along with rural customers around Zap and Beulah during the summer of 2012.
- Began construction of the Zap service area rural

distribution system, and began design of the MTL for the Dunn service area and supplemental raw water intake (See Map Appendix).

#### **Water Supply Programs**

- Federal funding for water supply projects through the Municipal, Rural, and Industrial (MR&I) Water Supply Program has decreased dramatically in recent years. For that reason, the state has increased investments in rural and regional water supply system advancements across the state.
- Provided state funding assistance for Burke, Divide, Williams Water System: Crosby Water Supply; Grand Forks-Traill Water District expansion; the city of Fargo; McKenzie County Regional Water System (Phase II and Phase IV); the city of Parshall; North Central Rural Water Consortium (Anamoose-Benedict); North Central Rural Water Consortium (Berthold-Carpio); North Central Rural Water

- Consortium (Mountrail
  Phase II); Northwest
  Area Water Supply; South
  Central Regional Water
  District (Emmons County);
  R&T Water Supply water
  treatment; Southwest Pipeline
  Project; Stutsman Rural
  Water District expansions;
  Traill Rural Water District
  Phase III; Valley City Water
  Treatment Plant; and Western
  Area Water Supply (See Map
  Appendix).
- MR&I funding assistance was provided for projects involving the Northwest Area Water Supply, South Central Regional Water District (Emmons County), and Southwest Pipeline Project (Oliver, Mercer, North Dunn).

#### Weather Modification

- The Atmospheric Resource Board (ARB) successfully operated weather modification programs in six counties in western North Dakota.
- The ARB Cooperative
   Observer Network had 608
   active precipitation observers
   in 2012 its thirty-sixth
   year of operation. Of those

observers, 331 reported rainfall amounts, and 277 reported both rain and snow measurements. The snow data has helped fill gaps in existing snow data networks, assisting forecasters in predicting spring runoff and flooding risks.

#### Western Area Water Supply

- Western Area Water Supply (WAWS) has service contracts with the communities and rural water systems that will be served by the system (See Map Appendix).
- The following water supply systems will have water provided to them through the WAWS transmission lines by the end of the biennium: Watford City, Ray, Tioga, Stanley, Wildrose, Crosby, Noonan, Columbus, and Fortuna, as well as McKenzie Rural Water, Burke-Divide-Williams Rural Water, and Williams Rural Water districts.
- Construction of the McKenzie County Phase IV rural distribution project was started this spring with a portion of western McKenzie





- County being substantially completed in fall 2012, and final completion in August 2013. As of fall 2012, the system is serving over 80 residents.
- Construction contracts have been awarded for five system reservoirs, the pipeline from Williston to Ray, the pipeline from Williston to Watford City, and the pipeline from R&T Water to the city of Crosby and Burke-Divide-Williams Rural
- Water. All contracts are to be substantially complete by the end of the 2012 construction season.
- WAWS currently has the following water depots operational and generating water for the project:
  McKenzie County's System II Keene Depot, McKenzie County's Indian Hills Depot, the city of Williston's 2nd Street Depot and the North Williston Depot. As of November 2012, the 13 Mile
- Depot, Alexander Depot and the Indian Hills Expansion were complete. The Watford City and Ray Depots are scheduled for completion in early 2013.
- Direct water pipeline connections have also been made available by WAWS to oil companies interested in a direct supply line to drilling locations.







#### Completed Projects, 2011-2013 Biennium

Table 1 lists the projects, programs, and studies that were completed by September 2012, or 63 percent of the way through the 2011-2013 biennium.

Table 1: Completed Projects, 2011-2013 Biennium

PROJECT SPONSOR	PROJECT NAME
Barnes County Water Resource District (WRD)	Sheyenne River Snagging & Clearing Project
Barnes County WRD	Cla <mark>usen Spring</mark> s Dam Emergency Spillway Repair
Barnes County WRD	Clausen Springs Dam Emergency Action Plan
Bismarck State College	ND Water Quality Monitoring Conference
Burleigh County WRD	Fox Island 2010 Flood Hazard Mitigation Evaluation
Cass County WRD	Rush River Drain \$69, Armenia Township
Cavalier County WRD	MulberryCreek Drain Partial Improvement Phase III
City of Argusville	City of Argusville Flood Control Levee Project
City of Fort Ransom	City of Fort Ransom Riverbank Stabilization
City of Pembina	FEMA Levee Certification
Dickey County WRD	Pheasant Lake Dam Emergency Action Plan
Grand Forks County WRD	Kolding Dam Emergency Action Plan
McKenzie County Weed Control Board	McKenzie County Weed Control on Sovereign Lands
Missouri River Joint Board	Missouri River Recovery Implementation Committee - Terry Fleck
Missouri River Joint Board	Missouri River Joint Water Resource Board Goal Implementation
Morton County WRD	Square Butte Dam \$5 Emergency Action Plan
Mountrail County WRD	White Earth Dam Emergency Action Plan
ND Game & Fish Department	Sovereign Land Rule Enforcement
ND Water Education Foundation	2012 Summer Water Tours
NDSU	NDSU Soil & Water Sampling
NDSU	NDSU Dept. of Soil Science - NDAWN Center
Nelson County WRD	Tolna Dam Emergency Action Plan
Nelson County WRD	Peterson Slough into Dry Run
Oak Creek WRD	Oak Creek Snagging & Clearing Project
Red River Basin Commission	Natural Resource Framework Plan Implementation

PROJECT SPONSOR	PROJECT NAME
Red River Basin Commission	Long-Term Red River Flood Control Solutions Study
Richland County WRD	Richland County Drain #7 Improvement Reconstruction
Richland County WRD	Richland County Drain #14 Improvement Reconstruction
Richland County WRD	Sheyenne River Snagging & Clearing Project
Richland County WRD	Wild Rice River Snagging & Clearing Project - Reach 2
Richland County WRD	Phase II Wild Rice River Snagging & Clearing
Rush River WRD	Cass County Drain #12 Improvement Reconstruction
Southeast Cass WRD	Cass County Drain #45 Extension Project
Southeast Cass WRD	Wild Rice River Snagging & Clearing
State Water Commission	Dale Frink Consultant Services
Traill & Steele County WRDs	Elm River Detention Dam #1 Emergency Action Plan
Traill County WRD	Elm River Detention Dam #2 Emergency Action Plan
Traill County WRD	Elm River Detention Dam #3 Emergency Action Plan
Traill County WRD	Buffalo Coulee Snagging & Clearing
Traill County WRD	Goose River Snagging & Clearing
U.S. Army Corps of Engineers	Bottineau County LiDAR Collect
U.S. Geological Survey	Mobile Stream Gages
Walsh County WRD	Digital Flood Insurance Rate Map Project
Walsh County WRD	Chyle Dam Emergency Action Plan
Walsh County WRD	Soukop Dam Emergency Action Plan
Walsh County WRD	Whitman Dam Emergency Action Plan
Walsh County WRD	Walsh County Drain #4a
Walsh County WRD	Walsh County Assessment Drain 10, 10-1, 10-2
Walsh County WRD	Walsh County Drain #73 Construction Project
Ward County WRD	Land Survey - Harriston Township Dike Complaint

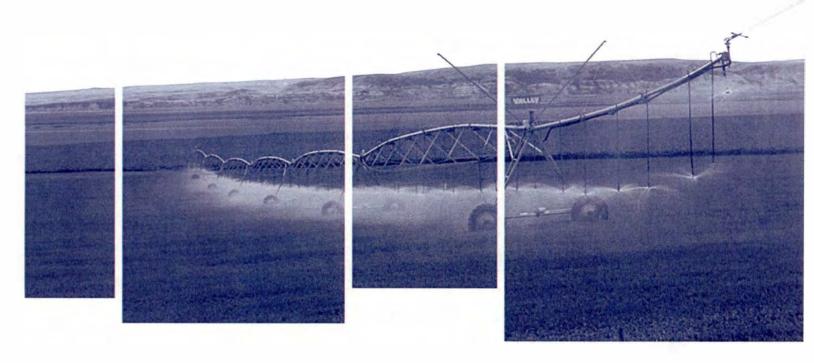
### Currently Active Projects, 2011-2013 Biennium

The projects and project categories listed in Table 2 represent water development efforts that are being pursued in the 2011-2013 biennium. Several individual projects are listed in the table. However, a number of others fall under project categories, such as irrigation development or general water management, and therefore, are not individually identified in the table.

This table also represents the total 2011-2013 SWC project budget as of October 31, 2012, and the project funding the SWC had approved as of that time. As the table suggests, the SWC had approved 95 percent of the project budget by October 31, 2012.

Table 2: Currently Active Projects, 2011-2013 Biennium

PROJECTS	SWC BUDGET	APPROVED
CITY FLOOD CONTROL		
FARGO/RIDGEWOOD	\$50,941	\$50,941
FARGO	\$66,473,088	\$66,473,088
GRAFTON	\$7,175,000	\$7,175,000
MINOT	\$4,476,750	\$4,476,750
WAHPETON	\$1,013,000	\$1,013,000
FLOODWAY PROPERTY ACQUISITIONS		
MINOT	\$17,750,000	\$17,750,000
BURLINGTON	\$1,071,345	\$1,071,345
WARD COUNTY	\$11,500,000	\$11,500,000
VALLEY CITY	\$3,000,000	\$3,000,000
BURLEIGH COUNTY	\$1,425,000	\$1,425,000
SAWYER	\$184,260	\$184,260
LISBON	\$645,000	\$645,000
UNOBLIGATED SB 2371	\$9,310,245	
FLOOD CONTROL		
BURLEIGH COUNTY	\$1,282,400	\$1,282,400
RICE LAKE RECREATION DISTRICT	\$2,842,200	\$2,842,200
RENWICK DAM	\$1,246,571	\$1,246,571
WATER SUPPLY		
REGIONAL & LOCAL WATER SYSTEMS	\$26,652,898	\$25,517,910
VALLEY CITY WATER TREATMENT PLANT	\$15,386,800	\$15,386,800
FARGO REVERSE OSMOSIS PILOT STUDY	\$15,000,000	\$15,000,000
RED RIVER WATER SUPPLY	\$62,224	\$62,224
WESTERN AREA WATER SUPPLY	\$25,000,000	\$25,000,000
SOUTHWEST PIPELINE PROJECT	\$24,019,199	\$24,019,199
NORTHWEST AREA WATER SUPPLY	\$19,432,008	\$19,432,008
IRRIGATION DEVELOPMENT		
IRRIGATION DEVELOPMENT	\$3,608,353	\$1,097,422
GENERAL WATER MANAGEMENT	GAP THE A	
GENERAL WATER MANAGEMENT	\$30,172,009	\$29,278,600
DEVILS LAKE	the same of the same of	
BASIN DEVELOPMENT	\$92,340	\$92,340
DIKE	\$15,534,603	\$15,534,603
OUTLET	\$2,420,212	\$2,420,212
OUTLET OPERATIONS	\$6,215,627	\$6,215,627
TOLNA COULEE DIVIDE	\$4,366,720	\$4,366,720
EAST END OUTLET	\$71,848,290	\$62,942,273
GRAVITY OUTFLOW CHANNEL	\$13,720,185	\$13,720,185
JOHNSON FARMS STORAGE	\$125,000	\$125,000
WEATHER MODIFICATION	A Charles And	
WEATHER MODIFICATION	\$894,314	\$894,314
TOTALS	\$403,996,582	\$381,240,992



# State Water Development Program: Working with Project Sponsors

This section briefly describes the inventory process used by the SWC to identify future water project and program funding needs. A summary of those funding needs, as provided by project sponsors, is also presented.

#### **The Inventory Process**

As part of the SWC's water planning efforts, the Planning and Education Division once again solicited project and program information from potential project sponsors. The results provide the SWC with an updated inventory of water projects and programs that could come forward for SWC costshare in the upcoming 2013-2015 biennium and beyond. As in the past, the product of this effort becomes the foundation that supports the State Water Commission's budget request to the Governor and Legislature.

To obtain updated and new project and program information from sponsors, the Planning and Education Division sent project information forms to water boards, joint water boards, the North Dakota Irrigation Association, communities, and government agencies with an interest in water development projects and programs. The managers of major water projects, including rural water systems, Northwest Area Water Supply Project, Southwest Pipeline Project, Red River Valley Water Supply Project, and the Western Area Water Supply were also surveyed. Information requested on the forms included

general project descriptions, location, permit information, and identification of potential obstacles, among other basic aspects of the projects.

More importantly, sponsors were asked to assign the most realistic start dates possible to projects they expected to present to the SWC for cost-share consideration - particularly during the 2013-2015 and later biennia. As part of that effort, project sponsors needed to take into consideration when a funding commitment from the SWC will be needed, and to identify when state dollars will be necessary for projects or programs to proceed.

As the project information forms were received by the SWC, each project was reviewed to determine if portions of the project were eligible for costshare, and if the proposed timeframes for project advancement were reasonable and justified by supporting information. After project reviews were completed, the information was transferred into a water project database. This provides the SWC with updated project information for older projects and an accounting of new projects that have developed since the last inventory process, during the 2011-2013 biennium. Of course, circumstances change, and so do project costs over time. Therefore, the database is updated regularly leading up to the Legislative Assembly.

In addition, SWC staff work closely with the North Dakota Water Coalition (which is made up of project sponsors from across the state), and the project sponsors themselves to maintain the most up-to-date project information possible. The result of this inventory process is a comprehensive list of water projects throughout North Dakota that could come

forward for new or additional cost-share in future biennia. As stated earlier, this is an important tool for budget planning purposes for the SWC, the Office of Management and Budget, the Governor's Office, and the Legislature.

#### Water Development Funding Needs, 2013-2015 Biennium

Table 3 contains projects that could move forward and request SWC cost-share in the 2013-2015 biennium. This accounting of projects simply represents a non-prioritized list of needs as submitted by project sponsors. It does not guarantee, in any way, that all of the projects listed will receive funding. In addition, upon further review of the projects listed, the state's potential cost-share contribution may change based on the SWC's cost-share policy and requirements for eligible items.

The list is organized into nine categories including: flood control; studies and planning; dam repairs and reconstructions; irrigation; rural flood control; multi-purpose; municipal, rural,

and regional water supply; and snagging and clearing. The total financial need to implement all of the projects in the 2013-2015 inventory is about \$886 million. The state's share of that total could be about \$527 million. However, that number will evolve pending closer analyses of cost-share requirements once a request for funding has been made to the SWC. The federal government and local project sponsors would be responsible to make up the balance.

The 2013-2015 totals do not account for projects that may receive additional funding in the current 2011-2013 biennium. It should also be noted that water development projects can be delayed as a result of local or federal funding problems, permits, or environmental issues, which can substantially influence the actual need for any given biennium. Furthermore, the unpredictability of floods, droughts, and other unforeseen events can result in new funding needs that were not documented at the time this report was developed. As a result, the actual need for the upcoming biennium has the potential to change from what is portrayed here.





Table 3: Water Development Needs, 2013-2015 Biennium

	FLOOD CONTROL					
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Barnes County WRD	Ten Mile Lake Control Outlet	\$0	\$600,000	\$400,000	\$1,000,000	
Burleigh County	Fox Island Flood Control	\$0	\$1,115,500	\$1,184,500	\$2,300,000	
Burleigh County	Sibley Area Flood Control	\$0	\$592,370	\$611,630	\$1,204,000	
Burleigh County	Harbor Drive Flood Control	\$0	\$129,878	\$762,757	\$892,635	
Burleigh County	Hogue Island Flood Control	\$0	\$540,000	\$360,000	\$900,000	
Burleigh County	Missouri River Correctional Area Flood Control	\$0	\$501,834	\$334,556	\$836,390	
Fargo	Permanent Flood Protection	\$22,000,000	\$102,000,000	\$102,000,000	\$226,000,000	
Fort Ransom	Permanent Flood Protection	\$0	\$2,800,000	\$0	\$2,800,000	
Grafton	Grafton Flood Control Project	\$28,350,000	\$455,000	\$2,780,000	\$31,585,000	
Lisbon	Permanent Flood Protection	\$0	\$9,460,000	\$0	\$9,460,000	
Lower Heart River WRD	Mandan Flood Levee	\$0	\$100,000	\$100,000	\$200,000	
Maple River WRD	Upper Maple River Dam Design and Construction	\$0	\$4,000,000	\$2,250,000	\$6,250,000	
Maple River WRD	General Retention Development	\$0	\$150,000	\$150,000	\$300,000	
Mapleton	Levee Improvement	\$0	\$900,000	\$700,000	\$1,600,000	
Minot, Ward, Souris Joint WRD	Mouse River Valley Flood Control Project	\$0	\$61,000,000	\$40,700,000	\$101,700,000	
Pembina	Flood Protection System Recertification	\$0	\$1,200,000	\$800,000	\$2,000,000	
Red River Retention Authority	Wetlands Reserve Program for Flood Damage Reduction	\$8,000,000	\$1,200,000	\$420,000	\$9,620,000	
Richland County WRD	Richland County Drain #67-8 Water Retention	\$0	\$702,000	\$378,000	\$1,080,000	
Richland County WRD	Richland County Drain #95 Water Retention	\$0	\$185,900	\$100,100	\$286,000	
Sargent County WRD	Shortfoot Creek Retention Site	\$0	\$100,000	\$100,000	\$200,000	
Southeast Cass WRD	Sheyenne Diversion Improvement	\$0	\$180,000	\$120,000	\$300,000	
State of North Dakota	Devils Lake Outlet Mitigation	\$0	\$5,000,000	\$0	\$5,000,000	
State of North Dakota	Devils Lake Outlet Operations	\$0	\$10,000,000	\$0	\$10,000,000	
Valley City	University District Phase II Acquisitions	\$0	\$1,050,000	\$350,000	\$1,400,000	
Valley City	Clay Levees and Flood Walls	\$0	\$10,250,000	\$0	\$10,250,000	
Walsh County WRD	North Branch Park River Floodplain Management	\$0	\$750,000	\$750,000	\$1,500,000	
	FLOOD CONTROL TOTAL	\$58,350,000	\$214,962,482	\$155,351,543	\$428,664,025	

LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015
North Cass WRD	Elm River Retention Study	\$0	\$75,000	\$75,000	\$150,000
Pembina County WRD	Hamilton-Bathgate-Carlisle Watershed Study	\$0	\$37,500	\$37,500	\$75,000
Ransom County WRD	Maple River Subwatersheds Detention Projects Study	\$0	\$15,000	\$15,000	\$30,000
Ransom County WRD	Wild Rice Watershed Detention Study	\$0	\$15,000	\$15,000	\$30,000
Sargent County WRD	Upper Wild Rice Retention Plan	\$0	\$65,000	\$65,000	\$130,000
Southeast Cass WRD	Wild Rice Comprehensive Retention Plan	\$0	\$100,000	\$100,000	\$200,000
Southeast Cass WRD	Wild Rice Retention Site Development (Mantador)	\$0	\$250,000	\$250,000	\$500,000
Southeast Cass WRD	Wild Rice Retention Site Development (Additional)	\$0	\$375,000	\$375,000	\$750,000
Southeast Cass WRD	Sheyenne River Retention Site Development	\$0	\$250,000	\$250,000	\$500,000
Traill County WRD	Garfield Dry Dam	\$0	\$125,000	\$125,000	\$250,000
Traill County WRD	Goose River Dry Dam	\$0	\$125,000	\$125,000	\$250,000
USGS and State of North Dakota	Water Monitoring Agreement	\$800,000	\$900,000	\$0	\$1,700,000
LEGISLA MALANCE	STUDIES & PLANNING TOTAL	\$800,000	\$2,332,500	\$1,432,500	\$4,565,000

DAM REPAIRS & RECONSTRUCTIONS						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Mountrail County WRD	White Earth Dam Repair	\$0	\$11,000	\$10,000	\$21,000	
Pembina County WRD	Renwick Dam Reconstruction	\$4,550,000	\$1,225,000	\$1,225,000	\$7,000,000	
DAM REPA	IRS & RECONSTRUCTIONS TOTAL	\$4,550,000	\$1,236,000	\$1,235,000	\$7,021,000	

IRRIGATION					
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015
Dickey-Sargent Irrigation Dist.	Oakes Test Area Project	\$0	\$2,500,000	\$2,500,000	\$5,000,000
Garrison Diversion	McLean County Irrigation Development	\$0	\$2,500,000	\$2,500,000	\$5,000,000
Horse Head Irrigation Dist.	Pump Site Improvements	\$0	\$100,000	\$100,000	\$200,000
	IRRIGATION TOTAL	\$0	\$5,100,000	\$5,100,000	\$10,200,000

LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015
Cavalier County WRD	Rose Lake Drain	\$0	\$72,000	\$88,000	\$160,000
Dickey-Sargent Joint WRD	Jackson Township Improvement District 1	\$0	\$500,000	\$1,568,000	\$2,068,000
Dickey-Sargent Joint WRD	Riverdale Township Improvement District 2	\$0	\$500,000	\$611,111	\$1,111,111
Maple River WRD	Cass Drain #14	\$0	\$405,000	\$495,000	\$900,000
Maple River WRD	Cass Drain #37	\$0	\$270,000	\$330,000	\$600,000
Maple River WRD	Cass Drain #39	\$0	\$270,000	\$330,000	\$600,000
North Cass WRD	Cass Drain #55	\$0	\$337,500	\$412,500	\$750,000
North Cass WRD	Cass Drain #32	\$0	\$405,000	\$495,000	\$900,000
North Cass WRD	Cass Drain #23	\$0	\$500,000	\$1,300,000	\$1,800,000
North Cass WRD	Cass Drain #13	\$0	\$180,000	\$220,000	\$400,000
Pembina County WRD	Pembina Drain #73	\$0	\$405,000	\$495,000	\$900,000
Pembina County WRD	Pembina Drain #78	\$0	\$337,500	\$412,500	\$750,000
Pembina County WRD	Pembina Drain #39	\$0	\$225,000	\$275,000	\$500,000
Pembina County WRD	Pembina Drain #4	\$0	\$189,000	\$231,000	\$420,000
Ransom County WRD	Tri-county Drain	\$0	\$22,500	\$27,500	\$50,000
Richland County WRD	Richland County Drain #2	\$0	\$200,000	\$300,000	\$500,000
Richland County WRD	Richland County Drain #7	\$0	\$160,000	\$240,000	\$400,000
Richland County WRD	Richland County Drain #14	\$0	\$120,000	\$180,000	\$300,000
Richland-Sargent Joint WRD	Richland-Sargent Drain #1	\$0	\$225,000	\$275,000	\$500,000
Sargent County WRD	Sargent Drain #9	\$0	\$270,000	\$330,000	\$600,000
Sargent County WRD	Sargent Drain #8	\$0	\$247,500	\$302,500	\$550,000
Southeast Cass WRD	Cass Drain #21C	\$0	\$450,000	\$550,000	\$1,000,000
Southeast Cass WRD	Cass Drain #50	\$0	\$112,500	\$137,500	\$250,000
Traill County WRD	Garfield Township Drain	\$0	\$300,000	\$700,000	\$1,000,000
Traill County WRD	Traill County Drain #23-40	\$0	\$500,000	\$700,000	\$1,200,000
Walsh County WRD	Walsh County Drain #67A	\$0	\$225,000	\$275,000	\$500,000
Walsh County WRD	Walsh County Drain #90	\$0	\$225,000	\$275,000	\$500,000
Walsh County WRD	Walsh County Drain #87 and McLeod Drain	\$0	\$225,000	\$275,000	\$500,000
R	URAL FLOOD CONTROL TOTAL	\$0	\$7,878,500	\$11,830,611	\$19,709,111

MULTI-PURPOSE					
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015
Atmospheric Resource Board	Atmospheric Resource Board Projects	\$1,500,000	\$1,000,000	\$2,800,000	\$5,300,000
	MULTI-PURPOSE TOTAL	\$1,500,000	\$1,000,000	\$2,800,000	\$5,300,000

LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE	LOCAL	TOTAL
All Seasons Water Users	Bottineau County	\$0	2013-2015 \$675,000	2013-2015 \$225,000	\$900,000
Barnes Rural Water	Expansion Project System Improvement and	\$0	\$2,000,000	\$2,000,000	\$4,000,000
Cass Rural Water District	Treatment Plant Phase II Water Treatment	\$0	\$500,000	\$500,000	\$1,000,000
Central Plains Water District	Plant Expansion Treatment Plant	\$0	\$2,500,000		
Central Plains Water District	Improvements	\$0	\$2,500,000	\$2,500,000	\$5,000,000
Central Plains Water District	Additional Storage and Emergency Power	\$0	\$900,000	\$300,000	\$1,200,000
Crosby	Water Tower and Main Upsizing	\$0	\$1,965,750	\$655,250	\$2,621,00
Fargo	Treatment Plant Improvements	\$0	\$15,000,000	\$15,252,000	\$30,252,000
Fort Berthold Rural Water	Twin Buttes Expansion	\$0	\$1,662,100	\$1,662,100	\$3,324,20
Fort Berthold Rural Water	Twin Buttes Water Treatment Plant	\$0	\$3,000,005	\$3,000,005	\$6,000,010
Grafton	Phase III Treatment Plant Rehabilitation	\$2,022,350	\$2,603,825	\$2,603,825	\$7,230,000
Grand Forks	Regional Water Treatment Plant	\$0	\$4,992,791	\$4,992,791	\$9,985,58
Grand Forks Trail Water District	Regional System Expansion - Phase II	\$0	\$4,338,750	\$1,446,250	\$5,785,000
Greater Ramsey Water District	Southwest Nelson and North Benson County Exp.	\$0	\$3,000,000	\$1,000,000	\$4,000,000
Lake Agassiz Water Authority	Red River Valley Water Supply	\$0	\$9,000,000	\$500,000	\$9,500,00
Langdon Rural Water District	Regional Water Supply Project	\$0	\$9,750,000	\$3,250,000	\$13,000,00
Langdon Rural Water District	Adams City Reservoir	\$0	\$303,750	\$101,250	\$405,00
Langdon Rural Water District	ABM Pipeline Replacement	\$0	\$1,562,100	\$520,700	\$2,082,80
Langdon Rural Water District	ABM/Nekoma Pump Station Improvements	\$0	\$362,222	\$120,740	\$482,96
Mandan	New Raw Water Intake	\$0	\$1,902,099	\$634,033	\$2,536,13
Mandan	Treatment Plant Improvements	\$0	\$189,512	\$63,171	\$252,68
McLean Sheridan Rural Water	Blue and Brush Lakes Expansion	\$0	\$800,000	\$800,000	\$1,600,00
McLean Sheridan Rural Water	Mine Reclamation Area Expansion	\$0	\$250,000	\$250,000	\$500,00
McLean Sheridan Rural Water	Wolf Creek Area Expansion	\$0	\$280,000	\$280,000	\$560,00
Missouri West Water System	South Mandan System Improvements	\$0	\$600,000	\$200,000	\$800,00
North Central Rural Water	City of Plaza	\$0	\$250,000	\$250,000	\$500,00
North Central Rural Water	Granville-Deering Rural Water Project	\$0	\$3,300,000	\$1,100,000	\$4,400,00
North Central Rural Water	Mountrail Phase II	\$0	\$3,675,000	\$1,225,000	\$4,900,00

North Central Rural Water	Berhold/Carpio Phase II	\$0	\$1,732,500	\$577,500	\$2,310,000
North Valley Water District	93rd St. Pipeline Improvements	\$0	\$1,931,250	\$643,750	\$2,575,000
North Valley Water District	ABM Corridor Pipeline Replacement Phase I	\$0	\$843,954	\$281,318	\$1,125,272
Park River	Water Tower	\$0	\$1,875,000	\$625,000	\$2,500,000
South Central Regional Water	Kidder County Expansion	\$0	\$3,750,000	\$1,250,000	\$5,000,000
Southeast Water Users	West Membrane Softening Plant	\$0	\$250,000	\$250,000	\$500,000
Southwest Water Authority	Southwest Pipeline Project	\$0	\$90,000,000	\$0	\$90,000,000
Spirit Lake Rural Water District	Tokio Service Area Expansion	\$0	\$1,750,000	\$1,750,000	\$3,500,000
Spirit Lake Rural Water District	Warwick Service Area Expansion	\$0	\$1,750,000	\$1,750,000	\$3,500,000
Standing Rock Rural Water District	Selfridge Service Area	\$0	\$4,050,000	\$4,050,000	\$8,100,000
State of North Dakota and Minot	Northwest Area Water Supply	\$0	\$14,000,000	\$7,538,461	\$21,538,461
Stutsman Rural Water District	Phase II-B and Phase III	\$0	\$10,000,000	\$3,600,000	\$13,600,000
Surrey	Water Supply Improvements	\$0	\$2,046,108	\$682,037	\$2,728,145
Tri County Water District	Treatment Plant Improvements	\$0	\$520,000	\$520,000	\$1,040,000
Turtle Mountain Band of Chippewa	Phase II of Hwy 43 Expansion	\$0	\$1,350,000	\$1,350,000	\$2,700,000
Walsh Rural Water District	Ground Storage Expansion	\$0	\$1,026,225	\$342,075	\$1,368,300
Washburn	Horizontal Collector Well	\$0	\$2,700,000	\$900,000	\$3,600,000
Western Area Water Supply Authority	Western Area Water Supply	\$0	\$79,000,000	\$41,000,000	\$120,000,000
MUNICIPAL, RURAL, & REG	\$2,022,350	\$293,937,941	\$112,542,256	\$408,502,547	

SNAGGING AND CLEARING						
LOCAL SPONSOR	PROJECT NAME	FEDERAL 2013-2015	STATE 2013-2015	LOCAL 2013-2015	TOTAL 2013-2015	
Richland County WRD	Antelope Creek Snag and Clear	\$0	\$25,000	\$25,000	\$50,000	
Richland County WRD	Wild Rice River Snag and Clear	\$0	\$50,000	\$50,000	\$100,000	
Richland County WRD	Sheyenne River Snag and Clear	\$0	\$50,000	\$50,000	\$100,000	
Southeast Cass WRD	Wild Rice and Sheyenne River Snag and Clear	\$0	\$250,000	\$250,000	\$500,000	
Traill County WRD	Buffalo Coulee Snag and Clear	\$0	\$27,650	\$27,650	\$55,300	
Traill County WRD	Goose River Snag and Clear	\$0	\$97,014	\$102,986	\$200,000	
Walsh County WRD	Park River South and Main Branch Snag and Clear	\$0	\$500,000	\$500,000	\$1,000,000	
SNAGGING AND CLEARING TOTAL		\$0	\$999,664	\$1,005,636	\$2,005,300	

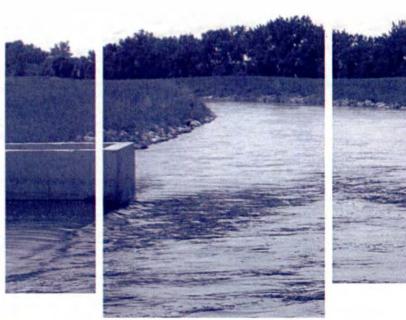
Table 3 Cont.: Summary of Water Development Needs, 2013-2015 Biennium

PROJECT CATEGORY	FEDERAL COST	STATE COST	LOCAL COST	TOTAL COST
Flood Control	\$58,350,000	\$214,962,482	\$155,351,543	\$428,664,025
Studies & Planning	\$800,000	\$2,332,500	\$1,432,500	\$4,565,000
Dam Repairs & Reconstructions	\$4,550,000	\$1,236,000	\$1,235,000	\$7,021,000
Irrigation	\$0	\$5,100,000	\$5,100,000	\$10,200,000
Rural Flood Control	\$0	\$7,878,500	\$11,830,611	\$19,709,111
Multi-purpose	\$1,500,000	\$1,000,000	\$2,800,000	\$5,300,000
Municipal, Rural, & Regional Water Supply	\$2,022,350	\$293,937,941	\$112,542,256	\$408,502,547
Snagging and Clearing	\$0	\$999,664	\$1,005,636	\$2,005,300
TOTAL	\$67,222,350	\$527,447,087	\$291,297,546	\$885,966,983

# WATER DEVELOPMENT Funding Needs Beyond 2013-2015

Many of North Dakota's largest water projects cannot be completed in one or even two biennia, but rather, require longer-term financial planning. This is particularly the case for some of North Dakota's larger water project funding priorities, like flood control and water supply efforts. For that reason, project funding needs for future biennia are also requested from project sponsors – beyond the 2013-2015 biennium.

The potential funding reported by project sponsors beyond the 2013-2015 biennium, through 2021, likely will approach \$5 billion dollars in total project costs, with a large share attributed to water supply and flood control projects. According to information provided by flood control and water supply project sponsors, they have indicated potential funding needs from the state of \$938 million and \$640 million, respectively – for those two project categories through 2021. Taking into consideration the fact that project costs increase over time, and the likelihood of additional projects coming forward, funding needs beyond 2013-2015 will most certainly increase.







# **Water Project Funding**

North Dakota funds a majority of its water projects through the SWC. Funding that is funneled through the SWC for water development has come from several sources, including: the state's General Fund; the Dakota Water Resources Act, the federal Municipal, Rural, and Industrial (MR&I) Water Supply Program; the Resources Trust Fund; and the Water Development Trust Fund. In addition to these sources, the SWC is also authorized to issue revenue bonds for water projects, and the SWC has shared control of the Drinking Water State Revolving Loan Fund. There are also other federal funding sources that will be briefly discussed.

#### **General Fund**

The proposed SWC budget includes almost \$16.6 million in general fund dollars for agency operations. This is significant for statewide water development efforts because it frees-up other trust fund revenue for projects.

#### Municipal, Rural, and Industrial Water Supply Program

A major source of grant funding for water supply development in North Dakota in previous biennia has been through the federal MR&I Water Supply Program. Funding of this program was authorized by Congress though the 1986 Garrison Diversion Unit Reformulation Act, and it is jointly administered by the Garrison Diversion Conservancy District, and SWC.

The 1986 Garrison Reformulation Act authorized a federal MR&I grant program of \$200 million. All of that funding has been expended. Additional federal funding authorization for the MR&I program resulted from the passage of the Dakota Water Resources Act of 2000. An additional \$600 million, indexed for inflation, was authorized; which includes a \$200 million grant for state MR&I, a \$200

million grant for North Dakota Tribal MR&I, and a \$200 million loan for a Red River Valley Water Supply Project. The act provides resources for general MR&I projects, the Northwest Area Water Supply Project, the Southwest Pipeline Project, and a project to address water supply issues in the Red River Valley.

Annual MR&I funding is dependent upon U.S. Congressional appropriation. As of October 2012, \$270 million in federal funds had been approved for North Dakota's MR&I program with \$19.3 million for federal fiscal years 2011 and 2012 (Table 4).

#### **Resources Trust Fund**

Section 57-51.1-07.1 (2) of North Dakota Century Code requires that every legislative bill appropriating monies from the Resources Trust Fund (RTF), pursuant to subsection one, must be accompanied by a SWC report. This Water Development Plan satisfies that requirement for requesting funding from the RTF for the 2013-2015 biennium.

The RTF is funded with 20 percent of the revenues from the oil extraction tax. A percentage of the RTF has been designated by the Legislature to be used for water-related projects and energy conservation. The SWC budgets for cost-share based on a forecast of oil extraction tax revenue for the biennium, which is provided by the Office of Management and Budget.

Revenues into the RTF for the 2011-2013 biennium are expected to total \$392.3 million. When combined with the fund's 2011 beginning balance of \$148.1 million, less the estimated expenditures of \$275.2 million, the balance in the RTF at the

beginning of the 2013-2015 biennium could be \$265.2 million. Of that amount, \$139.3 million has not been committed to projects.

Because revenues from the oil extraction tax are highly dependent on world oil prices and production, it is very difficult to predict future funding levels. With that in mind, the September 2012 forecast includes \$547 million for the 2013-2015 biennium from oil extraction. Additional revenue into the RTF will come from Southwest Pipeline Project reimbursements, State Water Commission water supply program loan repayments (which amount to \$0.8 million per biennium through 2017), interest, and oil royalties. These are estimated to total an additional \$9.9 million (Table 5).

#### **Water Development Trust Fund**

Senate Bill 2188 (1999) set up the Water Development Trust Fund as a primary means of repaying the bonds it authorized. House Bill 1475 allocated 45 percent of

the funds received by the state from the 1998 tobacco settlement into the Water Development Trust Fund.

Revenues into the Water Development Trust Fund for the 2011-2013 biennium are expected to total about \$18 million. The Office of Management and Budget estimates revenues of \$18 million for the 2013-2015 biennium (Table 6).

The passage of Measure 3 in 2008 by North Dakota voters redirects a portion of the tobacco settlement, known as the Strategic Contribution Fund (SCF), toward a statewide tobacco prevention program. The SCF portion of the settlement is North Dakota's compensation for work done by the state's Attorney General in finalizing the national tobacco settlement agreement. It is this increase in the settlement amount that is used for the tobacco prevention program. Reductions in revenue into the Water Development Trust Fund from Measure 3 have been factored into the aforementioned projections.

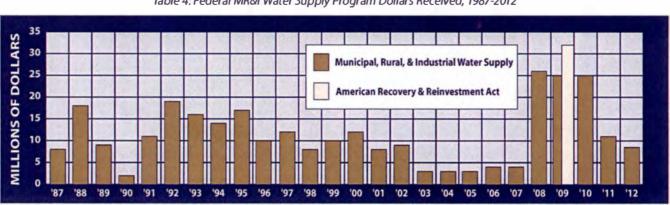


Table 4: Federal MR&I Water Supply Program Dollars Received, 1987-2012

Payments into the fund are scheduled through 2025 at a level based on inflation and tobacco consumption.

#### **Bonding**

The SWC has bonding authority (NDCC 61-02-46) to issue revenue bonds of up to \$2 million per project. The Legislature must authorize revenue bond authority beyond \$2 million per project. In 1991, the Legislature authorized full revenue bond authority for the Northwest Area Water Supply Project, in 1997 it authorized \$15 million of revenue bonds for the Southwest Pipeline, and in 2001 it raised the Southwest Pipeline authority to \$25 million. As of June 30, 2012, the SWC had outstanding bonds totaling \$19.8 million for the Southwest Pipeline Project. There are no outstanding bonds for the Northwest Area Water Supply project.

In 1999, the SWC was authorized to issue up to \$84.8 million in appropriation bonds under

provisions of Senate Bill 2188. The Legislature's intent was to partially fund flood control projects at Grand Forks, Devils Lake, Wahpeton, and Grafton, and to continue funding for the Southwest Pipeline. In March 2000, the SWC issued bonds generating \$27.5 million, thus reducing available bonding authority to \$57.3 million. Recognizing the need for water development projects in addition to those identified in SB 2188, the 2003 Legislature allowed authority for the unissued \$57.3 million to expire, but then authorized \$60 million of bonding authority for statewide water development projects. In June 2005, the SWC did issue bonds generating \$60 million. As of June 30, 2012, the SWC had outstanding bonds totaling \$68.9 million for other statewide water projects.

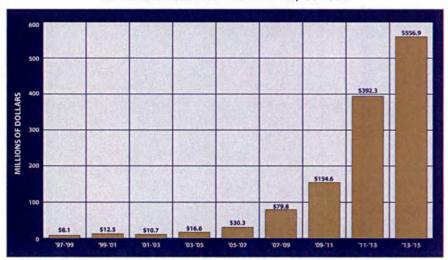
Because the tobacco settlement dollars were not projected to remain uniform each year, the SWC set up a repayment schedule to correspond with the projected tobacco receipts. Although the repayment amounts are based on the projected receipts, the scheduled repayments must be made regardless of the actual receipts. Scheduled payments for existing water development bonds will be \$16.9 million for the 2013-2015 biennium; however it is the SWC's intent to retire the bonds early. The Commission's 2013-2015 budget contains \$75.3 million to retire all of the outstanding bonds.

# **Drinking Water State Revolving Loan Fund**

An additional source of funding for water supply development projects is the Drinking Water State Revolving Loan Fund (DWSRLF). Funding is distributed in the form of a loan program through the Environmental Protection Agency and administered by the North Dakota Department of Health. The DWSRLF provides below market-rate interest loans



Table 5: Resources Trust Fund Revenues, 1997-2015





of 2.5 percent to public water systems for capital improvements aimed at increasing public health protection and compliance under the federal Safe Drinking Water Act.

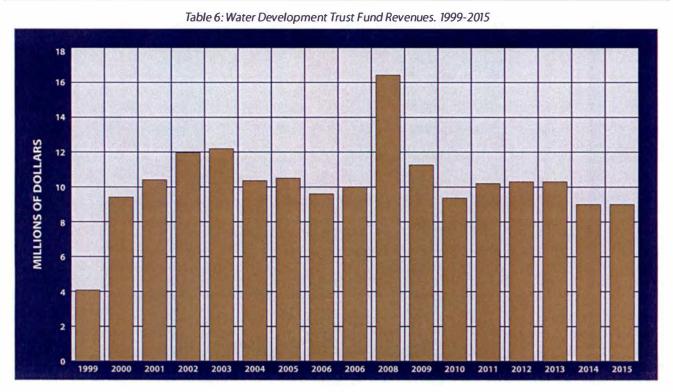
The SWC's involvement with the DWSRLF is two-fold. First, the Department of Health must administer and disburse funds with the approval of the SWC. Second, the Department of Health must establish assistance priorities and expend grant funds pursuant to the priority list for the DWSRLF, after consulting with, and obtaining SWC approval.

The process of prioritizing new or modified projects is completed on an annual basis. Each year, the Department of Health provides an Intended Use Plan, which contains a comprehensive project priority list and a fundable project list. The 2013 comprehensive project priority list includes 172 projects with a cumulative total project funding need of \$690 million. The funded list of 164 projects includes \$154 million in loans from federal grants of \$320 million

for fiscal years 1997 through 2013. Available funding for the DWSRLF program for 2013 is anticipated to be approximately \$20 million.

#### Other Federal Funding

With regard to other federal funding, the U.S. Army Corps of Engineers provides significant assistance to North Dakota for flood control and water supply projects. The Environmental Protection Agency, U.S. Bureau of Reclamation, U.S. Geological Survey, U.S. Army Corps of Engineers, and the Natural Resources Conservation Service also contribute to the state's water development efforts in many different ways, including studies, project design, and construction.











# Project Funding Priorities: 2013-2015 Biennium

This section discusses the state's priority water development efforts and funding for the 2013-2015 biennium. It includes one course of action for water development in North Dakota that is subject to change during the 63rd Legislative Assembly, further review of SWC cost-share requirements and eligibility, and other unforeseen events that may occur during the biennium.

The Water Commission's prioritized water development new funding needs totaling \$515 million are listed by project or project category in Table 7, and they are summarized hereafter.

# Community Water Facility Revolving Loan Fund

The SWC has budgeted \$15 million for the Community Water Facility Revolving Loan Fund (CWFRLF). Monies transferred to this fund are used primarily for supplemental financing in conjunction with the U.S. Department of Agriculture's Rural Development program for community water projects. The CWFRLF is administered by the Bank of North Dakota.

The CWFRLF was established to provide financing for community water projects when the project is above the maximum loan limits set by the Rural Development program. It is also the intent of this program to provide supplemental financing for federal loan programs associated with community water projects. Loans from this fund are made in accordance with N.D.C.C. 6-09.5.

# Devils Lake Outlet Operations

The state's west end Devils Lake outlet was initially completed in 2005 with an operational capacity of 100 cubic feet per second (cfs). In the summer of 2010, an expansion was completed, increasing the outlet's capacity to 250 cfs.

During the summer of 2012, the SWC completed an additional outlet from East Devils Lake. This outlet has a maximum operating capacity of 350 cfs. Together, the combined operating capacity of the west end and East Devils Lake outlets is 600 cfs.

The SWC has budgeted \$10 million for costs related to the operation and maintenance required to keep both outlets operating to the maximum extent allowable during the 2013-2015 biennium.

#### **Fargo Flood Control**

After narrowly escaping extensive damages during the major floods of 1997, 2009, 2010, and 2011, the city of Fargo and Cass County have been working diligently toward the development of permanent flood control projects that would protect Fargo and the greater metro area from future flood events.

Initially, the project that the city of Fargo pursued following the 1997 flood was the Southside Red River and Wild Rice River Levee Alternative, which was primarily designed to protect areas in south Fargo. But after the flood of 2009, it became apparent that a larger-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the U.S. Army Corps of Engineers, in cooperation with Fargo, Moorhead (MN), Cass

County, and Clay County (MN) worked jointly to complete an EIS to assess potential measures to reduce the entire metro area's flood risk. The EIS was completed in late 2011, and the Record of Decision was signed by the Assistant Secretary of the Army in April 2012.

The preferred alternative is a 20,000 cfs diversion channel on the North Dakota side of the Red River that will be approximately 35 miles in length. The project is also expected to have a 50,000 acre-foot storage area within the diversion, and a 150,000 acre-foot staging area upstream of the southern-most portion of the diversion.

The U.S. Army Corps of Engineers and local sponsors are moving forward with the design phase, and with the National Environmental Policy Act (NEPA) process scheduled for completion in 2013, construction could proceed that same year.

Fargo is planning to devote over \$390 million (from all sources) to the project during the 2013-2015 biennium, with emphasis on design, land acquisitions, and construction of upstream levees, in-town levees, bridges, and north channels.

In previous biennia, the SWC has budgeted and approved \$75 million for Fargo flood control. In the 2013-2015 biennium, the

SWC has budgeted \$102 million toward the project. The total project cost is estimated at \$1.8 billion

#### Mouse River Flood Protection

On June 25, 2011, Mouse River flood flows peaked in Minot at 27,400 cfs. This was more than five times greater than the city's existing flood control channels and levees had been designed to handle, and almost nine times greater than any documented flood since the construction of major upstream storage reservoirs decades before.

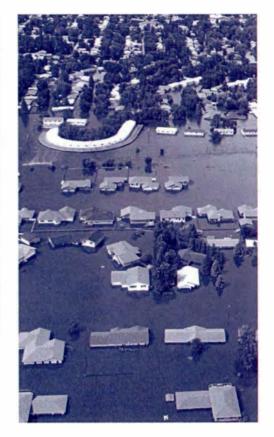
The record breaking flooding of 2011 overwhelmed most

Table 7: Water Development Priorities, 2013-2015 Biennium

PROJECTS	2013-2015 FUNDING PRIORITIES (Millions)
Community Water Facility Revolving Loan Fund	\$15
Devils Lake Flood Control	\$10
Fargo Flood Control	\$102
Mouse River Flood Control	\$61
Sheyenne River Flood Control <sup>1</sup>	\$21
General Water Management <sup>2</sup>	\$33
Irrigation	\$5
Fargo Water Supply	\$15
Northwest Area Water Supply	\$14
Red River Valley Water Supply	\$9
Southwest Pipeline Project <sup>1</sup>	\$79
Water Supply Program	\$71
Western Area Water Supply <sup>3</sup>	\$79
Weather Modification	\$1
TOTAL	\$515

<sup>&</sup>lt;sup>1</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>3</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.



<sup>&</sup>lt;sup>2</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

flood fighting efforts along the entire reach of the Mouse River in North Dakota, causing unprecedented damages to homes, businesses, public facilities, infrastructure, and rural areas. The U.S. Army Corps of Engineers estimates that 4,700 commercial, public, and residential structures in Ward and McHenry counties sustained structural and content damages totaling almost \$700 million. Had no emergency flood fighting measures been implemented, it is estimated that number could have totaled about \$900 million.

A SWC-sponsored Mouse River Enhanced Flood Protection Project Preliminary Engineering Report (PER) was completed in early 2012. Phase I of the PER, which focused on flooded communities (from Mouse River Park to Velva), was completed on a rapid timetable in order to satisfy the desperate need of displaced residents for relevant information as quickly as possible. It was funded 100 percent by the

SWC, and provided preliminary engineering information, project footprints, and key project data, while allowing for community input. Phase I of the PER, which focused on a protection level to a 2011 flood event (or 27,400 cfs), consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, and 2011 flood buyouts. Levees comprise about 90 percent of the alignment – totaling 21.6 miles.

The engineering team was also asked to provide cost estimates to scale the 27,400 cfs project down to a level of protection of 20,000, 15,000, and 10,000 cfs. However, the cost savings to construct the project to a 10,000 cfs level of protection versus 27,400 cfs would only yield a cost savings of about \$15 million.

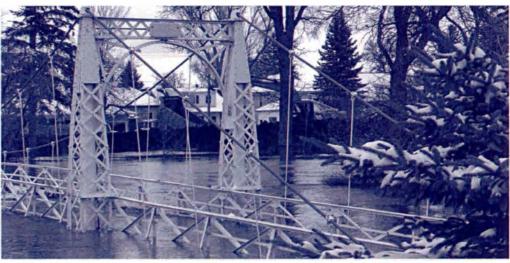
Phases II and III are currently underway, and will extend preliminary engineering to the rural regions of the Mouse River. In addition to these efforts, the Souris River Joint Board has made a request to the U.S. Army Corps to conduct a reconnaissance study to determine the potential for federal involvement in Mouse River Flood control.

The SWC has budgeted \$61 million to advance various elements of the Mouse River Enhanced Flood Protection Project. During the 2013-2015 biennium, project efforts will be focused on planning, engineering and design, acquisitions, corridor preparation, and advanced construction.

#### Sheyenne River Flood Control

Flood events along the Sheyenne River in recent years have severely impacted and tested communities like Valley City, Lisbon, and Fort Ransom. For that reason, each of those communities is working to implement more permanent flood protection.





With several property acquisitions already in the works, Valley City is looking ahead to Phase II of their permanent flood protection plan in the 2013-2015 biennium. Phase II will involve additional property acquisitions; a series of flood walls, with four emergency road closures; and permanent clay levees that will protect Valley City State University campus.

Lisbon has broken their permanent flood protection project into two phases – beyond the current acquisition efforts that are underway in the 2011-2013 biennium. Phase I, which they intend to pursue in the 2013-2015 biennium, involves 25 property acquisitions, bank stabilizations, earthen levees, flood walls, road closure structures, and sewer modifications.

In Fort Ransom, their permanent flood control project will involve acquisitions and levees, in addition to a diversion channel.

Recognizing the need for improved flood control efforts along the Sheyenne River, the SWC has budgeted \$21 million to advance projects in those communities. It is expected that a portion of the budgeted amount

will be provided in the form of loans to address SWC cost-share policy requirements for local match.

#### General Water Management

General water management projects include rural flood control, small-scale flood control, snagging and clearing, channel improvements, recreational projects, dam repairs, planning efforts, special studies, and downstream mitigation for operation of the Devils Lake outlets.

The \$33 million that is budgeted for general water management projects will be used to fund a portion of the state's general projects that are ready to proceed during the 2013-2015 biennium.

#### Irrigation

The Dakota Water Resources Act of 2000 authorized 23,700 acres of irrigation along the McClusky Canal, and 5,000 acres in the Oakes Test Area (OTA).

Irrigation efforts planned for the 2013-2015 biennium include an OTA project, and McLean County irrigation development. The OTA project, which is part of the Dickey-Sargent Irrigation District, is authorized to irrigate 5,000 acres. However, a reliable water supply is currently not available. The SWC has budgeted \$5 million for irrigation, with half of that amount potentially available for the OTA project to develop a more reliable water supply.

Along the McClusky Canal in McLean County, it has been determined that in order to develop more of the authorized acres, central supply works must be constructed to deliver water beyond the immediate reaches of the canal. The other half of the \$5 million budgeted by the SWC for irrigation could be used to construct those central supply works – making it economical for growers to deliver water up to ten miles from the canal.

#### **Fargo Water Supply**

In response to Devils Lake outlet operations, Fargo is moving forward with upgrades to their water treatment plant to address increased sulfate levels in the Sheyenne River. The SWC has budgeted \$15 million in the 2013-2015 biennium for this purpose.

The Fargo Water Treatment Plant sulfate treatment improvements





are vital to Fargo's ability to continue to provide high quality drinking water to its growing user base, which includes the city of Fargo and outside users in the Cass Rural Water Users District. The water treatment plant upgrade project is also expected to help facilitate service discussions with other surrounding communities and water users, like West Fargo.

Fargo has completed two sulfate treatment pilot scenarios, and will conduct two additional piloting efforts during the winter of 2012-2013, with completion later that spring. It is expected that the city will make a decision on their preferred method for sulfate treatment at that time, and will proceed with design and construction. Preliminary design for pre-treatment and reverse osmosis elements of the treatment plant upgrade have already been completed.

# Northwest Area Water Supply

NDCC, Section 61-24.6 declares necessary the pursuit of a project "...that would supply and distribute water to the people of northwestern North Dakota through a pipeline transmission and delivery system..." NDCC 61-24.6 authorizes the SWC to construct, operate, and manage a project to deliver water throughout northwestern North Dakota.

The Northwest Area Water Supply (NAWS) project is a regional water supply project that will eventually supply much of a ten county area in northwestern North Dakota. The SWC began construction on NAWS in April 2002. The first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, Mohall, Sherwood, the All Seasons Water District, and Minot (also serves North Prairie Water District and the Minot Air Force Base). NAWS is getting an interim water supply through a 10-year contract with Minot, which expires in 2018.

State funding of \$14 million for the NAWS project has been budgeted to: complete construction of the pipeline between Glenburn and Renville Corner; upgrade and rehabilitate the softening basins and affiliated facilities at the Minot Water Treatment Plant; assist the

Bureau of Reclamation with preparation of a Supplemental EIS to address the court's May 2009 order; complete court filings to lift the injunction; initiate design work on the raw water supply facilities; and develop plans and manuals as required by EIS commitments.

# Red River Valley Water Supply

With most of the Red River Valley's population relying on the Red River and its tributaries as their sole source of water, the impacts of a prolonged drought would be devastating to that region. And, as the population and economy of the Red River Valley continues to grow, the need for a more reliable source of quality water has become more important than ever before.

The Final EIS has been completed for the Red River Valley Water Supply Project (RRVWSP), and the U.S. Bureau of Reclamation and the State of North Dakota have identified the Garrison Diversion Unit to Sheyenne River alternative as the preferred alternative. This alternative would supplement existing water supplies to meet future water needs with a combination of Red River, other North Dakota





in-basin sources, and imported Missouri River water. The primary feature of this alternative will be a 125-mile, 66-inch (122 cfs) pipeline from the McClusky Canal to Lake Ashtabula.

As mentioned previously, the RRVWSP is awaiting a record of decision from the Secretary of the Interior, and Congressional authorization to use federal works.

To advance the RRVWSP, the SWC has budgeted \$9 million.

#### **Southwest Pipeline**

NDCC, Section 61-24.3 declares necessary that the Southwest Pipeline Project "...be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses." The SWC has been working to develop the SWPP ever since with construction beginning in 1986. NDCC 61-24.6 authorizes the SWC to construct, operate, and maintain the project.

Today, the Southwest Pipeline Project is a regional water supply system that draws water from Lake Sakakawea. Since the beginning of the 2011-2013 biennium when Southwest Pipeline Project was serving 35,000 people, they are now serving 13,000 additional people, for a total of 48,000. Included in that total are 31 communities and 4,300 rural hookups. With unprecedented growth continuing in that portion of the state, the need for reliable water supplies to support that growth has never been greater.

The \$79 million budgeted for the Southwest Pipeline Project will be used to: move forward with the construction of transmission facilities in the Dunn County, Center Service Area, and Dunn Service areas rural distribution pipelines; continue design and construction to upgrade the Dickinson Water Treatment Plant, and the supplemental intake facility; and begin design to expand the raw water transmission capacity to the Dickinson Water Treatment Plant.

#### **Water Supply Program**

Because of North Dakota's municipal, rural, and industrial (MR&I) water supply program, regional and rural water systems have continued to expand throughout the state. As a result of this added assistance, there are now 31 regional water systems in North Dakota, providing quality drinking water to over 200,000 people in 319 cities, 88 various water systems, and over 90,000 rural residents. Currently, all or part of North Dakota's 53 counties are served by regional water systems, with several having plans to expand.

In previous biennia, a large share of funding directed toward water supply projects came from the federally funded MR&I program. However, substantial reductions in federal funding have required the state to make up the difference. With only \$19.3 million available through the federal MR&I program in federal fiscal years 2011 and 2012, the SWC has budgeted \$71 million for municipal, rural, and regional water supply projects that are not covered under other specifically listed priorities.

#### Western Area Water Supply

As the oil industry continues to grow in the northwest portion of North Dakota, so does the need for water development projects to support that growth – both for drilling processes, and a growing workforce.

Even with current drilling activity in the region, existing water supplies are being stretched to their limits. And, with future drilling expected to expand substantially in the coming years, the strain on water supplies is only expected to intensify. This is particularly true of areas that are relying heavily on ground water resources. For that reason, development of water supply systems that utilize abundant Missouri River water have become a priority in the region.

The Western Area Water
Supply project has involved a
collaborative effort between
the city of Williston, Williams
Rural Water District, McKenzie
Water Resource District, and
R&T Water Supply Association
(including the communities of

Ray, Tioga, and Stanley). The focus of this collaborative effort has been to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant to areas throughout the northwest, oil producing region of the state.

In 2011, the North Dakota Legislature passed House Bill 1206, that provided \$110 million in loans from the state to the Western Area Water Supply Authority to advance Phases I and II of the project – which are currently under construction.

More recently, the Western Area Water Supply Authority has been canvassing the project service area in 2012 to better identify water supply needs and demands. The result of the canvassing effort has been the identification of water needs far exceeding projected demands in the business plan. It was once estimated that WAWS would serve as many as 35,000, but that number is now estimated to be about 90,000 people by 2025. Currently, WAWS has over 15,000 water service requests for residential, commercial, rural, and temporary housing. And, they are increasing the longterm projected water demands of municipal water systems throughout the service area. Because of this unprecedented growth, project expansion beyond the original \$110 million investment is needed to address overwhelming water supply needs in that region of the state.

In response to this increased demand for water service and the associated planning efforts that have been completed, the WAWS Authority board of directors has requested funding for Phase III during the 2013-2015 biennium - totaling \$120 million. To meet this goal, WAWS has requested \$79 million in funding from the Resources Trust Fund, and they have indicated they will seek a \$40 million loan from another source.

More specifically, during the 2013-2015 biennium, the WAWS Authority will: expand the Williston Water Treatment Plant from 14 million gallons per day (MGD) to 21 MGD at a cost of \$27 million; construct various primary regional transmission lines, pump stations, and reservoirs for communities, rural developments, and rural service areas at a cost of \$49 million; and construct distribution

pipelines for rural water service throughout the WAWS service area at a cost of \$44 million.

The SWC has budgeted \$79 million for WAWS in the 2013-2015 biennium. It is expected that half of that amount will be provided in the form of a loan.

#### Weather Modification

State funding in the amount of \$1 million is budgeted for operational cloud seeding costs with counties participating in the North Dakota Cloud Modification Project. The Atmospheric Resource Board currently cost-shares approximately 35 percent of operational costs, with participating counties paying the remaining 65 percent. This funding level will allow the program to continue its current level of capability for the 2013-2015 biennium.

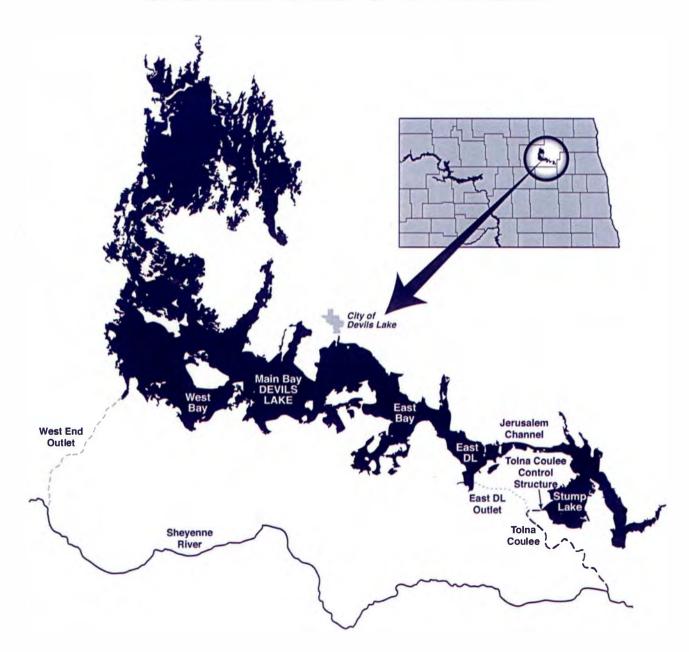
The most recent independent evaluations of the program indicate a 45 percent reduction in crop-hail losses, a six percent increase in wheat yields, and up to a 10 percent increase in rainfall.



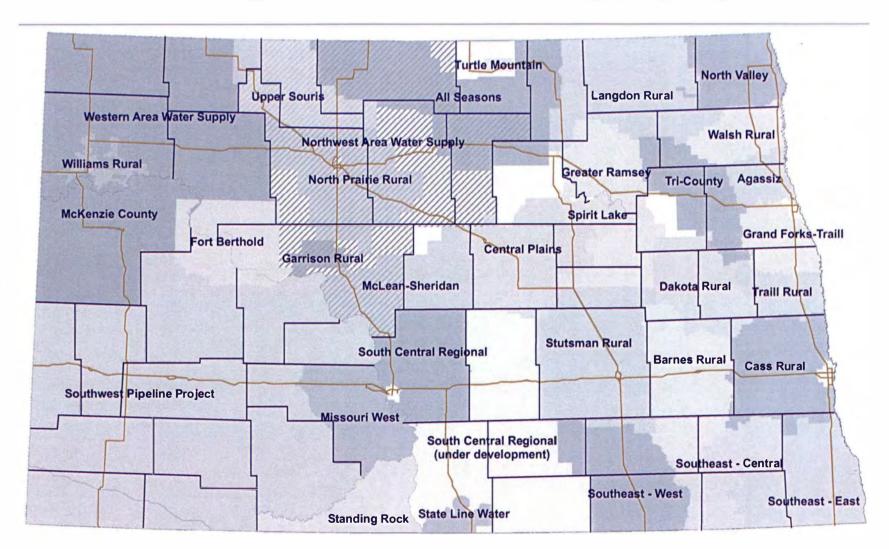


# **Map Appendix**

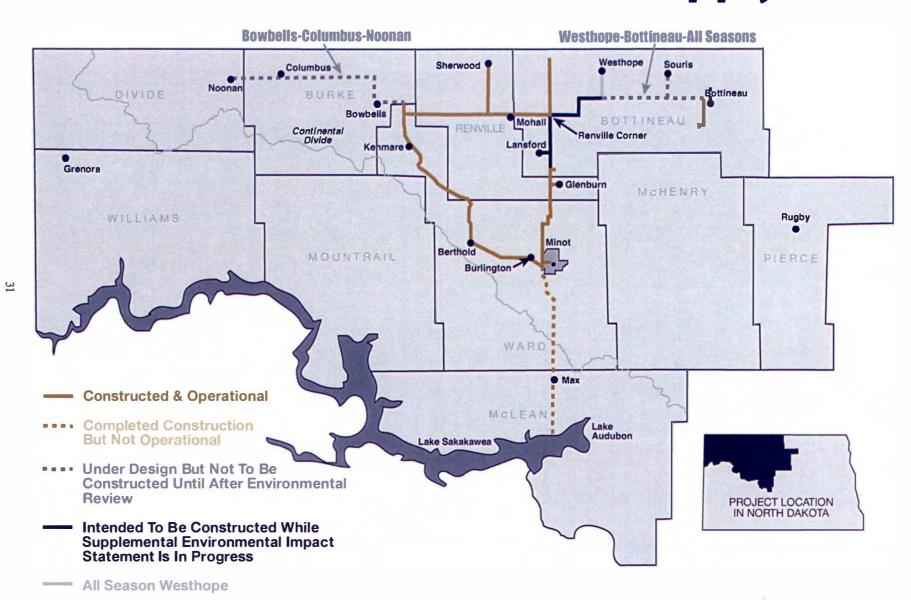
# **Devils Lake Outlets**



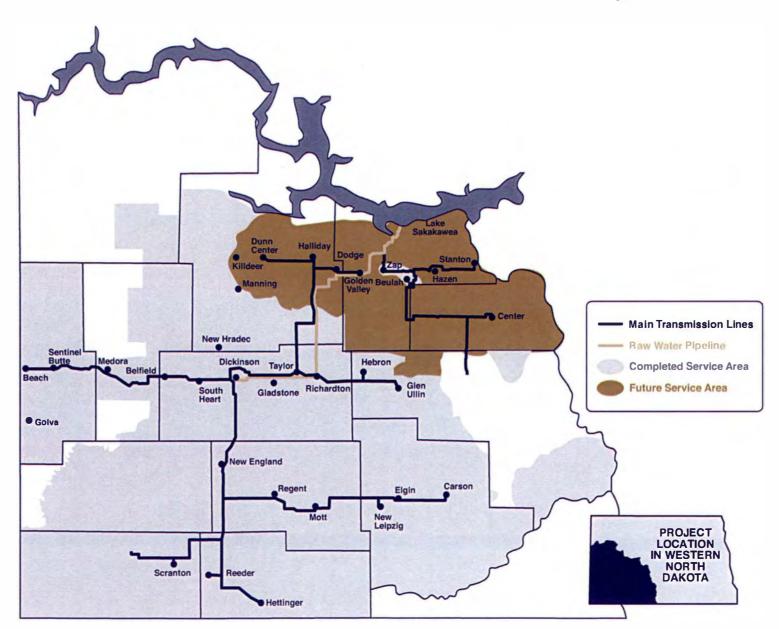
# **Rural & Regional Water Supply Systems**



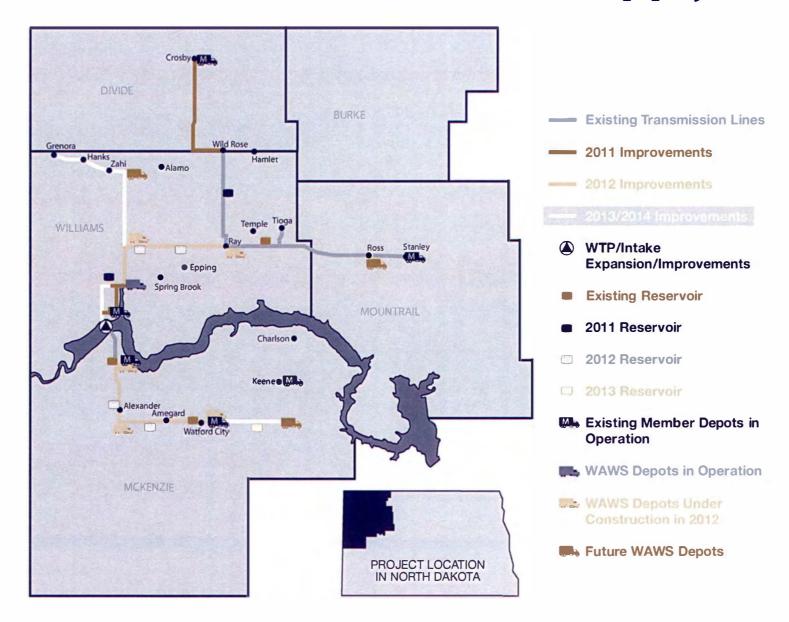
# **Northwest Area Water Supply**



# **Southwest Pipeline Project**



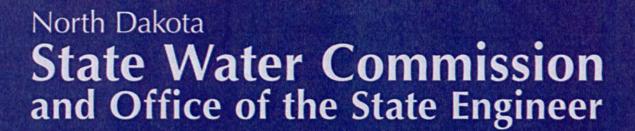
# **Western Area Water Supply**



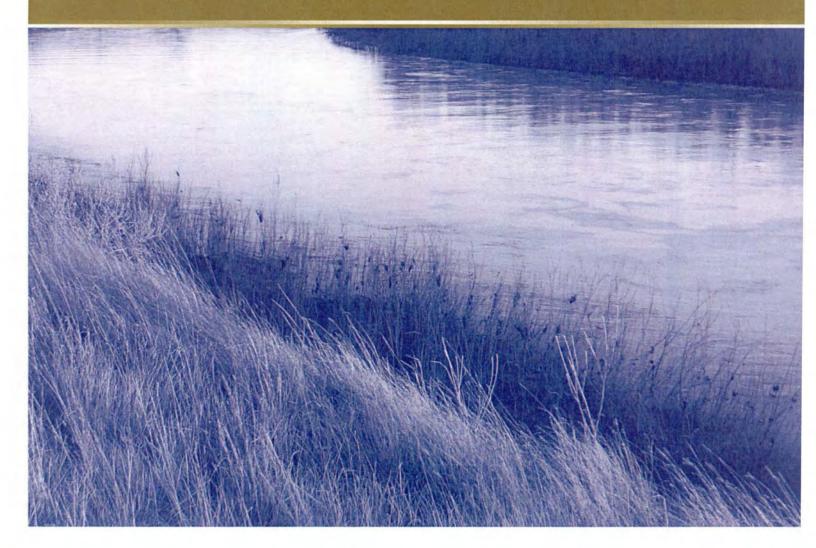
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North Dakota State Water Commission 900 East Boulevard Ave. Dept. 770 Bismarck, ND 58505-0850 www.swc.nd.gov



# Strategic Plan 2013-2015



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(Total Full-Time Employees\* ......87)



#### A message from the State Engineer:

We are proud to present the North Dakota State Water Commission and Office of the State Engineer's latest Strategic Plan. This new plan was completed to incorporate and adjust for new expectations that have developed since our previous plan was published back in 2011.

As in the past, the primary purpose of our 2013-2015 Strategic Plan is to clearly document agency direction and expectations we have set for ourselves through our strategic planning timeframe. Through the planning process, we have reevaluated our agency's goals to ensure that we are achieving the standards expected by the people of North Dakota. In addition, we have laid out objectives for many of our key projects and programs, to help us more effectively meet our goals. More specifically, we have defined tasks and actions that our divisions and management need to take to achieve desired outcomes.

In having this plan at our disposal, the agency will be better equipped to document the progress it is making in the management of North Dakota's water resources. To measure our progress, we will continue to voluntarily publish agency biennial reports, which outline our activities for each biennium – providing an accurate measure of goal achievement. By publishing this plan, I believe we are continuing a tradition of setting a high standard for ourselves that can be monitored by all interests in the water management community.

Sincerely,

Todd Sando, P.E.

North Dakota State Engineer

#### **VISION**

Present and future generations of North Dakotans will enjoy an adequate supply of good quality water for people, agriculture, industry, and fish and wildlife; Missouri River water will be put to beneficial use through its distribution across the state in order to meet ever increasing water supply and quality needs; and successful management and development of North



Dakota's water resources will ensure health, safety, and prosperity, and balance the needs of generations to come.

To improve the quality of life and strengthen the economy of North Dakota by managing the

water resources of the state for the benefit of its people.

# PHILOSOPHY and VALUES

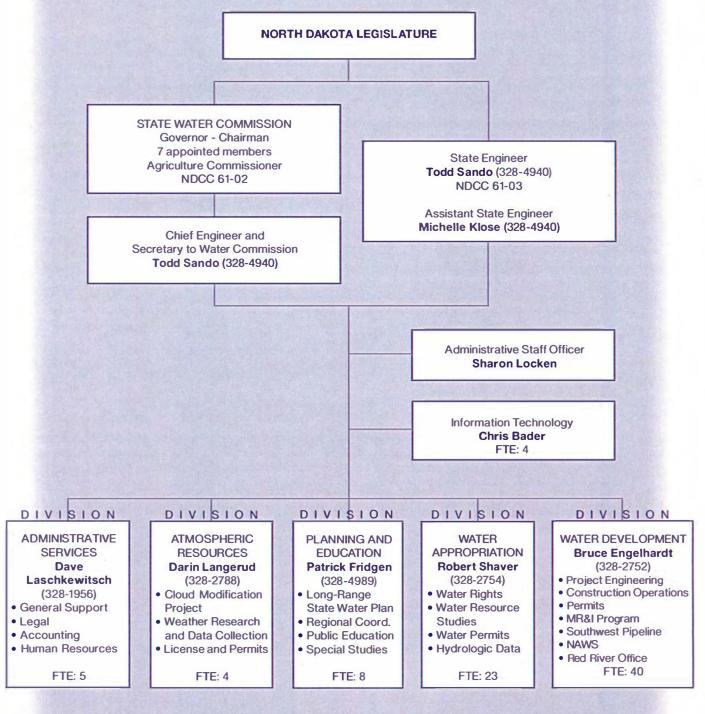
In the delivery of services to the citizens of North Dakota, we, the employees of the State Water Commission and the Office of the State Engineer value fairness, objectivity, accountability, responsiveness, and credibility. We pledge to use professional and scientific methods to maintain only the highest of standards in our delivery of services to our constituents.

#### **AGENCY GOALS**

**MISSION** 

- Regulate the use of water resources for the future welfare and prosperity of the people of North Dakota
- Develop water resources for the future welfare and prosperity of the people of North Dakota
- Manage water resources for the future welfare and prosperity of the people of North Dakota
- Educate the public regarding the nature and occurrence of North Dakota's water resources
- Collect, manage, and distribute information to facilitate improved management of North Dakota's water resources
- Conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources

# Organizational Chart



TOTAL FULL TIME EQUIVALENTS OF 87 PERSONNEL





# Strategic Planning



While the State Water Commission (SWC) and the Office of the State Engineer (SE) are separate state agencies with different directives, many of their responsibilities are entwined and overlap at several levels. For that reason, the activities of these two agencies have been merged into one strategic plan.

Listed here are the projects and programs that were the focus of our strategic planning process. It should be noted that this is by no means a comprehensive list of all efforts pursued by the SWC and the SE, rather it is simply a collection of those efforts that were deemed appropriate to include in our strategic planning process.

Further, the projects and programs identified here have been separated by the divisions that are *primarily* responsible for their management. However, in several instances, many of our projects and programs require staff contributions from multiple divisions.

#### Administration

Dave Laschkewitsch, Director

Administration & Support Services

#### Atmospheric Resources

Darin Langerud, Director

ARB Cooperative Observer Network

Atmospheric Research Program

North Dakota Cloud Modification Project

# **Focus Projects & Programs**





#### Water Appropriations

Robert Shawer, Director

Community Water Supply Studies

Water Resource Data Information Dissemination

> Water Resource Monitoring

Water Resource-Related Economic Development

Water Resource Research

Water Rights Administration & Processing

> Water Rights Evaluation & Adjudication

#### Water Development

Bruce Engelhardt, Director

Cost-Share Program

Dam Safety Program

Design and Construction

Devils Lake Flood Control

Floodplain Management

Investigations

Municipal, Rural & Industrial Water Supply

Northwest Area Water Supply

Regulatory Program

Silver Jackets Program

Southwest Pipeline Project

# Planning & Education

Patrick Fridgen, Director

State Water Management Plan

Water Education

Watershed Planning & Coordination

The Administrative Services Division provides the overall direction of agency powers and duties as described in the state's water laws. The activities include both the State Engineer and State Water

# Administration & Support Services

Commission's operations, as well as accounting, information technology (I.T.), human resources, records management, legal support, and support services for all agency projects and programs.

Budget and fiscal control work is accomplished within the provisions of statutory law and principles or rules of that law. Agency accounting consists of keeping adequate financial records, preparation of financial statements and

reports, project and program cost accounting, preparation of budgets, responding to audit requests and recommendations, and proper control of various funds appropriated by the Legislature.

Human Resources works as a business partner with, and for, the divisions of the State Water Commission in developing, implementing, and supporting workforce programs that seek to recruit, develop, and retain a qualified, diverse, and engaged workforce.

The division also works on contracts and agreements that are necessary to carry out investigations, planning, and cooperation with various other agencies in water resources management.

Information Technology supports general agency business operations in areas related to workflow management and office automation. Information Technology also supports and enhances agency data collection and management functions, and broader engineering and scientific functions.

#### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.

TASKS	TARGET DATES
Prepare and submit the agency's budget	Sept. 2014
Coordinate the timing of agency bonding	As needed
Coordinate development of agency testimony for legislative appropriations hearings	Dec. 2014
Maintain accounting records, and provide information technology and records management services	Ongoing
Bill federal, state, and local entities for their share of project costs	Ongoing
Provide legal support, including research and contract development	Ongoing
Maintain an agency I.T. strategic plan, and coordinate agency I.T. efforts with external and statewide initiatives	Ongoing
Support, maintain, and evolve agency I.T. infrastructure	Ongoing

#### **Project Program Objective:**

 Provide umbrella administrative and technology services that support the projects and programs of the agency.

The Atmospheric Resource Board's (ARB) Cooperative Observer Network has collected growing season rainfall and hail data from volunteer observers statewide since 1977. Since that time, participation has ranged between 650 and 1,000 observers annually, making it one of the highest density precipitation observation networks

## ARB Cooperative Observer Network

in the U.S. In October of 2010, the ARB Cooperative Observer Network began conducting snowfall observations to address gaps in winter precipitations recording.

TASKS	TARGET DATES
Manage the program for daily observation of rainfall, hail, and snow, including data entry, quality control, and GIS mapping	Ongoing
Produce growing-season map products and manage volunteer renewal for following years	Fall, annually
Recruit new volunteers	Spring, annually
Mail reporting instructions, reporting cards, and rain gauges to volunteer observers	March 2014 and 2015
Expand the online reporting program	Winter, annually
Expand snowfall measurements in critical areas	Winter, annually

# Agency Goal(s) Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

#### **Project Program Objectives:**

- Make high-resolution precipitation and hail data available to county, state, and federal agencies, private organizations, and the public.
- Provide the entire database online for data download or review
- Increase online reporting and produce value added products that will be useful to a larger audience.
- Expand snowfall measurements in critical areas to assist with spring flood forecasting.

# Assumptions and Obstacles

Continuation and expansion of existing statewide precipitation observations will require continued funding for agency operations and equipment.



North Dakota has a long history of research in weather modification. Since the mid-1980s, eight field research programs have been conducted in the state, most recently through focused campaigns in 2008, 2010, and 2012. Historically, the Bureau of Reclamation and the National Oceanic and Atmospheric Administration have provided program funding. Current program funding is being provided by the state.

## Atmospheric Research Program

with eight regional counties

#### Agency Goal(s) Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To conduct research into processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

Ongoing

#### Project Program Objectives:

- Better observe and quantify the physical processes of rainfall and hail formation.
- Improve operational application of cloud seeding technologies.
- Better quantify seeding effects through development and application of improved evaluation techniques.

# Assumptions and Obstacles

Funding is the primary obstacle for the Cooperative Research Program.

# Action Plan: TASKS TARGET DATES Continue the Polarimetric Cloud Analysis and Seeding Test (POLCAST) hygroscopic seeding research program Collaborate with other states and organizations/institutions doing similar research to improve and enhance North Dakota's program Operate Bowman weather radar on a year-round basis in collaboration



Rural water entities and municipalities in need of help with their water supply can access staff for interpretation of existing data. They can also apply for cost-share assistance from the SWC for water supply studies. Rural water entities and municipalities use the reports of the water resource studies to help with their decisions regarding water supply concerns and options.

#### **Agency Goal(s) Satisfied:**

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle in order to improve the management of North Dakota's water resources.

#### **Project Program Objectives:**

- Provide interpretation of existing water resource data.
- Conduct studies of potential water resources.
- Publish reports on water resource studies.
- Provide guidance and/or recommendations with regard to water supply concerns.
- Process appropriate paperwork to establish or maintain water rights.

# Community Water Supply Studies

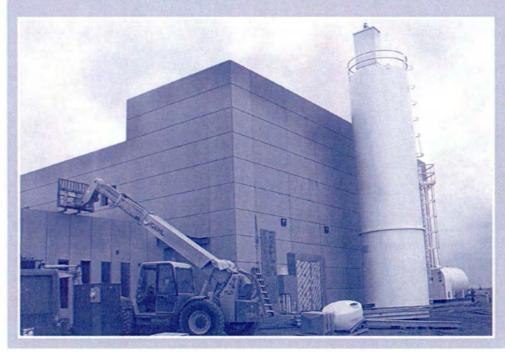
#### Action Plan:

TASKS

TARGET DATES

Conduct water supply studies

As requested



## **Assumptions** and **Obstacles**

As more communities tiein to expanding regional water supply systems, the need for individual community water supply studies have declined in recent bienniums.

The SWC cost-share program identifies projects that are eligible for cost-share assistance per the agency policy. Currently, as determined by that policy, the SWC cost-shares on several types of projects, and has existing agreements to fund: drainage and diversion channels, ring dikes, flood acquisitions, water supply pipelines, engineering and other studies, miscellaneous education and research projects,

## Cost-Share Program

emergency action plans, imagery acquisition, dam safety reconstructions, recreation-based lake facilities, dikes, levees, woody debris snagging and clearing, non-point source pollution, central irrigation system supply lines, rip-rap bank stabilizations, dam removals, and technical assistance projects.

Upon determining a proposed project's eligibility, and approval of funding, an agreement/contract is entered into with the project's sponsor describing the scope of work, how funds will be disbursed, and insurance

and indemnification requirements, and other terms as applicable. Request for payments are processed per the terms of the agreement. At the discretion of the SWC, projects are reviewed and/or inspected upon final payment.

# Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Action Plan:		
TASKS	TARGET DATES	
Review approximately 130-150 cost-share inquiries/ applications for cost-share eligibility and assistance. (By the end of 2015, this is expected to increase by 15%)	June 30, annually	
Present 100-110 cost-share proposals for approval and authorization by the SWC and 30-40 cost-share proposals for approval and authorization by the State Engineer. (By the end of 2015, this is <b>expected</b> to increase by 15%)	June 30, annually	
Develop agreements/contracts for 130-140 approved and authorized projects. (By the end of 2015, this is expected to increase by 15%)	June 30, annually	
Process requests for payment, monitor agreement/ contract compliance, and review and inspect work for approximately 150 active projects. (By the end of 2015, this is expected to increase by 10%)	June 30, annually	

• To educate the public regarding the nature and occurrence of North Dakota's water resources.

#### **Project Program Objectives:**

• To financially assist federal and state agencies and political subdivisions with eligible projects categorized as rural flood control, water supply, flood control, flood acquisitions, dam safety, recreation, snagging and clearing, studies, irrigation, bank stabilization, dam removal/breach, and technical assistance.

#### **Assumptions and Obstacles**

The amount of funds available for the cost-share program is dependent on state appropriations and agency budgeting from the contract fund.

The purpose of North Dakota's Dam Safety Program is to minimize the risk to life and property associated with the potential failure of dams in the state. There are currently 3,028 dams in North Dakota's dam inventory. Of these, 31 dams are classified as high hazard and 97 are classified as medium hazard, meaning that there is the potential for loss of life or significant property damage downstream if one of those dams were to fail. A national dam inspection program took place in 1978-1982 under the direction of the U.S. Army Corps of Engineers following a series of dam failures across the country in the 1970s. The North Dakota Dam Safety Program was initiated to continue and build on that inspection program.

#### Agency Goal(s) Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

# Dam Safety Program

#### **Project Program Objectives:**

- Identify deficient dams in need of maintenance or repair.
- On a rotational basis, conduct full periodic inspections of all non-federally owned high hazard dams at least once every four years, and all non-federally owned medium hazard dams greater than 10 feet high, at least once every 10 years.
- Conduct annual partial inspections of non-federally owned high and medium hazard dams, and selected low hazard dams.
- Report inspection findings and recommendations to the dam owners.
- Maintain and update an inventory of all dams in North Dakota.
- Encourage the development of Emergency Action Plans (EAPs) for high and medium hazard dams, including the development of inundation maps for high hazard dams.
- Increase awareness of dam safety issues among dam owners and the public.

#### Action Plan:

TASKS

Conduct full periodic inspections of an average of 21 dams per year

Conduct partial inspections of 146 dams each spring

Report inspection findings and recommendations to dam owners

Maintain and update North Dakota's dam inventory

Submit data to the National Inventory of Dams (NID)

As requested

Assist dam owners with developing EAPs, and review and approve EAPs as they are submitted

Ongoing

#### **Assumptions and Obstacles**

Federal grants through Federal Emergency Management Agency (FEMA) and the National Dam Safety Program provide annual funding for training, equipment, salary for one part-time position, and other projects such as the development of EAPs and dam owner workshops. The availability of these grants is uncertain from year to year, making program planning a challenge.

The Design and Construction Sections are involved with assisting dam owners throughout the state in

# Design and Construction

designing repairs and modifications to existing water facilities. The section works with the North Dakota Game and Fish Department (Department) to maintain outlet structures and install low-level drawdowns used by the Department to manage fisheries. The section is also involved in directing emergency actions when needed.

#### Agency Goal(s) Satisfied:

 To develop water resources for the future welfare and prosperity of the people of North Dakota.

#### **Action Plan:**

TARGET DATES

Ongoing

Summer, annually

Assist dam owners with design and repairs of existing water facilities
Repair and maintain North Dakota's stream gauge network through
cooperative efforts with the United States Geological Survey (USGS)
Conduct general construction projects

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

# Project Program Objectives:

- Maintain water resource facilities within the state to ensure public safety, and enhance quality of life by meeting multiple uses such as flood control, water supply, and recreation opportunities.
- Work with the United States Geological Survey (USGS)

to maintain the network of stream gauges throughout the state, thereby ensuring reliable data necessary for managing North Dakota's water resources.



#### **Assumptions and Obstacles**

Weather is the primary obstacle for timely completion of annual construction and repair efforts.

Since 1993, Devils Lake has risen over 30 feet. The lake reached a record elevation of 1454.4 in June 2011 and covers about 200,000 acres including Stump Lake, which is now part of Devils Lake. The state's approach to solving the flooding problems in the Devils Lake region has included a three-pronged approach: basin water management, infrastructure protection, and emergency outlets to the Sheyenne River.

Landowner payments for floodwater retention, which involves the upper-basin water management element of the three-pronged approach, have been ongoing for more than a decade. The state completed an emergency outlet from the west end of Devils Lake to the Sheyenne River in 2005 that was sized for a maximum discharge of 100 cubic feet per second (cfs). In the spring of 2010, its capacity was increased to 250 cfs. An East Devils Lake outlet was

completed in June 2012. That outlet has a 350 cfs pumped capacity. The combined total of the two outlets is 600 cfs, and together they are capable of removing about one foot of water per pumping season (based on a lake elevation of 1454).

Regarding the infrastructure portion of the three-pronged approach, the city of Devils Lake continues to face a threat from the swelling lake. The city is working with the U.S. Army Corps, the SWC, and other state and federal agencies to raise the embankment protecting the city.

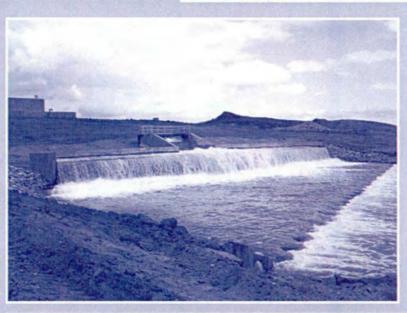
#### Agency Goal(s) Satisfied:

 To manage water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

 Reduce the risk of flooding around Devils Lake by implementing a three-pronged approach, which includes, upper-basin water management, infrastructure protection, and operation of emergency outlets.

## Devils Lake Flood Control



TASKS	TARGET DATES
Maintain and operate the Devils Lake emergency outlets	Ongoing
Develop discharge monitoring reports for outlet operation	As Needed
Work with local and federal entities to remove additional water from the lake.	Ongoing
Implement an Outlet Mitigation Plan and respond to damage claims	Ongoing

(For a map of the state's emergency Devils Lake outlet projects, see the Appendix.)

# Floodplain Management

#### Project/Program Overview:

The National Flood Insurance Program (NFIP) works on a partnership formed of federal, state, and local governments. Local governments use state laws concerning planning, zoning and development as a basis to practice floodplain management. The NFIP trades availability of flood insurance for structures, in return for communities guiding development in identified flood hazard areas.

The North Dakota Floodplain Management Act of 1981 adopts the NFIP by reference in Chapter 61-16.2 of the North Dakota Century Code. This chapter was amended in 1999 and again in 2003 by the State Legislature, which broadened and refined the duties of the State Engineer.

FEMA provides partnership funding to states for their role in the Community Assistance Program

(CAP), Map Modernization and its successor program, Risk Map.

# Agency Goal(s) Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

#### **Project Program Objectives:**

- Manage the state's floodplains to reduce flood damages throughout the state.
- Collect and distribute information relating to flooding and floodplain management.
- Coordinate local, state, and federal floodplain management activities.
- Assist communities in their floodplain management activities.
- Fulfill responsibilities under the annual Community Assistance Program of FEMA.
- Support the digital flood map conversion process as part of FEMA's Map Modernization and its successor program, Risk Map.

#### **Assumptions and Obstacles**

Successful management of the state's floodplain and flood prone areas will continue to require active participation and involvement of cities, counties, and townships enrolled in the NFIP.

#### **Action Plan:**

TASKS

TARGET DATES

Monitor community floodplain management compliance under the CAP and provide technical assistance regarding the NFIP

September 30, annually

Conduct floodplain management training workshops and participate in related training workshops under CAP

September 30, annually

Promote the availability of mapping products produced as part of Map Modernization and its successor program – Risk Map

September 30, annually

Conduct floodplain determinations for the Bank of North Dakota

Quarterly



The Investigations Section is responsible for the preliminary engineering of surface water projects throughout the state. These projects include flood control, irrigation development, recreation dams, and bank stabilizations. The Investigations Section also conducts and reviews hydrologic and hydraulic models for floodplain management and dam design and repair. This includes reviewing proposed modifications to existing regulatory floodways that require State Engineer approval, and hydraulic and hydrologic analyses and review for dam safety and emergency planning and response.

In addition, the Investigations Section provides technical expertise in dealing with the management of the Missouri River, flood response, and other water issues, as well as providing government survey information to the public.

## **Investigations**

#### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

#### **Project Program Objectives:**

- Conduct preliminary engineering, hydrologic, and hydraulic studies, and review studies done by others.
- Provide engineering services for surface water projects throughout the state.

# Action Plan: TASKS TARGET DATES Provide technical reviews of Missouri River management issues, including federal policy changes Continue to represent the State of North Dakota as part of the Missouri River Recovery Implementation Committee (MRRIC) Ongoing Manage government survey information Conduct water resource investigations As needed Provide technical support in response to flooding and other disasters Review proposals for modifications of regulatory floodways As needed

# **Assumptions** and **Obstacles**

Severe flooding problems throughout the state, flood response and recovery activities, and concerns over changes to management of the Missouri River system have consumed much of the Investigations Section's time over the course



of the last decade. In addition, flooding along the Mouse River in 2011 prompted water management and flood protection in that basin to become a priority issue. Furthermore, the collection, analysis, and interpretation of data from these floods continues well beyond the events.

The Municipal, Rural, and Industrial (MR&I) water supply program is one source of federal funding used for public water systems. North Dakota's MR&I program was originally established by the 1986 Garrison Diversion Reformulation Act. At that time, Congress authorized \$200 million in the form of a maximum grant of 75 percent. The state has since received the original \$200 million from the 1986 Act. Later, the Dakota Water Resources Act of 2000 added an additional \$200 million for the MR&I program, which is indexed, and the state has received \$122 million. Funding used for the MR&I program is provided through the U.S. Bureau of Reclamation (USBOR). The Garrison Diversion Conservancy District (GDCD) signed a cooperative agreement with the USBOR to receive the federal funding. Further, the SWC and GDCD signed a joint powers agreement to administer the program based on a memorandum of understanding.

## Municipal, Rural, & Industrial Water Supply Program

Because of North Dakota's MR&I program, regional and rural water systems have continued to expand throughout the state. As a result of this added assistance, there are now 31 regional water systems in

North Dakota, providing quality drinking water to over 200,000 people in 319 cities, 88 various water systems, and over 90,000 rural residents. Currently, all or part of North Dakota's 53 counties are served by regional water systems, with several having plans to expand.

#### Agency Goal(s) Satisfied:

To develop water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

- Coordinate alternative funding solutions for water supply and water treatment projects to help water users in cities and rural water areas obtain an adequate supply of quality water for municipal, rural, and industrial purposes.
- Provide planning and technical assistance to water supply systems to promote wise use of water resources throughout the state.

A	cti	on	PI	aı	1:

Action Plan:	
TASKS	TARGET DATES
Implement a five-year plan for MR&I project funding request	s Ongoing
Participate in meetings with communities and rural water districts to provide technical and planning assistance	Ongoing
Provide MR&I budget estimates for project development	Ongoing
Coordinate meetings with various funding entities to discuss projects	Ongoing
Work with North Dakota's Congressional delegation to increase federal MR&I appropriations	Ongoing
Coordinate with the GDCD in the prioritization and allocation of MR&I funds	Ongoing
Continue to represent the State of North Dakota as part of the Western Area Water Supply (WAWS) Authority	e Ongoing

#### **Assumptions and Obstacles**

Because federal funding has been greatly reduced in recent years, the state has taken on a much larger role in funding water supply projects.

(For a map of North Dakota's rural and regional water systems, see the Appendix.)

The North Dakota Cloud Modification Project (NDCMP) is a long-running, operational cloud seeding program with the dual purposes of hail suppression and rainfall enhancement. The target area covers nearly 10,500 square miles in six western North Dakota counties during the months of June,

July, and August. Counties partner with the state through ARB, employing contractors that provide the aircraft, pilots, seeding equipment, and radar maintenance services. The ARB owns and operates two radar systems, and employs the meteorologists to coordinate seeding operations. In addition, the program offers two intern programs; one for students studying meteorology, and another for pilots studying at the University of North Dakota's J.D. Odegaard School for Aerospace Sciences.

Evaluations of the NDCMP indicate that the program reduces hail damage to crops by 45 percent, increases wheat yields by 5.9 percent, and increases rainfall between 5 and 10 percent. A 2009 economic study estimates the NDCMP increases the value of

North Dakota Cloud Modification Project



agricultural production by \$12 to \$19.7 million annually, which equates to a benefit of \$16-\$26 return for every dollar spent.

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TASKS

Hire NDCMP field personnel

Conduct pre-project ground school

Conduct NDCMP operations

Conduct NDCMP operations

Conduct data analysis and final reporting to participating counties

Winter, annually

Complete peer evacuations and program reviews with pilots and meteorologists participating in internship programs

August. annually

# Agency Goal(s) Satisfied:

 To manage water resources for the future welfare and prosperity of the people of North Dakota.

# Project Program Objectives:

- Reduce hail damages in the NDCMP target area.
- Enhance summer rainfall from thunderstorms in NDCMP target area.

#### **Assumptions and Obstacles**

The project assumes continued participation by western North Dakota counties and cost-sharing of one-third of project costs by the state.

(For a map of the area covered by the North Dakota Cloud Modification Project, see the Appendix.)

North Dakota Century Code (NDCC), Section 61-24.6 declares necessary the pursuit of a project "...that would supply and distribute water to the people of northwestern North Dakota through a pipeline transmission and delivery system..." NDCC 61-24.6 authorizes the SWC to construct, operate, and manage a project to deliver water throughout northwestern North Dakota.

Northwest Area Water Supply

The SWC began construction on the Northwest Area Water Supply (NAWS) project in April 2002. The first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, Mohall, Sherwood, the All Seasons Water District, and Minot (also serves North Prairie Water District). NAWS is getting interim water supply

through a 10-year contract with Minot, which expires in 2018.

In 2002, a lawsuit was filed by Manitoba; primarily arguing that NAWS could increase the risk of transferring non-native biota between the Missouri River and Hudson Bay drainage basins. In 2009, the state of Missouri filed against the U.S. Bureau of Reclamation and the Corps of Engineers; primarily arguing NAWS would negatively affect depletions of the Missouri River. The Missouri filings were ultimately combined with Manitoba's. Various elements of project construction have been allowed to proceed by court order, despite the pending lawsuit. The court found that the Environmental Impact Statement (EIS) completed in 2009 was not adequate and needed to address impacts to Canada and Missouri River depletions. Scoping for a Supplemental EIS to address the court's May 2009 order was started in July 2010 - evaluating all feasible options.

When complete, the project is designed to provide up to 26 million gallons of water per day to tens of thousands citizens in northwest North Dakota.

#### Agency Goal(s) Satisfied:

 To develop water resources for the future welfare and prosperity of the people of North Dakota.

# **Project Program Objectives:**

 Finish construction of the pretreated water delivery system to Minot.

## Assumptions and Obstacles

Adequate federal funding must be received in a manner that does not impede progress. Completion of the Supplemental EIS in the

Action Plan:		
TASKS	TARGET DATES	
Complete construction of pipeline between Renville Corner and Westhope	2013-2014	
Complete construction of pipeline between the Glenburn and Renville Corner	2014-2015	
Assist the USBOR with preparation of a Supplemental EIS to address the court's May 2009 order	2010- Spring 2013	
Complete court filings to lift the injunction	Summer 2013	
Initiate design work on water supply infrastructure	Summer 2013	
Develop plans and manuals as required by EIS commitments	Summer 2013	

spring of 2013, and decisions on the level of treatment greatly affect funding needs, and design and construction schedules. If Minot's aquifers continue to decline, and progress is not made in getting the needed water supply from Sakakawea, then the existing communities and rural water systems will need to return to their inadequate ground water supplies.

(For a map of the NAWS project, see the Appendix.)

As authorized by NDCC 61-03, 61-04, and 61-16.1, the State Engineer has been responsible for regulating the construction of dams, dikes, and other water control facilities since approximately 1935. Since 1957, NDCC 61-32 and NDCC 61-15 have authorized the State Engineer to regulate drainage. The

State Engineer also has been responsible for managing sovereign lands since 1989, as authorized by NDCC 61-33. The State Engineer coordinates these regulatory activities with the county water resource districts (WRD's) across the state.

In addition to these permitting processes, the Regulatory Program provides technical assistance to local water resource districts, makes flow determinations in accordance with NDCC 24-03-08, makes watercourse determinations in accordance with NDCC 61-01-06, provides appeal review of WRD decisions, serves as a source of

Regulatory Program

information to the public, handles easement releases for abandoned dams, participates in training workshops, represents the State Engineer on various interagency committees, and provides agency review of Public Service Commission mining permits and U.S. Army Corps Section 404 permits.

#### Agency Goal(s) Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

#### **Action Plan:**

TASKS	TARGET DATES
Process 100 percent of all incoming construction, dra inage, and sovereign land permit applications	Annually
Provide technical assistance to WRDs as requested	Ongoing
Address 100 percent of all incoming WRD decision appeals	Annually
Digitally map 100 percent of all permitted assessment drains and dams that are currently in the agency's database	Annually
Provide 100 percent of flow determinations requested per NDCC 24-03-08	Annually
Review 100 percent of incoming Public Service Commission and U.S. Army Corps Section 404 permits	Annually
Implement Sovereign Land Management Plan recommendations	Ongoing

# **Project Program Objectives:**

- Regulate, where appropriate, the construction of dams, dikes, water control facilities, drainage works, and projects on sovereign lands, to ensure proper management of North Dakota's water resources and public safety.
- Interact with the public, continue involvement on interagency committees, and participate in training workshops, to facilitate education and information dissemination to other water resource managers, especially at the local level.

#### **Assumptions and Obstacles**

Enforcement of various sovereign land-related regulations will require continued cooperative efforts with the Game and Fish Department and other law enforcement entities.

## Silver Jackets Program

#### Project/Program Overview:

North Dakota's Silver Jackets Program was initiated in January 2010 (in response to the extensive flooding of 2009) with the intent to identify comprehensive, long-term flood solutions through a collaborative, interagency effort between state and federal authorities. A Silver Jackets charter was completed and signed between the SWC, North Dakota Division of Emergency Services,

FEMA Region VIII, and the U.S. Army Corps of Engineers (St Paul and Omaha districts) in May 2010. The Corps of Engineers initiated the Silver Jackets concept through a partnership with FEMA in 2005 with a goal of establishing Silver Jackets teams in at least one state in each Corps division, and ultimately one in each state.

Action Plan:	
TASKS	TARGET DATES
Promote awareness of North Dakota's new Silver Jackets Program	Ongoing/As Needed
Assist communities with FEMA's levee recertification requirement	Ongoing/As Needed
Assist communities with flood control and long-term flood mitigation project requests	Ongoing/As needed
Assist selected counties and communities with Flood Emergency Operation Plan development and maintenance	Ongoing/As needed
Coordinate with Silver Jackets Program charter agencies	Ongoing/As needed

#### Agency Goal(s) Satisfied:

- To manage water resources for the future welfare and prosperity of the people of ND.
- To educate the public regarding the nature and occurrence of ND's water resources.

#### **Project Program Objectives:**

- Educate state agencies, county water boards, and communities about the Silver Jackets Program.
- Educate communities on FEMA's levee recertification requirement or Provisionally Accredited Levee (PAL) program.
- Assist communities with project requests in support of flood control or long term flood mitigation projects through the SWC and other federal or state agencies as appropriate.
- Assist communities with flood-related Emergency Operation Plans.
- Assist in educating counties and communities on the importance of maintaining current Hazard Mitigation Plans.
- Coordinate with Silver Jacket charter agencies to discuss state flood-related priorities, recommendations, efforts and improve communication.

#### **Assumptions and Obstacles**

The need for local, state, and federal coordination in support of comprehensive long-term flood control and mitigation efforts must continue throughout the state to ensure success. Continued funding support of the program is also critical.

The Southwest Pipeline Project (SWPP) is a regional water supply system that draws water from Lake Sakakawea and serves over 48,000 people in southwest North Dakota, including 31 communities, and 4,300 rural hookups – with plans to expand.

# Southwest Pipeline Project

NDCC, Section 61-24.3 declares necessary that the SWPP "...
be established and constructed, to provide for the supplementation of the water resources of a portion of the area
of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple
purposes, including domestic, rural, and municipal uses." The SWC has been working to develop the SWPP
ever since – with construction beginning in 1986. NDCC 61-24.6 authorizes the SWC to construct,
operate, and maintain the project.

Action Plan:		
TASKS	TARGET DATES	
Bid the Center Service Area rural distribution pipeline	Summer 2013	
Continue construction of transmission facilities and rural distribution in the Center and Dunn Service Areas	Summer 2013	
Continue design and construction to upgrade the Dickinson Water Treatment Plant	Summer 2014	
Begin design to expand the raw water transmission capacity to the Dickinson Water Treatment Plant	Summer 2014	

Private contractors are constructing the project according to designs developed by the SWC's engineering contractor. The SWC oversees the design and construction of the project.

## Agency Goal(s) Satisfied:

 To develop water resources for the future welfare and prosperity of the people of North Dakota.

# **Project Program Objectives:**

 Continue construction of the Oliver, Mercer, North Dunn Regional Service Area and expand the raw water transmission capacity and water treatment plant capacity at Dickinson to meet the growing needs in southwest North Dakota.

## Assumptions and Obstacles

Adequate state and federal funding must be received in a manner that does not impede progress.



(For a map of North Dakota's Southwest Pipeline Project, see the Appendix.)

By virtue of North Dakota Century Code, Section 61-02-14, Powers and Duties of the Water Commission; and Section 61-02-26, Duties of State Agencies Concerned with Intrastate Use or Disposition of Waters, the Commission is required to develop and maintain a comprehensive State Water Management Plan

## State Water Management Plan

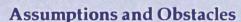
(SWMP) for the sound management of North Dakota's water resources. The most recent comprehensive SWMP was completed in 2009. Following major water plan revisions, Water Development Reports (WDR) are published on a biennial basis to assist with agency budgeting efforts, and to provide updated project and funding information during Legislative Assemblies.

#### **Agency Goal(s) Satisfied:**

- To develop comprehensive plans in order to meet North Dakota's water resource needs.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources, and water development efforts.

#### **Project Program Objectives:**

 Develop a new 2015 State Water Management Plan by January 2015.



Active participation and accurate input from local water managers and project sponsors, including coordination with the North Dakota Water Coalition regarding project funding needs will be critical to more accurate budget development, and successful statewide water planning efforts.



#### Action Plan: TASKS TARGET DATES Contact local water managers to request updated water project/program information, including funding timeframes for the 2015-2017 biennium and beyond Jan. 2014 Coordinate project information collection efforts with the North Dakota Water Coalition and its membership Spring 2014 Develop a preliminary water resource project/program inventory for the 2015-2017 biennium and beyond May 2014 Compile water use and other general water resource information Spring/Summer 2014 Review and update SWC water planning goals, objectives, and policies. Spring/Summer 2014 Process project information for use in SWC budget development Aug. 2014 Assist with the advancement of proposed new legislation for the 2015 Legislative Assembly Fall 2014 Develop a final 2015 SWMP Dec. 2014 Present the 2015 SWMP to the Legislative Assembly - outlining funding needs Jan. 2015

Project WET (Water Education for Teachers) is a balanced, supplemental and interdisciplinary water science and education program for formal and non-formal K-12 educators and students. Project WET facilitates and promotes learning, awareness, appreciation, knowledge, and exploration to promote stewardship of North Dakota's water resources. Project WET programs are designed to help youth learn how to think, and not just what to think, while providing means for teachers and students to grasp fundamental concepts related to water resources, watersheds, and the environment. Through Project

WET programs, educators, and students obtain skills for acquiring and applying knowledge, and to evaluate the results of their actions toward North Dakota's water resources.

#### Agency Goal(s) Satisfied:

 To educate the public regarding the nature and occurrence of North Dakota's water resources and water development efforts.

#### **Water Education**

#### **Project Program Objectives:**

• Develop, promote, and provide opportunities statewide to K-12 formal and non-formal educators and students to expand their knowledge and understanding of water resources by:

Action Plan:	
TASKS	TARGET DATES
Maintain Project WET classroom-ready teaching aids and service contracts in support of water resource education efforts	As needed
Provide in-service and pre-service credit and non-credit educational programs for K-12 educators and resource personnel	Ongoing
Provide varying educational programs/events for K-12 students, communities and general public statewide	Ongoing
Recruit and maintain a Project WET facilitator network by providing leadership training and development opportunities	March 2013
Provide funds for the Keep North Dakota Clean water education poster contest  Mai	rch 2012 and 2013
Complete all Section 319 EPA grant development and reporting requirements	Ongoing

 Conducting and supporting classroom events, youth camps, water festivals, community water awareness and youth service events.

#### **Assumptions and Obstacles**

Continued funding through EPA's Section 319 Grant is critical to the success and continuation of the WET program.

- Maintaining supplies and availability of indoor and outdoor water science/ education programs and training resources.
- Acquiring and distributing a balanced inventory of water resource information, education tools, services, programs, and resource materials.
- Conducting institutes, workshops, in-service and preservice educational opportunities.



Summer 2013-2014

# Water Resource Data Information Dissemination

#### Project/Program Overview:

Significant volumes of data are contained in the SWC's Water Resources Information Management Systems (WRIMS). Private individuals and private enterprise, as well as local, county, state, federal,

and international entities routinely make use of various portions of these data sets. Staff facilitate the ability of interested parties to access data of interest to them. A web-based interactive interface is available to allow for direct access to the data on the part of the interested parties. Additionally, numerous interpretive reports are available for various water resources in the state.

#### Agency Goal(s) Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

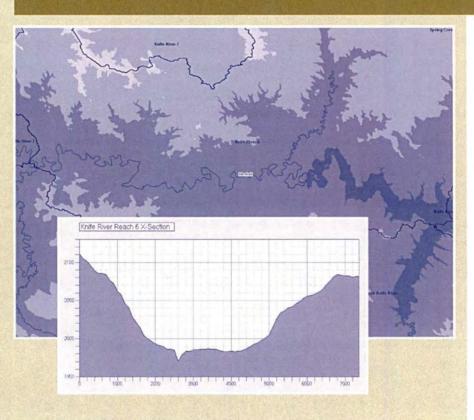
# Project Program Objectives:

- Maintain quality water resource data.
- Develop and maintain databases for retrieval of data
- Maintain trained staff to interpret data.
- Develop and maintain web-based integration for access to data.

## Assumptions and Obstacles

The continuation of the inhouse and online retrieval system will depend on the ability of the SWC to maintain the 4-D Database.

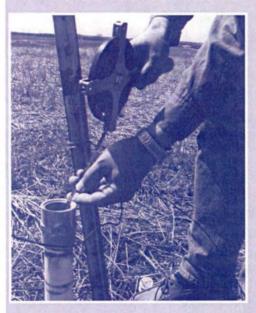
TASKS	TARGET DATES
Anticipate uses for which the data would be needed	Ongoing
Educate staff on the use of WRIMS as improvements are implemented	As needed
Communicate with interested parties to determine their informational needs	As requested
Create unique programs in order to satisfy requests of an unanticipated nature	As requested
Image and store well drilling completion reports	Ongoing



Water resource data pertaining to water levels, water quality, and well information is collected on a continuing basis. This data is stored in a web accessible database. The database currently contains about 1.5 million water-level measurements, 35,000 site locations, 68,000 water quality analyses, and 25,000 sites with lithological descriptions. Additional data acquisition sites are implemented as needed through time. Aquifer parameters and properties are evaluated through an aquifer-testing program.

#### Agency Goal(s) Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.



## Water Resource Monitoring

- To collect, administer, and distribute information to facilitate improved management of North Dakota's water resources.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

#### **Project Program Objectives:**

- Collect water resource data.
- Organize and store water resource data.
- Evaluate water-resource data and future data needs.

#### **Assumptions and Obstacles**

Due to federal budget constraints, State Water Commission costshare has increased to support the USGS Cooperative Program. This may continue in the future.

ASKS	TARGET DATES
nstall test holes and plug obsolete observation wells	AprDec., annually
nstall 125-175 monitoring wells	AprDec., annually
nstall 20-30 staff gauges, and monitor water levels and flows	AprMay, annually
Measure 25,000-30,000 water levels in wells and surface water bodies	AprDec., annually
Collect data from 60-70 continuous water level recorders	JanDec., annually
Collect 1,500-2,000 samples from wells and surface-water bodies	AprDec., annually
Analyze samples for various chemical constituents	AprJan., annually
Repair and maintain 3,500-4,000 measurement and sampling locations	AprDec., annually
Enter data into database	Ongoing
Coordinate USGS cooperative water resource monitoring program	March-Dec., annually
Conduct aquifer tests	As requested/needed

# Water Resource-Related Economic Development

#### Project/Program Overview:

Water utilization is a key ingredient to many potential opportunities for economic development. Numerous studies and reports have documented potential water supplies for economic development. Additionally, existing reports and/or water-

resource data are interpreted by staff in the form of short reports to aid industries in determining the viability of various water resources with respect to their water needs in their consideration of locating in North Dakota.

The SWC also provides cost-share support for several activities designed to strengthen the state's economy. The SWC, in conjunction with the Bank of North Dakota, provides cost-share for new irrigation under the auspices of the AgPACE program. The SWC also provides support to the North Dakota Irrigation Association (NDIA).

#### Agency Goal(s) Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

- Identify and evaluate potential water supplies for economic development.
- Support programs to encourage water-using industries.
- Support programs to encourage irrigation.



#### **Assumptions and Obstacles**

There is a limited amount of groundwater of a quality suitable for irrigation and industry. The one significant water resource in the state, the Missouri River, is not located where some potential water users want to locate.

In addition, recent U.S. Army Corps of Engineers actions blocking access to Missouri River water along mainstem reservoir boundaries is a major impediment.

Action Plan:	
TASKS	TARGET DATES
Produce 'synopsis' reports on water supplies for interested entities	As requested
Produce or provide water resource interpretive reports	going/As requested
Administer the AgPACE program	Ongoing
Support NDIA's efforts to expand irrigation development	Ongoing

Water resource research involvement falls into three categories. The first is where the SWC provides monetary support for water resource-related research, which is generally conducted by the USGS or

universities. The second category is where the SWC enters into a cooperative study, again generally with university researchers or the USGS. The third category is where the entire study is conducted by the SWC.

#### Agency Goal(s) Satisfied:

• To conduct research into the processes affecting the hydrologic cycle in order to improve the management of North Dakota's water resources.

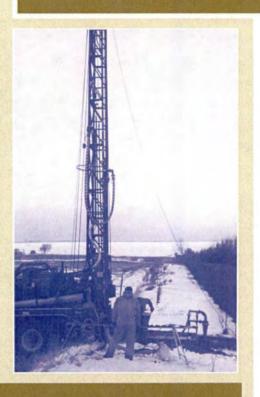
#### **Project Program Objectives:**

- Support research into water resources of the state.
- Conduct studies of the nature and occurrence of water in order to optimize its conservation and development throughout the state.

#### **Assumptions and Obstacles**

Continuing or reformulated research could result from the interpretations that result from these studies.

## Water Resource Research



TASKS	TARGET DATES
Annual review and decisions for graduate water resource investigations (ND Water Resources Institute)	Annually
Cooperate with the USGS to develop a "Stream Stats" website in North Dakota	2013
Cooperate with the USCS to develop a report entitled, "Evaluation of Water Quality Sampling Programs and Sulfate Standards for Stream Classes and Designated Uses, North Dakota"	2013
Conduct an evaluation of nitrate contamination and remediation in the Karlsruhe aquifer	Annually
Assist with study of irrigation through tile drains in Richland County	2013

# Water Rights Administration & Processing

#### Project/Program Overview:

NDCC 61-04-02 requires that all water uses except for domestic, livestock, fish, wildlife, and other recreational uses (unless the aforementioned are greater than

12.5 acre-feet per year) apply for a water permit before putting water to beneficial use. Set procedures are mandated by NDCC and regulations. Staff guide applicants through this process. In addition, records, documents, and a relational database are meticulously maintained. Upon completion of a water use development, inspections are conducted to verify the ability of the applicant to put the water to beneficial use. Based upon the inspection report, a conditional permit is perfected and filed with the appropriator with the county as a water right associated with the land. Annual, self-reported, water use forms are recorded to document that the water is being put to beneficial use and the water right is being maintained. Beginning January 1, 2012, all industrial water use permits serving the oil industry

and approved for annual appropriations greater than 15 acre-feet, are required to file monthly water use reports. Technicians in the Water Appropriations Division periodically inspect water meters at water depots serving the oil industry.

#### Agency Goal(s) Satisfied:

• To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

- Process water permit applications.
- Maintain meticulous water right records.
- Perfect conditional water rights.
- Document permitted water use.

# Assumptions and Obstacles

Water use records are dependent upon self-reporting of annual water use, which is strongly encouraged. Some conditional water permits take long periods of time to resolve water and legal complications.



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TASKS	TARGET DATES
Guide applicants through the water permit application process	Ongoing
Maintain records in each water permit application file	Ongoing
Enter appropriate data into water permit database	Ongoing
Conduct 65-85 inspections of 'completed' conditional water permits	Annually
Perfect 50-70 inspected, completed, and conditional water permits	Annually
Send out requests for annual use reports to permit holders Nov. as	nd Jan., annually
Complete the annual water use data collection process	May, annually
Develop a summary report on annual water use in North Dakota	Sept., annually
Measure pumping rates to help establish water rights	Ongoing
Maintain water use records to quantify water rights	Ongoing

The allocation of water resources for beneficial use can result in competition for those resources. This competition may cross political boundaries. Efforts are continually underway to protect prior rights

while maximizing benefits. These efforts are extended outside of the state, into other states and provinces, as well as internally with respect to other state agencies with various regulatory authorities. In the assessment of the degree to which the state's water resources can be utilized beneficially, the rights of prior appropriators need

# Water Rights Evaluation & Adjudication

to be assessed and protected. Staff prepares recommendations for the State Engineer on the basis of encouraging beneficial use while protecting prior rights.

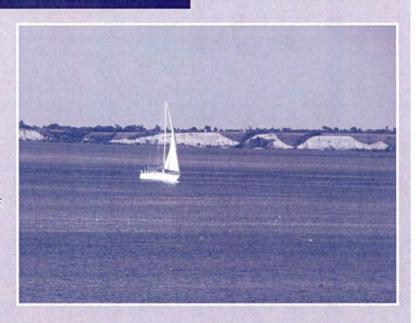
Action Plan:	
TASKS	TARGET DATES
Gather data on shared resources	As needed
Discuss possible actions regarding water resources	As needed
Negotiate management decisions	Ongoing
Conduct water resource investigations	As needed
Prepare recommendations for the State Engineer	Ongoing

## Agency Goal(s) Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

- Pursue cooperative efforts with neighboring states and provinces to plan for beneficial water management of shared water resources.
- Cooperate with agencies that have regulatory authority over North Dakota's water to protect and enhance the quality and quantity of North Dakota's water resources.
- Evaluate water permit applications and recommend decisions to the State Engineer.



#### **Assumptions and Obstacles**

Different organizations and different states and provinces have different perspectives and laws pertaining to the best way to manage water resources. In the evaluation of groundwater permit applications, the state's groundwater resources are becoming more fully appropriated. Thus, the process of allocating additional water while protecting prior water rights is becoming more difficult and time consuming.

In addition to water management planning efforts at the state level, the SWC believes that it is also beneficial for stakeholders that live and work within key watersheds of the state, to guide the management of water resources in their region through the development of regional water plans. In order for regional planning efforts and studies to proceed and evolve in a productive manner, it is often required that local, state, and federal government officials participate in those planning processes as technical advisors.

# Watershed Planning & Coordination

In recent years, the SWC has provided technical assistance to the Devils Lake, Upper Sheyenne, Red, and Missouri River joint water boards toward the development of water management plans and other watershed planning efforts. In addition, in the Red River basin, which is the focus of many projects and planning efforts, the SWC has an office with a full-time engineer, in West Fargo.

Beyond participating in regional planning and coordination efforts within the state, SWC staff members are also involved with international and national organizations involved with interjurisdictional water management. Examples include the International Joint Commission, the Red River Basin Commission, the Red River Water Resources Council, the International Red River Board, the International Souris River Board, the International Water Institute, the Red River Retention Authority, the Western States Water Council, Association of Western State Engineers, and the Missouri River Association of State and Tribes.

#### Agency Goal(s) Satisfied:

 To manage water resources for the future welfare and prosperity of the people of North Dakota.

#### **Project Program Objectives:**

 Provide technical expertise and assistance toward the development and implementation of regional watershed management planning efforts, and studies.

#### **Assumptions and Obstacles**

In order for all of the above organizations and planning/coordination efforts to succeed in the future, they will require continued commitment and dedication from all stakeholders involved in those processes.

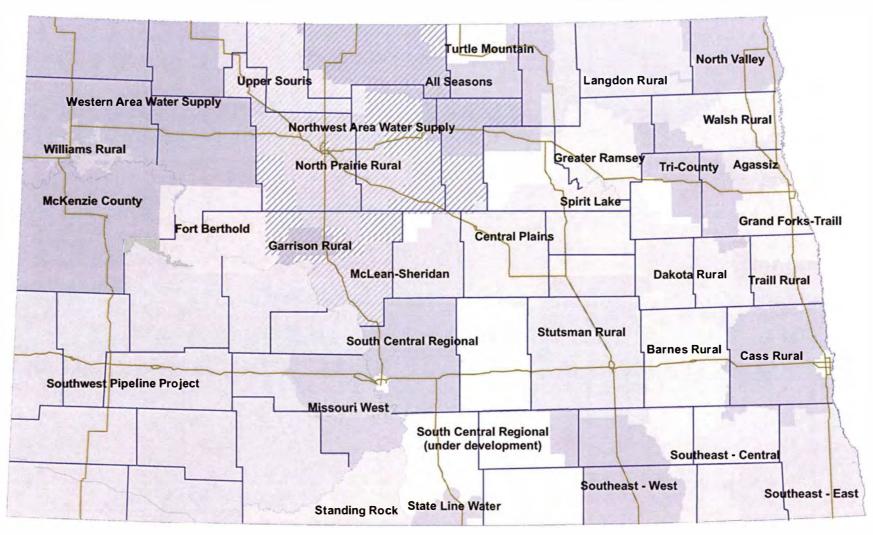


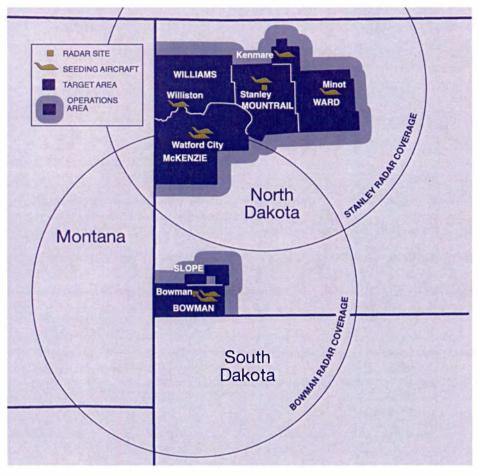
# Action Plan: TASKS TARGET DATES Provide technical assistance toward the implementation of the Red River Basin Commission's Natural Resource Framework Plan Provide technical assistance toward the implementation of joint water board, water management plans Continue to participate as board members and technical advisors for regional, international, and national watershed planning and coordination efforts TARGET DATES TARGET DATES Ongoing

# Map Appendix

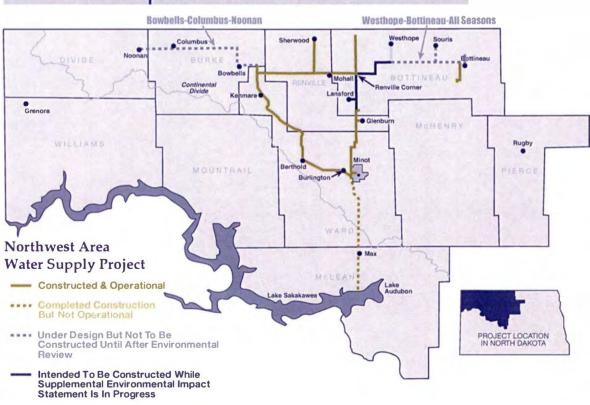


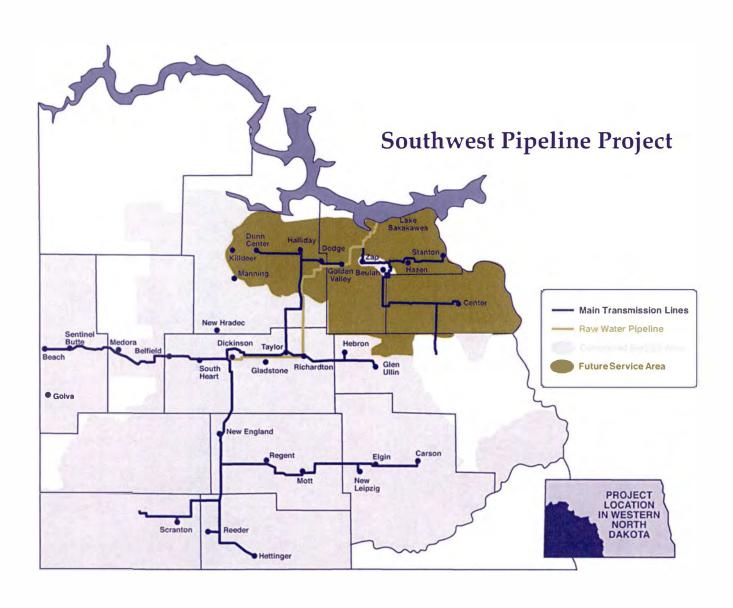
# Rural & Regional Water Supply Systems





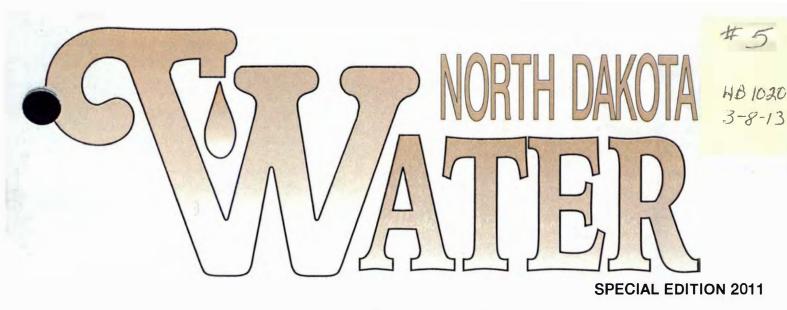
North
Dakota
Cloud
Modification
Project







North Dakota State Water Commission 900 East Boulevard Ave. Dept. 770 Bismarck, ND 58505-0850 www.swc.nd.gov



Historic Floods of 2011





# State of North Dakota

Jack Dalrymple

Governor



Dear Reader,

Since becoming governor in December of last year, water has taken up a lot of the time and attention of my administration. Throughout the past year, I have traveled from one end of the state to the other experiencing firsthand water's powerful force and its impact on our economy, our communities, our landscape, and our people. This year will go down in the annals of North Dakota history as a year of unprecedented flooding, with thousands of our citizens affected statewide. Many of them are still working to recover and rebuild their lives.

For the third consecutive year, North Dakota experienced record snowfall and flooding, impacting large and small communities across the state. Historic levels of rainfall and snowpack across the region set the stage for flooding like we haven't seen in modern history, and once again, our state was tasked with battling rising waters on the Red, Sheyenne, James, Missouri and Mouse rivers, as well as in the Devils Lake Basin.

The water that flowed past Bismarck-Mandan shattered the record by more than 12 million acre feet, which is about 50 percent greater than the record set in 1975. The flood in Minot was even more devastating in terms of impacts. At the height of flooding, the daily flow for the Mouse River at Sherwood was greater than the average annual runoff. The Red River in Fargo crested at its third highest level and Devils Lake continued its record-setting ascent.

According to preliminary data, floodwaters shattered 21 peak records across the state and forced the evacuation of 28 neighborhoods, including 12,000 Minot area residents. Millions of sandbags were filled and miles of dikes and HESCO barriers were constructed. And in true North Dakota fashion, countless citizens stepped up in big ways to fight the flood and help those who were impacted.

Thirty-two state agencies participated in the North Dakota Disaster Recovery Task Force, working closely with federal and local partners to fight the rising floodwaters and assist flood victims with both recovery and rebuilding. One essential group integral to the success of this year's flood fight was the North Dakota National Guard, with more than 3,000 guardsmen incurring more than 67,000 work days during flood operations.

I would personally like to thank our federal, state, and local partners for their invaluable contributions to the 2011 flood fight and all the volunteers who worked so tirelessly to help protect the property of family, friends, and in many cases, strangers. This year's flood operations were definitely a team effort.

For generations, water has shaped the direction of our state, the growth of our communities, and the quality of life of our people. We can look back through many chapters of our state's history and see water's impact, from the days of early settlement, to the history we are making today with our response to unprecedented flooding across the state.

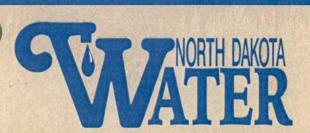
And throughout our history, one thing has remained constant, and that is the strength and resolve of our citizens. From this year's destructive flooding, North Dakotans will persevere and rebuild, making their communities, their homes, their businesses, and their lives even stronger than before. We stand ready to continue to do all we can to assist those impacted throughout the recovery process.

Sincerely,

Jack Dalymple

Jack Dalrymple

Governor



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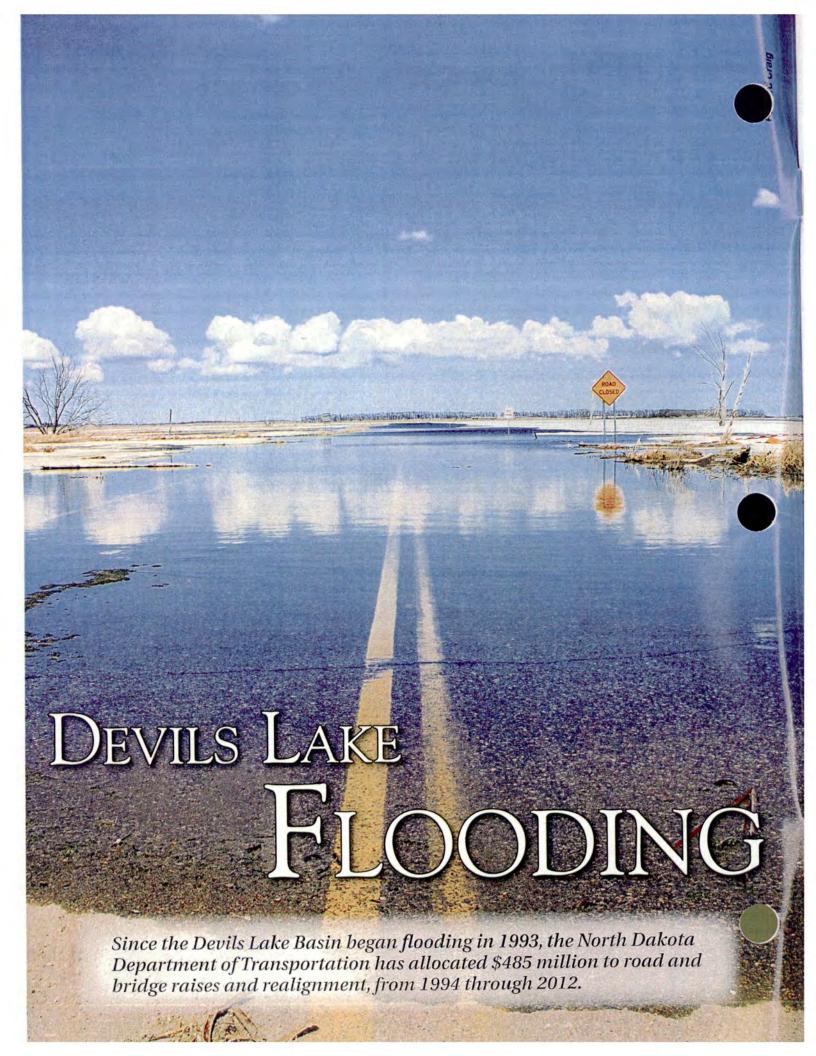
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### On the Cover

During Minot's epic 2011 flood, 10 feet of water flooded nearly 20 percent of the city, leaving more than 4,000 homes inundated. The cover photo was taken by Senior Airman Jesse Lopez, U.S. Air Force.





#### Not Your Normal Flood

When recounting most flood events in th Dakota, it's typical to start by looking at the previous winter's snow-pack, subsequent spring run-off, and rain events along the way. But when recounting how Devils Lake got to where it is today, it's not enough to look back only a few months, a year, or even a decade. Devils Lake is unique – to say the least. And, to best explain the current flooding situation of that region, it's necessary to go back literally thousands of years.

The natural condition of Devils Lake is to repeatedly transition from dry to overflowing in cadence with long-term drought and wet cycles. As the figure below depicting the last 4,000 years of Devils Lake water levels suggests, it has dried up at least five times over the course of the last four thousand years, and has filled to the point of spilling beyond its basin boundaries at least three times over that same time period.

The most recent surge in Devils Lake water levels began back in 1993, where the timeframe from then until now, and the resulting impacts, really represent Devils Lake flooding as it's known today. Back in 1993, the lake dipped to an elevation of 1,422.62 feet (above mean level), before beginning its most recent historic rise. Since that time, the big lake has defied forecasts and broken record after record for nearly two decades

In discussing the uniqueness of the Devils Lake flooding situation, Jeff Frith, manager of the Devils Lake Basin Joint Water Resource Board says, "you hear about river floods, how they rise, you prepare, it happens, you

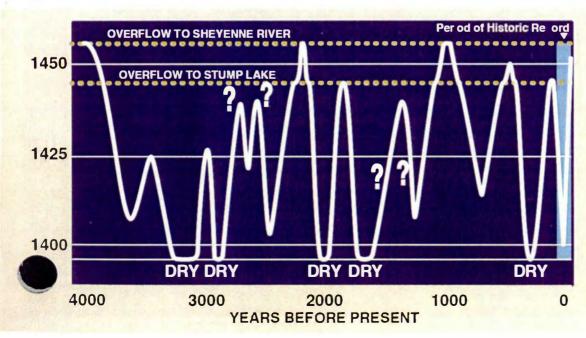


Since Devils Lake thawed in the spring of 2011 and began rising to the June record of 1,454.4 feet, it claimed another 30,000 acres – including more homes and farmsteads.

clean up, and people go on with their lives. With Devils Lake, that's just not the case." Frith went on to say that with each year comes the repeat of a vicious cycle. Area residents wait each winter and spring to hear the latest forecasts to see how high the lake might go. "Each spring the lake rises until mid summer, and there we are," Frith says. "The lake seems to stay largely the same until the following spring, and then it goes up some more."

During the summer of 2011, Devils Lake crept to its latest record elevation of 1,454.4 feet on June 27. Thus, from its 1993 low elevation of 1,422.62 feet to its most recent 2011 record elevation, Devils Lake has risen 31.78 feet and inundated more than 167,000 acres of land.

Devils Lake naturally overflows into the Sheyenne



The natural condition of Devils Lake is to fluctuate from dry to overflowing in response to drought and wet cycles.

River via Tolna Coulee at 1,458 feet, leaving it only about three-and-a-half feet from overflowing during its June 2011 peak. Should a natural spill ever occur, there exists the potential for tremendous damages to downstream communities and the aquatic environment. At its spill elevation, Devils Lake will cover about 261,000 acres, or about 408 square miles.

According to snow data compiled by the National Snow and Ice Data Center, by the end of March 2011, snowpack throughout the Devils Lake Basin still contained an average of nearly four inches of water equivalent. And, some areas of the basin had snowpack containing more than six-and-a-half inches of water. Ultimately, melting of that snowpack, in combination with spring rains resulted in record, or near-record flows on the major coulees that contribute to Devils Lake.

From the time Devils Lake began to thaw in the spring of 2011, until it reached its June peak, it increased in volume by about 524,000 acre-feet. At the time this was written, the largest record inflow year,

... It is interesting to note that Devils Lake peaked on June 27 in 2009, 2010, and 2011 at elevations of 1,450.73 feet, 1,452.05 feet, and 1454.4 feet, respectively.

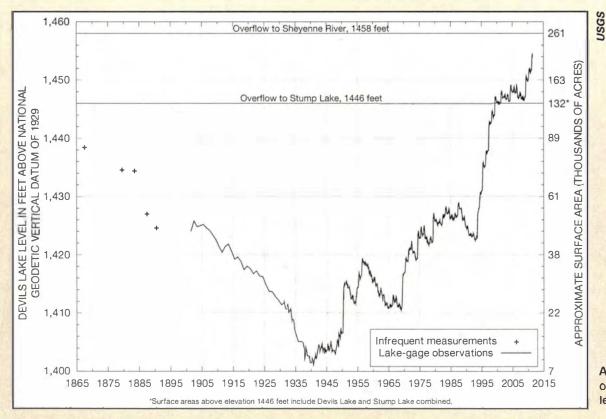
when 583,675 acre-feet of water entered the lake, was in 2009. In consideration of evaporation and infiltration rates, it is very possible that total inflows into Devils Lake for spring and summer 2011 will exceed the 2009 mark – making 2011 the new record inflow year, or at a minimum, a close second.

#### An Ongoing Fight

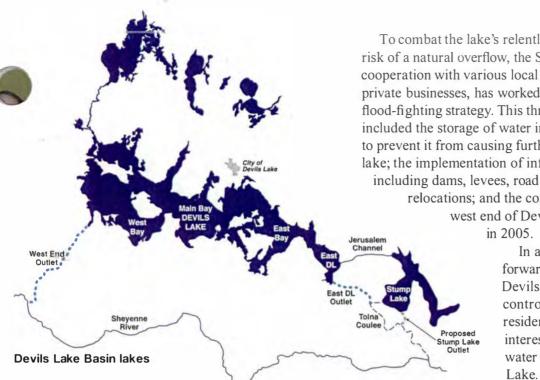
Any discussion regarding Devils Lake flood-related impacts and response efforts has to be framed similarly to any explanation of the lake's relentless rise. There's no single month, year, or even decade where damages occurred and when a flood fight took place. Rather, the region is currently looking at almost 20 years of enduring devastating impacts, and a flood fight that has lasted equally as long.

Furthermore, though some of the following discussions about the Devils Lake flood fight are framed primarily in terms of projects, dollars, and cents; it is only because the tremendous social and emotional toll of the ongoing flooding crisis on area residents is all but incalculable. "Unless experienced firsthand, it's difficult to even comprehend what it's like to watch the slow and relentless rise of Devils Lake swallow up homes, farmland, businesses, and livelihoods that individuals and families have cherished for generations," Frith says.

Though not meant to discount the personal toll of Devils Lake flooding, the following discussions of economic impact and massive flood control efforts do, however, provide at leasome perspective into the magnitude of the problem.



A recorded history of Devils Lake water levels.

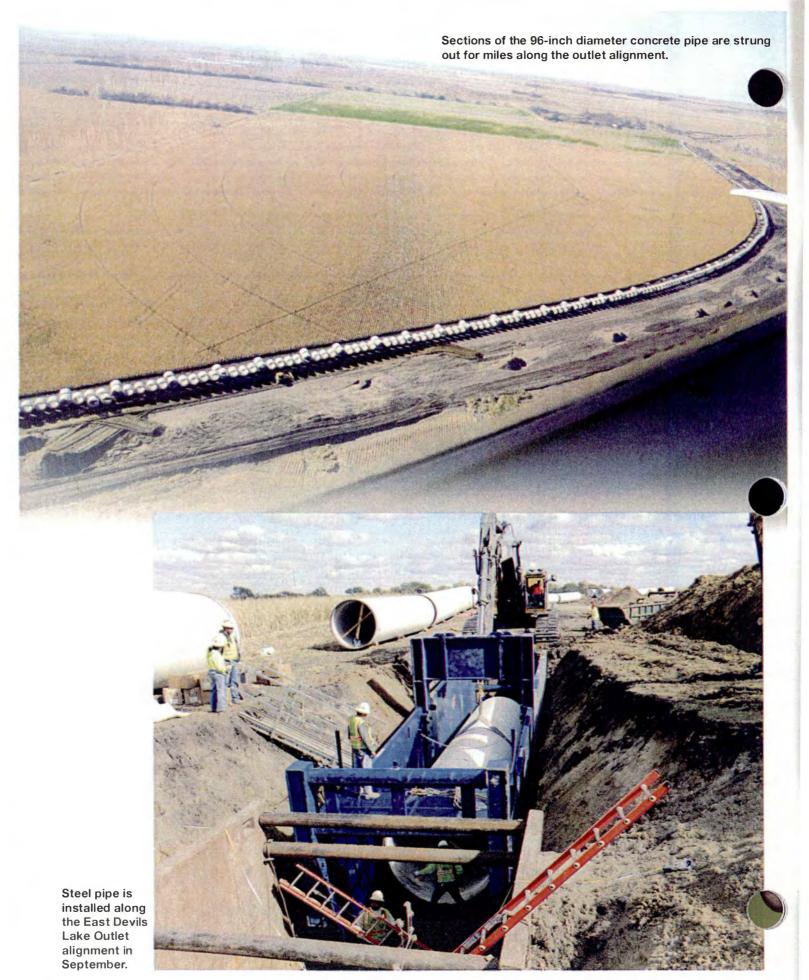


To combat the lake's relentless rise and to reduce the risk of a natural overflow, the State of North Dakota, in cooperation with various local and federal agencies, and private businesses, has worked to implement a three-pronged flood-fighting strategy. This three-pronged approach has included the storage of water in upper portions of the basin to prevent it from causing further flood damages around the lake; the implementation of infrastructure protection efforts – including dams, levees, road and railway raises, and structure relocations; and the completion of an outlet from the west end of Devils Lake to the Sheyenne River

In addition, the state is also moving forward with an outlet from East Devils Lake, and a Tolna Coulee control structure. Devils Lake area residents have also expressed a strong interest in developing an emergency water transfer channel from Stump



This photo shows the West Devils Lake Outlet operating in 2011 at 250 cfs.



Of North Dakota's efforts to fight Devils Lake flooding, State Engineer Todd Sando says, "with st of the upper basin wetlands being almost impletely filled, there exists little opportunity for anyone to store significant amounts of floodwater from year to year. For that reason, most of our efforts to fight the flood in recent years have focused on outlet development, infrastructure protection, and consideration of downstream residents that would be impacted from an uncontrolled spill."

#### The West End Outlet

In August 2005, construction on a state-sponsored emergency Devils Lake Outlet was completed. The outlet was originally built with an operational capacity of 100 cubic feet per second (cfs). However, in June 2010, the state completed a major expansion to the outlet, increasing its capacity to 250 cfs. The West End Outlet consists of two pump stations, a rock filter, approximately four miles of pipeline, and 10 miles of open channel.

"The outlet has removed more than 130,000 acre-feet of water from the lake since it was built," Sando says. "And, most of that has been removed in the last two urs." This is largely because the outlet has had many dles to overcome, including water quality constraints, high base flows on the Sheyenne River, and equipment problems.

... Devils Lake began naturally spilling into Stump Lake at 1,446.5 feet. Since Devils Lake began trickling into Stump Lake in 1999, Stump Lake has now been filled and has become part of Devils Lake – rising more than 46 feet in the process.

#### East Devils Lake Outlet

Though the process to move forward with an East Devils Lake Outlet began in 2010, the lion's share of the effort to advance this project was completed in 2011. The East Devils Lake Outlet accomplishes the goal of moving additional floodwater from Devils Lake in a controlled fashion, while being the least problematic to implement quickly. With a new 750 mg/L (increased from 450 mg/L)

possible for the state to develop additional outlet pacity from East Devils Lake, rather than the western portion of the lake – making it more cost effective to construct and operate.



Burlington Northern Santa Fe workers restore a section of floodimpacted rail line near Towner. For several weeks in June and July, Amtrak service was disrupted through North Dakota because of Devils Lake and Mouse River flooding issues.

When completed, the East Devils Lake Outlet will be approximately five-and-a-half miles in length, from the southeast corner of East Devils Lake to Tolna Coulee. At the intake, one 50 cfs, and four 75 cfs pumps will move up to 350 cfs of Devils Lake floodwater.

The East Devils Lake Outlet will be under construction through the winter of 2011-2012. "All of the land needed for the project has been acquired, and so far, things seem to be progressing on schedule," says Jon Kelsch, the State Water Commission's Devils Lake Outlet project manager. "As long as things continue to go well, we should be able to have the project operational by next June."

The West and East Devils Lake outlets will have a combined operating capacity of 600 cfs. And together, the two outlet projects will be able to remove up to 200,000 acre-feet of water from Devils Lake over the course of a full seven-month operating season if they are operated at maximum capacity. That amount of water, in addition to evaporation, could keep up with average (1993-2010) lake inflows of 247,000 acre-feet.

#### Gravity Flow Outlet

In addition to the West and East Devils Lake outlets, an emergency water transfer channel that will flow via gravity from Stump Lake to Tolna Coulee, and ultimately into the Sheyenne River is also being explored. At the time this was written, specific details about the design of this project were still evolving.



Construction crews work to make repairs, while motorists negotiate a treacherous water and debris-covered roadway near the junction of Highways 57 and 20 south of the city of Devils Lake.

#### Tolna Coulee Control Structure

It is important to note that while any combination of outlets will reduce the risk of a natural overflow and the resulting impacts, no combination of the planned outlets will guarantee that a natural overflow can be prevented. For that reason, the State Water Commission and U.S. Army Corps of Engineers (Corps) are cooperatively moving forward with a control structure at Tolna Coulee as an added level of protection.

The control structure will allow natural erosion of the divide between Stump Lake and Tolna Coulee, while protecting downstream areas from an uncontrolled release of Devils Lake floodwater.

The Corps will build the control structure, with construction scheduled to begin in late 2011, and completion slated prior to spring 2012 runoff. When completed, the Tolna Coulee control structure will be owned and operated by the State Water Commission.

#### Infrastructure Protection

Some of the major infrastructure protection efforts over the years in the Devils Lake Basin have primarily included road and railroad raises or realignments, levee constructions, a new water supply for the city of Devils Lake, and home relocations.

With regard to the area's transportation system, North

Dakota's Department of Transportation (NDDOT) has allocated some \$485 million to road and bridge raises and road realignments from 1994 through 2012. During the 2011 and 2012 construction seasons alone, NDDOT was expecting construction costs to approach \$115 million.

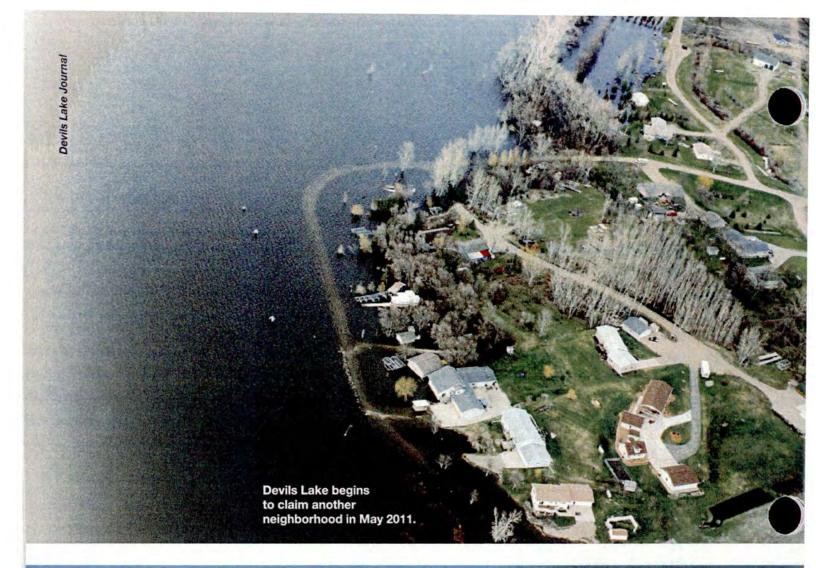
One exceptionally difficult situation to address has been the issue of several roads acting as dams. According to the 2010 Report of the Devils Lake Basin Technical Review Team, there are several road alignments keeping Devils Lake floodwater from spilling into lower-lying areas. Many of the damages that would occur, should one of these roadways breach, would be on portions of the Spirit Lake Indian Reservation and near the North Dakota National Guard's Camp Grafton. What is problematic about these roads is that they were never designed to hold back water – particularly for a long period of time. In addition, the failure of any of these roads could result in catastrophic damages to infrastructure and even loss of human life. As of 2010, the NDDOT had expended \$131 million to address roads acting as dikes, but many still remain today.

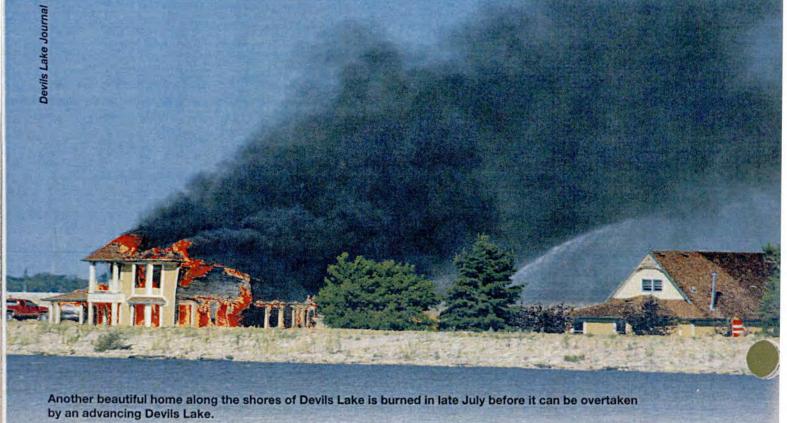
Over the years, rising Devils Lake floodwater has also substantially impacted railroad lines owned by Burlington Northern Santa Fe and Canadian Pacific railways. Durin the 2011 construction season, the cost of grade raises to maintain Amtrak service was some \$77 million. And, the installation of new rail lines – also to maintain Amtrak





ate April, Devils Lake had crept to a height of 1,453.5 feet – continuing its threat to Minnewaukan. The first photo shows dwater making its way toward the water tower near the Minnewaukan school on April 28, 2011. The next photo from July 28, 2011, shows the temporary levee that was constructed by the Corps to provide protection from an advancing Devils Lake.





\$106 million has been spent maintaining, repairing, and locating rail lines in the Devils Lake Basin since 2001. Another major infrastructure protection effort has involved the construction of an embankment around the city of Devils Lake. At one time, this structure was referred to as a levee, but in consideration of the fact that it must withhold floodwater for years on end, it is more appropriately now termed a dam.

According to the Corps' March 2011 Environmental Assessment for the Devils Lake Embankment, initial embankments to protect the city of Devils Lake were constructed in the 1980s to an elevation of 1,445 feet. Since 1996, the embankments have been raised and extended three times due to continued rising lake levels. In 1996, the embankments were raised to 1,450 feet. In 1997, they were raised again, to 1,457 feet. The most recent raise was completed in 2007, when they were bumped up to an elevation of 1,460 feet – and extending some eight miles in length. The total cost of the last three raises was about \$53 million.

The ongoing levee raise and extension that is currently underway is being completed in three phases. Approximately 9.2 miles of existing embankment will be raised to elevations of 1,466.2 feet to 1,469.2 feet depending on location. Another 2.6 miles of new bankment will be constructed to an elevation of 1,467.2 et. Pump capacity improvements are also included as an important part of each of the three phases. This current effort will be the final raise of the city's embankment, and it is estimated to cost around \$155 million.

In addition to the city of Devils Lake embankment, the Corps also constructed a temporary levee in Minnewaukan to protect that community from encroaching floodwaters. Before Devils Lake began its most recent rise, Minnewaukan was located nearly 10 miles from the big lake. Today, Devils Lake threatens substantial portions

of the community, including its school, where the gym is at an elevation of 1,454 feet. Other critical infrastructure, such as water and sewer lines and streets or roads, are also experiencing flood-related impacts. Because it has been deemed too costly to protect Minnewaukan with a permanent levee, the school is being relocated and a partial relocation of the community is underway.

And last, but not least, another infrastructure protection effort that has been implemented in the Devils Lake Basin has involved the removal or relocation of homes and other structures. Since the late 1990s, approximately 400 homes have been moved due to rising lake levels, including the community of Churchs Ferry. Sadly, those individuals and families were some of the luckier ones. Hundreds of other structures were subjected to a less desirable fate, where they were either destroyed and removed, or they were burned in place. Still more are being faced with an even more uncertain future, because although they're not flooded, they are completely surrounded by water – making them dangerous to access or completely inaccessible.

"People can't imagine unless they've been in those shoes," says Frith. "I've seen the devastation in people's faces and heard it in their voices. Here are people's homes that they've raised a family in, or have settled in – planning to spend their retirement years, and all of a sudden those hopes and dreams are gone. It's nothing less than heartbreaking."

Considering upper basin water management, outlet developments, and infrastructure protection efforts; local, state and federal agencies, and private interests have invested approximately \$1 billion to combat Devils Lake flooding since 1994. With no end to the flooding crisis in sight, those costs are expected to increase even more — along with the anxiety levels of area residents who have to live within the extensive reach of the relentless monster they call Devils Lake.

Before Devils Lake began its most recent rise, Minnewaukan was located nearly 10 miles from the big lake. Today, Devils Lake threatens substantial portions of the community. Critical infrastructure such as water and sewer lines and streets and roads are experiencing flood-related impacts. Because it has been deemed too costly to protect Minnewaukan with a permanent levee, a partial relocation of the town is underway.



# -looded: The Schemionek Family

Julie Schemionek has lived in rural Penn, 12 miles northwest of the city of Devils Lake, her whole life. She grew up there, then following college she married and moved to a farmstead one mile east of where she was raised. It is where she and her husband brought up their three children, and where they plan to live for the rest of their lives. "We love it here," she says. "The people are friendly and kind, and we all look out for each other."

But, for the last 18 years, the massive Devils Lake has been growing, robbing this close-knit community of the carefree life they once enjoyed, and swallowing up thousands of acres of farmland that was the livelihood of many families in the area – the Schemionek family included.

"Since 1993, we've been losing our land little by little each year," Julie says. "We used to farm 2,300 acres. This year we farmed 238. And we're just small fries. We have a neighbor who has lost more than 5,000 acres."

The Schemionek family plants mostly corn and soybeans on the acres it has left. Julie remembers how, in 2008, they planted corn in one field, but couldn't harvest it because the fall was too wet. Then by springtime, they couldn't get into the field. They haven't been there since.

Julie says it is both the loss of land and the lifestyle it has brought upon the entire Devils Lake region that are the most frustrating parts of the Devils Lake flooding. "We have been forced to live and breathe this flood every day of our lives for 18 years. Every person in this area has to think about it every single day." She says the highways they drive on are cliffs, and if someone slips on a patch of ice, it could likely mean the car going into the lake. Since Devils Lake's rise, there have been 23 people killed by being submerged in the water. But, since these tragedies didn't happen all at once, they have never made the national news, so the plight of the people in the area is not as visible as, for example, the people who suffered flooding this year in Minot. "I'm not saying what happened to those people wasn't awful - it was. We can feel their pain," Julie says.

"Many people affected by Devils Lake flooding have just given up because they just don't have the fight in them



anymore." One of the Schemioneks' neighbors lost most of his land, his house, and most of his outbuildings. Another moved three times, every time thinking this was the end of their flooding woes. But, even after the third move, they are still dealing with sewer problems and ground erosion caused by the flooding of Devils Lake.

"Our family will pull ourselves up by the bootstraps and do whatever it takes to survive, but some people aren't that lucky," Julie says. "There are elderly people who worked their whole lives, putting their hard-earned money back into the land instead of retirement accounts. Now that land is under water and they have nothing. The looks of devastation and worry I've seen on the faces of some of these people is just heartbreaking."

Julie says she's not critical or bitter about the hand her family has been dealt, but she does know that it will get worse before it gets better. She says next spring will mean having to build a berm around their farmstead so they don't lose a bunch more trees. They'll also fight again for a three-foot grade raise on the road to their farmstead – a road that has now become the only road in the area many

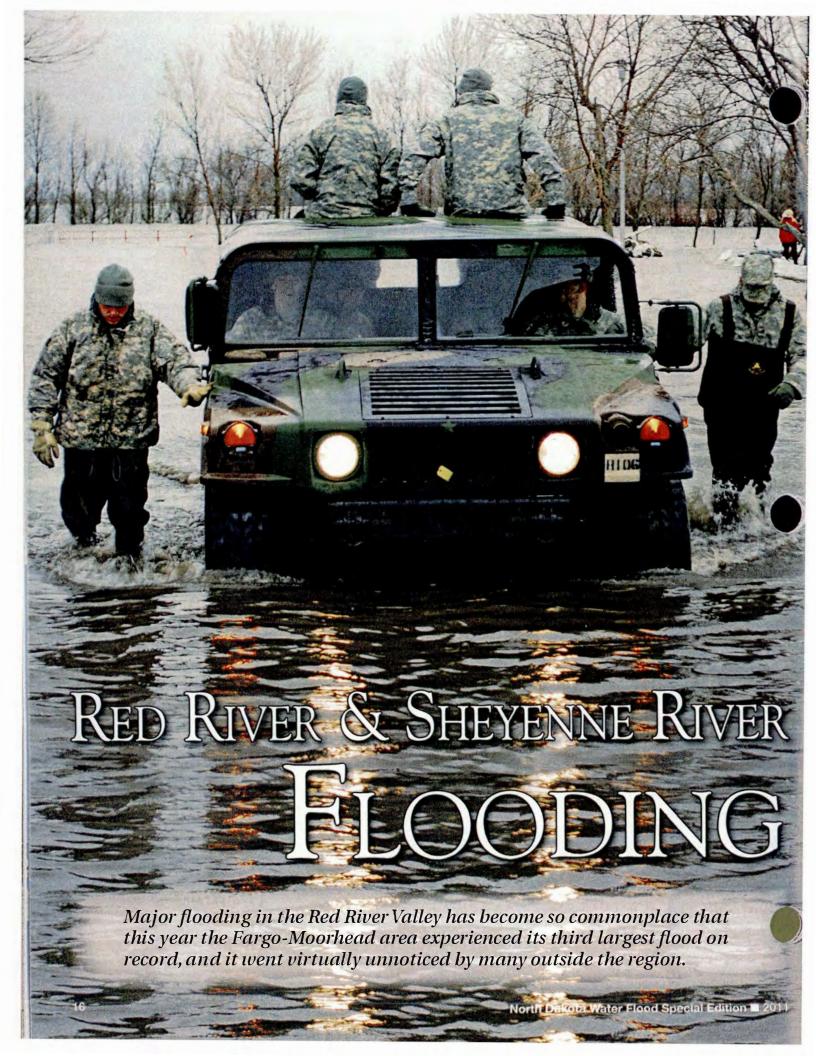


Left to right are Randy, Julie, Alexus, Ryan, and Justin Schemionek.

people can use to get to their homes. "Every year is a new battle," she says.

The bright spot in the Schemioneks' battle is that they don't have to worry about losing their house. The house is built at an elevation of 1,473 feet – Devils Lake spills into the Sheyenne River via its natural outlet at 1,458. "Nearly all the people in the Devils Lake region can tell you what the elevation of their house is. That's something most people in other areas of the state have never even thought about. It's very sad. But, unfortunately, that's just life in the Devils Lake Basin right now."





#### Precursors to the Flood

The 2011 Red River flood began with an extremely wet I, especially in Sargent, Richland, and Ransom counties the southern part of the basin. Heavy fall rains filled the area's lakes and wetlands to capacity and the ground was saturated before winter even began. Then, snow began to fall – early and heavy. By the time winter was over, the Fargo area had more than 80 inches of snow – the third largest snowfall on record in Fargo and to the south. The snow-water equivalent averaged more than five inches in the southern Red River Basin and approximately four inches from Hillsboro north.

Mark Sorgaard, FATcat Studios

By the time winter was over, the Fargo area had more than 80 inches of snow – the third largest on record in Fargo and to the south. The snow-water equivalent averaged more than five inches in the southern Red River Basin and approximately four inches from Hillsboro north.

Preparing for the Imminent

Throughout the winter, preparations were being made for the third major flood in as many years. "There was excellent coordination between the state, National Guard, Corps, National Weather Service, and many other government agencies," says Randy Gjestvang, an engineer manager in the State Water Commission's Red River Office.

The United States Geological Survey closely monitored river levels and the U.S. Army Corps of Engineers (Corps) moved sandbags and

mps to the "hot spots," or the most floodne areas. Tim Bertschi, operations manager for the Corps in Fargo says the flood fight along the Red River always begins in the southern part of the basin in the Wahpeton/Breckenridge, Great Bend, Dwight, and Oxbow areas, then moves north because of the northern flow of the river and the fact that the melt usually starts in the southern portion of the basin and moves north as melting temperatures move north.

Because it has become so accustomed to spring flooding, Fargo's sandbag operations began in January and by the first week in February there were 3 million ready for use. Some 750,000 were placed around the community. There were also 36 miles of temporary clay levees constructed, and trap and HESCO bags were also used as backup protection for 10 miles. More than 200 pumps were rented for city backup storm and sanitary sewers in case water exceeded the temporary levees. More than 300 Air Guard and 810 Army National Guardsmen and women were mobilized to the region to assist in flood preparations. Some \$8.5 million was spent this year alone by the city of Fargo for its temporary flood protection.

For the first time this year, the city of Fargo worked with the local Chamber of Commerce and economic development groups to begin a project to recruit and reward those who volunteered with the flood fight. This program used income from the Spirit of Fargo Fund to donate nearly \$7,000 back to local nonprofits, schools, and community organizations, giving \$50 for every 100 hours spent volunteering. The program proved very successful, showing 25 percent of this year's volunteers coming from the business community, and several more from local high school and middle school students. Local volunteers contributed more than 100,000 hours of their time helping



Because it has become so accustomed to spring flooding, Fargo's sandbag operations began in January and by the first week in February there were 3 million ready for use. Some 750,000 were placed around the community. Local volunteers contributed more than 100,000 hours of their time helping to fight the 2011 Red River flood.



Col. Michael Price, commander of the U.S. Army Corps of Engineers St. Paul District, and Michael Bart, St. Paul District's chief of engineering, examine the Second Street levee in Fargo on April 9. Approximately 36 miles of temporary clay levees were constructed in the Fargo area.

to fight the 2011 Red River flood.

The city of Fargo began the buyout process – purchasing 40 homes, and bringing the total number of homes in Fargo and rural Cass County to 250 since 1997. In order to protect Fargo to the Corps' recommended level of 42.4 feet, which is the new 100-year flood elevation, the city would have to purchase an additional 250 homes. "At this point, almost all the people who have been offered buyouts have accepted them," says Pat Zavoral, Fargo's city

administrator. "While it is never easy for people to leave their homes, most of them were just plain tired of fighting this battle year after year."

By late March, the flood fight had expanded northerly to the communities of Drayton, Pembina, and Grafton; and west into the Sheyenne River Basin. The rural area between Neche and the city of Pembina experienced a great deal of overland flooding once again in part because of the impoundment of floodwater behind a 30-mile-long levee just north of the U.S./Canada border. This issue has caused major debate between North Dakota and Manitoba, and in recent years, litigation has also moved forward.

It was also during this time that communities along the Sheyenne River, a major tributary of the Red, began battling the flooding that was imminent in that area. "Frankly, there was more concern about the Sheyenne River Basin and impacts to Lake Ashtabula operations than there was about the Red River," Bertschi says. "There are many more unknowns there than anywhere else in the Red River Basin. The extremely narrow river channel presents exceptional challenges to providing protection in Valley City and Lisbon because it moves right through these towns."

#### The Flood

Whereas the major floods in 2009 and 2010 happened very early, the 2011 crest was later in the spring. The crest at Fargo was 38.72 feet (flood stage is 18 feet) on April 9. "Once the river crests in Wahpeton, we kind of know what to expect to the north, and have a few days to prepare for it. Fargo then becomes the measuring stick for the rest of the basin," Bertschi says. He also calls Fargo a "flash point" because it is a large urban area that has limited permanent protection in place.

While the crest at Fargo was the third highest in recorded history, many agree it could have been much worse. "Mother Nature was very kind to us throughout the snowmelt," Gjestvang says. "With the wet fall and near-record snowfall, this year's flood could have been much worse, but the snow melted early and slow and there weren't heavy, early spring rains. All it would have taken is a couple of heavy rains at the wrong times and it would have been devastating."

While the severity of the 2011 Red River flood was less



The exit to Harwood from I-29 was closed due to water on the road. At the height of the 2011 flood, the Fargo-Moorhead area and rural Cass County experienced 100 miles of closed roads, many washed out roads and culverts, and significant damage to area bridges.

than expected, the length of it was virtually unprecedented. The Red iver is typically only at flood stage r a month or less, but this year, except for two-and-a-half days, the Red River at Fargo was at or above flood stage from April until mid-August. This was not due to a single flood event, but more the result of the spring flooding with extensive rainfall from various events during the summer.

But, even though the area had a manageable snowmelt and no heavy rains during critical times, the 2011 Red River flood didn't come without a price. At the height of the 2011 flood, the Fargo-Moorhead area and rural Cass County experienced 100

miles of closed roads, many washed out roads and culverts, significant damage to area bridges, and a \$6 million price tag for emergency protection. "The Fargo-Moorhead area is very vulnerable," Gjestvang says. "It is a major hub and its infrastructure supports the entire region. It is scary to think that the Fargo-Moorhead area has made it within the past several of total disaster so many times over the past several

Along the Sheyenne River, businesses lost hundreds of hours of productivity and schools lost nearly a week of class because workers and students were needed to



Communities along the Sheyenne River, a major tributary of the Red, battled a third consecutive year of severe flooding in 2011.

volunteer. For two of the past three years, Valley City has come within inches of a 500-year flood event, and while its flood fights were successful, keeping the area dry has come at a price of more than \$38 million over the past three years.

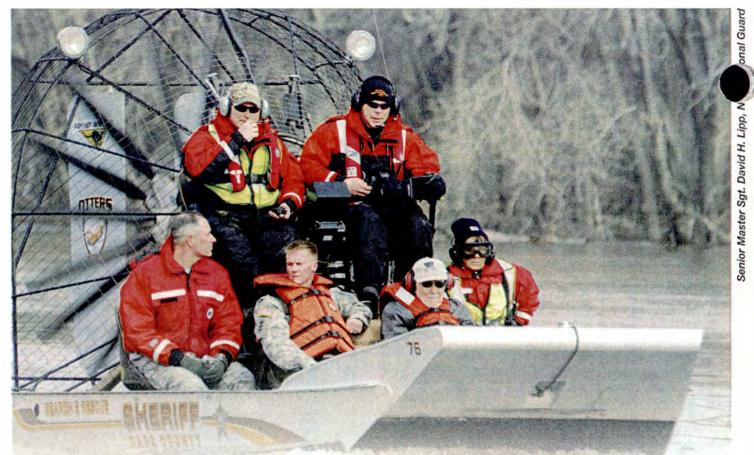
The crest at Valley City was 20.57 feet on April 17. In early August, Valley City, Lisbon, and Fort Ransom took all their emergency dikes down. Then three days later, a flash flood dumped three to five inches of rain in a large area of the Stutsman, Griggs, Foster, and Nelson County area, with small areas receiving even higher amounts.

With the Baldhill Dam already above normal pool elevation and more heavy thunderstorms likely to occur in the area, the National Weather Service discussed the possibility of additional downstream flooding. There was a chance of the reservoir elevation increasing a total of five feet from the elevation of the permanent pool. This would use up all available flood storage and be at the elevation of the emergency spillway. The gates would have to be slowly opened further during the event, increasing discharges. Valley City was prepared to reinstall its dikes if necessary, but luckily, a significant rainfall in the critical area during that time did not occur, and the second crest on Aug. 5 was only 15.95 feet, not quite the point where it was necessary to mobilize to re-install levees.

Severe erosion is another



For two of the past three years, Valley City has come within inches of a 500-year flood event, and while its flood fights were successful, keeping the area dry has come at a price of more than \$38 million over the past three years.



A Cass County Otter Team airboat responds to an evacuation request in the rural Harwood area. The team is an example of how agencies work together to help others during a Red River Valley flood.

major problem the cities along the Sheyenne River have experienced. Some yards in Valley City have lost up to 30 feet and the riverbanks in some areas have been completely annihilated, even cutting a dangerous 25-30 foot drop straight down to the river in Lisbon. The erosion is so bad in Fort Ransom that some homes are in danger of losing their septic systems and even some houses themselves. Because of this problem, the Natural Resources Conservation Service has approved funding for bank stabilization in the Fort Ransom area.

Lisbon was forced to run extra pumps and bypass its lift station for just over a month, which meant putting sewer water directly into the river. It also began the buyout of homes, starting at 18 with more to come in the future. Lisbon City Councilman Jerry Gemar says the threat of major flooding in the area is also affecting the city's population, causing residents to move out and many new people who come to work at two manufacturing plants to look elsewhere.

The major flooding Lisbon has experienced over the past three years has depleted the city's funds and it is now at the point of financial instability, where normal community operations are at risk. The net worth of Lisbon in 2008 before the three major floods was just over \$3 million. Today it is just over \$1 million.

The last three flooding disasters have exhausted

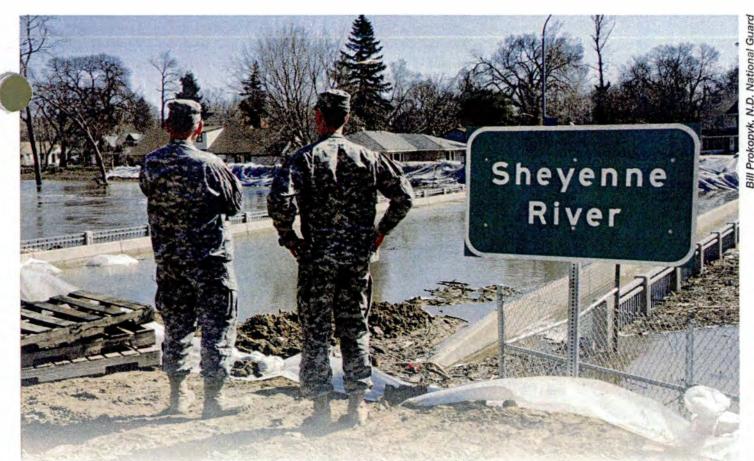
the city of Fort Ransom's finances, as well. Even with the protection of emergency clay levees, the city has sustained hundreds of thousands of dollars in damage to its infrastructure, homes, and parks.

High flows on the Sheyenne River extended for a long period of time. This continued to cause problems in the area near Kindred and extending downstream to beyond Harwood. Flows breaking out from the Sheyenne overtopped roadways, filling in fields, and threatening rural houses along the route.

#### Permanent Flood Control

Because of the frequency of flooding in the Red River Basin, most of the communities in the area either have or are working on permanent, long-term flood control solutions.

After considering and studying several alternatives for permanent flood control in Fargo-Moorhead, it was determined that a diversion project had the most benefits while minimizing the impacts downstream. The locally preferred project includes the construction of a 36-mile-long diversion channel in North Dakota that would direct floodwater around the Fargo-Moorhead metropolitan area. The plan would remove much of the Fargo-Moorhead area from the regulatory floodplain, and protect the Fargo-Moorhead area, and the communities of



Maj. Gen. David Sprynczynatyk, North Dakota adjutant general (left), and Capt. Lucas Klettke, Perham, Minn., stand on an earthen dike created to hold back the flooding Sheyenne River in Lisbon on April 24.

West Fargo, Horace, and Harwood from up to a 500-year flood event. The total estimated cost for this project is \$1.7 billion, and the project is currently in the feasibility phase. The report is scheduled to be signed by the Chief of Engineers in December 2011, which would allow the project to move forward for consideration in Congress for authorization and eventual funding. If no schedule delays are encountered, construction could begin in the spring of 2013 and the best case scenario would be that the project is completed in eight-and-a-half years.

But some areas outside of the greater Fargo-Moorhead metro area are still looking for answers to their flooding issues. "Valley City, Lisbon, and Fort Ransom are all very vulnerable. They need permanent protection, because right now they are playing with fire," Gjestvang says. Valley City is currently in the process of studying permanent flood control alternatives. Some of the options include:

- Immediate solutions, such as the buyout of 33 homes and other buildings in the floodplain at a cost of \$3.6 million.
- Medium-term solutions including another phase of buyouts and the construction of permanent floodwalls and clay levees, at a cost of \$20 million. This would protect Valley City State University and downtown Valley City.
- · Long-term solutions are currently being developed

with the Corps and State Water Commission, but could include additional buyouts, and the creation of additional upstream storage. The proposed upstream storage near Cooperstown has a holding capacity four times that of Lake Ashtabula, and would reduce the high flows from 30 days to three days. This would benefit the cities of Lisbon and Fort Ransom, as well. The estimated cost of these long-term solutions is \$20-30 million.

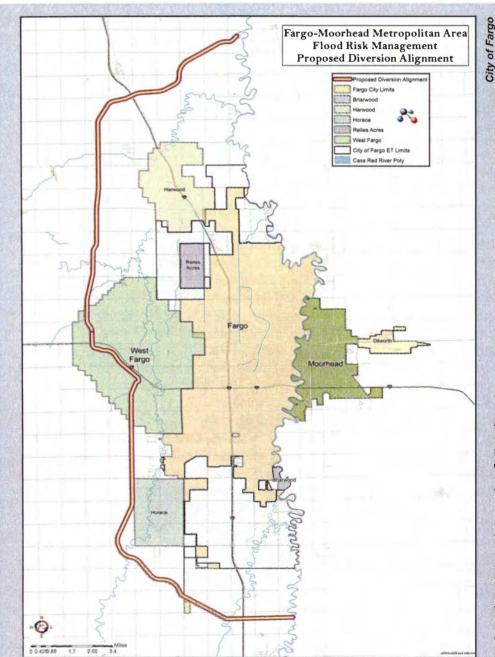
Many of the smaller communities along the Red and its tributaries already have flood protection. Wahpeton is protected except in the case of an extreme flood. Grafton has been in the process of moving forward with a Corpssponsored permanent flood protection for years. However, that project is currently on hold awaiting additional appropriations. Drayton has some flood protection measures in place, but current problems with bank slippage are making it more difficult to plan for more permanent flood protection. Pembina has a project, but is planning on raising its dike for even more protection. The Pembina levee has been tested the last three years in a row and the city is now moving forward with its recertification of the levee.

The Red River Basin Commission (RRBC), with funding from North Dakota and Minnesota, has been working on a long-term flood solutions report that will be published in early 2012. Public, local, state, and federal input was obtained to determine the extent of the flooding problem and views on potential solutions. Numerous committees assisted with technical, modeling, policy, economic, governance, impediments, challenges, costs, and funding issues. This information shaped the conclusions and recommendations in the report that identify what is needed to achieve higher levels of flood protection, what solutions provide these desired results, a cost and timeline to achieve these results, and the economic benefits of achieving these results.

The communities along the Red River and its tributaries once again dodged a bullet in 2011. This nearly recordbreaking flood, while not making statewide and national headlines, was still a major event that cost the area millions

of dollars in prevention and damage control, thousands of volunteer hours, and countless hours of worry for its residents. Permanent flood protection, while expensive, is necessary to protecting the region's infrastructure and economic well-being, as well as the safety of the most populated area in North Dakota.

Fargo Mayor Dennis Walaker says that with 20 percent of the state's population in this area, and even more that travel from outlying areas to work in the city, a flood similar to Minot's could cost the area \$6 to \$10 billion. "Is it going to take us losing to get this done?" he says. "We need to learn lessons from what happened in Minot this year and Grand Forks in '97. It shouldn't take a tragedy to get permanent flood protection."



After considering and studying several alternatives for permanent flood control, it was determined that a Fargo-Moorhead diversion project had the most benefits while minimizing downstream impacts. The preferred project includes the construction of a 36-mile-long diversion channel in North Dakota that would direct floodwater around the Fargo-Moorhead metropolitan area. The plan would remove much of the Fargo-Moorhead area from the regulatory floodplain, and protect not only the Fargo-Moorhead area, but also the communities of West Fargo, Horace, and Harwood from up to a 500-year flood event. The total estimated cost for the project is \$1.7 billion.

# Coclean Lois and Neil Larson

In January of 1977, Lois and Neil Larson moved into the second home in Lake Shure Estates north of West Fargo near Harwood. Ted and Emily Veen had the first house in this subdivision. Today, there are more than 30 homes in this area.

Neil, who says his house was built on the 100-year floodplain, says that for nearly 20 years he lived just west of his current home and for all those 20 years, he never had to lift a sandbag. Then came the flood of 1997. "The area flooded really bad," he says. County Road 17 West and 52nd Avenue were completely under water and nobody could get in or out of the development. Larson says this has happened five to seven times since then. This year was one of those times.

When the Sheyenne River spills over its banks it travels east and dumps into the Lake Shure area, causing overland flooding that covers or washes out all the development's roads. When this happens, for three to four weeks, Lake Shure is an island, and the only way in or out is by boat. Because Larson's house was built on the 100-year floodplain, it is the only house in the area that has access to the outside world.

"They call this area 'Larson's Landing," Neil says of his property. "Every day, people boat from their houses to mine where eir cars are, 50-60 cars in all, so they can drive to work, school, d wherever else they need to go. At the end of the day, they drive back to my place, park their cars along the township road, and boat home. I get everyone's mail and newspapers, and at the end of every day, I distribute it all in my driveway."

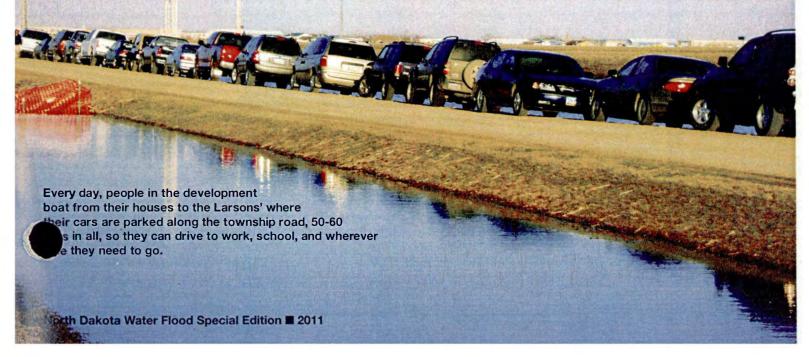
During every flood, efforts have been made to fix 52nd Avenue, but to no avail. The swelling Sheyenne River washes it out almost as fast as it is repaired. This year, however, Cass County built a temporary bridge over the road to give Lake Shure residents relief from what would have been more than a month of commuting by boat.



Ted and Emily Veen (left) and Lois and Neil Larson (right), were the first and second homeowners in the Lake Shure development.

The bridge was a welcome improvement for Lake Shure residents. "It really gets old for everyone," Larson says, "and it's not just the inconvenience we all worry about, it's safety, too. We've had some really close calls with whitecaps. One neighbor was in a blow-up raft that hit a chunk of ice. The raft blew up and we had to get them out of the freezing cold water."

Larson says all the homes were built before the 1997 flood. There are a few homeowners that have built dikes to protect their homes, but the township roads are the problem. "The quality of life is great here, but we are waiting for one of the roads to be built up so we have access all year long."



#### Missouri River, Williston

- 1) 30.53 ft on 6/21/11
- 2) 28.00 ft on 4/NA\*\*/1912
- 3) 26.60 ft on 3/8/94

No established flood stage

#### Mouse River, Sherwood

- 1) 28.16 ft on 6/23/11
- 2) 25.15 ft on 4/10/76
- 3) 24.72 ft\* on 4/11/69

NWS flood stage 18 ft

#### Mouse River, Minot

- 1) 24.37 ft on 6/25/11
- 2) 21.90 ft on 4/20/1904
- 3) 21.30 ft on 4/17/76

NWS flood stage 14 ft

#### Yellowstone River, Sidney, Mont.

- 1) 24.03 ft\* on 3/6/94
- 2) 22.08 ft on 3/19/11
- 3) 21.67 ft on 2/17/71 NWS flood stage 19 ft

#### Little Missouri River, Medora

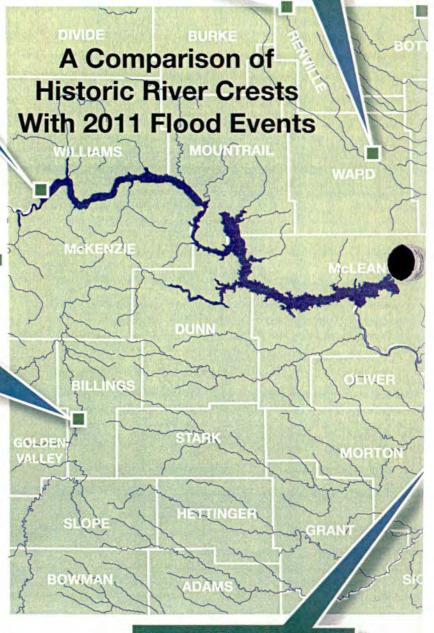
- 1) 20.50 ft on 3/23/47
- 2) 20.39 ft on 5/25/11
- 3) 18.68 ft\* on 3/11/72
- NWS flood stage 15 ft

The purpose of this map is to provide a glimpse of the severity of the 2011 flood events in various river systems throughout the state. At every location depicted on the map, the top three historic crests are listed, along with the National Weather Service (NWS) established flood stage. For every location on the map, the 2011 peaks were at least in the top three. (Note that not every location in the state that experienced a top three historic crest in 2011 was depicted on the map.)

All of the data were provided through the United States Geological Survey's Water Watch website. Also note that all 2011 data are provisional and are subject to revision.

\*Gage height affected by backwater from ice.

\*\*NA means no specific date is available.



Missouri River, Bismarck (Post Garrison Dam)

- 1) 19.25 ft on 7/1/11
- 2) 16.11 ft\* on 3/24/09
- 3) 14.80 ft\* on 1/13/83

NWS flood stage 16 ft





#### Mauvais Coulee, Cando

- 1) 12.42 ft on 4/15/11
- 2) 11.68 ft on 4/21/97
- 3) 11.57 ft on 4/15/09

No established flood stage

#### **Sheyenne River, Warwick**

- 1) 9.29 ft on 4/11/11
- 2) 8.43 ft on 4/16/09
- 3) 8.08 ft on 4/21/97

No established flood stage



#### **Red River, Pembina**

- 1) 54.94 ft on 4/26/97
- 2) 52.71 ft on 4/15/09
- 3) 52.06 ft on 4/24/11

NWS flood stage 39 ft

#### Red River, Grand Forks

- 1) 54.35 ft on 4/22/97
- 2) 50.20 ft on 4/10/1897
- 3) 49.88 ft on 4/14/11

NWS flood stage 28 ft

#### Sheyenne River, Cooperstown

- 1) 19.51 ft on 4/14/11
- 2) 19.13 ft on 4/18/96
- 3) 18.69 ft on 4/17/50

No established flood stage

#### Red River, Fargo

- 1) 40.84 ft on 3/28/09
- 2) 39.72 ft on 4/18/97
- 3) 38.81 ft on 4/9/11

NWS flood stage 18 ft

#### Sheyenne River, Lisbon

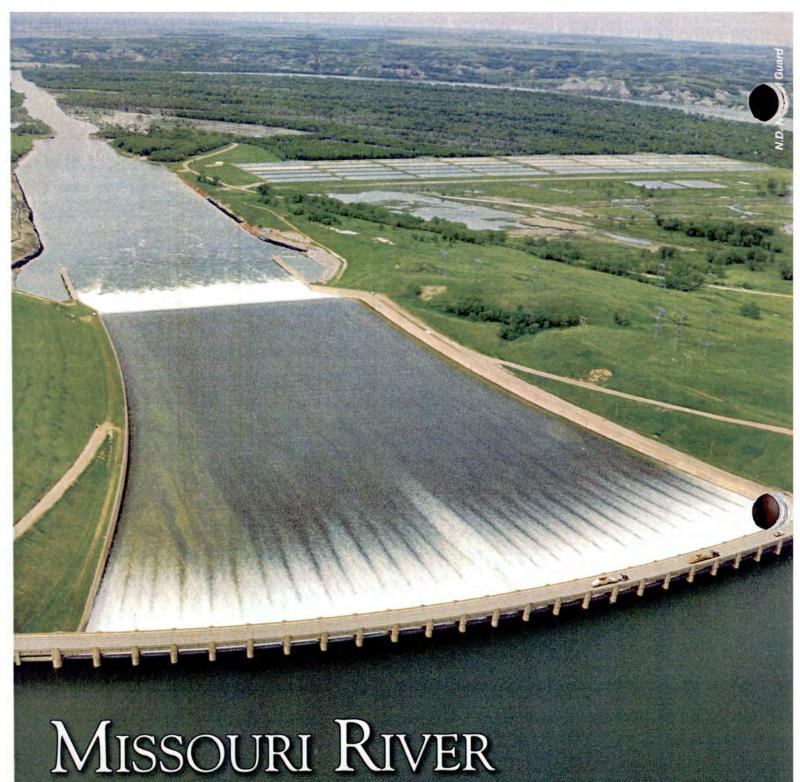
- 1) 22.86 ft on 4/16/09
- 2) 21.69 ft on 4/20/11
- 3) 19.46\* ft on 3/22/10

NWS flood stage 15 ft

#### Sheyenne River, Valley City

- 1) 20.69 ft on 4/13/09
- 2) 20.66 ft on 4/18/11
- 3) 18.78 ft on 4/21/96

NWS flood stage 15 ft



# Missouri River Flooding

For the first time since the Garrison Dam was constructed nearly 60 years ago, the emergency spillway was used to release floodwater in 2011.

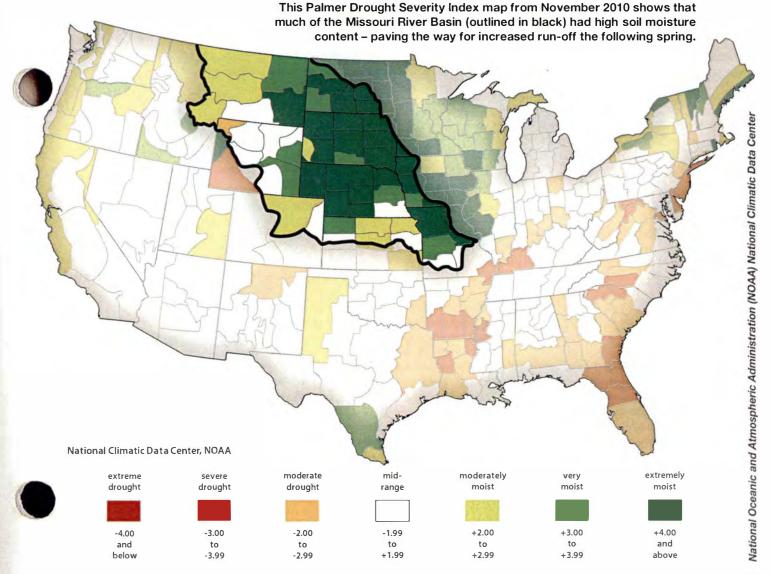
For decades, following the completion of Garrison Dam, there was little if any thought of flooding along the issouri River in Bismarck-Mandan and areas upstream. at all that changed in March 2009 when an ice jam formed and flooded several neighborhoods in south Bismarck. That event was atypical to much of the state's citizenry in the sense that it occurred along the thought-to-be "protected" Missouri River. However, it was typical in the sense that North Dakotans expect to see flooding, at least to some degree, and in at least a few river basins, every spring.

What made the Missouri River flood events of 2011 so unusual was that spring runoff came and went with little impact. In fact, by the end of April, the gage height of the Missouri River in Bismarck-Mandan had dropped to 6.4 feet, or about 9.6 feet below flood stage. To most people, it looked as though it would be another typical year of summer-time recreation along the banks of the Missouri River. But, signs were there that 2011 might not be typical at all.

#### **Meteorological Conditions**

"To understand why historic flooding occurred on the Missouri River in 2011, you have to turn back the calendar to 2010," says Darin Langerud, director of the Atmoshperic Resources Division at the State Water Commission. "Above-average precipitation in the upper Missouri Basin in 2010 led to nearly saturated soil conditions by late fall. As winter set in, the Palmer Drought Severity Index (PDSI) showed all of North Dakota and eastern Montana at the upper end of the soil moisture scale, setting the stage for a potentially large runoff event during the spring of 2011."

Of course, major runoff would only be generated if precipitation during the winter of 2010-2011 was unusually heavy. And it was, due at least in part to a strong La Nina event in the equatorial Pacific Ocean. "La Nina's much cooler than normal ocean waters, of nearly two degrees Celsius, set in place a persistent storm track over the northern United States, transporting several significant storm events through the region during the winter months.



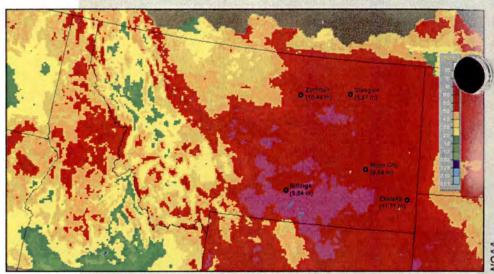
The resulting precipitation left records falling like dominoes in the upper Missouri River Basin," says Langerud.

Case in point, Glasgow, Mont., which averages 30 inches of snowfall a year, broke its all-time winter snowfall record by the end of January. When the snow season finally stopped, a new record of 108.6 inches had fallen on the city, shattering the previous record of 70.7 inches set during the winter of 2003-2004. Then came May with 6.97 inches of rain, a record for the month. The first five months of 2011 saw 10.39 inches of precipitation fall in Glasgow, the most since records were kept starting in 1893.

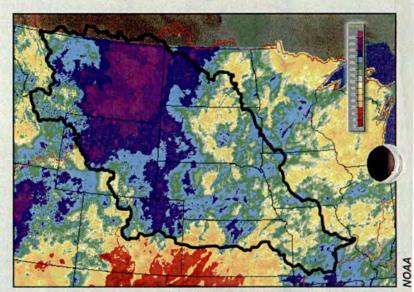
But Glasgow wasn't an isolated case. Several other locations in the upper basin also reported record precipitation amounts. Williston broke its all-time snowfall record with 107.2 inches. The tiny town of Zortman, Mont., located northwest of Fort Peck Lake, measured 16.44 inches of rain in May, an all-time monthly record for Montana. In the Yellowstone River Basin, Billings reported 9.54 inches in May with Miles City not far behind at 8.84 inches. And Ekalaka, in the Upper Little Missouri Basin, reported 11.71 inches, three-quarters of its average annual precipitation, in one month.

And before the massive rains came, there was heavy snowpack in both the Rocky Mountains and plains areas. Snow arrived early and came often during the winter of 2010-2011. By the time it was all said and done, the snowpack in the reach above Fort Peck peaked on May 2 at 141 percent of normal. Snowpack in the reach above Garrison peaked on the same day at 136 percent of normal.

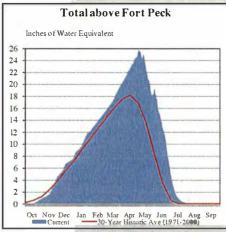
According to the U.S. Army Corps of Engineers (Corps), May runoff was 10.5 million acre-feet (MAF), the third highest single month since 1898, June was the single highest month on record with 13.8 MAF of runoff, and July was the fifth highest. "The combined runoff for May through July totaled 34.3 million acre-feet, nearly 40 percent greater than the normal total annual runoff of 24.8 million acre-feet," says Jody Farhat, chief of the Water Management Division at the Corps' Northwestern Division. "In addition, the three-month runoff volume was greater than the total annual runoff in 102 of the 113 years in the historic record."



Massive rainfalls in eastern Montana in the month of May quickly changed runoff forecasts for the Missouri River Basin.



For the month of May, precipitation values averaged 300 to 400 percent of normal over the eastern third of Montana, while western North Dakota received between 150 and 300 percent of average precipitation.

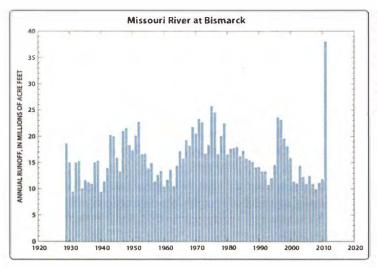




Missouri River Basin mountain and plains snowpack water content 2010-2011.

Farhat also says that the 2011 flood events along the Missouri River system were "...due to a combination unoff from heavy plains snowpack, near record untain snowpack, and much above normal rainfall experienced in the upper basin during May and June. At the beginning of the runoff season, we had evacuated all of the floodwaters from last year and the reservoirs were prepared to capture [2011] runoff. The game-changer was the rain in the upper basin that came into the system during the last few weeks of May."

All of the snow and rainfall from last winter, spring, and summer resulted in forecasted runoff by the Corps of 60.4 MAF above Sioux city, Iowa, or 244 percent of



#### TIMELINE OF EVENTS LEADING TO 2011 MIGGOURI BIVER FLOOD

**APRIL 1** – The total mountain snowpack above Fort Peck was 116 percent of normal, and the total mountain snowpack between Fort Peck and Garrison was 112 percent of normal.

APRIL 20 – North Dakota State Engineer Todd Sando sent a letter to Brigadier Gen. John McMahon, commander of the Corps' Portland Division, stating his concern with the high volume of water in the reservoirs, the unknown snowpack, and the relatively low downstream releases. I am concerned with the high levels of Lake Sakakawea and Lake Oahe, and the above-normal snowpack that will be generating a great deal of additional runoff. We are concerned your forecast does not adequately address the current conditions of the basin and the potential for above normal precipitation this summer," said Sando.

MAY 1 – The Corps releases mountain snowpack data showing snowpack conditions that were 136 and 141 percent of normal above Fort Peck and between Fort Peck and Garrison, respectively.

MY 5 – Several officials from all levels of government meet in Bismarck to discuss the potential for high releases out of Lake Sakakawea. According to the Corps' forecast at the time, there was the potential for releases of 55,000 cubic feet per second (cfs). The estimated peak stage in Bismarck-Mandan at that flow was 14 feet – two feet below flood stage.

**MAY 6** – A Corps news release states that it is planning to increase releases out of Garrison Dam to 49,000 cfs by the middle of May.

MAY 10 & 11 – About two-and-a half to three-and-a half ches of rain fall in eastern Montana.

Garrison Dam releases will increase to 60,000 cfs. More and more individuals in Burleigh and Morton counties begin

to build flood protection around their property.

\*\*MAY 20 TO 22 - Several areas in eastern Montana, western

South Dakota, and northern Wyoming receive five to eight inches of rain.

WAY 23 – The Corps announces Garrison Dam releases will increase to 75,000 cfs. Temporary levee constructions begin in south Bismarck.

**MAY 24** – The Corps announces Garrison Dam releases will increase to 85,000 cfs.

**MAY 25** – Another one-and-a-half to two inches of rain falls over eastern Montana. Temporary levee construction begins in Mandan.

**MAY 26** – The Corps announces it will increase releases to 110,000-120,000 cfs from the lower five reservoirs, and 50,000 cfs from Fort Peck.

MAY 28 – The Corps anticipates more rain and announces that releases will increase to 150,000 cfs from the lower five reservoirs, and 50,000 cfs from Fort Peck. At this level of flow, people in Bismarck-Mandan are asked to prepare for a flood stage of 20.6 feet, or 4.6 feet above flood stage.

**MAY 30 & 31** – Another two to four inches of rain falls in Montana.

JUNE 1 – The spillway gates at Garrison Dam are opened for the first time in history to release floodwater.

JUNE 2 – The Missouri River creeps above its 16-foot flood stage in Bismarck-Mandan (and remained above flood stage until the early morning hours of Aug. 18).

JUNE 19 – From the time the spillway is opened on June 1, Garrison Dam releases are gradually ramped up over a few weeks to a record 150,000 cfs on this date.

JULY 1- The Missouri River peaks in Bismarck at 19.23 feet.

normal, surpassing the prior record of 49 MAF in 1997. Ultimately, all of that water would result in the largest flood event that had ever been recorded since European settlement along the mainstem of the Missouri River.

#### The 2011 Flood Fight

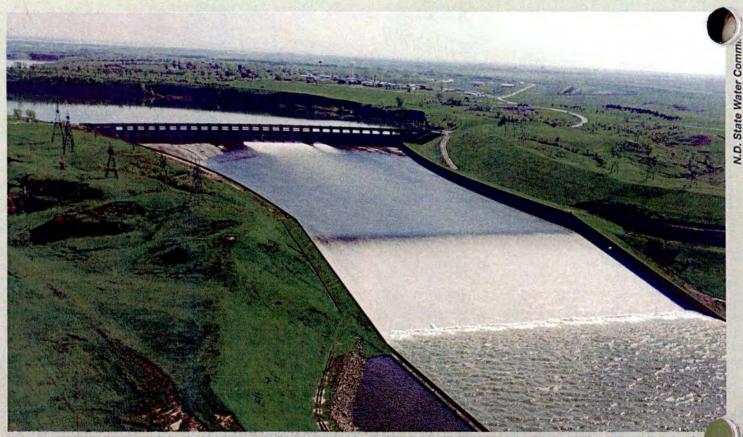
While the previous discussion of meteorological events provides a more general overview of the natural events that led to flooding along the Missouri River, the timeline on page 29 underscores key events more specifically. These events are what led to a massive flood fighting effort along the Missouri River mainstem.

As quickly as weather conditions and resulting forecasts changed from day to day toward the later part of May, so did the intensity of flood fighting efforts. However, it wasn't until after the massive rainfalls in eastern Montana between May 20 and 22, and the subsequent Garrison Dam release forecasts in the days that followed, that the Bismarck-Mandan area flood fight moved into high gear. What happened over the course of the next two weeks in terms of flood response in Bismarck-Mandan, and in surrounding areas (on the part of government and individuals), was nothing less than incredible by any

account.

As Gov. Jack Dalrymple said at a June 2 press conference, "The amount of work that has been accomplished in the last week, frankly, is nothing short of phenomenal. I have seen some individual structures built around houses that look like they should take a month to build, and they've been done in a week."

In response to forecasted river levels, sandbag filling stations were established in various locations throughout the Bismarck-Mandan community, and in rural housing developments. Until Dalrymple called on the North Dakota National Guard to assist in the Missouri River flood fight on May 24, sandbagging efforts were being handled by property owners and a few volunteers. On that same date, Sandbag Central North and South were opened at the Missouri Valley Fairgrounds and Northern Plains Commerce Center, along with several other self-fill sites throughout the community and in rural areas. Over the course of the flood-fight, it is estimated that approximately 11 million sandbags were filled and placed in Bismarck and Burleigh County. Across the river in Mandan and in rural Morton County, about 3 million sandbags were filled and placed – with a combined total for the communities



On the morning of June 1 (pictured), seven of 28 spillway gates at Garrison Dam were opened for the first time ever to releat floodwater. All 28 gates were eventually opened, and the spillway was operated for 77 straight days until the last of the gates was closed Aug. 17. Garrison Dam releases ultimately reached a record 150,000 cfs on June 19. The previous record release was set in 1975 at 65,200 cfs.

and counties of about 14 million sandbags. To put that number into perspective, the city of Fargo during its record od fight in 2009, filled and placed 3.5 million sandbags. Other communities and counties did their part in the Missouri River flood fight as well. Fargo, Cass County, and Grand Forks all donated sandbag-filling spider machines, and North Dakota's Department of Emergency Services and Cavalier County both donated Mega Baggers. The donations of these machines greatly improved the rate at which bags were filled during the critical days in advance of the river's peak. In addition, more than 308,000 filled sandbags were trucked to the greater Bismarck-Mandan area from donors like Fargo (150,000), Moorhead (75,000), Davenport (number of bags unknown), Ransom County (20,000), Barnes County (62,000), and Abrasives Incorporated (1,300).

Temporary levee construction efforts in both Bismarck and Mandan were another critical part of the Missouri River flood fight. They were also an extremely successful element of the flood fight. "What is remarkable, and what a lot of people outside the community don't know, is not one home within the city limits of Bismarck or Mandan got floodwater on their main floor," says State Engineer

Todd Sando. "Considering the magnitude of the flood event we experienced here along the Missouri, that's pretty amazing."

According to Jeff Heintz, Bismarck's director of Public Works, levee construction efforts in Bismarck began May 23 with a HESCO barrier placed along Riverwood Drive, and a grade raise on another nearby street. The goal was to have all the necessary temporary levees completed by June 4, and when all was said and done, 24,920 linear feet, or 4.7 miles of levees were built in less than two weeks.

Across the river, Morton County Emergency Manager Tammy Lapp-Harris, and Mandan City Engineer Dave Bechtel, reported that temporary levee construction efforts began along 19th Street on May 25. The levee constructions were completed by the city of Mandan and the Corps, with help from the North Dakota National Guard. Ultimately, 26,970 linear feet, or 5.1 miles of temporary levees were constructed in south Mandan in just under two weeks.

What became extremely difficult for leaders in Bismarck-Mandan and Burleigh and Morton counties in days leading up to the flood crest was where to put levee alignments. As local officials throughout the state and even

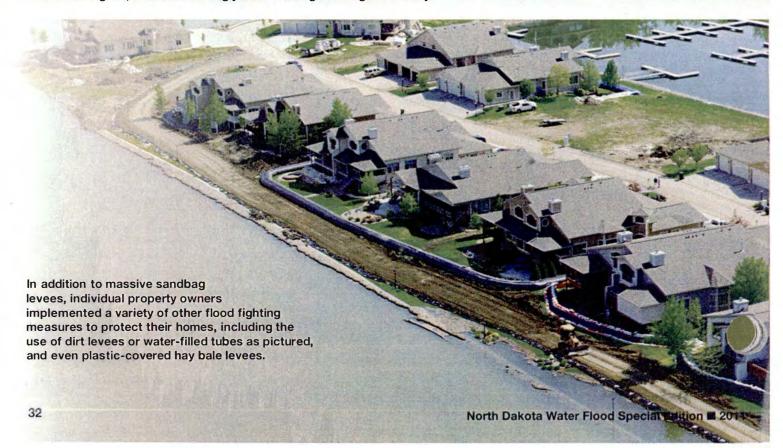


Thousands of volunteers worked side-by-side with National Guard soldiers to fill sandbags at sandbag central locations in Bismarck and Mandan (pictured) in days leading up to the Missouri River exceeding flood stage.

City of Mandan



Even after homeowners completed temporary levees to protect their homes, they had to continually monitor their levees, and pump seeping water from the sandy soils under their homes. With the Missouri River above flood stage for 78 days, from June 2 to Aug. 18, it was a seemingly never-ending flood fight for many.



country know, it is not a decision that they take lightly when the call has to be made of what homes will be saved, d what ones cannot. As Burleigh County Commissioner an Bitner said at the annual summer North Dakota Water Resource Districts Association meeting in Bismarck, the decision on dike locations, knowing that some homes



A city of Bismarck employee puts the finishing touches on a HESCO levee along Riverwood Drive.

would be on the dry side, and some would be on the wet e, was one of the hardest decisions of his life. In addition to levee constructions, the city of Mandan also moved forward with an aggressive approach to reduce impacts from groundwater seepage. At a council meeting, late in the evening of May 30, the city of Mandan opted to move forward with projects to plug marina entrances at Lakewood, Marina Bay, and Borden Harbor. The Corps also later installed a plug at Bridgeview Bay.

As reported at a May 31 press conference by Mandan Mayor Tim Helbling, the effort to close off the marinas from the river had nothing to do with protecting homes from surface water flooding, but rather was an effort to reduce impacts to homes from groundwater. Once the marinas were plugged, pumps were used to draw water levels down within the bays. "We're going to do all the bays," said Helbling. "And, we're going to do whatever we can to protect those houses." In the end, that aggressive approach proved to be successful in reducing groundwater impacts to surrounding homes. Toward the later part of June, individual property owners in south Bismarck also moved forward with a similar marina plugging effort in the Southport neighborhood.

Though the main flood fight in North Dakota along the Missouri River was waged in Burleigh and Morton nties, there were also some close calls to the far north south. In Williston, boils (or leaks) formed in the city's permanent levee that had been in place for decades. There was concern that the boils could ultimately result in failure

of the levee, which could have jeopardized the city's water supply and sewage treatment facility. However, the boils were addressed by the Corps, and the crisis was averted.

To the south, along the shores of Lake Oahe at Fort Yates, the Corps moved forward with a project to shore up the town's decades-old levee and causeway. As the Missouri River filled Lake Oahe, rising water levels and wave action began to raise concerns over potential problems from erosion. Additional rock and fill was brought in, and the community was protected from encroaching floodwater.

#### Flood-related Damages

As mentioned previously, the Missouri River crept above its 16-foot flood stage on June 2, and remained there for 78 days, until Aug. 18. During those agonizing weeks, many homeowners were spared the torment of watching their homes becoming flooded due to the massive flood preparations that were put in place. However, hundreds of other homeowners were not spared from watching the Missouri River flood their homes and



The city of Mandan works to plug the entrance of Lakewood Harbor – closing it off from the Missouri River. Approximately 1,700 truckloads, hauling 32,000 cubic yards of fill were necessary for this project. At Marina Bay and Borden Harbor, approximately 2,300 and 1,000 truckloads of fill were required to install plugs at those locations, respectively.

property, and destroy a part of them.

According to Morton County Commissioner Bruce Strinden, 174 homes were evacuated because of Missouri River flooding, and 77 homes received moderate to severe flood-related damages. Across the river in Burleigh County, Emergency Manager Mary Senger reported that at the height of the flooding, 706 homes were evacuated due to access issues or actual flooding. Burleigh County Finance Director Clyde Thompson said they had documented 602 flood-impacted homes. In terms of evacuations, approximately 1,000 people were evacuated

from Burleigh and Morton counties during the Missouri River flood.

With regard to the actual damages and impacts of the 2011 Missouri River flood in North Dakota, it is difficult to adequately portray the social and environmental toll the swollen Missouri River inflicted within its vast floodplain. For that reason, the photos on the following page and throughout this section provide a better means of telling the story of what happened in 2011 along the Missouri River. As they say – a picture is worth a thousand words.

#### After The Flood

In the wake of the 2011 flood events along the Missouri River, a number of efforts are underway at all levels of government to ensure that impacts from similar future floods are far less devastating.

At the local level, there have been some discussions of bringing together Bismarck, Mandan, Burleigh and Morton counties, and local water boards to formally talk about coordination of flood damage reduction efforts throughout the Missouri River corridor in the greater Bismarck-Mandan metro area.

At the basin level, governors from six Missouri River Basin states, including North Dakota, Nebraska, Kansas, South Dakota, Iowa, and Missouri had gathered on two occasions (as of October) – calling for improved flood management along the Missouri. The governors also signed a joint letter, asking the Corps to provide recommendations for future river system operations that provide greater flood protection.

"Important questions remain regarding the manageme of the Missouri River system," says Dalrymple. "We need to know more about how the system was managed leading up to this year's historic flooding and how it can be better managed in the future."

"States along the Missouri River need better and more timely information and we need to have direct involvement in the system's operations because there seems to be a huge deficiency in governance of the river," Dalrymple says.

At the time this was written, the aforementioned governors had met twice and were planning to meet again to discuss Missouri River management improvements and further review of the 2011 flood events.

At the federal level, a Missouri River Flood Task Force (MRFTF) has been established to improve flood risk management efforts along the Missouri River. According to a fact-sheet provided by the MRFTF co-chairs, including the Corps, the Federal Emergency Management Agency, and the Natural Resources Conservation Service, the purpose of this efforts is to provide a temporary forum for coordination, collaboration, and cooperation among the federal officials and designated officers of state, local and tribal governments within the Missouri River Basin. The mission of the MRFTF is to complete initial repairs March 2012, and to conduct long-term recovery activitie in response to the Missouri River Basin flood of 2011



Trucks line up along Bismarck Expressway with fill used to plug the entrance of Marina Bay.



The power of the Missouri River became extremely evident when it claimed this home along its banks on Hogue Island.

address flood-plain management challenges and keep apprehensive flood risk reduction as a top priority.

#### An Uncertain Future

As the 2011-2012 winter sets in throughout the Missouri River Basin, many questions remain among basin residents from Montana to Missouri. Of primary interest is the question of when, not if, a similar flood event to 2011 will occur. And what, if anything, could have been done differently at all levels of government in 2011 to reduce impacts.

"After the flooding we saw this past summer – clearly

there's a need to look at what happened, and to set in motion efforts to reduce our vulnerability to future floods," says Sando. Even with some of the nation's largest dams and reservoirs in place along the Missouri River, it still wasn't enough to stack up against what Mother Nature brought to bare. "If we're going to be successful in reducing our risk to flooding along the Missouri River, all the basin states need to work together with the Corps toward this common cause," says Sando. "We need to look at a host of options beyond just storage; like system operational changes, levees, and of course – floodplain management."



Bank erosion and sedimentation from the 2011 flood will cause problems along the Missouri River for years to come.



Stagnant, algae-filled water surrounds a home in rural Burleigh County.

Mary Senger, Burleigh Count Emergency Management

# -Cooled: BILL AND MARY SHARFF

In August 2010, Bill and Mary Sharff were thrilled to find and purchase their dream home on Hogue Island, near the Missouri River north of Bismarck. With Mary already retired, and Bill planning to retire himself within the next 18 months, the home and yard had all the amenities they were looking for as a place to spend their retirement years.

For only about nine months, Bill and Mary were able to enjoy quiet country living on Hogue Island. But in May 2011, the couple's concerns over potential Missouri River flooding began to grow as forecast after forecast called for increasing water levels in the Missouri River, which was only one block from their home.

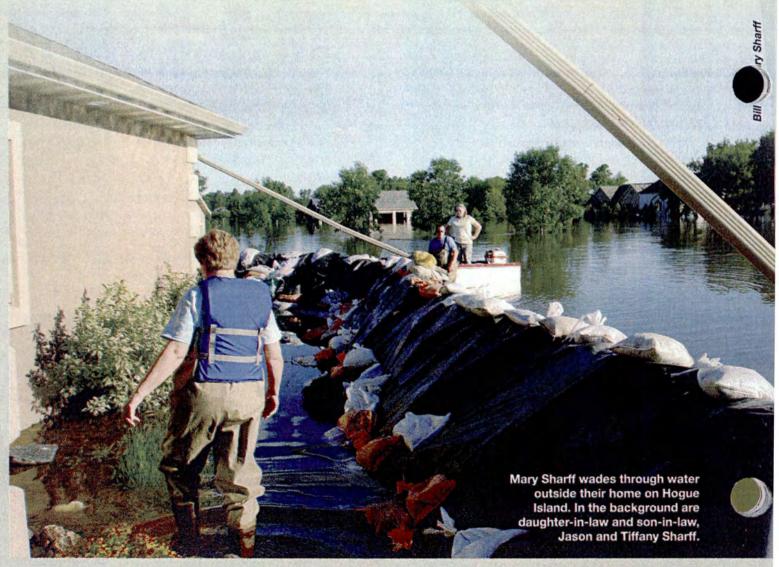
"I just never thought there would be a major flood," Bill says. "I knew there might be some isolated flooding from ice jams like there was in 2009, but with Garrison Dam upstream, I just didn't think we were in danger."

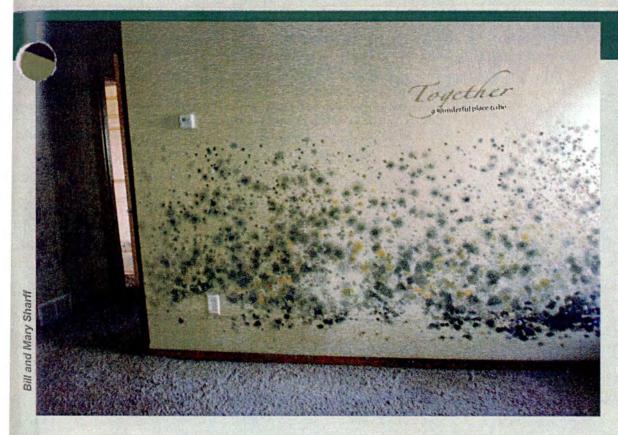
With releases out of Garrison Dam scheduled to increase to an unprecedented 85,000 cubic feet per second (cfs) on May 24, Bill and Mary made the decision the following day to contact friends and relatives to start building a temporary levee around their home – just in case.

But on May 26, their world was abruptly turned upside down.

As Bill and friends and relatives were filling sandbags to protect their home, the announcement was made at the sandbag filling station that the Corps was going to increase Garrison Dam releases to as high as 120,000 cfs (this was later increased to 150,000 cfs). At that point Bill headed home to alert his wife and to talk about their options.

"That was really a game changer," he says. "I knew at those projected river levels, we were going to get flooded





This was a common sight that many homeowners were faced with after they went back to their once-flooded homes. The Sharff home had 14-inches of water on the main floor, however, mold still covered every wall and ceiling.

didn't have a lot of time. Either we had to spend the next couple days building a levee to stay and fight, or we needed to spend that precious time getting as many of our possessions as possible to a safe location."

Though it was one of the most difficult decisions they ever had to make, they opted to let their home be at the mercy of the Mighty Mo, and started moving their possessions to a friend's home on high ground in Mandan. At the same time, a relative with a skid-steer began constructing an earthen ring dike around the home to possibly buy them some additional time.

Coincidentally, on that same day, months of planning and preparation by Bill's family were supposed to come to fruition with the surprise arrival of their daughter, Kara, from Argentina.

"It was just a surreal experience," Bill says. Over the course of a few hours, Bill and Mary had to make the gut wrenching decision to evacuate their home, while also experiencing the joyful arrival of Kara. "To say that it was an emotional rollercoaster is an understatement," Bill says.

Approximately a week later, the only access road to Hogue Island was overtopped by the swollen Missouri River, and the streets leading up to and surrounding the rff's home were eventually covered in up to four feet of the ter. From that time on, and over the course of the next couple months, the Sharffs made several boat trips out to their flooded home.

For about eight weeks, Bill and Mary estimate they had approximately 14 inches of water on their main floor. As time went on, every wall became covered with mold as high as nine feet up, and the humidity became so bad, that some cabinet doors above the water level warped and fell off.

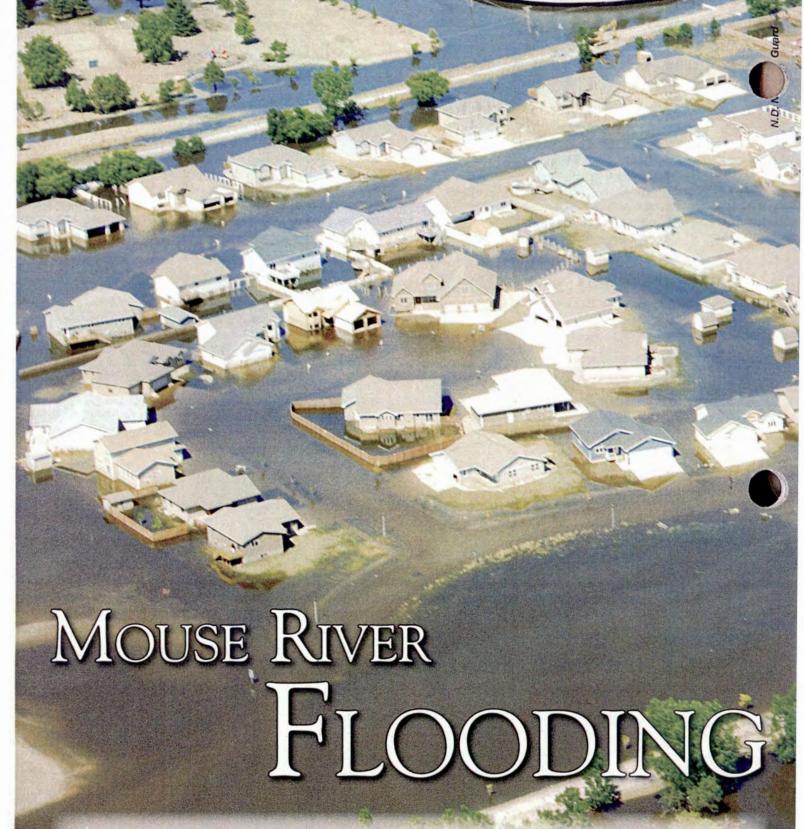
"It was a hopeless feeling – a helpless feeling – and a very sad time," Bill says. "Hopeless, because we had no control over what was going on. Helpless, because we didn't know where to go afterward... and depressing, because nobody wants to go up to their home in a boat and see water and mold in it."

As difficult as this story is, it's not unique. It's one that played out for hundreds of other homeowners along the Missouri River, and thousands along the Mouse River to the north.

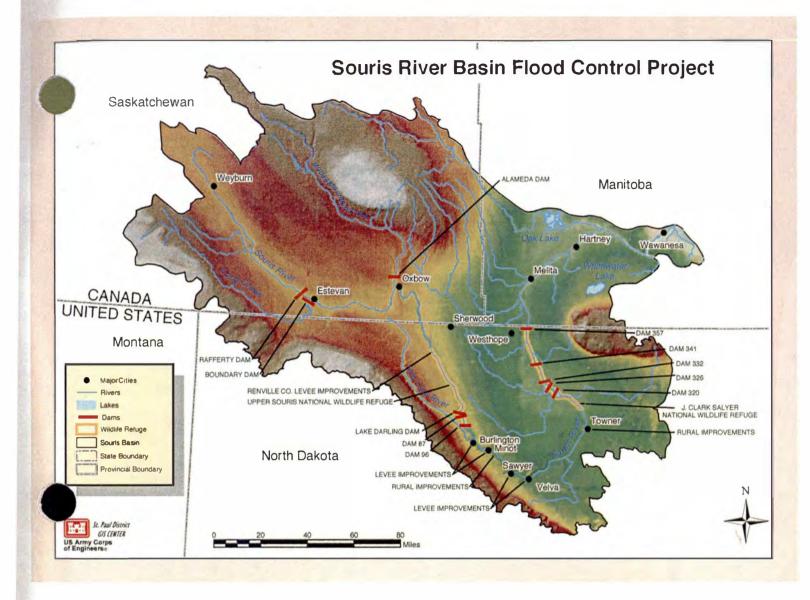
However, what is unique about the Sharffs' story is that this one ends with somewhat of a happy ending.

By complete coincidence, the Sharffs were sharing their story one day with a local construction company owner. This contractor ultimately purchased the Sharffs' home from them, and with the help of his construction crew, completely renovated it.

More recently, the Sharffs have purchased a different home and are looking forward to a new chapter in their lives. As far as location – Bill says they're "on a hill. We're not taking any chances!"



There were 4,200 Minot homes that were damaged or lost in the 2011 Mouse River flood. While most are salvageable, 805 homes were damaged beyond repair and have been or will be demolished. Some damaged homes have already been gutted, renovated, and are ready to move back in, and others are still being put back together. Only around 10 percent of the people in these homes had flood insurance to cover their damages.



Hopelessness. Destruction. Solidarity. Determination. Backbreaking hard work. Pride. Triumph. Not since 1997 has North Dakota seen what utter devastation and range of emotions a flood can bring to an entire community until this year. While every region of the state experienced epic flooding in 2011, no region felt it as hard as the Mouse River Basin.

#### The Mouse River

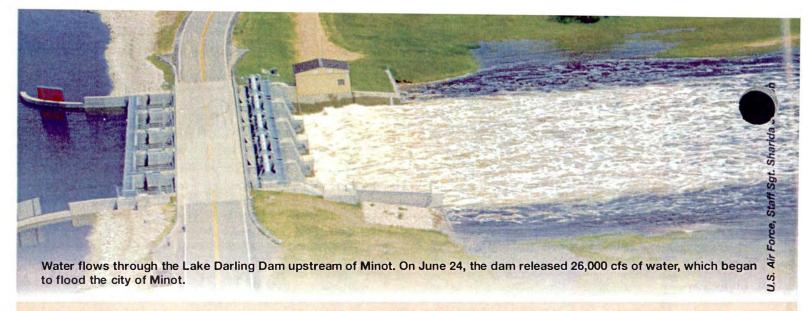
The Mouse River begins in Saskatchewan, Canada, winds its way into northwestern North Dakota, then turns north and returns to Canada. While in Canada, the river is known as the Souris, the French word for mouse; however, a 1961 North Dakota law states the river, while in North Dakota, is to be called the Mouse.

The Mouse River has three earthen dams along its 435 miles to control its extremely variable flows – the Alameda Rafferty dams in Saskatchewan and the Lake Darling in near Minot. Most people in the Mouse River Basin felt safe from flooding, knowing that these three dams would protect them from as much as a 100-year flood –

regulating flows to 5,000 cubic feet per second (cfs) plus another 2,000 cfs in freeboard, which is extensive when considering that normal flows are only 1,000 cfs or less most springs. But, when Mother Nature sets her mind on something, events can come together to result in the perfect storm.

#### Creating the Perfect Storm

The word unprecedented became commonplace this year when describing water in North Dakota. The meteorological conditions that contributed to the 2011 Mouse River Flood were extremely unusual. In order to comprehend the chain of weather events that set the flooding in motion, it is necessary to look back on the 2010 growing season. The entire Mouse River Basin received above-normal precipitation from April through September. In North Dakota, 150 to 200 percent of normal precipitation was commonplace along the Mouse River. According to Environment Canada, the spring of 2010 was southern Saskatchewan's wettest on record. As the growing season came to an end, unbelievable amounts of



#### THE 2011 MOUSE RIVER FLOOD, A TIMELINE TO TRAGEDY

There were many events in addition to the meteorological conditions that contributed to the massive flooding of the Mouse River. Because they occurred over a six-month timeframe, perhaps the best way to understand the flood is to detail the specific events that led up to it. The following is an abbreviated version of a timeline compiled by reporter Kim Fundingsland for the *Minot Daily News*.

JAN. 10 – The Saskatchewan Watershed Authority begins the first-ever winter releases from Rafferty Reservoir.

ominous Flood Potential Outlook for the Mouse River Basin. "The risk of flooding from late-winter into spring is well above normal for most locations in the Mouse River Basin. In fact, several locations do not have historical model solutions that would produce an orderly runoff with no flood risks," says NWS hydrologist Alan Schlag. "That goes through 60 years of historical data. It's probably in the top three in terms of water setting in the basin. The basic expectation is for a tremendous amount of water coming through the Mouse River Basin this spring. There's a pile of water for this time of year, a pile of water."

**FEB.** 25 – The NWS reports that models show this year's snowpack contains a water content ranked among the highest in the last 60 years.

MARCH 28 – Schlag makes a spring flood presentation at the Elmer Jesme Conference of Counties in Minot and says, "This is a significant flood event year. As far as Mouse River water, there is something pretty significant going on. There's lots of water setting on the ground in the Kenmare area and over the Des Lacs Basin. Even with a normal or gradual melt, there's going to be widespread flooding along the river. There's three-and-a-half to four-and-a-half inches of water below Rafferty and Alameda dams in Saskatchewan that has to come off this spring. That is

a recipe for disaster at this point. Those dams, and Lake Darling Dam, provide a great deal of protection but there's only so much they can do." All three dams in Saskatchewan are at or below flood storage zones.

**MARCH 30** – Minot begins its plans for emergency diking. The NWS confirms its forecast.

**APRIL 1** – Minot begins its preliminary plans for protection against 7,000 cfs

**APRIL 11** – The Lake Darling Dam releases 2,400 cfs. The first flooding occurs in Burlington.

**APRIL 12** – Burlington evacuations occur.

**APRIL 15** – A U.S. Geological Survey (USGS) news release claims it is the highest Mouse River streamflow in 40 years.

**APRIL 19** – Sherwood reaches 19.17 feet – flood stage is 18 feet.

**APRIL 20** – The USGS declares new record streamflows for the Mouse River Basin.

**APRIL 26** – The Saskatchewan Watershed Authority says, "The Souris River broke all-time flow records in its upper reaches, snow remains and flows are increasing."

MAY 2 – Rafferty reaches a season high of 1,816 feet, eight feet over the previous high and only two feet below overflow. A release rate of 2,118 cfs, causes localized flooding in Estevan, Saskatchewan. The Boundary Reservoir is within two-and-a-half inches of spilling.

MAY 10 – Rafferty and Boundary are declared "pass-through" facilities by the Saskatchewan Watershed Authority and advisory is issued for the basin.

MAY 11 – The Saskatchewan Watershed Authority announces
Rafferty is at its maximum allowable elevation, meaning

precipitation accumulated. Regina, Saskatchewan, just north of where the river originates, received a record 20.35

es of precipitation between April and September. Following the extremely wet growing season of 2010, North Dakota and Saskatchewan were bombarded with additional moisture in the form of heavy rain and snow before the ground froze in mid-November. Environment Canada reported that November 2010 was the snowiest on record for Regina and that nearly two-thirds of the city's average annual precipitation was received in snowfalls in October and November alone. Farther south at the Minot Experimental Station, similar conditions were reported. The station's snowfall through Dec. 3 had already reached

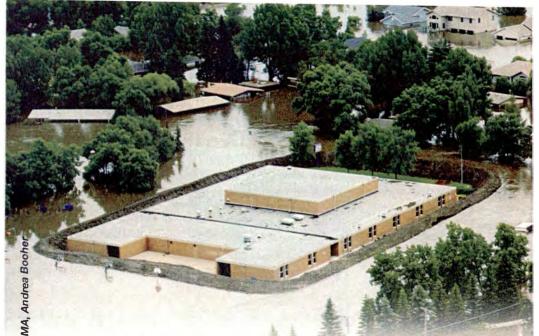
24.3 inches, just 15 inches under the July 1 through June 30 seasonal average.

The winter months in the Mouse River Basin continued to be snowier than average with below-average temperatures and these conditions raised considerable concerns for spring flooding. According to the March 1, 2011 Snow Water Equivalent Map, a widespread six to eight inches of water was already in place over the frozen, saturated soils before snowmelt even began.

Then, in early May, heavy rains began to fall. These rains consumed reservoir storages and set a new May 1 through June 30 record rainfall total for Estevan, Saskatchewan. Canada's The Weather Network reported

- outflows must match inflows. Boundary and Rafferty are also at maximum levels with no capacity to store further inflows. Alameda is expected to reach maximum elevation by May 17.
- MAY 12 "Rafferty is full. Boundary is full. Long Creek is running high and Alameda will be full. Lake Darling is expected to fill. When you add them all up, the cumulative is that it's pretty ugly," says Schlag.
  - 20 Minot city workers begin erecting HESCO barriers along 4th Avenue Northwest, other preparations are underway for a possible 7,000 cfs.
- MAY 24 The Minot City Council holds a special meeting to secure the services of the Corps of Engineers. "They tell me they'll start opening the gates on Thursday [May 26]," says Minot Public Works Director Alan Walter. "It's a race."
- MAY 25 Dike improvement is under way in Minot to protect against 9,000 cfs.
- MAY 26 Dike construction continues, and there are some road closures in Minot. Citizens are told there is no immediate need to evacuate but they should consider preparations to do so.
- MAY 31 The Saskatchewan Watershed Authority announces that the, "reservoirs have no capacity to store further inflows."
- JUNE 1 An estimated 10,000 Minot residents begin mandatory evacuations following a noon announcement to "get out of harm's way as soon as possible." Rainfall causes the Des Lacs River to rise seven feet at Foxholm in 24 hours. The NWS flood outlook calls for 1,555 feet at Broadway Bridge in Minot with 9,400 cfs.
- 2 Volunteer evacuees from Burlington are allowed to return home. The Corps says to expect 6,000 cfs at Sherwood. Minot evacuees are allowed to return home.

- JUNE 9 "The river is full, the dams are full, and we'll be riding that edge of vulnerability of very large precipitation events. That makes me nervous," says Schlag.
- JUNE 14 "You are living one day at a time because each rainstorm is a bullet that needs to be dodged," says Joshua Scheck of the NWS.
- JUNE 20 The Lake Darling Dam releases 8,600 cfs and the Saskatchewan dams are releasing 23,760 cfs. Mandatory evacuations are ordered again in Minot. "Rating curves just don't apply anymore," says Schlag.
- Saskatchewan reach 27,181 cfs, an additional 1,765 cfs is released from Alameda for a total of 28,946 cfs. "What I see right now is probably the most devastating in terms of the number of people directly impacted and what it will do to damage homes as water begins to overtop the levees and fill in behind," says Major Gen. David Sprynczynatyk, adjutant general of the N.D. National Guard. The Minot evacuation deadline is moved from 10 p.m., to 6 p.m., on June 22.
- JUNE 22 Sirens sound to evacuate all Minot flood zones. "We're looking at another seven feet of water," says Minot Mayor Curt Zimbleman.
- JUNE 23 The Mouse River peaks at Sherwood at a record 28.16 feet (29,700 cfs). The previous record was 14,808 cfs in 1976. Lake Darling Dam releases 26,000 cfs. Water begins flowing into Minot. The headline of the Minot Daily News simply reads, "Swamped."
- **JUNE 25** The Mouse River at Minot peaks at 1,561.66 feet above sea level, or 6.26 feet higher than the 1969 crest.



Many schools in the Mouse River Basin built ring dikes to protect them. The ring dike pictured here successfully protected the Perkett Elementary School in Minot.

that Estevan had received 12.76 inches of rain between May 1 and June 21. The average annual rainfall for Estevan is 13.11 inches, making it apparent that this was yet another unprecedented period of weather leading up to a large-scale flood. Looking farther downstream at North Dakota's rainfall, nine to 11 inches of rain were recorded from May 1 through June 30.

#### A Race Against Time

"We beat this thing three times this year," says Alan Walter, public works director for the city of Minot. "The last time we were prepared, then the calls came in from Canada that the releases would be higher than we ever

thought possible. With three or four weeks of rainstorms one after the other and a final seven-and-a-half inch rain filled the whole valley up with water. There was nowhere for the water to go but down the river. We had three days to prepare. We did what we could to protect necessary infrastructure and the homes and businesses we could." That included building two dikes, one over a mile long along 4th Avenue North. The other half-mile-long dike was along 3rd Street Northwest. Many other buildings such as schools, lift stations, and businesses built ring dikes to protect them. During the construction of the dikes, every road in Minot except for Broadway and 3rd and the Highway 83 bypass from North Hill to South Hill were closed, meaning a two-and-a-half to four hour wait to get

anywhere in town.

#### The Aftermath

The two major dikes protecte some 600 homes, Minot's two major roads, a half dozen churches, several businesses, Trinity Nursing Home, and two elementary schools. At this time officials are estimating damage at \$1.2 billion total.

While the dikes in Minot protected some homes, businesses, and infrastructure, most of the valley was not so lucky. The Mouse River Park in Renville County was under water, the bridges in Logan and Sawyer were washed out, the bridge in Velva was closed for a period of time, and the Burlington

Bridge on Colton Avenue was closed with 20-plus houses under water. In Minot, of the 13 lift stations protected by ring dikes, all but one was inundated. All of Oak Park Shopping Center and Arrowhead Shopping Center were severely damaged, as were many other businesses in the valley.

One of the biggest blows to the region's economy was the damage, and subsequent canceling of the North Dak State Fair, an annual event that brings some 300,000 people and \$30-40 million over a nine-day period each year. "The decision to cancel the fair was very hard and emotional for all the staff of the State Fair," says Renae Korslien, manager of the North Dakota State Fair. "But



A local contractor scrambles to increase the height of a dike in Minot on June 24.



we had no choice, the water just wouldn't go down in time." The fairgrounds received more than \$6 million in damages, mostly to its electrical systems, but also sheetrock and other damages to 19 barns and commercial buildings. Korslien says that additional damages might be found after the winter freeze and spring thaw.

While damages to area businesses and infrastructure and the canceling of the state's largest annual event were all very overwhelming to the region, perhaps the most devastating losses were the 4,200 Minot homes that were damaged or lost in the flood. While most are salvageable, 805 homes were damaged beyond repair and have been or will be

demolished. Some damaged homes already been gutted, renovated, and are ready to move k in, and others are still being put back together. Only around 10 percent of the people in these homes had flood insurance to cover their damages.



Many homes in Minot were so badly damaged by floodwaters, they had to be stripped down to the studs.

"The 'best' cases were the homes that only had a half-foot of water on the main level – that was on the fringes of northwest Minot," Walter says. "The homes close to the river had eight to 10 feet of water on the main level. And it stayed for 40 days."

Time Guth helps clean up flood damage at a flood of Mike Dright.

Tim Guth helps clean up flood damage at a flooded Minot home. Guth is a member of the Volunteers in Mission team from the Indiana Conference of the United Methodist Church. This organization was just one of many that volunteered with the cleanup process in Minot.

There are still people out of their homes. At the height of the flood, there were some 300 people staying in the three emergency shelters in Minot, one of which had people staying there until October. There are currently 2,200 FEMA trailers in and around Minot. Walter estimates some residents will be out of their homes for 18 months – maybe longer.

"They're saying this was a 430 to 440-year event," Walter says. "But that's just what the computer models say, nobody knows for sure. I helped build my son's house east of Minot and we looked at a map of the 500-year floodplain and built the first floor above that. The house

had water up to the doorknob. They don't know for sure what the flood was, they are just saying it was 'an event of record."

#### An Outpouring of Support

Images of the thousands of homes submerged in water and later, their contents piled high along the curb flooded the media. When the rest of North Dakota saw the plight of the citizens of Minot, assistance in the forms of money and volunteers began to pour into the Magic City. "It still amazes me," Walter says. "Church organizations put together teams of volunteers to clean and gut flooded homes, the Red Cross and National Guard brought thousands of people in to help, and citizens not directly impacted lent a hand wherever they could. The outpouring of support has been unbelievable, and it's still going on."

In addition to the individual assistance many homeowners received through FEMA, homeowners are receiving financial assistance through the Minot Area Recovery Fund. Thus far, more than \$6 million has been raised to support relief and restoration in the greater Minot area, including Ward, Renville, Bottineau, and McHenry counties. "We are committed to getting people's lives restored," says Ken Kitzman, president of the Minot Area Community Foundation, the agency that established the fund. "The focus of the Minot Area Recovery Fund is to help citizens clean up, restore, and rebuild their homes a remain in our community."



Six-time Grammy Award-winning, multi-platinum recording artists The Black Eyed Peas held a benefit concert on Sept. 3, at the North Dakota State Fair Grandstand to assist Minotarea flood victims. The concert raised more than \$1.3 million, broke a new grandstand attendance and receipts record, and brought nearly 16,000 people to the facility. Hollywood actor Josh Duhamel, above, a Minot native, is the honorary chairman for the Minot Area Recovery Fund, which will help Minot and the surrounding area in its long-term flood recovery needs. He is married to Fergie, right, the lead singer of The Black Eyed Peas.



#### Looking Toward the Future: Permanent Mouse River Flood ontrol

There are currently two efforts underway that are steps in the right direction to reduce the risk of flooding in many areas throughout the Mouse (Souris) River Basin. The first is a study to look at a series of levee or diversion alternatives to protect populated areas along the Mouse. The other is a study that will review, and likely recommend operational changes to upstream dams in North Dakota and Saskatchewan.

The Mouse River Basin Enhanced Flood Protection Project

As the Mouse River continued to receed, the State Water Commission had already approved a request as early as August from the Souris River Joint Water Resource Board to move forward with preliminary engineering of a Mouse River flood control project.

About a month later, an engineering team was selected to take on the project, and by the first part of November, the Water Commission and Gov. Jack Dalrymle presented a Mouse River Enhanced Flood otection Project Initial Concept Alignment to the Iris River Joint Board. As part of the initial concept, the project engineering team and Water Commission staff were asked to develop a plan that would represent a protection level of 27,400 cfs from Burlington to Velva and 29,700 cfs through Mouse River Park, (with an additional three feet of freeboard). These flow rates represent the peak flow rates experienced during the 2011 Mouse River flood.

One of the main objectives of the initial concept was to show the approximate location of project features, including levee alignments, so those individuals wondering what to do with their flood damaged homes would have a better idea of whether or not they might be included in a buyout program.

Public meetings were held in mid-November to unveil the initial concept plan, and to seek comments from individuals and communities affected by the project. The first two meetings focused on project features in the Minot area, and the last meeting focused on areas upstream and downstream of Minot.

Upon receiving public input, the engineering team made several adjustments to the initial concept, and only weeks later, toward the end of November, unveiled vised plan. The revised plan provided more clarity arding levee and diversion alignments, allowing several homeowners to make final decisions about the fate of their homes.



When untreated water from the Mouse River entered Minot's water system on June 25, a boil order was issued to protect area citizens in Minot, the Minot Air Force Base, Des Lacs, Burlington, Surrey, Ruthville, Kenmare, Berthold, Tolley, Donnybrook, Carpio, Sawyer, and Velva until the water could be tested for potential contaminants. In addition to telling area residents to boil their drinking water, it was also suggested they boil the water for other uses such as washing dishes, washing hands, and brushing teeth.

Minot Public Works Director Alan Walter thought this was going a bit too far, and during a daily press conference, his frustration about how the situation was being handled became evident. "I'd just like to say something about this water issue," Walter said. "There are people who are protecting this city, standing in this water, licking their hands, licking their fingers when they get done eating a sandwich out there, and we're worried about boiling the damn water. It doesn't make any sense."

"I was frustrated with the way they were presenting it," Walter said later. "To tell them they had to boil the water before they could wash their babies' clothes, then boil the water to rinse their babies' clothes, I thought it was a little ridiculous."

Many frustrated Minot residents appreciated this candid, no-nonsense attitude and before long a Facebook fan page was created, as well as a t-shirt bearing the likeness of Walter with the now infamous "Boil the Damn Water" phrase. The first batch of t-shirts sold out almost immediately, and to date, more than \$30,000 has been raised from the shirts to benefit victims of the Minot flood.

For his efforts during this historic Mouse River flood, Walter has received the Minot Chamber of Commerce's Genie Award and the governor's Commedore Award, which was presented at the 2011 Joint North Dakota Water Convention. "This is totally unbelievable," Walter said at the convention's awards banquet. "All this for just telling the truth. And by the way, I never did boil the damn water!"

At the time this was being written, project plans for the Mouse River Basin Enhanced Flood Protection Project were still evolving, including discussions about optimum protection levels and affordability.

#### International Souris River Board Three-step Process

The other efforts underway to reduce the future risks associated with Mouse River Basin flooding include a three-step process being advanced by the International Souris River Board. The first step is to document the 2011 flood event; the second step is to gather agency and public input on issues and concerns related to the 2011 flood and operation of storage reservoirs; and the final, and likely most critical step is to review and update the operating plans for Rafferty, Alameda, Boundary, and Lake Darling reservoirs. The first step is being completed by the Corps of Engineers; the second step will involve a team approach with engineers from Canada and the United States; and the final, third step is being advanced through the International Watershed Initiative and International Joint Commission.

#### Many Questions Remain

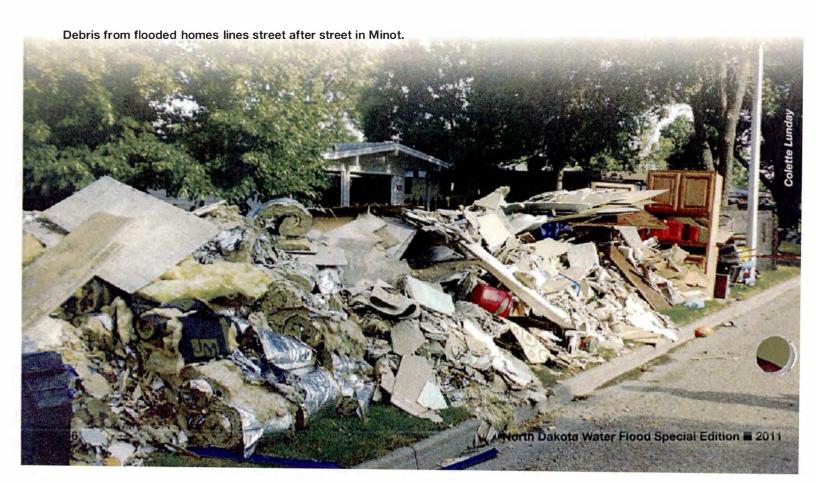
Even though the aforementioned efforts are advancing as quickly as possible, for many Mouse River Basin communities and residents, there are still more questions than answers. With North Dakota already in the grips of winter months, many homeowners were forced to decide

to keep remodeling their flood-damaged homes or to just walk away – based on the preliminary engineering plans that were completed in November. For hundreds of people, the decision of heating or not heating a damaged remodeled home was one that did not come easy.

As residents of the Mouse River Basin look to the future, many questions and difficult decisions remain. And even on an expedited schedule, the magnitude of the efforts that are underway to reduce flood risk throughout the Mouse River Basin will take years to complete. The hope of impacted residents and everyone throughout North Dakota is that protection comes long before the next big flood.

"Words cannot describe how difficult and trying the flood of 2011 turned out to be for Minot and the rest of the Mouse River Basin. This was not a typical flood by any stretch of the imagination; the water did not come and go right away. It was truly an unprecedented, enormous flood," says Minot Mayor Curt Zimbelman.

"The level of commitment from all those involved, before, during, and after the flood has been the bright spot of this experience; a true testament to the strength of the residents of the Magic City. We saw families helping families, neighbors helping neighbors, and strangers helping strangers. The members of this community really came together to help one another in their greatest time of need, and continue to do so. The Mouse River Basin will rise above the devastation of the 2011 flood on the backbone of a community commitment to each other and to the region."



#### THE SENGER FAMILY



**Amy Senger** (right) and her friend, Kim Lutz during the cleanup of the Senger family's flooded house in July.

Amy Senger dreamed of living in an "old house with character" since she was a little girl growing up in rural Bismarck. That dream came to reality when she and her

Colo., to Minot, so they could raise their two young daughters in the state where they both grew up.

For five years, the family lived in that old house with character, making it their home. Then in early June 2011, family was evacuated because of flooding threats from Mouse River. While they knew the threat was there, family took this first evacuation with a grain of salt, returning home the following week. Just a few weeks later, they received word they would be evacuated again - but this time it was different. "Scott had an urgency in his voice, and he told me we had to get everything out of the basement and main floor. We did, and the girls and I left to stay with Scott's mom in Dickinson while he stayed behind to keep an eye on things."

husband, Scott, moved their family from Colorado Springs,

Amy says she was shocked when Scott called and told her the water was five-and-a-half feet up their main floor windows. "The worst part about this whole flood was losing our home," she says, her voice cracking. "We took for granted what we had - our own space, our own belongings - just being together in the comfort of our own home." For about a month, Amy and the girls stayed at her mother-in-law's house in Dickinson, only seeing Scott on weekends.

FEMA approved temporary rental assistance for the family in July, and they were able to move into a room at a local motel, where they lived for the next four months. "Some days I cooked supper in the slow cooker on the floor or we went to the store and bought microwave

pers, but we mostly had to eat out every day," Amy "And space gets very tight with two adults and two young girls in one room and a bathroom." In mid-October, they were thrilled to be able to leave the motel behind when they moved into a FEMA trailer on their property.

"I came to the conclusion that I am a redneck the day we went to pick out new lighting for the house and I realized that I could really care less what the inside of the house looks like, and that I think I could honestly live in this FEMA trailer forever," she says with a laugh.

The family was able to get into their house and start cleaning, disinfecting, and gutting the basement and main floor in mid July. "That part was hell," Amy says. "The smell was horrible because one of the plugs we used to close off the sewer blew out with the force of the water. It was devastating to go in and see our house totally trashed, and smell that awful smell. I would have rather have had a root canal without pain meds than clean that dusty, messy, flooded house."

But, not being "quitters," the Sengers spent their evenings and weekends cleaning and gutting their house with the help of family, friends, and several of Scott's co-workers. Because they had to continue to work at their daytime jobs, the process took about three weeks. They are now working with contractors to rebuild their home.

Like 90 percent of the other families whose homes were damaged in the 2011 Mouse River flood, the Senger family did not have flood insurance to help pay for the extensive damage done to their house. They received the maximum payout from FEMA, but Amy says that doesn't go far with all the sanitizing, demolition, and the costs of being displaced. A majority of the money they need to rebuild will have to come from loans.

The Sengers hope to be back in their house by Christmas, but that's optimistic, since new, hidden obstacles keep coming up, which all add time to the rebuilding process. "We don't want people to feel sorry for us," Amy says. "It is what it is – we don't want a pity party. The bright spot in all of this is that yeah, we've lost a lot - but we realize that in the end, it's just stuff. We still have each other, and that's what really matters."

Valley City I Fort Ransom I Lisbon

# 6 HB 102 3-8-13

## SHEYENNE RIVER VALLEY

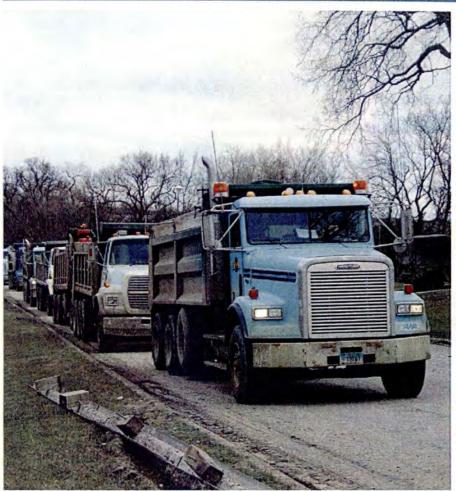
PERMANENT FLOOD PROTECTION

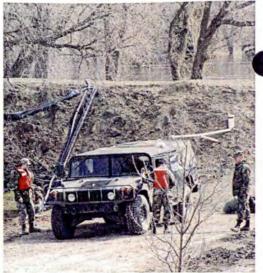




### **2013-2015 BIENNIUM** FUNDING REQUEST

HB1020 State Water Commission Funding







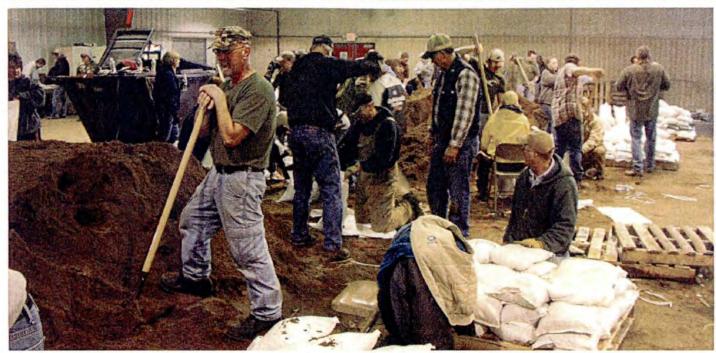
# Chairman Holmberg and Committee Members:

I am Mary Lee Nielson, City Commissioner from Valley City and the representative of Sheyenne Valley Flood Control Committee that includes the communities of Valley City, Fort Ransom and Lisbon. I am asking for your support for House Bill 1020 that includes funding for Sheyenne River Valley Permanent Flood Protection.

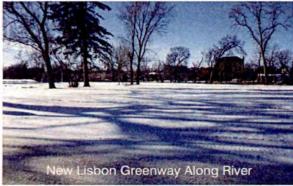
Although our communities won flood fights in 2009 and 2011 and didn't get wet – we were devastated by the actions needed to save our towns. The record floods literally brought us to new heights – in the elevation of our dikes and the expenses for recovery. Expenses continue as we are still working on roads ruined by the loaded trucks traveling through our

Communities. The Federal Emergency Management Agency (FEMA) and the North Dakota Legislature made a difference in 2009 assisting with all but three percent of the qualified expenses, but the problem was that qualified expenses didn't fix all that was broken. In Valley City, FEMA approved only 75 percent of the damages the City claimed on the impacted streets. Lisbon completed a city-wide assessment to begin to pay for flood recovery, which was compounded by a duplicate disaster in 2011.

Permanent flood protection discussions began in earnest in all our communities. Engineers were brought in to help determine of what could be done. Phase 1 projects were presented to the State Water Commission. With the special dispensation given by the Legislature for flood inundated communities work began.





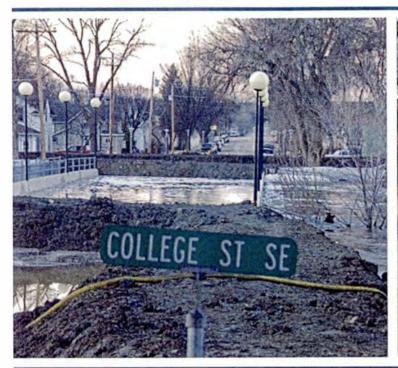




As the Sheyenne River winds through our communities, areas on both sides of the river need protection. In Valley City, dike work covered nearly seven miles. During the last flood, a combination of sandbag, clay dikes, hesco barriers and aqua dams were placed.

During the floods, our concern as city officials was the safety of volunteers and National Guard personnel sandbagging close to a fast

moving river. A portion of our request includes funding for more property buyouts. Both Lisbon and Valley City are working with the State Water Commission and finishing Phase 1 which was primarily buyouts. Phase 2 also includes buyouts to clean out the river areas that were inaccessible to heavy equipment. The goal of all three Sheyenne Valley communities is keeping the public safe – no sandbagging on a river bank.





The Sheyenne Valley Flood Control Committee is ready to move on to Phase 2 flood protection. Our request for the 2013-2015 biennium is \$21 million. Below details community plans.

LISBON – The study for levee alignments and evaluation of soil conditions along the banks is complete.

- Move five homes
- Construct earthen levees along the south and west side of the Sheyenne River from Sandager Park to Fourth Avenue West on the north and the east side of the river at Rose Street to Tenth Avenue East
- Construct flood walls at bridges
- Make storm sewer modifications so city doesn't flood from the inside-out

VALLEY CITY – Phase 2 concentrates on the Valley City State University (VCSU) area. The majority of the buyouts took place in this area as the homes and apartment buildings were built close to the river and required thousands of sandbags for protection.

- Continue property acquisition
- Build flood walls and permanent clay levees along College Street and 5th Avenue SW to protect VCSU and surrounding neighborhoods
- Protect downtown business district with permanent levees along 4th Street SW and 4th Street SE and a flood wall along Main Street
- Address erosion concerns along Main Street and College Street
- Make storm sewer modifications so city doesn't flood from the inside-out

FORT RANSOM – A flood control study to evaluate soils has been approved through working with the State Water Commission.

- Land acquisition
- Construct a diversion channel

4B 1020 3-8-13

# 7

## Testimony by Ken Vein, Chairman Garrison Diversion Conservancy District

To the

#### **Senate Appropriations Committee on HB1020**

Bismarck, North Dakota March 8, 2013

Mr. Chairman, members of the committee; my name is Ken Vein. I am a member of the Grand Forks city council and also the Chairman of the Garrison Diversion Conservancy District. Garrison Diversion is a political subdivision of the state created by the Legislature in 1955 to construct the Garrison Diversion Unit of the Missouri River Basin Project as authorized by Congress on December 22, 1944. Amendments in 1986 and 2000 changed the Garrison Diversion Unit from a million acre irrigation project into a multipurpose project with an emphasis on development and delivery of municipal and rural water supplies. The Dakota Water Resources Act of 2000 (an amendment to the Garrison Diversion Unit Reformulation Act of 1986) authorized a \$200 million loan for construction of the Red River Valley Water Supply Project to meet the water supply needs of the Red River Valley.

The flows in the Red River and the flows from the Red Lake River, which empties into the Red River, last year dropped to alarmingly low levels. These occurrences greatly concern those water systems up and down the valley depending on the Red River for their water supply. History tells us that we have



TESTIMONY TO THE SENATE
APPROPRIATIONS COMMITTEE ON HB1020
AND THE FUNDING FOR CASS COUNTY
& FARGO FLOOD PROTECTION

MARCH 8, 2013

### SENATE APPROPRIATIONS COMMITTEE HB1020 - FARGO AREA FLOOD CONTROL FUNDING

Chairman Holmberg and members of the Senate Appropriations Committee,

My name is Darrell Vanyo. I am a Cass County Commissioner and the FM Area Diversion Board Chairman. I come before you today to testify for the funding in HB1020, but against the amendments placed on this bill. I wish to make it very clear that my opposition is not related to the dollars appropriated so much as to the language indicating how these dollars should be spent.

Thank you for the time you have dedicated to hear about our plans to protect Cass County from flooding. With me today to speak are three elected leaders representing Cass County, the City of Fargo and the City of Oxbow respectively. In addition, we have a short informational presentation from the U.S. Army Corps of Engineers. Though this is a large scale project that has four years of study into it and is something each of us is passionate about as it would protect 200,000 people, we understand the time restraints and will do our best to be brief, to the point, and not repeat one another.

To begin, I would like to take some time to specifically address the amendments that were added in the House.

Delete this language from section 6, section 7, and section 8. or for a river diversion project. Notwithstanding any other provision of law, including a political subdivision-home-rule-charter, no public funds may be used for the construction of ring-dikes or water retention-structures associated with the Fargo flood control project.

The reason we are opposed to this language is that Fargo, Cass County, and the FM Area Diversion Authority believe strongly that the best use of dollars within the next biennium is to provide protection for the communities to the north and south of Fargo in addition to raising the levels of protection within the city. Others will speak in more detail on these protection goals, but I want to stress that the language really places an impossible task, particularly on the county, to spend dollars for flood protection for rural Cass County. For you see, if we can't spend money on the diversion, ring dikes, or water retention structures; what else is there? In 2010, the citizens of Cass County voted in the half-cent sales tax for purposes of a "diversion or other flood"

control projects". How else would we spend the \$200 to \$250 million dollars that we expect to raise over the 20 year period of sales tax collections?

Reinsert this language into sections 6 and 7 and insert into section 8.

Costs incurred by non-state entities for dwellings or other real property that are not paid by state funds are eligible for application by the non-state entity for cost sharing with the state.

The majority of the dollars used for cost sharing by Fargo that were appropriated the two previous legislative sessions have been a result of expenditures for home buyouts. These are dollars that came from Fargo, not the Federal government, and were necessary in order to construct the levees that have been or will be constructed. Had these dollars not been allowed to be used for cost sharing in the past, it is very possible that we would have only been able to access a little over half of the \$37 million which has been used from prior appropriations thus far. These dollars were allowed for cost sharing purposes in the past and helped make real flood protection possible. We ask that you would continue to allow them to be used for cost sharing in the future.

Delete this language throughout the bill: Fargo flood control projects And replace with: FM Area Diversion and other Fargo and Cass County flood control projects.

It is requested that Fargo flood control projects not be used throughout HB1020 because this truly is and should be about the official title of the project, FM Area Diversion and other Fargo and Cass County flood control projects, NOT simply Fargo. The local share of dollars is equally shared by Fargo and Cass County for the FM Area Diversion and we wish to continue to ensure protection that goes beyond the Fargo city limits.

#### Delete section 9:

**SECTION 9. LEGISLATIVE INTENT – FARGO FLOOD CONTROL PROJECT FUNDING.** It is the intent of the sixty-third legislative assembly that total Fargo flood control project funding to be provided by the state not exceed \$325,000,000 to provide flood-protection for the city of Fargo to the forty-two and one-half foot-level, and to provide, to the extent-possible, flood protection of areas along the Red River north and south of Fargo. It is further the intent of the legislative assembly that funds appropriated by the

legislative assembly for Fargo flood control not be used for a river diversionflood control project.

We ask that this section be deleted because it sets a limit prior to the process of seeking Authorization and Funding from the Federal government. This may be questioned by Congressional people reviewing our project and our readiness with financing arrangements. We have been told that the federal government is not so much interested in what the local and state financing MIGHT be if federal dollars are provided. They are more interested in what dollars HAVE BEEN committed. We ask that you allow us to go to Washington D.C. with the full support of the State and of all the work that you have been a partner to. If we are forced to go to D.C. with the ultimatum that if the federal government participates then the state will as well, or with the burden of explaining that the state's established cap results in a \$100 million or more shortage, our efforts will be jeopardized from the start.

In addition, the language restricting the state's contribution to be spent only on non-diversion related flood control project activity ensures that all FM Area Diversion activity must cease and cannot be picked up again until the Federal government participates. This is the worst thing that we can do for flood protection for Fargo and Cass County and almost ensures that \$1.8 billion dollar project will increase in costs. The surest way to have project costs increase is to stop and start a project and to allow time to inflate the estimated costs.

#### Delete section 12

#### SECTION 12. STATE WATER COMMISSION STUDY - FARGO FLOOD

**CONTROL.** During the 2013=14 interim, the state water commission shall study the use of ring dikes as part of a flood protection plan for the city of Fargo. The study must include the effects of ring dikes in the Fargo area on flood protection of areas north and south of Fargo. The state water commission shall provide periodic reports to the legislative management on the findings resulting from the study.

What is hoped to be gained by such a study? Four years of analysis by dozens upon dozens of engineers has led us to the protection plan that we have today as part of our FM Area Diversion Project. This analysis has covered levees, retention, ring dikes, flood walls, and diversions or a combination as alternatives for flood protection. One only has to look at a map of the

diversion channel and make some assumptions that a ring dike around the metro area would encompass nearly everything that is protected by the diversion. The costs would not be less due to the fact that more than 1,000 homes and commercial structures would be bought out along the river and the negative upstream impacts would not be lessened at all due to water now surrounding the metro area with no channel to take it to the river except for natural drainage patterns. In addition, Section 3.13.1.2 of the Corps Feasibility Study discusses analysis on non-structural features such as ring levees in the staging area. So rather than invoking such costly directive, we would suggest you merely ask the Corps of Engineers or any of the engineering firms that we have engaged thus far to explain their findings. On top of that, all ring levees associated with this project would have to be designed, constructed, and permitted according to state and federal law.

This concludes the explanation of what we are asking you to change regarding HB1020. Basically, we are asking for all the amendments placed upon this portion of HB1020 to be removed. Let me touch upon a few other items and then get to others who will provide more detail to some of my earlier statements.

The FM Area Diversion Project, as developed over the last four years by numerous engineering firms and the Army Corps of Engineers, is a plan that has been supported unanimously by the FM Area Diversion Board made up of elected officials from Fargo, Moorhead, West Fargo, Cass, and Clay counties in addition to a representative from the Buffalo-Red River Watershed District. Our goal initially was to provide 500-year protection, which is consistent with the Red River Basin Commission's goal for communities this size. Because of costs, and because of the resulting negative impacts of such a goal, the Board backed away from that goal and currently have a plan that provides 100-year protection for the FM area with the ability to fight a flood from that level up to a 500-year level. Surely, this cannot be viewed as being too much protection when we remember that the flood of 2009 (the flood of record) is considered a 50-year flood event.

It was only April of last year that we received the sign off from the Secretary of the Army for our project. With the pending election in November of 2012, there was no way that we were going to see a bill passed to provide Congressional Authorization. Now that the new Congress is underway, we are hearing positive vibes about work on the next Water Resource Development Act (WRDA bill). Because of this, we are optimistic that we may see a bill this

fall or this winter. The FM Area Diversion Authority is planning to go to D.C. in the near future to lobby for the bill and for funding. It is for this reason (and to keep our project moving) that we urge you to repeal the amendments to HB1020 which, without question, stop four years of work dead in its tracks.

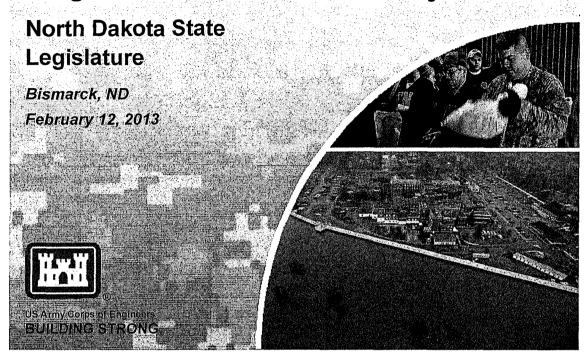
The Federal government views this project as a high priority and has already spent over \$45 million dollars on home buyouts and Corps of Engineers work activity over the past four years. In comparison, over that same time period, \$37 million of state appropriated funds have been spent due to the restrictions on the funding.

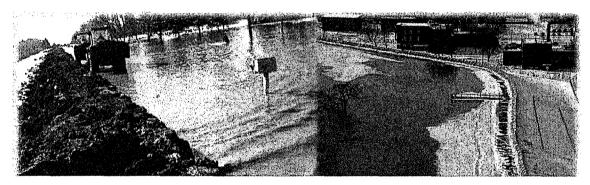
Senators, please vote down the amendments to this bill. Give us the ability to go to D.C. and seek Federal Authorization and funding knowing and showing Congressional leaders that our project has strong state support along with one of the best cost benefit ratios of any in the nation.

Thank you for your consideration

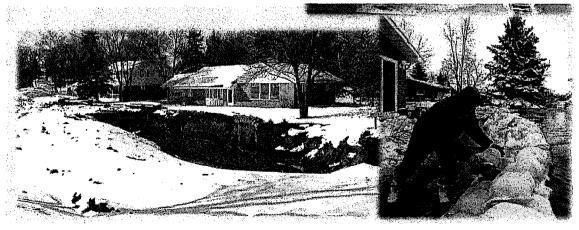
#### Fargo-Moorhead Metropolitan Area Flood Risk Management

#### Fargo-Moorhead Diversion Project





Flooding is the problem.



#### **Estimated Flood Damages**

#### Flood Damages:

- 100-year flood event ~\$6 Billion
- 500-year flood event ~\$10 Billion

#### Loss of Life:

- ~200 for 100-year flood event
- ~600 for 500-year flood event



Fact – Fargo-Moorhead cannot achieve 100-year protection with levees alone

BUILDING STRONG

#### **FMM Project Purpose & Objectives**

#### Purpose:

To identify measures to reduce flood risk in the entire Fargo-Moorhead Metropolitan Area.



#### Objectives:

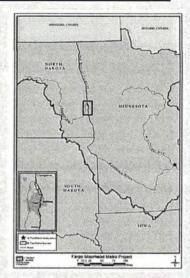
- Reduce flood risk and flood damages in the Metro area
- Restore or improve degraded riverine and riparian habitat
- Provide additional wetland habitat
- Provide recreational opportunities



#### Why the diversion?

- What does the diversion do?
  - ▶ Benefits ~200,000 people
  - ▶ Provides benefits to more than 70 square miles of existing infrastructure
  - Provides safe and reliable flood risk reductions
  - ► Minimized loss of life
  - ▶ Significantly minimizes economic damages
  - ▶ The best possible engineering solution
  - ► Strong Corps and Administration support

Fact – The diversion was not designed to promote future development – only to provide the safest and most reliable plan for existing infrastructure and population centers

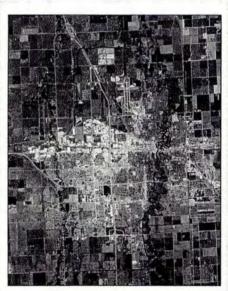




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#### Why not Levees?

- 50-year level (2009 flood) -\$900 million cost
- No high ground on ND side
- Need to completely ring around Fargo and West Fargo for 100-yr level
- 100-yr certification not feasible
- Once exceeded, entire community floods
- Not as robust/reliable as diversion
- Levee projects have Impacts



FMM Levee Alternative – 50-yr Protection



#### **Public Involvement**



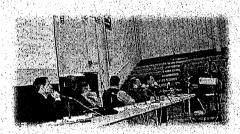
- 51 Public meetings held to inform and gather input from Nov 2008 to Jun 2011
- (4) Scoping meetings
- (3) Metro Flood Management Committee
- (5) Public information
- (11) NEPA public review
- (1) 404(b) hearing
- (27) Metro Flood Work Group
- 430 Agencies and members of the public commented on the Study
- 1600 pages of comments were responded to



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#### **Public Involvement**

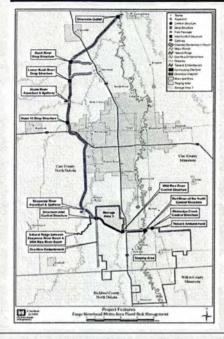


#### **Upstream Meetings**

- Dec 2010 Bennett Elementary
- Mar 2011 Kindred High School
- May 2011 Kindred High School
- May 2011 Richland and Wilkin Counties
- May 2011 Comstock, MN
- Feb 2012 Walcott Township ND and Comstock, MN
- Mar 2012 Richland and Wilkin Counties
- Jan 2013 Bennett Elementary (Oxbow, Hickson, Bakke – individual landowner meetings)
- Feb 2011 North Dakota Farm Bureau



#### Federal Recommended Plan (FRP)



#### Plan components

- ► 20,000 cfs ND diversion channel
- ▶ 33,930 acre staging area
- ▶ 36 mile diversion
- ▶ 11.66 miles of tie-back levees
- ► Control structures on the Red & Wild Rice rivers
- Aqueduct & spillway structures on the Sheyenne & Maple rivers
- ▶ Drop structure on the Lower Rush & Rush rivers
- Non-structural mitigation for impacts in the staging area



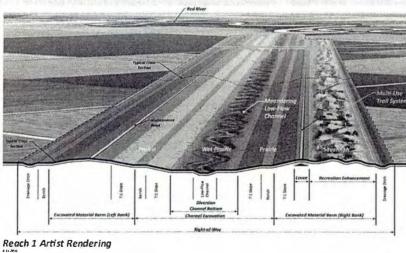
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#### **Conceptual Section of the Diversion**

#### ✓ Detailed Design Items

- ✓ Ditching required for lateral local drainage
- ✓ Meandering low flow channel
- ✓ Excavated
  Material Berms
  (EMB)
  configuration
- ✓ Recreation

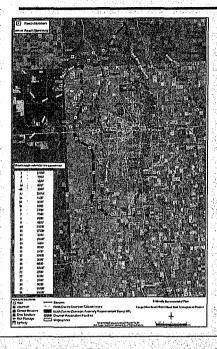


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#### **Current Design Reaches**



- Have started design activities for:
  - ► Outlet/Design Reach1
  - ► Design Reach 2
  - ➤ Design Reach 3 (sponsors)
  - ► Design Reach 4
  - ► Rush River structure
  - Design Reach 5
  - ► Lower Rush River structure
  - ► Design Reach 6 (sponsors)
  - ► Design Reach 7 (Maple River aqueduct)
  - ► Environmental mitigation projects
- Bridges and associated channel designed by the sponsors
  - ► CR 31/4, 32, 22, 20
  - **-** 1-29
  - ➤ Hwy 81



11

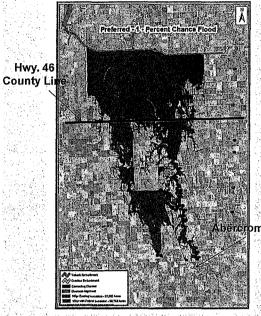
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#### **Initial Downstream Diversion Impacts**

- Impacts in excess of 2-feet
- Downstream impacts would have reached to Canada
- Impacts on an estimated 4500 structures downstream of project based on pre-feasibility study information (impacts would vary by actual depth and location)
- Mitigated downstream impacts by implementing the most effective and efficient upstream storage



#### Upstream Impacts - 1% (100-year) Event



**Preferred Combined Alternative** 

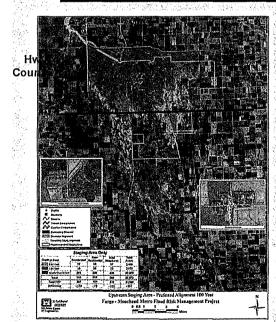
- Defined area
- Ability to mitigate for impacts
- Impacts on an estimated 800 structures upstream (~ 387 residential)
- Virtually eliminated all downstream impacts
- Further mitigated by:
  - Modifying channel alignment
  - Proposing ring-levee for Oxbow, Hickson, Bakke, and Comstock



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#### Southern Alignment Shift



- Considered several options; Option A is preferred alignment, located roughly 1 mile north of previous alignment
- Eliminates Storage Area 1 and Wolverton Creek Control Structure
- Reduced impacts to Richland and Wilkin Counties
- Cass and Clay counties majority of benefits and majority of impacts



#### **Upstream Impacts**

#### Richland and Wilkin Counties

Modified channel alignment minimized impacts by:

#### WILKIN

- 50% reduction in residential structures (4 to 2)
- 59% reduction in newly impacted acres (2420 to 995)
- 97% of additional impacts are between 0-1 feet

#### RICHLAND

- 87% reduction in residential structures (23 to 3)
- 55% reduction in newly impacted areas (2401 to 1071)
- 94% of additional impacts are between 0-1 feet

No impacts during 10-year event



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#### Ring Levees at Oxbow - Hickson - Bakke



- Option being explored with the communities of Oxbow, Bakke and Hickson
- Would allow partial vs. full buyout (40 structures vs. entire community)
- Would be built with 4 feet of freeboard resulting in greater than 500 year flood level protection
- Would require raising of Cass County Highways 81 and 18
- MOU between Oxbow and Diversion Authority

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#### **Minimizing Upstream Impacts**

Induced Impacts in the Staging Area (100-year event)					
Impacts	FRP	VE-13A <sup>1</sup>			
Residential Structures (no ring levees)	387	251			
Residential Structures (with ring levees)	NA	58			
Newly Impacted Residential Structures	N/A	34			
Total Acres Impacted	33,930	32,523			
100 yr Staging Elevation at (Staging area)	923.0	922.1			
Water elevation at Richland/Wilkin County line	923.1	922.5			
Length of Embankment upstream of Sheyenne River (miles) <sup>2</sup>	21.0	23.1			
Cost Savings Relative to FRP (\$ in millions)	100 E	59.0			

#### Notes:

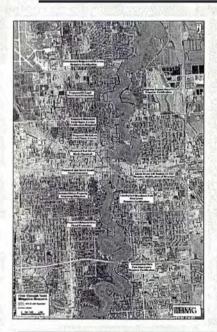
- 1. With In-Town Levees and Gates on the Diversion Inlet
- 2. Includes length of upstream ring levee embankments.



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#### In-Town Levees



#### Advantages

- ➤ The use of levees in town to 35 feet (at Fargo gage) will allow project to operate less frequently (10-year event)
- Reduces connectivity and geomorphology concerns
- ➤ Significantly reduces the probability of summer operation
- Based on historical water levels the project would NEVER have operated in the summer months
- ► Minimizes impacts to farmers



#### **Mitigation for Impacts**

- Continue to work with communities and impacted individuals to reduce impacts
- Compensation provided to property owners in form of acquisition or flowage easements when impacts cannot be avoided
- · Diversion Authority working with farmers on crop insurance
- Diversion Authority has formed an Agricultural Sub-Committee, made up of farmers from the region and they are working on crop insurance and other agricultural impacts.



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#### Why not Distributed Storage?

- Not as reliable
- Impacts more land, more landowners, and costs more
- Based on topography and basin characteristics Is not a practical or possible solution.
- Need 400,000-600,000 acre feet of distributed storage
- Would require more dams
- Distributed storage would be beneficial to reduce the frequency of project operation
- It would not replace the upstream storage area as part of the project.



#### Why not Distributed Storage?

- 20% Reduction (RRBC)
  - ► 1.5 million acre feet for 50 year-event
  - 242,000 acre feet upstream of Fargo-Moorhead
  - ► Cost \$1.5 \$2.25 Billion
  - Large local benefits benefits to Red River are extra.
  - Storage needs to be in "middle" area.
  - Impoundments similar to North Ottawa.

아 나라하다			1987 P. 1886			
Event	Note	Peak Discharge (cfs)	existing peak stage (ft)	20% Flow Reduction Discharge (cfs)	20% Flow reduction peak stage (ft)	Stage Difference (ft)
500YR	11	61,700	46.69	49,360	45.06	1.6
	la si√a		3 1 2 2 2 2 2 2	Symposium and a second	14 1 A S M 2 S V	
200YR	1	46,200	44.57	36,960	42.96	1.6
100YR	1	34,700	42.42	27,760	40.36	2.1
50YR	1	29,300	41.01	23,440	38.46	2.5
2009	2	29,500	40.84		-	
1997	2	28,000	39.57			

Note 1: No Protection Stage
Note 2: With Protection

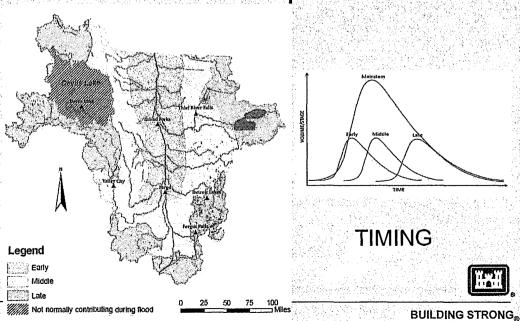
Stage



21

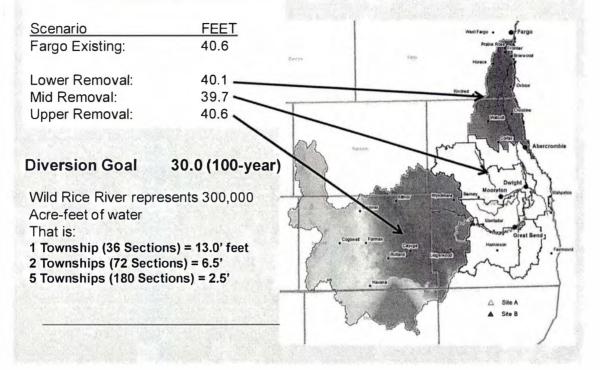
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## Early, Middle, and Late Water Concept



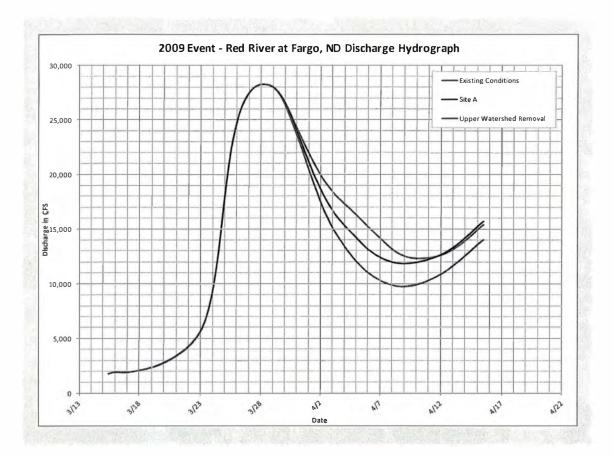
#### 2009 FLOOD (50-YEAR EVENT) SENSITIVITY ANALYSIS

2009 FARGO ANALYSIS:



#### 2009 FLOOD (50-YEAR EVENT) SENSITIVITY ANALYSIS

- What does the previous slide mean?
  - ➤ Shows that distributed storage can only be located in the lower and mid portions of the watershed to benefit the FMM project
  - ➤ The mid portion contributed 0.9 feet to the peak in Fargo for the 2009 flood, and the lower portion contributed 0.5 feet.
  - ➤ Distributed storage would result in more impacts to Richland County half the lower portion and all the mid-portion are in the County.
  - ▶ If the entire watershed was removed, which is not possible, it would only account for 300,000 acre feet. The rest of the water comes from the Bois de Sioux, and Ottertail Rivers.
  - ➤ Storage would be needed on the other rivers meaning more impacts to more land and increased costs.
  - ➤ The storage associated with the diversion is in the best place and most efficient – there is no other viable option.



#### **Reducing Impacts and Cost**

- Set the North Alignment Outlet to Maple River
  - ▶ Reduced length by 1 mile and cost by \$19 Million
  - ► Affects fewer landowners
- Completed Value Engineering (VE) studies
  - ▶ \$22 M savings at outlet structure
- Revisions to southern alignment, adding gates to the diversion inlet, in-town levees:
  - ► Saves \$59 million
  - ► Minimized impacts to farmers
  - ► Impacts fewer residences



#### **Cost of Corps Projects**

#### Grand Forks/East Grand Forks

- ► Project First Costs \$350.5 million (1998)
- ► Completed \$380 million (2012)
- ► Damages prevented >\$1 billion

#### Wahpeton/Breckenridge

- ► Total Costs \$66 million
- ▶ Damages prevented \$133 million
- ► Helped Cities survive flood of record in 2009 (during construction)

#### Fargo-Moorhead

- Conservative estimate
  - · Learned from Wahpeton/Breckenridge, GF/EGF, Roseau.
  - · Completed more analysis and technical research during Feasibility
  - Conservative decisions high contingency 26%
- ▶ More than \$100 million in identified costs savings to date



2

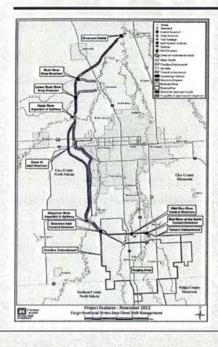
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#### Improving the Project - Moving Forward

- Continued analysis to improve overall project by increasing value, decreasing risk, and minimizing impacts:
  - ► Continue to develop detailed technical information
  - ► Examine cost saving measures identified in feasibility study
  - ► Value Engineering studies
  - ▶ Design refinements
  - ► Mitigation Policy development (e.g. OHB Ring Levee)
  - ▶ No significant future changes anticipated



#### National Environmental Policy Act (NEPA) Items



- North Alignment
- West Alignment
- South Alignment
- Addition of In-Town Levees
- Increased Flow Through Town
- Addition of Gates on the Inlet Structure
- Oxbow/Bakke/Hickson Ring Levee
- Public Comment Period May 2013
- NEPA Completed July 2013



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November 2012

#### **Overall Project Construction Schedule**

- Once authorized and funded by Congress
  - ▶ +3 months Sign Project Partnership Agreement
  - ▶ +6 months Earliest construction start
  - ▶ + 8.5 years Project Operable \*
- Earliest construction start
  - ► Fall 2013



\* 8.5 year construction period based on \$240 Million/year funding stream



#### **Diversion Authority Website**



The channel capacity was modified from previous phases to account for the storage and staging areas the wate included. The inclusion of these ereas ollowed for the capacity of the diversion channel to be reduced to approximately 2,000 cts. The diversion channel to was designed to keep the 1-percent chance event floor flow below existing ground in the diversion channel as much as possible to final impacts to creinage

English (English Control of the Cont

http://www.FMDiversion.com



## Testimony on HB 1020 to the Senate Appropriations Committee March, 8 2013

My name is Ken Pawluk. I am in my third term as a County Commissioner for Cass. This is my ninth year of service. In that time, Cass has operated our emergency operations center four times. When this happens, we suspend many or all County operations and dedicate all available resources to help our residents in the flood flight. Today, I would like to visit with you about two groups of Cass County residents who will benefit from removing the amendments on HB1020: one group that suffers the longest and another group who suffers the most severe impacts.

The folks that suffer the longest do not live along the Red River. They live on the Sheyenne River from 12th Ave. N. all the way to the Red River. This is where the Sheyenne Diversion project ends just north of West Fargo. In this area, you have the Maple River coming into the Sheyenne River, and the termination of Drain 14, which carries water all the way from Richland County. During a flood, Drain 14 is equivalent to another river. A few miles farther north, west of Harwood, you will find the lower and upper branches of the Rush River; which starts east of Page in Northern Cass County. There is a lot of flood water here. With the addition of Devil's Lake water to the mix, I hear frequently from residents in this area asking me how high they will have to sandbag to stop everyone else's water?

On page 5 of my testimony there is a picture of this area during the 2009 flood. If you look close, you will see all of the homes surrounded and cars parked on the paved highway. This is because these residents cannot drive to their homes. In 2009, 2010, and 2011 these folks had to boat to their homes for over 120 days. Their circumstance is no different than many other communities along the Sheyenne River north of West Fargo.

HB 1020, as passed in the House, does nothing for these residents. Most of these homes do not qualify for FEMA buyouts. The FM Area Diversion is the only hope for flood protection most of these people have. We are talking about all of Reed Township, a majority of Harwood Township, and a portion of Raymond Township, all containing hundreds of rural residences and subdivisions. This area includes

the cities of Reiles Acres, Harwood. Unless the amendments are stripped from HB1020, these people will be wet every time the Sheyenne River floods.

The only way to help these people is to start the FM Area Diversion project on the north. Even if other components are years away from completion, these north reaches, when competed to the Maple River, will help people who have no other real possibility for meaningful flood relief.

If you will look at page final page of my testimony you will see the project reaches outlined.

The project would begin with Reach 1, which is a bridge at Cass 31 and channel excavation to the Red River and would continue to the bridges at I29 and Cass 81 as part of Reach 3. The cost of Reach 1 is \$82.8M. The cost of Reach 3 is \$67.3M for a total of \$150.1M.

When the project reaches the Maple River in the 2015 to 2017 biennium, we will be able to offer meaningful flood relief to this area all the way to the Red River northeast of Argusville.

Now I would like to visit about the people that experience the most severe flood impact. This is in the area where the Wild Rice River meets up with Red River. From just North of the Richland/Cass line at Oxbow, up to Briarwood, south of Fargo. This is the area hardest hit during the 2009 flood. Most of this area will see direct benefit from the FM Area Diversion.

There is a picture of this area during the 2009 flood on page 14 of my testimony.

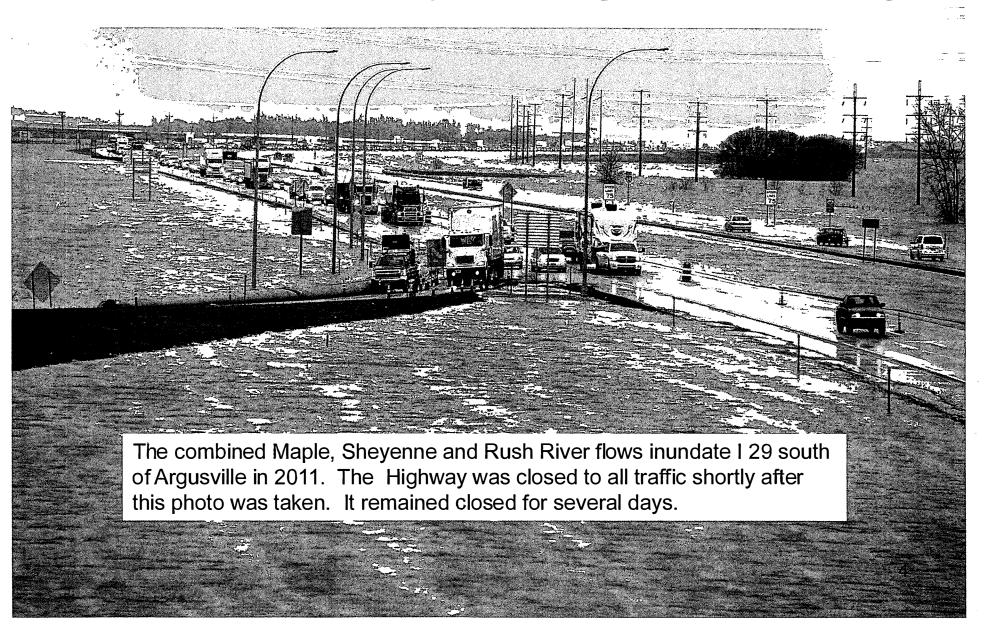
The communities of Oxbow, Hickson, and Bakke are in this area. These three communities contain 173 homes. By starting the levee in this area, we protect the hardest hit area in past flooding by providing 500-year flood protection. We solve the valuation problem these folks have faced and we provide a dry growth area for the local community and protect the tax base of the Kindred School District. The cost of protecting these homes is \$65 million and their protection will then be complete regardless how long further Diversion work takes to complete. Most importantly, it gets these people out the limbo they now face.

In addition to the pictures I have referenced, I have included a couple more with my testimony. Fargo faces a serious flood risk that needs to be addressed, but so do all of these other areas of Cass County. With the amendments on HB1020 as passed by the House, we cannot offer protection to any of these other areas. The FM Area Diversion is Cass County's flood protection plan. It will protect 138,437 Cass County residents. I urge you to remove these restrictions and help provide protection for the people of Cass County.

Thank you for your time and for the opportunity to speak today.

Ken Pawluk
Cass County Commissioner
Fargo, ND 58102
701.238.1808
pawlukk@casscountynd.gov

## **Eastern Cass County Flooding Outside of Fargo**



### Sheyenne River flooding north of West Fargo 2009 from the air



Cass County Highway 17 between West Fargo and Harwood on March 21, 2010. This is a major County Highway.





# Lengthy Sheyenne River Flooding

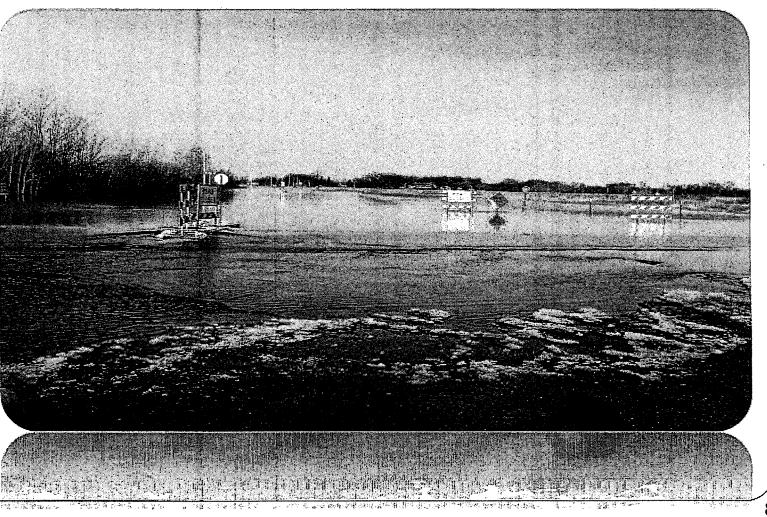
**April 8 2011** 

**April 21 2011** 





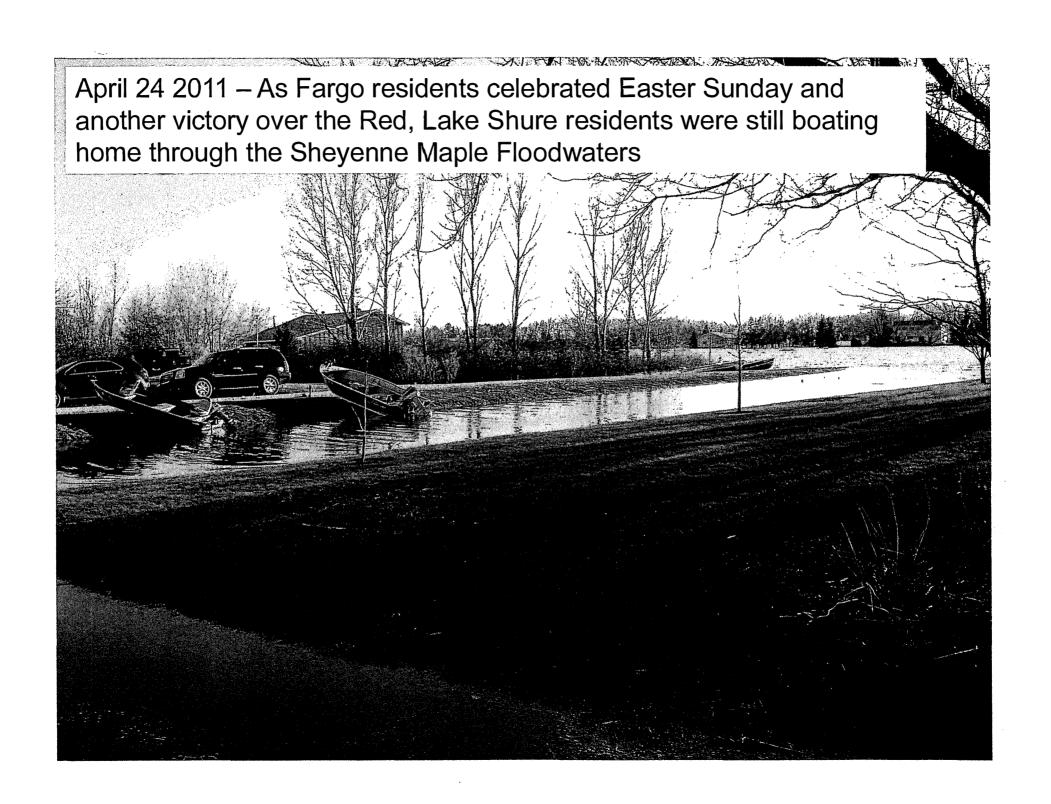
Cass County Highway 20 between West Fargo and Harwood on March 21, 2010.



Cass 31 North of Fargo near Highland Park 2009



Access Road to Lake Shure Subdivision near Harwood on March 21, 2010

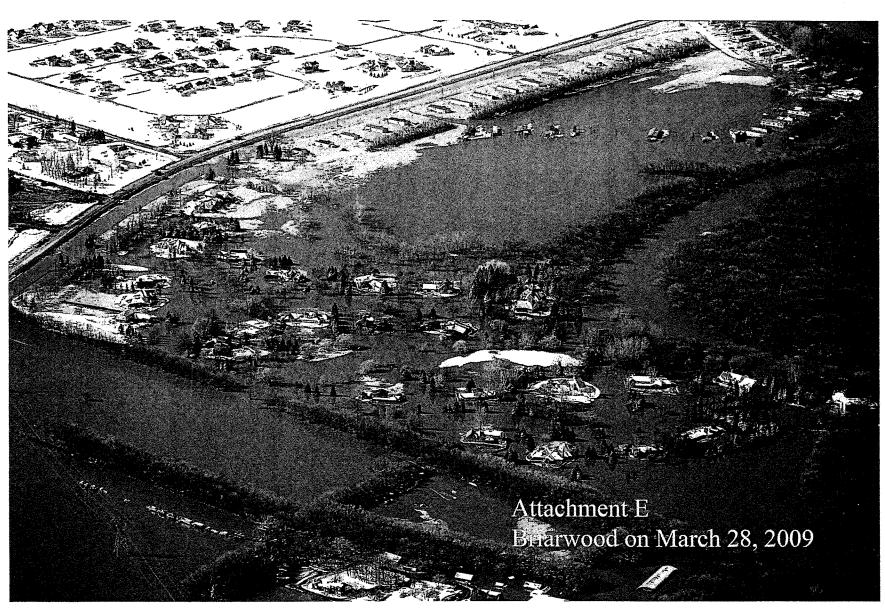


March 21, 2010 Photo of home on Northwood Drive North of Fargo on the Red River. This home *didn't* qualify for either FMA or HMGP FEMA funding (March 21, 2010 crest is 3.8 feet lower than 2009)





## City of Briarwood south of Fargo 2009 note Highway 81 Emergency Levee



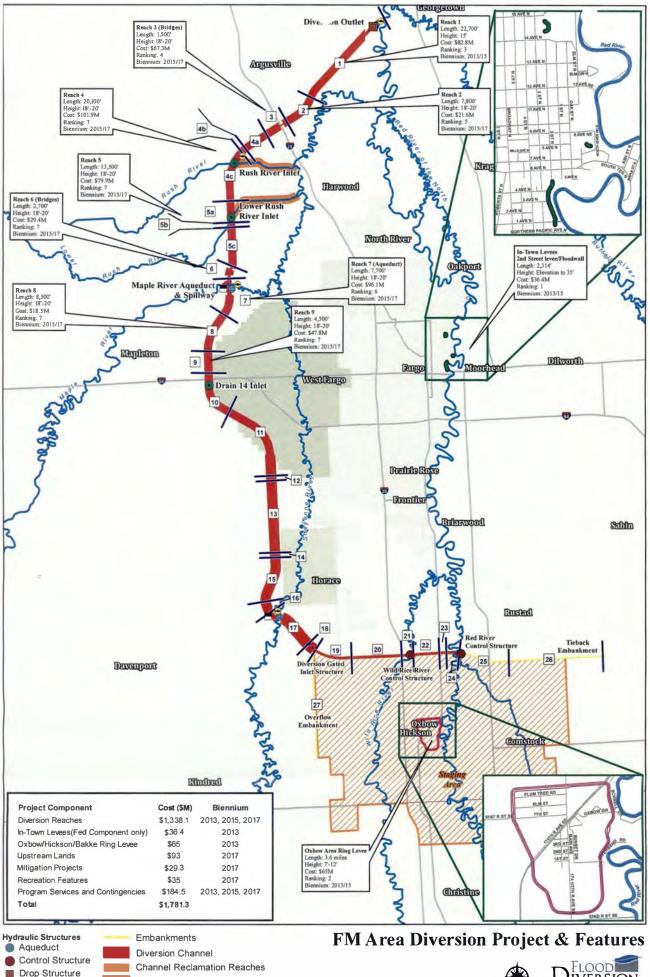
## Oxbow 2009 - Needs a ring dike with or without a diversion











Aqueduct
 Control Structure
 Drop Structure
 Spillway
 Inlet
 Diversion Channel
 Channel Reclamation Reaches
 Staging Area
 Oxbow Area Ring Levee
 Red River In-Town Levees
 2nd Street levee/Floodwall



#### Testimony to the Senate Appropriations Committee on HB1020

Chairman Holmberg and members of the Senate Appropriations Committee:

My name is Jim Nyhof. I am the Mayor of Oxbow serving in my second term. I come here today to ask for funding in HB1020 for ring levee protection for the city I serve. As destructive as the flood of 2009 was for Oxbow, a flood ranking in excess of 100-year standards, this flood provided our community the knowledge to protect our homes in the future. I applaud Fargo leaders for their success given temporary structures in a flood fight against the one of the biggest floods on record comparable to a 50-year flood. Yes in 2009, Fargo fought a 50-year flood while only 10 miles south our community faced a flood at a 100 year level.

As Fargo's flood protection continues to build up limiting water flow through the river channel, the protection forces the staging of water in areas of lower elevation south of Fargo to back up and restrict water from flowing thru the channel. The impact of the levee's protecting Fargo increases the risk of greater flood fights for Oxbow in the future. The amendment's in HB 1020 provides protection for Fargo but limits the FM Diversion from providing Oxbow protection as well.

After the 2009 flood, Oxbow approached the State Water Commission with a plan to build uncertified levees combined with temporary structures in an attempt to protect the 300+ residents that remained in Oxbow. Given the limited resources of a community of 100 homes, uncertified protection was the best we could do, and the State Water Commission granted us the permit and funding.

For over the past two years, residents of Oxbow have been living in a true "dead zone" with no value in their homes. The negotiations with the FM Diversion continued in an effort to find a compromise that would allow both communities to exist with similar levels of flood protect. I am proud to say we have come to that compromise. This compromise allows the Kindred School District to maintain 20% of its enrollment and tax base. A compromise that our kids love just as much as the property taxpayers.

If back in 2009, the City of Oxbow would have gone to the US Corp of Engineers asking for permanent protection, the plan the Corp would have come up with then, would have been very similar to the plan on the table today. Ring levees are not the perfect solution but the fear and costs associated with living with the threat of a major flood more than out weight the disadvantages. For a number of years now, other communities in our area with ring levees have successfully survived major flood events so the thought of ongoing studies of ring levees will only increase the cost to taxpayers and delay our future.

The FM Diversion is giving Oxbow the opportunity to permanently solve the problem and exist alongside Fargo's permanent protection. Please do not limit the Diversion Authorities ability to give us our lives back and end the "limbo".

Thank you for your consideration.

# Testimony by Commissioner Brad Wimmer on behalf of the City of Fargo To Senate Appropriations Committee Hearing on HB1020 March 8, 2013

Chairman Holmberg and members of the Senate Appropriations Committee, thank you for allowing me the time to speak to you today. My name is Brad Wimmer. I am a Fargo City Commissioner. I appear before you this morning on behalf of the City of Fargo to speak in support of HB 1020 as originally presented in the House of Representative and to oppose the amendments attached to the bill as passed out of the House.

You have heard from the Chair of the FM Area Diversion Authority, Mr. Darrel Vanyo, as to the reasons for the opposition to the amended language in HB 1020. The City of Fargo agrees with his position. Even though Fargo would be the recipient of funding even with the amendments, after many years of flood fighting, it is the firm belief of our entire City Commission that the only adequate solution for flood protection in the F-M metro area and Cass County is a Diversion.

# **In-Town Flows**

Part of the diversion project is the ability to move water through the cities of Fargo and Moorhead in the natural river bed of the Red River. The original design of the diversion called for a volume of 9,500 cubic feet per second of water to flow through the cities during a 100-year event. For comparison purposes, 29,500 cubic feet per second of water flowed through Fargo at the crest of the 2009 historic flood, which was considered a 50-year event.

Since the submission of the Corps of Engineers' final plan, for which the Environmental Impact Statement (EIS) was prepared, the Diversion

Authority's staff and local engineering firms have worked with the Corps to study and design alternative flow regimens through the F-M Area and what the impacts would be to upstream properties affected by the Diversion. The results of these studies and designs were very encouraging.

First, maximum flows through Fargo-Moorhead were determined to be 20,000 cfs, which translates into a maximum flow through Fargo to be at a 35' flood elevation—the 2009 flood was 40.8'. A 500-year event would require a flow of 40' through town with the Diversion working at full capacity.

Second, greater flows through Fargo allowed for the option to protect the homes in and around the city of Oxbow and rural subdivisions of Bakke/Hickson with a ring levee. Previously, the project required those homes to be bought out.

Third, the duration of upstream impacts from a 100-year flood were reduced to just 5 additional days beyond existing conditions due to increased flows through town.

Finally, the impacts of flows through town decreased the impacts further upstream in Richland and Wilkin counties. The number of homes that need to be purchased in Richland County were reduced to only 3 and the additional acres flooded in a 100-year event were reduced to 1,071.

## Only In-Town Levee Solution is Not the Answer

Many have said that all the State of North Dakota needs to do is help fund Fargo to build levees to 42.5' and all the city's problems will be solved. I am here to tell you today that an "only in-town levee solution" is not the answer. Constructing levees in Fargo today to 42.5' will address the current and proposed Federal Emergency Management Agency's (FEMA) flood plain maps and flood plain insurance regulations.

The current flood plain rules state that Fargo's 100-year flood plain is 38.4' and will soon be changed to 39.4' (summer 2013). In order to certify to FEMA that homes in the city can be protected to these levels, levees that are connected and tied into natural ground higher than 39.4' must have a minimum of 3' of freeboard. Thus, the 39.4' plus 3' is how we arrived at the goal of 42.5' elevation to which we are currently constructing all levees.

The problem with this proposed "42.5' ultimate solution" is that FEMA has already begun to consider moving forward on raising the flood plain elevation from 39.4' to the Corps of Engineers 100-year flood elevation, which with emergency measures is 42.5' plus freeboard. So, building levees only to 42.5' throughout the city may see FEMA recognize the efforts and take the homes out of the flood insurance mapped area for a period of time, only to have FEMA in future years put these properties back into the flood plain because the 42.5' levees are not high enough to be recertified.

The Diversion is the only way to address long-term flooding in the F-M area and remove costly flood insurance requirements. In-town levees compliment the diversion, allow more water through town to lessen upstream impacts, and give interim protection while the diversion construction is completed, but in-town levees alone do not offer adequate protection for the residents of Fargo or its neighboring communities.

I ask for your support of funding of the diversion and ask that you consider removing the amendments that deter the efforts to build the diversion and ring levees that are necessary for comprehensive flood protection for Cass County and Fargo.

Thank you.

#8 Testimony by
Darrell Vanyo
Aaron Snyder
Ken Pawluk
Mayor Jim Nyhoff
Brad Wimmer



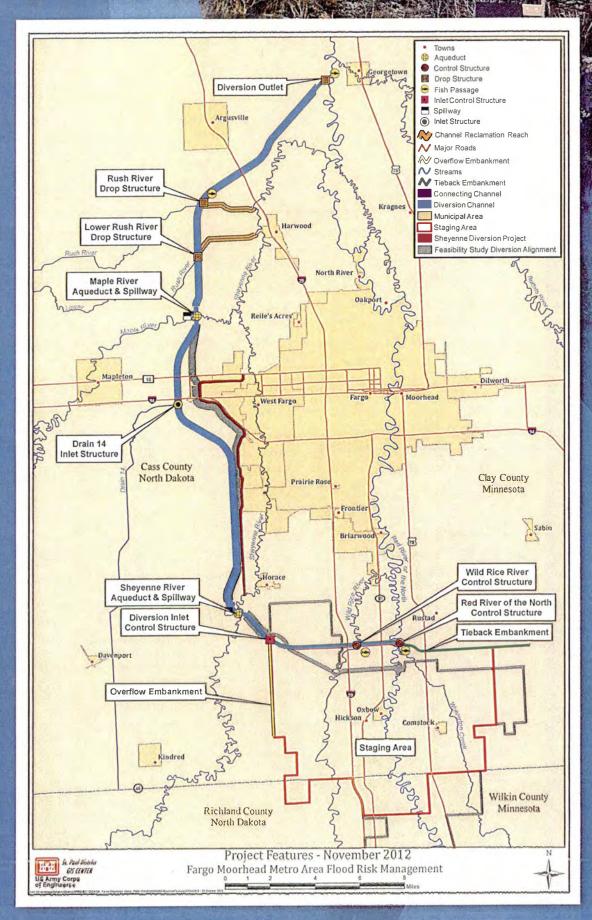
# BENEFITS FROM THE DIVERSION?

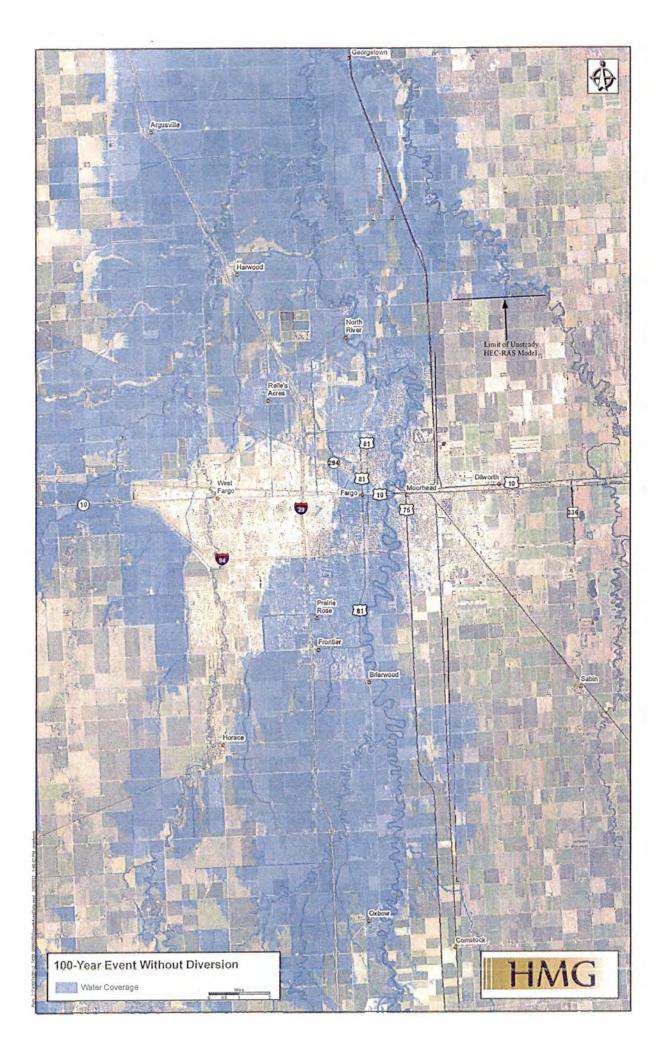
- 200,000+ people living in Fargo, Moorhead, West Fargo, Horace, and Harwood region.
- 70 square miles of existing infrastructure
- 103,000 jobs approximately
- \$4.3 Billion in annual wages
- \$14 Billion in property value
- \$10 Billion in annual Fargo-Moorhead Gross Domestic Product
- \$200 Million in annual North Dakota income & sales tax

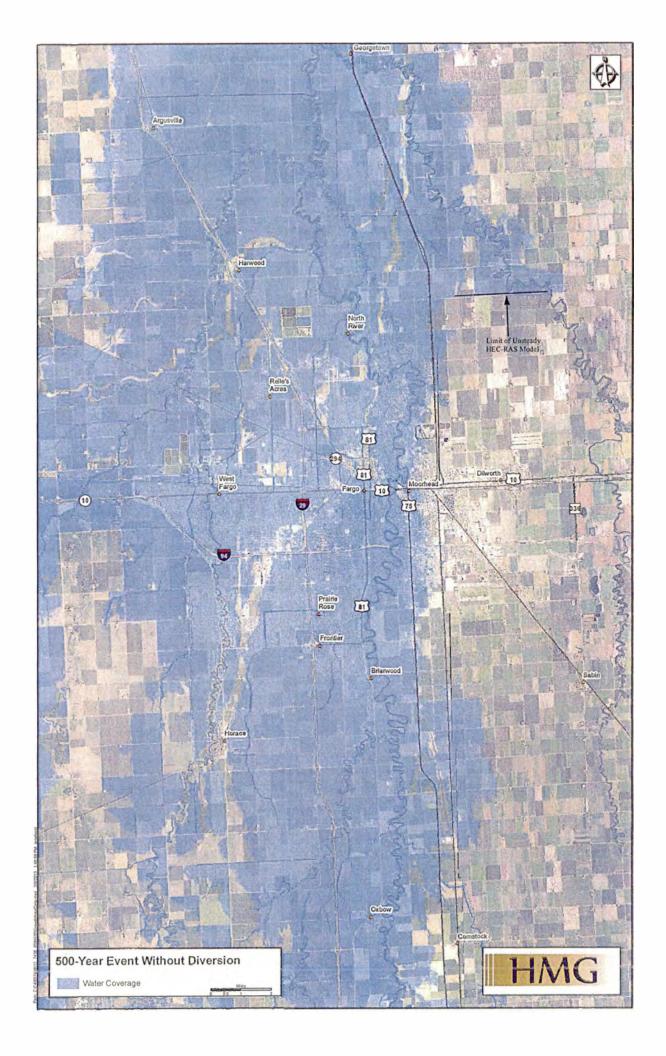
# **FACT**

The Diversion would protect 1 in 5 North Dakotans from flooding!

# OVERALL PROJECT MAP







# MINIMIZING UPSTREAM IMPACTS



Refinements of the Federally Recommended Plan (FRP) have greatly reduced impacts.

- Moved alignment north to reduce impacts to Richland & Wilkin Counties
- Increased flows through town to reduce frequency of Diversion use
- Added gates on the Diversion inlet for operational flexibility
- Proposed Ring Levee around Oxbow-Hickson-Bokke to provide 500-yr protection to those communities and prevent a community-wide buyout

IMPACT REDUCTION IN DEFINED STAGING AREA										
Impacts	FRP	Current Plan								
Residential Structures (no ring levees)	387	251								
Residential Structures (with ring levees)		58								
Total Acres Impacted	33,930	32,523								
Cost Savings (\$ in millions)		59								

Reduced impacts to Richland and Wilkin Counties due to alignment refinements.

#### **WILKIN COUNTY**

- 50% reduction in residential structures (4 to 2)
- 59% reduction in newly impacted acres (2,420 to 995)
- 97% of additional impacts are between 0-1 feet
- . No impacts during 10-yr event

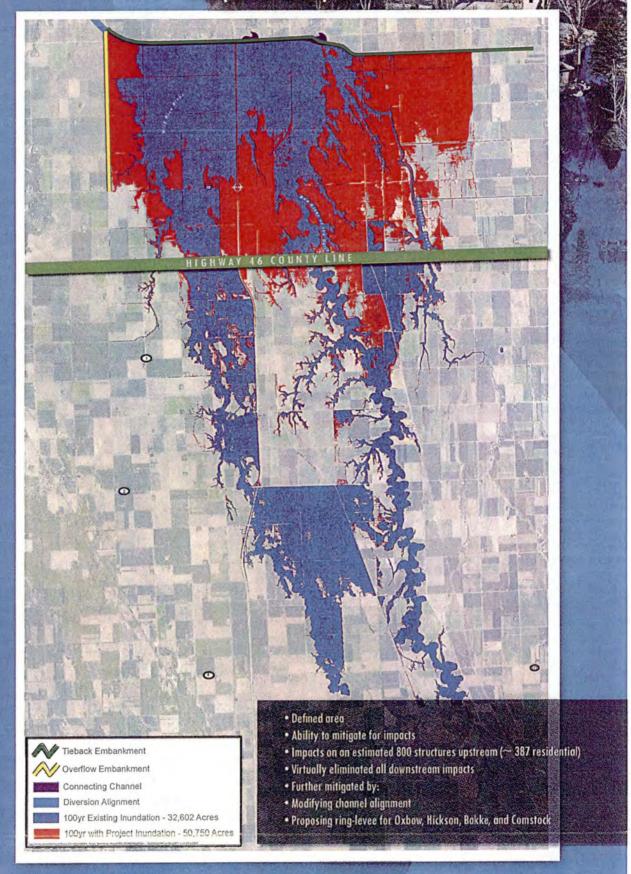
#### RICHLAND COUNTY

- 87% reduction in residential structures (23 to 3
- 55% reduction in newly impacted areas (2,401 to 1,071)
- 94% of additional impacts are between 0-1 feet
- No impacts during 10-yr event

# **FACT**

The MAJORITY OF IMPACTS are in Cass and Clay counties where the MAJORITY OF BENEFITS are seen.

# UPSTREAM IMPACTS 1% (100-YEAR) EVENT



# FM Area Diversion



# AG IMPACTS MITIGATION PLAN

### FLOWAGE EASEMENT

- The easement provides the legal ability to inundate property as part of the operation of the Project.
- Value of flowage easement will follow Federal/USACE process and will be determined by appraisal. Factors that will be considered are depth, duration, and frequency of additional flooding and highest and best use of the property.
- USACE policy defines a flowage easement as a one-time payment made at the time that the easement is acquired, currently estimated in 2020.
- Appraiser may consider future impacts including delayed planting, yield loss, debris, and limitations to future land use, resulting from operation of the Project.
- Values of flowage easement will vary depending on the location of the property, magnitude of impacts, and future risks to the property.
- Flowage easements will allow for farming to continue on properties, however development will be limited.
- The Corps' Feasibility Study estimated Ag flowage easements at 25 percent of land costs, on average. The actual value will be adjusted to reflect current valuation when easements are acquired.

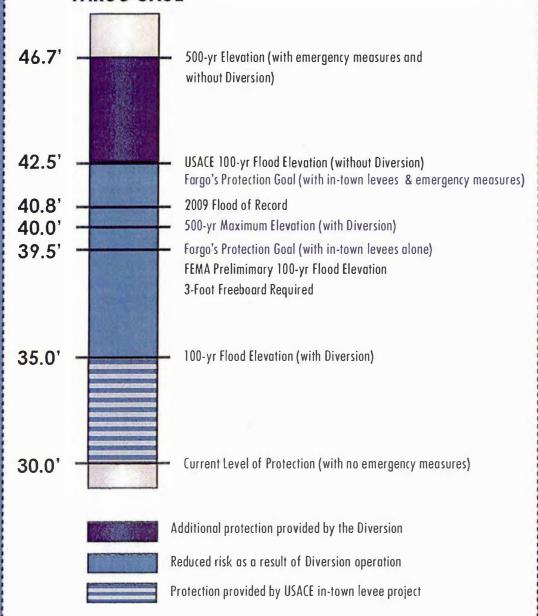
### **CROP INSURANCE**

- Federal crop insurance will apply if a crop can be planted before the established late planting dates.
- The Diversion Authority intends to provide a supplemental risk policy. The draft policy provides equivalent crop insurance coverage as growers have today.
- The risk policy will cover prevent plant scenarios where Project operation would prohibit planting.
- The risk policy would also cover damages caused by project operation to planted crops (summer impacts).
- The Diversion Authority will base its risk policy on federal crop insurance programs administered by the Risk Management Agency (RMA)/USDA.
- RMA policies and procedures will be used to define insurance coverage for damages caused by the Diversion Project.
- The Diversion Authority intends to contract with an independent insurance provider to administer the coverage and damage adjustment process.
- The Diversion Authority will explore selfinsurance vs. supplemental insurance through a provider.
- There is a 90 percent chance that the staging area will not be used in any given year, and for the 10 percent chance that the staging area will operate in any year, additional flooding will exist for a maximum of 5.5 days beyond existing conditions.



# FLOOD PROTECTION LEVELS

# **FARGO GAGE**



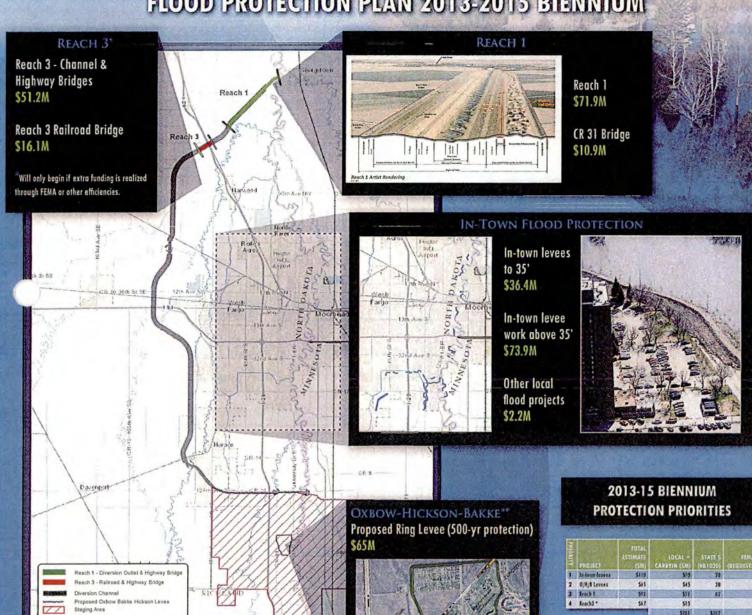
<sup>\*</sup>Emergency measures are non-permanent flood fighting options. These efforts are less reliable and require an intense demand on city and county technical staff and emergency responders along with considerable volunteer commitment. These measures also greatly interrupt commerce.

# **FM Area** Diversion

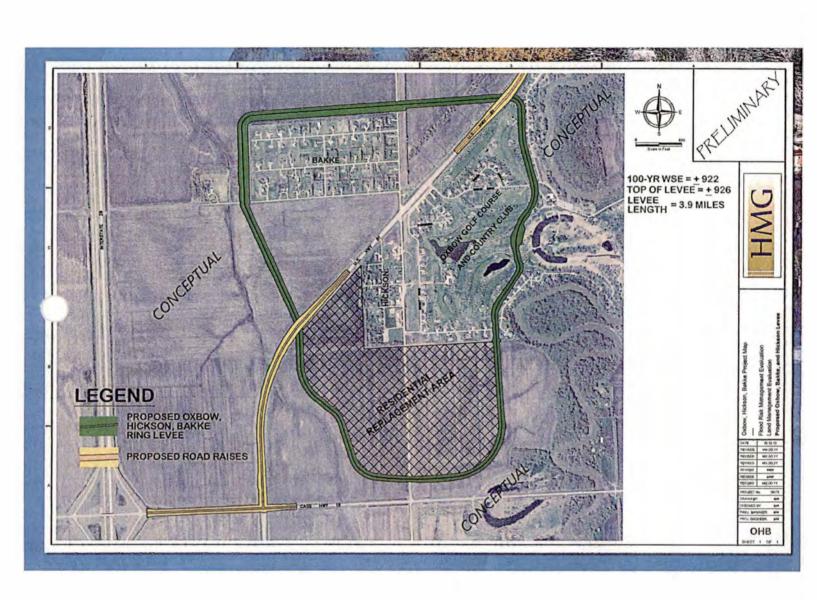
**FLOOD PROTECTION FOR 1 IN 5 NORTH DAKOTANS** 



# FLOOD PROTECTION PLAN 2013-2015 BIENNIUM



ALTROPIA	иедст	FOTAL ESTIMATE (SM)	LOCAL + CARRYIN (SM)		FEMA 5 (BEQUESTED)
1	In-form ferres	\$110	370	70	75
2	O/H/B Levees	\$65	\$45	20	
3	Reach 1	593	571	87	Total State of
4	Reach3 *	\$67	\$15		
1	-		5161	\$107	75



Ann Me Conn 9 4B 1020 3-8-13

Testimony of Ann McConn, Alerus Financial Business Leaders Task Force for Permanent Flood Protection HB 1020 March 6, 2013

Chairman Holmberg and members of the Senate Appropriations committee, my name is Ann McConn and I am here today as the vice chair of a business leaders task force in support of permanent flood protection and the FM Area Diversion project. The taskforce is a collaborative effort of the Fargo Moorhead West Fargo Chamber of Commerce, the Greater Fargo Moorhead Economic Development Corporation and local businesses. I am also the Fargo Market President for Alerus Financial. Alerus Financial is one of the largest and oldest independent financial services organizations in the Upper Midwest, deeply rooted in North Dakota with headquarters in Grand Forks. My organization is very familiar with the short and long term devastation a flood can have on a community and the businesses and individuals that make up the community.

We need a diversion. Studies show we cannot achieve 100 year flood protection with levees alone. Over three years of study and hard, collaborative work have gone into this project. Fargo and Cass County residents have passed 3 different sale's taxes to provide local Cass and City funding for permanent flood protection. This diversion project is ranked second-highest by the Army Corp of Engineers of projects that have received approval from the secretary of the army. It is critical that the State of North Dakota is strongly supportive as well.

Fargo has been an economic engine for the state and we want it to continue to grow and thrive. One in five residents of the state live behind this diversion. That is 20% of our state population.

The FM MSA is home to over 120,000 jobs that generate \$4.35 billion in annual wages. The FM MSA generates more than \$2.75 billion in taxable sales. \$200 million of annual ND income and sale's tax is generated in this region.

Permanent Flood Protection in the F-M Metro area is key to continued economic growth, security and the future of our communities. I am very proud to have grown up in Fargo and lived there most of my life. I am proud of the gallant flood fights we have had the past few years but like most residents do not want to continue to face rising waters. We as leaders of today have been given the opportunity to make permanent flood protection a reality and we need to make sure it happens to secure our future for generations to come.

The FM Business Leaders Task Force for Permanent Flood Protection is in support of House Bill 1020 but is opposed to the amendments to the bill.

In closing, on behalf of this Business Leaders Taskforce I ask you to support funding without restricting the best possible solution to our flood risk. Thank you for your attention to this serious issue and the opportunity for me to speak with you today.

Included with my testimony today I have attached a list of the members of the Business Leaders Taskforce and written testimony from business leaders in our community.

I'd be happy to take any questions you may have. Thank you.





Ann Mc Conn

### Business Leaders Task Force for Permanent Flood Protection March 8, 2013

Aldevron

Alerus Financial

Blue Cross Blue Shield of North Dakota

Bell State Bank

Border States Electric

Case New Holland

Dawson Insurance

DS Beverage

Essentia Health

**Eventide Senior Living Communities** 

FargoDome

FM Association of Realtors

FM Economic Development Corp.

Gate City Bank

Heritage Homes

Prudential

Home Builders Association of FM

Indigo Signworks

Kilbourne Group

Microsoft

Moore Engineering

Park Company Realty

Roers Construction

S&S Promotional Group

Sanford Health

The Chamber

Wells Fargo

West Acres Development

Xcel Energy

Steve Hall HB 1020 3-8-13

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House Bill No. 1020

Senate Appropriations Committee—Senator Ray Holmberg, Chairman March 8, 2013 Kindred School District Comments Steve Hall, Superintendent

Good Morning, Chairman Holmberg, Committee Members. Thank you for your time this morning. I am Steve Hall, Superintendent of the Kindred Public School District. Kindred School District is an outstanding school district that provides a quality education for 676 students.

We are located just south of Fargo and West Fargo; our 676 students are located in or around our 5 communities in the district. (Kindred, Davenport, Leonard, Walcott, and Oxbow). Our school district boundaries are in three counties, Cass County, Richland County, and Ransom County. This school year, Kindred School District is the 5<sup>th</sup> largest Class B district in the state of North Dakota.

In 2010 when this Diversion Authority / Dam Project was announced to be placed in the eastern end of our school district, my school board and community members were immediately shocked; first at the location of the project and second at the potential impacts of this project on us all.

This proposed diversion project placement creates a huge concern to our district. The diversion channel lies on or just north of the Kindred School District boundary line that separates Fargo and West Fargo from the Kindred District. We have been told this line was selected randomly, however it is amazing how similar the layout mirrors our school district lines. Because of the placement of the diversion channel the water that would be stored south of the diversion would be stored in the Kindred School District, not in the West Fargo or Fargo School Districts. It would extend as far west as county road 17 and south to state highway 46, which is the southern edge of our district, south of Oxbow. Water would also be stored south of highway 46 in the Richland 44 School District south through the Christine, ND area. This project would create a total dead zone for our district. Future development potential would be zero in this area. No one would be allowed to build with in this impacted area. There are also undetermined impacts to our district and to this project from County Road 17 west to Kindred. We are very concerned about the Sheyenne River breakout water, which runs east and northeast and gets blocked off from its natural flow by the project's raising of highway 17 on the west.

As it stands, right now, this project would flood an area that contains, at a minimum, 23 % of our districts taxable valuation and 19% of our student population.

Because of the significant impacts on the district the Kindred School Board has gone on record opposing this locally preferred flood retention / Dam project south of Fargo. This project could cause the district severe financial problems and severely limit potential growth in our district.

We have been in contact with the Federal Legislators, Diversion Authority, State Legislators and Cass County officials. We want to know; if a project like this is supported who would

cover impacts and losses in our school budget and increases to our local taxpayers? As you all know, two things are important to a school district; property value and students. This revenue stream allows us to maintain our general operating budget, and pay back our bonded debt. We currently have a large amount of bonded debt because we just completed our new high school building project, which we moved into this fall. This was a \$14.7 million dollar high school building project. We make a \$900,000 payment on the project each year.

Two years ago we could see potential impacts on our district and we have tried to be proactive for our taxpayers. Two years ago we were told we were too early to plan for compensation of losses because there had been no impacts to the district. Over the past couple of years we have met multiple times with the Diversion Authority and Cass County officials. Cass County had said they would want to help make us whole.

Now fast forward to this past summer and fall. The City of Oxbow petitioned for a tax reduction. In Sept. the State Board of Equalization granted Oxbow residents a 20% reduction in their property taxes. This reduction in valuation has directly affected all patrons in our district. Expenses to operate our schools did not change when the reduction was granted. Our operating budget and dollars needed to maintain our carry-over budget were still there. Therefore the burden to cover this has fallen on the other taxpayers in our district. The reduction has now created an increase in taxes to patrons in Leonard, Walcott, Kindred, and Davenport. And this is all due to the project.

So, as of this fall, the residents in our school district have now had real impacts due to this proposed water project. And what is really troublesome is that there is not even an approved project. Sponsors of this project have rejected any responsibility for their actions and damages to the school district. An example of this deferment of responsible was in a follow up letter from the Diversion Authority to our district after we requested to be compensated for lost revenue due to the property valuation decrease.

In a letter from the Diversion Authority, on December 17, they determined the Kindred School District was not out any monies, therefore, we would not be reimbursed for any losses. Their claim was that the district was not out money since the taxpayers in the rest of the district picked up the loss of revenue from the City of Oxbow's devaluation! So, their logic is, if we raise taxes on other taxpayers to pay for losses there are really no losses?

Ever since this project was proposed we have been concerned about the potential impacts on our school district taxpayers, school district taxpayers that live in Cass, Richland and Ransom County. We now have REAL impacts on our taxpayers and we have a potential dead zone that would be created by this project. Because of the lack of a voice in this project we felt it was necessary to join the other 30+ entities (cities, townships, school districts, etc) in the Richland / Wilkin JPA and work together for a common goal.

The Kindred Public School District supports plans to protect the Fargo-Moorhead Metro area from flooding, but we cannot support this proposed project.

We ask that you keep in mind the current and potential impacts on Kindred and Richland School Districts as you consider funding water projects in the Red River Valley.

House Bill 1020

#### Senate Appropriations Committee - Senator Ray Holmberg

March 8, 2013

Testimony of Dennis J. Biewer

**Good Morning Chairman Holmberg and Members of the Committee** 

Dennis J. Biewer – Resident of the Bakke Development, Supervisor for Pleasant Township, President for the Members of the Bakke Homeowners Association - which is a non-registered group.

First of all, it is very important to understand that we support protection for Fargo and we support money for protection of Fargo. But we don't support money being handed out to flood our community with a dam and reservoir.

I would like you to understand that south of Fargo approximately 8 miles, is a city called Oxbow and across the road are the developments of Bakke and Hickson (village). Bakke has 57 homes with families ranging from their 30's all the way to their 70's. Hickson has roughly 13 homes — with similar age groups. The first level of government for Bakke and Hickson is the Township.

It is also important to understand that Bakke and Hickson have never flooded – nor have many of the farms in Pleasant Township. I have been told by some residents that the reason they built their homes in Bakke is because they had reviewed previous flood maps and verified the area is safe from flooding.

The Corp has created a project for Fargo including a dam and reservoir that will cause our area to be covered with 8 feet of water. This is a project that the Diversion Authority is relying on the Federal Government to subsidize. When this project was created, the Corp's plan said that any structures within the reservoir that will have 3' or more water must be bought out. However, in the last 5 months the DA has come out with a ring dike proposal that is supposed to be our saving grace.

Up to a few weeks ago, Oxbow had 2 standing resolutions: (abbreviated)

- 1.19.11 Must offer buy-outs to everyone
- 9.5.12 Oppose dam and reservoir

Pleasant Township also has a standing resolution opposing the dam/reservoir and ring dike.

A Joint Powers Agreement (JPA) was created in Richland and Wilkin Counties to stop the dam and reservoir. Like Pleasant Township and many other governmental units, Oxbow joined the JPA so our voices could be heard.

Back on October 2<sup>nd</sup>, I was contacted by the Cass County Administrator and the Corps, asking to get residents feedback of a ring dike for the areas of Hickson and Bakke. A ring dike that would be 10 feet high if you're farther from the river, and 17' if you are along the river. I was asked to get feedback ASAP as they didn't want to spend time and money researching if the residents were not interested. I was told that if there was not any interest, they would drop the idea (Mr. Walaker labeled it "The Grand Solution"). Therefore we organized a meeting for the residents of Hickson and Bakke. There were also some residents of Oxbow and Pleasant Township that attended. The show of hands was unanimous declining the idea. I grew up on a farm in SE North Dakota, I cherish the open country and view; this would put a 10' wall along my property. This is a ring dike that would be forced upon us because Fargo allowed a new high school and development to be built in a natural flood plain. This will also destroy many farms and potential growth for the school district.

Oxbow, on the other hand, did not offer a vote to their people, as the city council chose to make a decision for them. It was a very controversial issue as there were 2 city commissioners that opposed and 2 that approved, therefore, the mayor, who seems to be a very good friend of Fargo, was the deciding vote.

However, just a few days after Oxbow mayor Jim Nyhoff testified to the House Appropriations Committee (on January 16<sup>th</sup>), Jim and some Oxbow residents went door-to-door to get enough signatures to rescind their resolutions.

Oxbow, which has a private non-profit golf course, filed a list of 12 demands. Included in the demands were a new clubhouse and swimming pool for the country club. In addition six lost golf holes would be replaced by course designer Robert Trent Jones. The city of Oxbow is currently protected from a 100 year flood. Money previously spent to protect the city would be reimbursed by Fargo.

To clarify that, the Oxbow is asking for \$65M that will be used to buyout 40 plus homes that fall in the footprint of the ring dike, a new clubhouse and pool, as well as new holes on the golf course.

The response of no interest from Bakke and Hickson was not good enough for the Diversion Authority. They held a public meeting at Bennet School on 1/8/13 to sell the idea of a ring dike. A Corp generated survey was distributed to anyone that scheduled a one-on-one (I should say three-on-one). Because Bakke residents had concerns that not everyone completed a survey, they went door to door in Bakke and Hickson to gather as much feedback as possible. Bakke - over 85% responded, Hickson – over 75% responded and some from Oxbow and Pleasant Township. Unanimously - they opposed the ring dike. As there have been articles written in the local newspaper about Bakke and Hickson being silent on the ring dike, I contacted the Corp on March 6<sup>th</sup> to only find out they did not forward the surveys to anyone, rather compiled a summary. The reasoning was because at the top of the survey it stated "Responses are voluntary and will remain anonymous" and that it does not serve as an official vote. Yet the residents wrote in their name, address and phone numbers as they didn't want any question whether they were authentic. The summary was clearly deceiving as the residents clearly indicated their opinions of not supporting a ring dike (copy in hand).

As a follow-up to this meeting, I was on a call with the Corp which I was informed by the Cass County Administrator that the DA will make a decision for Bakke and Hickson. So the question arises, why did we spend all this time and effort when the DA was going to make the decision anyway?

Chairman Holmberg and Members of the Committee, Oxbow is arguing their home values have diminished. So have the home values in Hickson and Bakke. So have the farms that will be covered up with 6 feet of water. Farmers have asked the DA the question about how they would handle the buyout of their farms to make them whole---no answers. They have asked about crop insurance as a man-made disaster is not covered by crop insurance. The response is that they are looking for a company to write the policy. I am a Claims Manager for a crop insurance company and I know how much the Federal Government subsidizes the program; it is a lot of money. Who is going to get stuck with the bill, state tax payers or do they create an assessment district?

As a resident of Bakke and member of the Township board I have been told by the Cass County Administrator to create a wish list for Bakke and give them a chance to review the list. This doesn't solve the problem for the farmers. This only makes it worse for our neighbors. Oxbow has chosen the path to get a new pool and clubhouse; we have chosen to take care of our neighbors. \$65M for 40 homes in Oxbow because they are in the foot print of the ring dike.

This is not necessary if the dam and reservoir are not built. Let's take the time to complete a legislative study of the project. This language is in the amendments. As a Supervisor for the township – we have to worry about a 36 square mile area.

- ✓ Why would we reduce the value of productive farmland land or allow a hazard of a man-made disaster? What happens to my son's 8 year old friend, Mason Nipstad, who dreams about farming but may never be given the chance because Fargo took it away?
- ✓ What is going to happen to the dead zone of over 50,000 acres that could have helped out schools and provided taxable revenue for the district?
- ✓ Why put North Dakota at the risk of being hooked when the Federal government hasn't approved the Corp project?
- ✓ What about the safety of our families living behind a ring dike along a raging Red River? Imagine a 17 ft ring dike along the river that breaks out with 30 degree temperatures. Evacuation time is minutes.
- ✓ Imagine snow removal within a development that has a 8-10 foot wall to create drifts.
- ✓ Imagine the hydraulic pressure that will be forced on gravity flow sewers and
  basements when the water is surrounding the development.
- ✓ There are no promises that home values will rebound and nobody will sign their name to an agreement.
- ✓ Imagine the assessments that will be put on residents for all the expenses associated with the project.

This has become a land grab for future development of Fargo. Let's spend the money on achieving 42 ½ ft. of protection for Fargo and not worry about placing a ring dike 8 miles south of Fargo that will destroy farms. Fargo is trying to protect land that should not have been developed in the first place. Fargo has ruined a number of relationships because of their actions and it is very dis-heartening.

Chairman Holmberg and Members of the Committee – The amendments prevent Fargo from buying 40 homes in Oxbow to build a ring dike around our 3 communities. Please keep the accountability tied to this money and make them go back to the drawing board for a basin wide study.

Chairman Holmberg and Members of the Committee – thank you for listening to my testimony and I would be happy to respond to any question.

Craig Hertsgaard # 13 NB 1020 # 13

Testimony on HB 1020

North Dakota Senate Appropriations Committee

March 8th 2013

Senator Ray Holmberg, Chairman

Chairman Holmberg, and Committee Members.

Thank you for the opportunity to present testimony in support of HB 1020 as approved by the ND House of Representatives. I support the bill in its entirety, and urge its unamended passage. My name is Craig Hertsgaard. I am a farmer in the Kindred area. I have been involved with flooding issues in the Red River Valley as a township supervisor, a member of the North Dakota Farm Bureau, and as part of upstream coalitions opposed to the dam and reservoir components of the proposed Red River Diversion Project. I support flood control for the entire Red River Valley as well as the communities of Fargo and West Fargo.

I'd like to briefly review the major components of the project as they affect funding for flood control that this committee will recommend.

Fargo approached the Army Corps seeking flood control for their city. The Corps said the best value for the Federal government was a diversion channel on the Minnesota side of the river. It took 31 square miles out of the natural flood plain to protect the area from a 100 year flood. Minnesota was not interested in a diversion channel on their side of the river because of its limited benefit for their state. The Fargo Metro Flood Group asked for a diversion channel on the North Dakota side of the river. The Army Corps then prepared a plan that would remove 71 square miles from the flood plain. The amount of land taken out of the floodplain is important, because that determines downstream impacts. The North Dakota plan takes so much land out of the floodplain that the downstream impacts reach all the way to Canada. The Corps said that couldn't happen. As a result, they designed a dam and reservoir immediately upstream of the diversion to hold back the water and eliminate downstream impacts. The reservoir covers 50,000 acres of land with water, and as others have testified, this is largely why we have become involved. Our group has advocated from the start that if the diversion was smaller, and basin wide retention was integrated into the project, most, if not all, of the negative effects of the diversion could be eliminated

Fargo has made it clear from the beginning, that even though we have communities and school districts affected by their plan, we will not be included in any discussions about project features or alternatives. Members of our group have spent countless hours discussing how Fargo would like to compensate us for taking our property, never about altering the project. The form of execution has been discussed, but never changing the sentence.

The reality is that this is Fargo's project, and they need the State to become its partner. The issue is, and always has been money. Fargo needs the highest cost/benefit ratio possible to get Federal funding, and they need the state to pay half of what the Feds won't.

I'd like to refer to the handout titled "Table 29-Fully funded estimate by fiscal year"

Table 29 - Fully Funded estimate by fiscal year

LPP	Ar	nount Plus ontingency																		
			FY	12	FΥ	13	FΥ	14	FY15		FY16		FY 17		FY	18	FY	19	FY2ů	Total Project
Foderal	659	NAME OF STREET	43			CHE LIGHT		fize that y	343	4 9 7 7 7 7	變	TE MADE	90	N. E. S. LY			100			2
E&D	\$	193.232	\$	19,00G	5	45,000	\$	40,000	5	35,000	5	35,000	5	10,002	S	4.000		\$3,000	\$2 230	\$193,232
S&A	15	94.426				\$2,557		\$6.820		\$10.656		\$12,105		\$15.345		\$15,345		\$15.345	\$16,253	\$94,426
Construction	\$	1,107,661			\$	30,00n	\$	80,000	5	125,000	\$	142,000	\$	180,000	5	180,000	\$	180,000	\$190,661	\$1,107,661
Non-Federal Cash	5	(609,237)	3	(7,000)	5	(20.000)	S	(25,000)	\$	(67,000)	\$	(8D,00D)	\$	(100,000)	\$	(100,000)	5	(115,000)	\$ (95,237)	\$ [609,237]
Foderal LERRD	\$	65,023			5	45,000	5	10,000	5	7,000	S	3,023								\$65,023
Recreation	5	33,148											\$	7.000	\$	7,000		\$7,000	\$12 148	\$33,148
Telst Federat	S	884,253		\$12,000		\$102,557		\$111.820		\$110,656		\$112,128		\$112,347		\$106,345		\$90,345	\$126,055	-
Non-Federal	100	15316	183	NAS.				DOTES 1	286		70%						180	<b>发射集型</b>		578- 2012-
E&D	\$	27,687	5	5,000	5	5.000	5	10,000		\$7,000		\$687								\$27,687
S&A	S	13,53D				\$3,132		\$3,132		\$3,132		\$3, 132		\$1,001		\$0		\$0	\$0	\$13,530
Relocation	\$	172,779			5	40.00U	5	40.000		\$40,000		\$40,000		\$12,779						\$172,779
Lands	\$	300,306			\$	50,000	5	50,000	5	50,000		\$50,000		\$35,000		535,000		\$25,000	\$5,306	\$300,306
Non-Federal Cash	\$	609,237	5	7,000	5	20,000	5	25,000	\$	67,000	\$	90C.000	5	100.000	\$	100,000	\$	115,000	\$ 95,237	\$609,237
		-																		\$0
Total Non-Federal	5	1.123.539	\$	12,000	\$	118.132	S	128.132		\$167,132		\$173.819		\$148,780		\$135.000		\$140.000	\$100,543	\$1.123,539
Total Project	15	2,007,792	15	24,000	S	220,690	S	239,952		\$277,788		\$285,948		5261,126		\$741,345		\$230.345	\$226,598	\$2.007,792

Final Fargo-Moorhead Metro Feasibility Report and Environmental Impact Statement July 2011

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Fargo chooses to list the project cost as 1.8 billion. What's essentially the cash flow for a nine year construction period is listed. The chart lists Total Federal payments, total Non-Federal payments, and Total project payments. The bottom line is \$2 billion, so that's what I'll use.

I would like to take a look at some of the visuals I brought along. The first chart begins with the total project cost established by the EIS cash flow. There is some rounding for clarity and this chart includes the cost as well as sources of funds.

The original Minnesota diversion was the Army Corp's choice as the most cost effective project. As a result, the amount they are willing to contribute is limited to their share of the Minnesota plan. The Feds paid half of the Grand Forks flood control project. They won't pay as much of this one. We list the Minnesota contribution for the diversion project as \$0. A year ago, we met with representatives of the Minnesota Governor's office as well as the head of the MN DNR. The governor's representative stated clearly that they had spent \$95 million to bring Moorhead's dikes to 100 year flood protection, and to spend more, didn't seem reasonable. She said the Corps asked for a letter of support for the diversion project from Minnesota for the Chief's Report, and they chose not to respond.

As recently as a month ago, some of the people affected by the reservoir on the Minnesota side of the river, met with legislators from Clay and Wilkin Counties. The Legislators said they would oppose any funding from the state of Minnesota until the issues south of the dam were resolved. I can't see a way that Minnesota funding will be available to the current project design.

The request from the Diversion Authority is that North Dakota pay half the non-federal, non-Minnesota share. The result is that Fargo and North Dakota each pay \$562 million.

The next question, is how reliable are the cost estimates for projects designed by the Army Corps. There have been two Army Corps projects in our region in recent years. One is a three mile diversion at Breckenridge, MN, and the other a 4.5 mile diversion at Roseau, MN. My next chart compares cost estimates with actual completion costs. The Army Corps website lists the estimated costs for both projects. Local officials provided the actual costs. Both of these projects virtually doubled in price. What's most troubling is the Roseau project. This project is half done. I visited with the mayor of Roseau. He says they desperately need the project, but cost overruns have required them to go back to Congress for re-authorization. The federal no-earmark rules are preventing them from getting more money. They have a half-finished channel dug in the ground that is full of water. Why should anyone on this committee believe the cost estimates of Fargo's project will be any different than these?

Both Fargo Mayor Walaker and Diversion Authority chairman Vanyo have stated in the last couple weeks, that if they get unrestricted funding from the state, they would like to begin construction on Reach 1 and Reach 3 of the proposed project. This means they want to start digging at the outlet end of the project, north of Fargo. If the Legislature approves unrestricted funding, and the project begins with state of North Dakota funds, the state becomes their partner, and is essentially on the hook for the entire amount. It also means that home and property values south of town, will be in limbo forever, or until the project is completed, whichever comes first.

We also need to consider how cost overruns for this project are handled. The federal government normally participates in cost overruns. However, since Fargo chose to place the diversion on the North Dakota side, and the Army Corps preferred the Minnesota side, the Corps will only participate in cost increases on features that were in the original plan. The Minnesota plan crosses one interstate highway and no rivers. The North Dakota plan crosses three interstate highway locations and four rivers. That is in addition to building dams on two more. We do not believe they will share in any cost increases on these features. We asked the Army Corps if we could see other places where they had crossed rivers with a diversion. They said they had never done it in the United States, but it has been done in Europe. You need to picture a concrete structure that carries rivers above a half mile wide diversion channel. These structures need to be big enough to carry all their water at peak spring flood levels. These massive structures must have the stability to not move in our expanding clay soils. How can we not be skeptical of cost estimating for these structures? And the fact that the Federal government won't share in cost overruns for them leaves the exposure entirely to the local sponsors.

I can't imagine that many taxpayers from any part of the state want to be put on the hook for the project that is in front of you.

There is another option. And it is one that Fargo is already pursuing. Fargo announced last August that they will build their internal flood protection to 42.5 feet. That includes home buyouts, dikes, and floodwalls. FEMA is setting their new 100 year flood level at 39.4 feet and the dikes will give them 3 feet of cushion. This project will remove 1500 homes from the flood plain. The diversion project itself requires dikes through town be built to 35 feet, but that's not high enough to protect the city or exempt them from flood insurance.

The diversion and diking projects are not apples to apples comparisons in protection, although both are designed to provide 100 year protection. Fargo's dike system would not provide protection to the southwest portion of their extraterritorial area that they would like to have for future development. But there are alternatives for that. In 2009, Governor Hoeven said he would ask for \$300 million for flood protection for Fargo. The Southside Flood Protection project protected that area, and was on the table at that time, before the Army Corps got involved with an engineering marvel that has spiraled out of control.

What was missing from that design as well as the current design is distributed storage throughout the basin. But getting 100 year protection through dikes in the short term, allows time for other options like retention and a more modest diversion to be developed. Those items would increase protection beyond the 100 year level.

Senators, HB 1020 got it right. The amendments got it right. The House offered to give Fargo \$102 million this session. That's in addition to the \$75 million appropriated by the previous two legislatures. This is an historic expenditure of state funds. That's more than the entire Water Commission budget was for decades. The city of Grand Forks received \$52 million for their flood protection project. The entire Garrison Dam cost \$300 million, albeit decades ago.

This is Fargo's project. It should not become North Dakota's project! I urge you to visit with your legislative colleagues from West Fargo, and Wahpeton, and Casselton, and the surrounding communities, and ask them how they feel about the project. No one wants Fargo to flood. There are alternatives already on the table that can be completed in less time, for less money, and alternatives that don't make the rest of the state pay a price they shouldn't have to.

# **Regional Army Corps Project Estimates**

# Vs.

# **Actual Completion Cost**

**Breckenridge Diversion Cost Estimate** \$ 21 million

Current Cost Estimate \$ 39 million

Roseau Diversion Cost Estimate \$ 24 million

Current Cost Estimate \$ 38 million

(Project incomplete because it needs

Re-authorization due to cost overruns)

# **Diversion Funding Breakdown**

Fully Funded Cost Estimate	\$ 2.0 Billion
Federal Share	\$ 884 Million
Minnesota Share	\$ 0
Fargo Share	\$ 562 Million
North Dakota Share	\$ 562 Million

#### 3.14.3 Fully Funded Cost Estimate

The fully funded estimate for the selected plan includes price escalation using Office of Management and Budget inflation factors. Project inflation factors, midpoint of construction features and fully funded costs can be found in the total project cost summary in Table 28. Project funding requirements by fiscal year are summarized in Table 29, as fully funded estimates.

Table 28 - Total Project Cost Summary (LPP)

	LP	P TOTAL	PROJEC1	COST SI	JMMARY										
	PROJECT: Fargo Moorhead Metro Feasibility Study LOCATION: Red River of the North Basin FULLY FUNDED ESTIM														
ACCOUNT NUMBER	FEATURE DESCRIPTION	Estimated Cost (\$K)	Contigency (\$K)	Contigency (%)	Total First Cost(\$K)	Estimated Cost (\$K)	Contigency (\$K)	Fully Funded plus Contigency (\$K)							
01	Lands & Damages	220,930	57,442	26%	278,372	238,338	61,968	300,306							
02	Relocations	122,453	31,838	26%	154,291	137,126	35,653	172,779							
06	Fish and Wildlife Facilities	49,196	12,791	26%	61,987	54,244	14,103	68,347							
08	Roads, Relocations and Bridges	47,655	12,390	26%	60,045	51,606	13,417	65,023							
09	Channels & Canals	622,046	161,732	26%	783,778	693,331	180,266	873,597							
11	Levees and Floodwalls	113,837	29,598	26%	143,435	131,521	34,196	165,717							
14	Recreation Facilities	23,650	6,149	26%	29,799	26,308	6,840	33,148							
30	Planning, Engineering and Design	145,913	37,937	26%	183,850	175,333	45,586	220,919							
31	Construction Management	68,087	17,703	26%	85,790	85,679	22,277	107,956							
	Total	1,413,767	367,579	26%	1,781,346	1,593,486	414,306	2,007,792							

All costs in thousands (\$1,000)

Table 29 - Fully Funded estimate by fiscal year

LPP	Ar	nount Plus ontingency																			
			FY	12	FY	13	FY	14	FY	15	FY16		FY17		FY	18	FY	19	FY20	Total Project	
Foderal	100			69.56	1		198	100 TO			1000		1933	A DECIMAL D			200			THE RESE	
E&D	5	193,232	\$	19,000	\$	45,000	5	41,000	5	35,000	ş	35,000	\$	10.002	S	4 000		\$3,000	\$2,230	\$193,232	
S&4	15	94,426				\$2,557		<b>\$</b> 6,820		\$10,656		<b>\$12</b> 105		\$15,345		\$15,345		\$15.345	\$16,253	\$94,426	
Construction	\$	1,107,661			\$	30.000	\$	80,000	5	125,000	\$	142,000	5	180,000	5	180,000	5	180,000	\$190,661	\$1,107.661	
Non-Federal Cash	\$	(609,237)	5	(7,000)	5	(20,000)	\$	(25.000)	\$	(67,000)	\$	(80.000)	\$	(100,000)	\$	(100,000)	8	(115,000)	\$ (95,237)	\$ (609,237	
Foderal LERRD	5	65,023			\$	45,000	5	10,000	5	7,000	\$	3,023								\$65,023	
Recreation	\$	33,148											\$	7,000	S	7.000		\$7,000	\$12 148	\$33,148 \$0	
Total Federal	5	884,253		\$12.000		\$102,557		\$111,820		\$110,656		\$112,128		\$112,347		\$106,345		\$90.345	\$126,055		
Non-Federal	BE	Stanta P	100	Market Mark		7/8/01/-	JA.	AL PAGE	100	SE-4-5050	版			- 1 2 1	300			(20)E/2	THE PARTY	Mary John S.	
E&D	5	27,687	5	5,000	5	5.000	5	10,000		\$7,000		5687								\$27,687	
S&A	5	13,530				\$3,132		\$3,132		\$3,132		\$3 132		\$1,001		\$0		\$0	\$0	\$13,530	
Relocation	5	172,779			5	40,000	5	40.000		\$40,000		\$40,000		\$12,779						\$172,779	
Lands	5	300,306			Ś	50,000	5	58,000	15	50,000		\$50,000		\$35,000	Ī	\$35,000		\$25,000	\$5,306	\$300,306	
Non-Federal Cash	\$	609.237	\$	7,000	\$	20,000	\$	25.000	5	67,000	Ś	80,00C	\$	100,000	5	100.000	5	115,000	\$ 95,237	\$609,237	
	-										_									SC	
Total Non-Federal	\$	1,123,539	\$	12,000	\$	118,132	S	128, 132	F	\$167,132		\$173,819		\$148,780		\$135,000		\$140.000	\$100,543	\$1.123,539	
Total Project	15	2,007,792	15	24,000	5	220.690	I S	239.952	-	\$277,788		\$285,948		\$261,126		\$241,345		\$230,345	\$226,598	\$2,007,792	

Final Fargo-Moorhead Metro Feasibility Report and Environmental Impact Statement July 2011

Sanford Health Mike Erickson HB 1020 3-8-13

#14

#### House Bill 1020 - Sanford Health Testimony

#### **Fargo Diversion**

For the record, my name is Mike Erickson, Executive Director of Facilities & Support Services.

My role is to maintain Sanford's Medical Center, Clinic and regional facilities which includes all new construction and planning, building maintenance, bio-medical engineering, food service, environmental service and laundry for our region.

Mr. Chairman and members of the committee, I would like to thank you for the opportunity to testify on behalf of Sanford Health.

Sanford Health has strongly supported the need for permanent and effective flood control to prevent the potential of significant and/or devastating losses from a major flood. Sanford has never advocated for a specific approach to flood control, as we will leave that determination to the experts.

Sanford Health has and will continue to have significant patient care activities at our Downtown campus.

Although the new Sanford campus on I-94 will have a higher elevation and will not be subject to flooding, the Downtown campus will remain vulnerable. Even after our new project is completed, many patient care services will remain downtown — most notably our Roger Maris Cancer Center. Many other major support functions that are vital to the people of this area remain vulnerable until proper flood control is achieved.

On behalf of Sanford Health, we urge you to move forward with effective flood control, including funding with no impediments to the development of the diversion. We urge the ND Senate to support the original language from the State Water Commission bill.

Thank you for hearing this testimony and for moving the Fargo Diversion forward on schedule. I would be happy to answer any questions you may have.

Mike Erickson Executive Director of Facilities & Support Services Sanford Health

#### North Dakota Water Projects Testimony

Senate Appropriations Committee-Brynhild Haugland Room HB 1020 Hearing March 19, 2013 2:30 p.m.

Mouse River Flood Protection

Dan Jonasson, City of Minot David Ashley, Souris River Joint Board

**NAWS** 

Bob Schempp, NAWS Advisory Committee

Rural Water Supply

Eric Volk, N.D. Rural Water Systems Association

Municipal Water Supply

Todd Feland, City of Grand Forks Mayor Chris West, City of Grafton Jim Neubauer, City of Mandan

Southwest Pipeline Project

Dennis Johnson, City of Dickinson Randy Becker, Oliver County Kent Albers, Oliver County

Western Area Water Supply

John Olson, Western Area Water Authority Jaret Wirtz, Western Area Water Authority Steve Burian,  $AE_2S$ Independent Water Providers

Dan Jonasson : 4B 1020 3-19-13

#1

Testimony to the Senate Appropriations Committee Chairman Ray Holmberg Prepared by Dan Jonasson, Director of Public Works City of Minot dan.jonasson@minotnd.org

#### **HOUSE BILL NO. 1020**

Mr. Chairman, my name is Dan Jonasson and I serve as the Director of Public Works for the City of Minot. I am representing the City of Minot to encourage funding of House Bill 1020.

House Bill 1020 encompasses a number very important water related projects throughout the State of North Dakota, projects specific to the City of Minot in House Bill 1020 are the Northwest Area Water Supply (NAWS) water project and Souris/Mouse River Flood Protection Project. Attached to this testimony, is a one page handout that provides background information on the Mouse River Enhanced flood Protection Project proposed for Minot and the Mouse River Valley.

House Bill 1020 provides sixty-one million dollars (\$61,000,000) in funding toward the Mouse River flood Protection project. The total estimated cost of the project from the Mouse River Park through Minot to Velva is estimated at eight-hundred twenty million (\$820,000,000), with five-hundred forty three million (\$543,000,000) of this associated with the improvements in Minot. This funding is extremely important because it enables the City and County the ability to continue purchasing a large portion of the estimated one-hundred twenty million dollars (\$120,000,000) worth of properties left to acquire in the flood protection project alignment. Currently approximately 81 of the required 278 residential properties in Minot have been purchased with funding from the Emergency Legislative Session and Federal CDBG-DR funds. This funding will provide the ability to continue with the voluntary acquisition of additional residential properties as well as commercial properties in the flood project alignment.

This funding provides the ability to continue with the next stage of engineering efforts in refining the alignment, completing cultural and environmental assessments, topographic surveys, geotechnical investigations and wetland delineations which are estimated to cost approximately twenty million dollars (\$20,000,000) over the next biennium.

House Bill 1020 also provides fourteen million dollars (\$14,000,000) for the NAWS Project. This money will allow the NAWS Project to continue through the next biennium. Construction will continue at the Minot Water Treatment Plant to prepare the plant to deliver water to the NAWS system once the system is complete.

The EIS is being prepared to send to the judge. We feel this time the project will receive a positive ruling and then work can continue to build the system to deliver water to the entire area in northwest and north central North Dakota.

Minot has the money to pay all the local share of the entire project from the one-cent (\$.01) sales tax. Hose Bill 1020 will provide the money to continue the project.

House Bill 1020 is extremely important to the City of Minot and its residents. Again, it continues to provide funding toward a very important project that ultimately will provide flood protection to residents of Minot and the Mouse river valley from a flood of the magnitude we saw in 2011 and it provides monies to continue the NAWS Project. Therefore, I encourage you to adopt and fund House Bill 1020.

Thank you for allowing me time to detail Minot's support for this bill and the importance of this funding to the residents of the Northwest Area Water Supply and citizens of Minot for flood protection.

# 2013 North Dakota Legislature OUSE PIOCE Protection



### Helping the Minot region recover

A disastrous flood in June 2011 swamped the valley of the City of Minot. With record-breaking flows and a crest six feet higher than the 1969 Mouse River flood, this flood will forever be imprinted on the minds of the thousands impacted. Words will never be able to accurately describe the damage, the heartache or the immense challenge that this disaster brought our residents.

Since this time many millions of dollars have poured into our community, along with thousands of volunteers in an on-going effort to bring back the Magic City. Recovering from a disaster that caused well over \$1 billion in damages takes a long time and a resilient people.

In many ways, the 2011 Mouse River flood will take a long-term recovery effort, similar to efforts in the 90s and 2000s to assist Grand Forks. State and local partnerships have teamed up to formulate an enhanced flood protection plan that will increase our permanent flood protection to the level that occurred in 2011. The Minot City Council supports this plan, and as a community we are already in the process of initial steps, like voluntary property acquisitions, planning and engineering, to bring additional protection to the Mouse River valley.

I would urge you to approve the State Water Commission Budget proposed by the Governor which includes funding of \$61 million to support Minot's flood recovery efforts during the 2013-2015 biennium. These funds will go a long way to accomplish the much needed early steps in the first years of this 10+ year long-term recovery. These early tasks include voluntary property acquisitions and the next level of engineering needed to push the plan forward.

-Mayor Curt Zimbelman

#### Long-Term Enhanced Protection

- 278 Residential properties with structures to be purchased
- 21.6 miles of levees
- 2.8 miles of floodwalls
- 30 Transportation closure structures
- \$565 million for construction costs
- \$154 million for property acquisition
- \$101 million for engineering, planning, program management costs
- 8-12 years before the project, with appropriate funding, is complete

The Souris River Flood Protection plan consists of an overall project from the 49th parallel (Sherwood) to 49th Parallel (Westhope).

The preliminary alignment for protection measures is an area from the Mouse River State park to Velva, and consists of levees, floodwalls, river diversions and closure features, transportation closure structures, interior pump stations, ring dikes and residential and commercial property acquisitions in the flood alignment boundary.

Levees comprise nearly 90 percent of the alignment, totaling 21.6 miles. The remainder of the alignment consists of 2.8 miles of floodwalls and 30 transportation closure structures (19 roadway and 11 railroad). In addition, the project would require 33 stormwater pump stations. The estimated project cost is \$820 million, based on the current level of design based on a 27,400 cfs flood event. Of this estimated cost, \$565 million is related to construction, \$154 million is related to property acquisition, and the remaining \$101 million covers planning, engineering, and program management costs.



#### **Flood Facts**

Flow rate of 27,400 cubic feet per second (normal river flows are between 50 and 200 cfs)

Highest crest in recorded history, 1,561.72 above sea level, 13 feet above flood stage and six feet higher than the 1969 flood

- 4,100 structures in the City of Minot impacted based on elevation maps and surveys
- 2,716 homes in Minot suffered main-floor damage or greater

More than 11,000 residents displaced due to the flood

3

Testimony
David Ashley, Chairman
Souris River Joint Board
HB 1020
March 19, 2013

My name is David Ashley, and I am the chairman of the Souris River Joint Board. The Souris River Joint Board is the local sponsor for the Souris River Flood Control Project. We were also the local sponsor for the Souris River Flood Control Project that was constructed in the 1990s.

The Minot Flood Control Project, or the Mouse River Enhanced Flood Control Project, as it is commonly called, is a flood control for the entire Souris River Basin in North Dakota. The State Water Commission, the Souris River Joint Board, and the city of Minot have worked closely together to ensure that flood control solutions for the Souris River include long term solutions for the entire Souris River Basin in North Dakota, including the counties of Renville, Ward, McHenry, and Bottineau.

The impacts to the rural areas in these four counties from the 2011 flood were significant, affecting roadways, transportation, crop damage, livestock impacts, erosion, and damages to rural structures. We have been very appreciative that the State Water Commission has incorporated the entire Souris River Basin in its flood control studies to provide long term benefits for the citizens of the Souris River Basin.

We support HB 1020, as it provides a significant step forward to provide long term flood control in the Souris River Basin. Thank you.

#### House Bill 1020

Mr. Chairman and members of the Committee, I'm Bob Schempp, I'm representing the NAWS Advisory Committee in support of House Bill 1020.

The heading of a Minot Daily News editorial last week was, "Another NAWS delay". And, their conclusion was that "The latest delay is another in a long line of frustrations involving NAWS, which is critical to northwest North Dakota cities that need reliable and safe water supplies".

What caused the editorial was the Federal Court order, "that North Dakota may not engage in any new pipeline construction or contracts on NAWS until the EIS is completed and approved."

Federal Judge Collyer has allowed construction on NAWS transmission lines and water plant improvements since her injunction and about 230 miles of pipeline is in the ground from Minot to area communities and rural water districts. NAWS is currently serving Berthold, Burlington, Kenmare, Mohall, Sherwood, Glenburn, Minot Air Force Base and portions of the North Prairie, All Seasons, Upper Souris and West River Rural Water Districts

Among the items the Judge has now halted is a 17 mile segment that would complete and loop the 230 mile pipeline to provide assurance of service if a line breaks. Hard to understand the reasoning.

We have been at this for 41 years. In 1972 Minot approved an agreement to construct the "Minot Extension" of Garrison Diversion. The first phase was delivery of ground water from the Sundre Aquifer as an "interim" supply. The second phase was connection to the Velva Canal about 12 miles east of Minot and construction of a Dam and lake to supply water to Minot.

In 1986, the Garrison Reformulation Act changed our direction 180 degrees and we began our trip to the Missouri by pipeline rather than irrigation canal.

In 1999 the City and State executed a NAWS agreement calling for a 35% local share of construction costs and a uniform water rate. And Minot citizens passed a 1% sales tax in 1999 to pay the local share of the project.

In 2002, ground was finally broken and construction was started.

But, we were sued by Manitoba and Missouri and Judge Collyer issued an injunction in 2005 that prevented design and construction of the connection to the Missouri.

After losing twice in court, our Washington attorney asked that a supplemental EIS be developed which would answer any questions that could be raised by opponents of the project. That document should be completed late this year or early next.

NAWS will again be in front of Judge Collyer about 2 years from now, and if NAWS is armed with a proper EIS the judge will rule in our favor.

The Advisory Committee is asking that you give the State Water Commission everything that they need to assure that the Supplemental EIS is a perfect tool for Judge Collyer.

Our "interim" supply is not adequate for the present population and will certainly not be sufficient to satisfy future growth.

But if we do the job that should be done on the Supplemental EIS and court filings, the injunction will be lifted and the Federal Government will be given a chance to keep the 41 year old promise they made to Minot and the area Minot serves.

Thank you for your past and your present support and for the opportunity to speak in support of the State Water Commission budget request.



#### Testimony of Eric Volk, Executive Director

#### **ND Rural Water Systems Association**

#### House Bill 1020

#### Senate Appropriations Committee – March 19, 2013

Chairman Holmberg and members of the Senate Appropriations Committee, my name is Eric Volk. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA) which serves a membership of more than 250 cities, 28 rural/regional water systems, and four tribal systems.

The NDRWSA is committed to ensuring all of North Dakota's residents receive affordable drinking water of excellent quality and sufficient quantity. NDRWSA is committed to completing and maintaining North Dakota's water infrastructure for economic growth and quality of life. Today I am submitting testimony in support of a State Water Commission (SWC) budget that allows for adequate funding to meet the critical water needs of North Dakota.

In addition to the Southwest Pipeline Project, Northwest Area Water System, the Red River Valley Water Supply Project and the Western Area Water Supply Project, there are currently many other rural and regional projects in various stages of development across the state. Some examples of these projects are the large expansion of Stutsman Rural Water District, the further development of the North Central Rural Water Consortium, and the completion of a four county expansion of South Central Regional Water District, in addition to several others; many of them located in the oil impacted areas of our state. The total cost of these regional projects for the next biennium is nearly \$54 million. (Please see attached spreadsheet and map).

These projects are designed to meet similar needs. Those needs include water quality and quantity. On the water quality side, the projects will help communities comply with non-funded federal mandates required by the Safe Drinking Water Act, including arsenic levels, nitrates, disinfection by-products, and total coliform bacteria. Quality issues also include water very high in sodium, sulfates, iron, and manganese. On the quantity side, many families do not have a potable source of water and even in this day and age must haul water for their families and livestock.

Meeting the demands of repairing & replacing aging infrastructure and complying with rules & regulations are taking its toll on many small and rural water systems. Another major challenge facing rural and small water systems is the ever increasing rural to urban migration, which continues to decrease the population base and which adds to the cost to the individual consumer. This does offer a challenge in finding affordable ways to bring quality water to rural areas. These projects are expensive to fund and without significant state funding, the cost to the consumer is just too much for the average family to afford.

The money spent on water projects in the past has been an investment in the future of North Dakota — an investment in economic development and quality of life for our citizens. Every rural water system that has been built in our state is still operating. They are providing safe, clean water to their customers, reducing their debt, putting money in reserve, complying with every state and federal regulation, and doing so with a prudent rate structure; albeit higher than most municipalities charge (see attached rate survey). Not only do rural water systems serve almost 100,000 rural residents, they also provide water to more than 300 communities and numerous subdivisions, campgrounds, and mobile home parks throughout the state. Of North

Dakota's 357 incorporated cities, rural water systems provide water to approximately 63% of those cities.

NDRWSA also strongly supports a transfer of money into the Community Water Facility Loan Fund (CWFLF). The CWFLF is used as supplementary financing in conjunction with the USDA Rural Development (RD) federal loan program for eligible community water projects. The program provides financing for community water projects when the project is above the maximum loan limits set by RD (supporting information is attached).

Finally, I would like to address one of the House amendments to HB 1020. The House moved the funding of the SWC agency operations from the General Fund to the Resources Trust Fund. This could potentially have a negative \$18 million impact on water project funding. We respectfully ask that SWC agency operations be funded from the General Fund, not the Resources Trust Fund.

With that said, the NDRWSA supports a State Water Commission budget that allows for adequate funding to meet the critical water needs of North Dakota. Thank you for giving me the opportunity to provide testimony on behalf of the members of the NDRWSA.

Regional/Rural Water System Projects	Estimated Cost	State Funding Request	%	Project Description
All Seasons Rural Water District	\$500,000	\$375,000	75	Bottineau County Expansion Project (1200 potential new users, 2015-17)
Barnes Rural Water District	\$4,000,000	\$2,000,000	50	Water Treatment Plant Expansion for future expansion project (2015-17)
Cass Rural Water District	\$500,000	\$250,000	50	Phase 2 Treatment Plant and Well Field Expansion
Central Plains Water District	\$5,000,000	\$2,500,000		Treatment Plant Improvements to correct capacity issues
	\$1,200,000	\$900,000	75	Finished Water Storage Improvements at Two Reservoirs
Fort Berthold Rural Water	\$2,824,000	\$1,412,100	50	Twin Buttes Expansion (50 tribal and 150-200 non-tribal)
	\$6,000,010	\$3,000,005	50	Twin Buttes Water Treatment Plant (50gpm to 350gpm)
Grand Forks-Traill Water District	\$5,785,000	\$4,338,750	75	Phase 2 Improvements - correction of capacity deficiencies
Greater Ramsey Water District	\$4,000,000	\$3,000,000	75	System Expansion (80 new users & the city of Pekin) & existing system improvements to correct issues caused by the high levels of Devils Lake.
				improvements to correct issues caused by the high levels of bevills gard.
angdon Rural Water District	\$13,000,000 \$2,082,800	\$9,750,000 \$1,562,100	75 75	Regional Water Supply Project - New Groundwater Source, Drought Protection ABM Pipeline Replacement - Phase I
AcLean-Sheridan Water District	\$560,000 \$500,000	\$280,000 \$250,000		Wolf Creek Area Expansion (40-60 new users) Mine Reclamation Repopulation Project
Missouri West Water System	\$800,000	\$600,000	75	South Mandan System Improvements for adequate capacity
North Central Rural Water Consortium	\$4.400.000	\$3,425,000	75	Mountrail Phase II (160 new users)
	\$4,400,000	\$3,300,000	75	Deering/Granville Phase (135 new users)
	\$2,310,000	\$1,732,500	75	Berthold/Carpio Phase II (70 new users)
North Valley Water District	\$2,575,000	\$1,931,250	75	
	\$1,125,272	\$843,954	75	ABM Pipeline Replacement Project - Phase I
South Central Regional Water District	\$5,000,000	\$3,750,000	75	Kidder County Expansion Project (Early sign-up has 188 new users, more to come)
Spirit Lake Rural Water	\$3,500,000	\$1,750,000	50	Tokio Service Area Expansion (80 new users)
Standing Rock MR&I	\$8,100,000	\$4,050,000	50	Selfridge Service Area (service population of 412 including the city of Selfridge)
Furtle Mountain Band of Chippewa	\$2,700,000	\$1,350,000	50	Phase 2 of the Hwy 43 Expansion (175 users, tribal and non-tribal)
Tri-County Rural Water District	\$1,040,000	\$520,000	50	Water Treatment Plant Improvements to correct deficient quanity issues
Walsh Rural Water District	\$1,368,300	\$900,000	66	New Ground Water Storage Reservoir to ensure current users have an adequate supply of water
TOTAL	\$83,270,382	\$53,770,659	65%	

2013-15 Regional and Rural Water Funding Needs

North Dakota Regional Water Systems Upper Souris Water District Western Area Water Supply Northwest Area Water Supply North Prairie Rural Water District Spirit Lake Garrison Rural Water District McLean-Sheridan Water District **Southwest Pipeline Project** Cass Rural Water Users District . South Central Regional Water District (Enmons-Logan-McIntosh-Kidder) State Line Water Cooperative . VIEB

#### Rural Water System Rates March 2013

SYSTEM	# of Users	Minimum Cost	Minimum Gal.	\$/1000 Gal.	\$/6000 Gal.
Agassiz Water Users District	1334	\$20.00	0	\$5.50	\$41.50
All Seasons Water Users District System 1-4	722	\$32.00	0	\$6.50	\$71.00
All Seasons Water Users District System 4 Phase 1&2	107	\$42.00	0	\$5.00	\$72.00
All Seasons Water Users District System 5	480	\$42.00	0	\$5.00	\$72.00
Barnes Rural Water District	1612	\$35.00	0	\$5.00	\$65.00
Barnes Rural Water District -New	n/a	\$53.00	0	\$6.00	\$89.00
Cass Rural Water District	3811	\$26.00	0	\$4.20	\$51.20
Central Plains Water District	760	\$30.00	0	\$4.50	\$57.00
Dakota Rural Water District	599	\$37.00	0	\$4.25	\$62.50
Dakota Rural Water District Expansion	188	\$47.00	0	\$4.25	\$72.50
Garrison Rural Water Association	526	\$25.00	0	\$3.12	\$43.72
Grand Forks Traill Water District	2429	\$26.00	0	\$5.05	\$56.30
Grand Forks Traill Water District	n/a	\$55.00	0	\$5.05	\$85.30
Greater Ramsey Water District	746	\$30.00	0	\$3.75	\$52.50
Greater Ramsey Water District Expansion	997	\$42.00	0	\$3.75	\$64.50
Langdon Rural Water District Phase I, II & III	680	\$44.00	0	\$5.00	\$74.00
Langdon Rural Water District Phase IV	263	\$57.00	0	\$5.00 \$5.00	<u> </u>
Langdon Rural Water District Phase Cando Expansion	203	\$53.00	0	\$5.00	1
McKenzie County Water Resource District	191	\$45.00	0	\$5.00 \$5.25	<u>'                                    </u>
McLean Sheridan Rural Water	520	\$49.00	0	\$6.91	\$90.46
McLean Sheridan Rural Water/Washburn Project	n/a	\$59.00	0	\$5.25	\$90.46
•	1400	\$35.00			\$63.74
Missouri West Water System  North Central Rural Water Consortium	1300		0	\$4.79	!
	<u>'</u>	\$52.00	0	\$5.65	\$85.90
North Prairie Rural Water District	2500	\$41.00	0	\$6.65	\$80.90
North Valley Water District	1340	\$30.00	0	\$6.00	\$66.00
R&T Water Supply Association	65	\$17.00	0	\$4.00	\$41.00
South Central Regional Water District	5326	\$34.00	0	\$7.00	\$76.00
Southeast Water Users District West	544	\$45.00	0	\$3.00	\$63.00
Southeast Water Users District Central	791	\$45.00	0	\$5.25	\$76.50
Southeast Water Users District East	1699	\$26.00	0	\$4.00	\$50.00
Southwest Water Authority	4541	\$43.35	2000	\$3.86	\$58.79
State Line Water Cooperative	452	\$30.00	0	\$4.30	\$55.80
Stutsman Rural Water District	1300	\$37.00	0	\$4.00	\$61.00
Stutsman Rural Water District Expansion Project	n/a	\$45.00		\$4.00	\$69.00
Traill Rural Water District	779	\$55.00	0	\$6.00	\$91.00
Tri-County Water District	700	\$38.00		\$5.50	\$71.00
Tri-County Water District Expansion	240	\$49.00		\$5.50	\$71.00
Tri-County Water District Expansion II	n/a	\$49.00		\$5.50	\$76.50
Upper Souris Water District	992	\$24.00		\$9.00	\$78.00
Walsh Rural Water District R1	1181	\$31.00		\$6.00	\$67.00
Walsh Rural Water District R2	11	\$45.00	0	\$6.00	\$81.00
Walsh Rural Water District R3	137	\$48.00	0	\$6.00	\$84.00
Walsh Rural Water District R4	15	\$55.00	0	\$6.00	\$91.00
Williams Rural Water District	1641	\$35.00	0	\$8.40	\$85.40
	42940				
Median		\$42.00		\$5.05	\$71.50
Average		\$39.96		\$5.22	\$70.48

# **Community Water Facility Revolving Loan Fund (Bank of ND)**

The Community Water Facility Revolving Loan Fund was established by the North Dakota legislature in 1978. Monies transferred to this fund are used primarily for supplementary financing in conjunction with the USDA Rural Development (RD) - formerly FmHA/FSA - for community water projects.

The program was established to provide financing for community water projects when the project is above the maximum loan limits set by RD. It is also the intent of this program to provide supplemental financing for federal loan programs associated with community water projects. Loans from this fund are made in accordance with N.D.C.C. Chapter 6-09.5.

#### **Qualifying Requirements**

**Borrower** - Eligible applicants are cities, associations, cooperatives and corporations operated on a nonprofit basis who have the legal authority to construct, operate and maintain water facilities. These entities should also show the ability to repay the loan in accordance with the RD requirements. BND shall cooperate with the Rural Development in considering applications to comply with 7 U.S.C. 1926 and 1927, and the rules and regulations relating to community water facilities.

**Service Area** - A borrower selects the most efficient and economically feasible methods of planning a community water facility project. In addition to central water systems, the community water facilities may provide service for individual usage or for small clusters of users within the central system service area, but who are beyond the physical or economic limits of the central system.

**Use of Proceeds** - The maximum lending limit is 50% of the total project cost or the remaining available funds in the revolving account. The fundable project cost shall be established by RD in accordance with their review procedures.

This program may be used for community water projects including:

- Loans for locating, conserving, controlling, treating and distributing water (these include reservoirs, dams, canals, wells, pumps, treatment plants, mains, pipelines, and other associated features necessary to supply water)
- Loans for necessary services prior to RD approval
- · Loans to cover operating expenses of projects when the borrower is unable to pay such expenses

Collateral - These loans are secured by a real estate mortgage or by revenue bonds or warrants.

#### **Application Process**

An application may be made either directly to the state office of Rural Development. Applications approved by RD are forwarded to BND for review and approval.

#### **Interest Rate**

The interest rate on a loan from this fund is 3%.

#### **Repayment Terms**

The maximum term of a loan may not exceed 40 years. BND may defer interest and principal for up to three years to give a project time to become self-supporting. Thereafter, BND will establish a simple amortization schedule for the remaining term of the loan.

#### **For More Information Contact:**

Bank of North Dakota
1200 Memorial Hwy
PO Box 5509
Bismarck ND 58502-5509
701.328.5786
1.800.472.2166 ext. 5786
TDD (Telephone Device for the Deaf) 800.643.3916
http://banknd.nd.gov/lending\_services/community\_
water\_facility\_and\_health\_information\_technology\_
funds/community\_water\_facility\_revolving\_loan\_fund.html



# NORTHODAKOTA Rural Water SYSTEMS ASSOCIATION

**New Horizons in Rural Living** 

**Without quality** water on tap it's nearly impossible for sustainment of rural North Dakota.

February, 2013

# **Greetings North Dakota Legislators!**

On behalf of North Dakota Rural Water Systems Association (NDRWSA), thank you for your commitment to North Dakota's future growth and prosperity.

As the country suffers from the adverse effects of recession, North Dakota is rich with opportunity. Fortunately for us, as the 63rd Legislative Assembly begins, North Dakota is viewed as a "bright spot" in the nation. As the session begins with a renewed sense of optimism, leaders are searching for new and innovative ways to sustain our economic prosperity. North Dakota has worked hard to grow and diversify the economy. Rural water development plays a critical role in those efforts. From energy and agriculture to tourism and manufacturing, rural water development is an important partner in building our communities, expanding industries and sustaining economic prosperity.

We commend you for your hard work and perseverance. You can count on NDRWSA to support your efforts to continue growing North Dakota into the best place to live, work and play!



Sincerely,

Eric Volk, Executive Director North Dakota Rural Water Systems Association

# About NDRWSA

## The beginning...

NDRWSA is a nonprofit, independent corporation governed by an elected board of directors. The association was formed in 1974 in an effort to coordinate statewide rural water programs. NDRWSA works to enhance the quality of life, maintains environmental integrity, as well as provides rural public water and wastewater utilities leadership and industry representation.

## Our vision...

NDRWSA is committed to the vision of quality water on tap for all citizens of North Dakota.

## Who we serve...

NDRWSA proudly serves 33 rural/regional water systems, approximately 250 cities, 100 individuals and 166 associate/business members. This includes rural water service to over 100,000 rural residents, numerous subdivisions, mobile home parks and manufacturing/processing plants throughout North Dakota.

> Rural/regional water systems provide water to 63% of North Dakota's 357 incorporated cities.

## The leaders...

NDRWSA is governed by an elected board of directors. The current executive board members are as follows:

- Keith Nilson, President
- Michele Schommer, Vice President
- LaVonne Althoff, Secretary

- Joe LaFave, Treasurer
   Gordy Blixt, Past President
   Jon Nelson, Director at Large
- Geneva Kaiser, Managers Representative
- John Bearman, National Representative

## The problem...

In many areas throughout North Dakota, there is insufficient quality and quantity water for domestic, municipal and livestock needs. Without an adequate supply of quality water it is nearly impossible for community sustainment and economic growth.

## The solution...

Rural water development is the solution to an insufficient supply of quality water in rural areas. NDRWSA supports developing rural water and provides public water and wastewater utility management the education and training needed to meet rigorous state and federal health standards, as well as other needed industry resources.

- **NDRWSA Programs**
- Training and Technical Assistance
- Circuit Rider Programs
- Wastewater Technical Assistance
- Water Conservation/Drought Management
- Source Water Protection
- Operator Certification
- Water University

## Funding sources...

Through a unique blend of federal and state funds, as well as membership dues, we are able to provide statewide water and wastewater systems, resources and products and services needed for public water and wastewater utility management.

We continuously collaborate with local, state and federal water advocates to find new and innovative ways to creatively finance rural water development, as well as support the Dakota Water Resources Act Appropriation.



Rural/regional water systems provide water to 63% of North Dakota's 357 incorporated cities.

## Leaders want to know...

Rural water development contributes significantly to North Dakota's vibrant economy. Rural water development is a significant contributor to
North Dakota's vibrant economy. It is critical for continued
economic development and growth. NDRWSA is committed to working
cooperatively with communities, tribal systems and rural water systems to complete
North Dakota's infrastructure. As a leader, you can expect a reliable source of quality
water to impact the following:

- quality of life
- agricultural and livestock producers return on investment
- job creation

- increase property values
- stabilize population
- o infrastructure and more.

# NDRWSA rural water solutions...

To ensure completion of North Dakota's water infrastructure, NDRWSA provides rural water systems and municipalities throughout North Dakota the following resources and support:

### Tealines was skinge

One-on-one on-site training and technical assistance in the areas of operation, maintenance, lab assistance, management, system troubleshooting and finance, to include:

- Formal Accredited Training Sessions
- Rule and Regulation Updates
- Operator Certification Preparation
- Leak Detection and Water Audits
- Curb Stop and Valve Location
- → Treatment Process Evaluation
- Lagoon Sludge Testing
- Poly-Pigging (Water Main Cleaning)
- Hydrant Repair and Flow Testing
- Sewer System Smoke Testing
- On-Site Technical Assistance and Troubleshooting
- Rate Analysis and Financial Planning
- Wellhead and Source Water Protection Plans
- Consumer Confidence Reports
- Water Conservation and Drought Management Plans
- Meter Testing and Repair
- Decision Maker Training
- Loan and Grant Assistance
- Sewer Camera Video Equipment
- Gate Valve Exercisers

and MUCH MORE!

Rural water serves over 100,000 rural residents, numerous subdivisions, mobile home parks and manufacturing/processing plants statewide.

# Legislative: Advocacy/Support

- Full-Time Advocates (Federal)
- Active Advocate (State)
- Legislative Committee
- National Rural Water Association, Rural Water Rally, Washington, D.C.
- Publish Legislative Report (While Legislature is in Session, View Report at www.NDRW.org, Under "In the News" Tab Click on Publications.)

## Training and Continuing Education

- NDRWSA Annual Water EXPO and Technical Conference
- Continuing Education and Training (Decision Makers, Managers, Office Staff, Operators)
- Leadership Retreat
- National Rural Water Association's Annual Leadership Forum and Technology Conference



Eric Volk, Executive Director E-Mail: ericvolk@ndrw.org Telephone: 701-391-5080 TESTIMONY OF TODD FELAND, PUBLIC WORKS DIRECTOR, ON BEHALF OF KEN VEIN, CITY OF GRAND FORKS COUNCIL MEMBER

CITY OF GRAND FORKS, NORTH DAKOTA
IN SUPPORT OF HOUSE BILL 1020
SENATE APPROPRIATIONS COMMITTEE
SENATOR HOLMBERG, CHAIRMAN
TUESDAY, MARCH 19, 2013



Good afternoon Chairman Holmberg and Members of the Senate Appropriations

Committee. I am Todd Feland and I am the Public Works Director for the City of Grand Forks.

Today, I'm testifying on behalf of Ken Vein, City Council Member, who had originally planned to provide this testimony. I'm here today to recommend your support for House Bill 1020.

House Bill 1020 provides a \$500 million appropriation to the State Water Commission to support critical water infrastructure development and improvement across our rapidly growing State. Within this budget, the State Water Commission would provide up to \$16 million to support municipal water projects through the Water Supply Program. The Cities of Grand Forks, Grafton, and Mandan are providing testimony today as representatives of Water Supply Program category of municipal projects.

Construction of a new regional water treatment plant is our number one infrastructure priority for the foreseeable future. The existing facility site has served the City for over 100 years and the existing water treatment plant was constructed in 1956. The facility still utilizes the original base technology. There are a number of challenges with the current facility including: increasing water demands, water quality issues, current and expected regulatory impacts, aging infrastructure and equipment. Additionally, there are new water quality concerns with the growing level of water received from the Devils Lake Outlet.

The City of Grand Forks has been evaluating and planning the development of a new regional water treatment plant since 1995. Previously through Federal, State and Local funding, we have invested nearly \$52.9 million in water system improvements from 2001 to 2009 in preparation for the new facility. We are now ready and need to construct the new approximately

Testimony of Todd Feland, Public Works Director, on behalf of Ken Vein, City of Grand Forks Council Member
Senate Appropriations Committee
House Bill 1020
March 19, 2013
Page 2

\$130 million regional water treatment plant which was deemed the most cost effective alternative to address our long term water requirements.

We believe the City shoulders the primary financial responsibility for capital costs and all operations and maintenance costs of the facility. However, we need the State to partner in this infrastructure investment with us to construct this new facility due to the project's magnitude and impact. We have developed a reasonable financial strategy which includes an important partnership between the City and the State to equally share the cost of this new facility over a three biennia period. Our funding request for the 2013-2015 biennia is \$5 million to work on engineering elements of the project.

The City serves a growing municipal population with provisions to expand regional service as needed in the future, provides regional water service to the Grand Forks Air Force Base, and provides water service to existing and proposed large industrial water users and agricultural processors. Our proposed new 20 million gallons per day (MGD) water treatment plant is expected to serve these sectors of our regional economy well for many decades in the future.

We have studied the expected water rate impact to typical residential users as result of this project based upon monthly water usage of 6,000 gallons. Without the State Water Supply Program investment, annual water rates would increase 118 percent. With the State Water Supply Program investment, annual water rates will increase 64 percent. To the average homeowner, the estimated increase from the current annual water of \$279 to \$459 with State support versus \$607 without State support. JR Simplot, a large potato processing company, utilizes approximately 25 percent of the City's water supply and would be heavily impacted by such a significant increase in water costs.

State Water Supply Program funding is important to keep our water rates affordable to our diverse user base while we implement this core, long-term infrastructure improvement project in northeastern North Dakota. The City of Grand Forks urges your support for HB 1020.

# **Grand Forks Regional Water Treatment Facility**



#### 2013-2015 STATE FUNDING REQUEST = \$5 MILLION

#### **BACKGROUND**

City's #1 infrastructure priority for the 'preseeable future Existing site challenges, significant aging infrastructure

- Increasing demands
- Water quality issues

Expenditures on water system improvements 2001-2009 in preparation for the new facility

Local	\$27.6 million	53%
State	\$11.7 million	23%
Federal	\$12.6 million	24%
TOTAL	\$51.9 million	100%

#### MOVING FORWARD

Necessary partnership proposed between City and State Government

- City believes it has the primary financial responsibility for capital costs and all operations and maintenance costs of the facility
- City intends to submit additional requests in future biennia
- Developed a reasonable financial strategy to equitably split project costs

	City	State	Total
2013-2015	\$4,992,791	\$4,992,791	\$9,985,582
2015-2017	\$38,698,571	\$38,698,571	\$77,397,142
2017-2019	\$21,587,868	\$21,587,868	\$43,175,736
Total	\$65,279,230	\$65,279,230	\$130,558,460
<b>Share of Cost</b>	50%	50%	100%

#### **EXPECTED ANNUAL RATE INCREASES BASED ON 50% LOCAL AND 100% LOCAL FUNDING**

			Projected	Increase*	
		50% Local	Funding	100% Loca	l Funding
	2011 Total Annual Bill	\$	%	\$	%
Typical Residential User (6,000 gal)	\$279	\$180	64	\$328	118
Value Added Industry	\$1.79M	\$1.16M	64	\$2.11M	118

<sup>\*</sup> All City water system operation and maintenance expenses are allocated to the City and the rate impact analysis does not include other City water system projects funded through rates and special assessments.

# **Grand Forks Regional Water Treatment Facility Impacts of State Grant Funding**

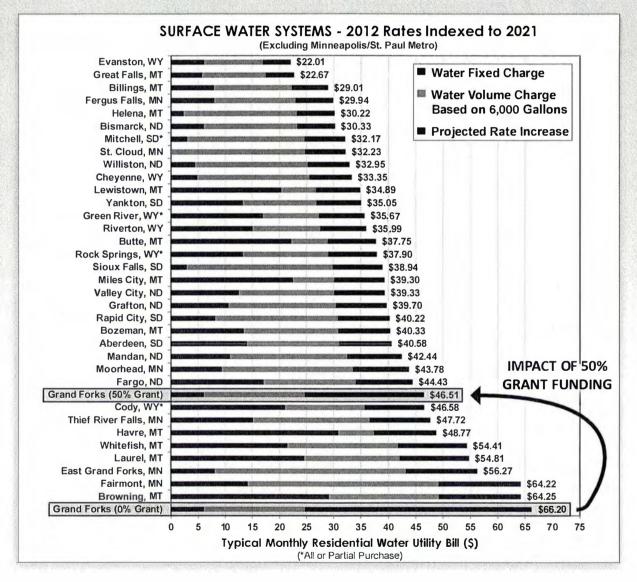
#### WATER UTILITY RATE PROJECTIONS AND REGIONAL COMPARISON



Without State Grant Funding for its future Water Treatment Plant, the anticipated average monthly water bill for the City of Grand Forks after the project is complete and operational is \$66.20.



This anticipated future monthly bill was compared against the anticipated future monthly water bills of other Surface water Systems in the region using data from the 2012 North Central Utility Rate Survey. Without state grant funding, the City of Grand Forks would likely have the highest water rates in the region.



- The City of Grand Forks completed a detailed multi-year water system financial model to project the necessary future water rate increases for this scenario.
- In order to compare to the projected future water bill for the City of Grand Forks, three percent annual rate increases were projected and applied to the 2012 rates for all other systems surveyed.





#### **Mayor Chris West**

Water Treatment Plant - Phase 3
Funding Request to the State of North Dakota
March 19, 2013

- City is seeking assistance to complete the final phase of a three phase, decade-long water treatment plant improvement project.
  - o Improvements are not deferred maintenance, but rather a major overhaul of a plant that was originally constructed in 1953 60 years ago.
  - Improvements address regulatory challenges, aging infrastructure, inadequate treatment equipment, and lack of redundancy.
- City is seeking funding assistance to complete Phase 3 of Water Treatment Plant improvements which began in 2003.
  - Phase 1 and 2 (\$2.2 million) have been completed entirely with Federal and Local funds.
  - Phase 3 has an estimated cost of \$7.2 million.

o October 7, 2011

- Attachment 1 is a summary of the project and its total cost.
- City has \$2 million remaining in a commitment from the Environmental Protection Agency (EPA) to assist with Phase 3 obtained through a series of State and Tribal Assistance Grants (STAG) awarded from 2003 to 2006. EPA requires use of remaining STAG dollars (which must be expended pro rata) by the end of 2014.
- In 2010, the City had a \$1.7 million federal earmark which received approval through the Senate Energy and Water Appropriations Subcommittee, but was later removed due to the ban on federal earmarks.
- Since 2010, the City has been seeking Municipal, Rural, and Industrial/Water Supply Program funding from the State Water Commission to assist with the completion of Phase 3.

0	October 7, Zoll	Will request submitted to swe and carrison biversion
	Conservancy District (C	-District)
0	February 6, 2012	Mayor West met with Governor Dalrymple and staff
0	February 21, 2012	MR&I request submitted to SWC and C-District
0	November 7, 2012	MR&I request information submitted per Rep. Kreun's request
0	November 2012	ND Water Coalition recommended \$16 million for municipal
	water funding which is	included in HB 1020 - SWC 2013-2015 Budget

MR&I request submitted to SWC and Garrison Diversion.

- City is seeking approximately \$2.6 million from the State's Municipal, Rural, and Industrial (MR&I) Water Supply Program to complete Phase 3 of the Water Treatment Plant project.
  - This MR&I request represents 36% of the Phase 3 project and 27% of Phases 1, 2, and 3.
  - Should the EPA deadline not be met and grant funds eliminated, the City will need to seek additional funds from the State's MR&I program.
  - Without grant funds, the City would have to consider debt financing which would equate to an estimated 91 percent increase in water user rates.

- The City has increased rates considerably over the past few years to address both these necessary improvements as well as adjust from the loss of a major industrial water user, a local ethanol plant.
  - o State funding is critical to keeping Grafton's water rates affordable.
  - Attachment 2 provides an estimated water rate impact both with and without State grant funding.
  - O With grant funding as requested, the average monthly residential user rate would be \$49.63, which represents an 88 percent increase since 2011.
  - Without grant funding, the average monthly residential user rate would be \$56.32 the highest municipal rate in communities greater than 5,000 in North Dakota which responded to the 2012 AE2S Utility Rate Survey. This rate represents a 113 percent increase since 2011.
- City is the only large water provider within a 45-mile radius.
  - Attachment 3 is a map of the mature water regionalization of northeastern North Dakota.
  - The City, population 4,300, is too large to be served by a surrounding City of rural water system.
  - Area groundwater supplies are limited and fully allocated the Red River is Grafton's primary supply
  - o It is not cost effective to purchase and transport water from the City of Grand Forks.
- One concern in HB 1020.
  - Section 18 calls for the State Water Commission to develop policies for grant and loan funding for municipal project funding, including water treatment plants.
  - A similar provision is included in SB 2048.
  - While we support the development of such policies, we fear that an unintended consequence of this language will be a lengthy delay in funding our vital project.
     A lengthy delay may put us at risk of losing the EPA funding that must be spent by 2014.
  - Construction for this project alone will take 15-18 months to complete so, we are already pushing our EPA deadline.
  - While we need to complete Phase 3, we cannot proceed much further without our full financial package in place.
  - While a relatively small project within the State Water Commission's \$515 million proposed budget, a \$7.2 million project is a serious and substantial endeavor for Grafton. The requested State share of this project is a reasonable and responsible 36 percent.
  - Not meeting this EPA deadline will likely result in a larger grant request to the State Water Commission.







January 2013

#### USE it or LOSE it!

#### Water Treatment Plant Rehabilitation - Phase 3

In 2001, the City of Grafton began planning and implementing a three-phase project to renovate its Water Treatment Plant (WTP) to address multiple issues at this circa 1953 facility. These issues include regulatory challenges, aging infrastructure, inadequate treatment equipment, and lack of redundancy. To date, Phase 1 and 2 have been completed and the City is seeking State Water Supply Program funding assistance to complete Phase 3. For Phase 3, the City is requesting State Water Supply Program funding of \$2,603,835 or 27 percent of the total project cost. The City commits to an equal match to the State Water Supply Program request to support Phase 3 implementation.

#### **EPA Deadline**

Due to the looming EPA deadline on the expenditure of the STAG funds, the City must proceed with design and plans for Phase 3 in 2012 in order to meet the 2014 expiration date. The State Water Supply Program assistance is critical to the City because without the State Water Supply Program assistance, the City would have to consider debt financing on approximately \$5.2 million which would result in an estimated overall 91 percent increase in water user rates. Should the City not meet the EPA project implementation requirements, we anticipate the need to increase to the City's request to the State Water Supply Program. Given the availability of EPA and local funds for Phase 3, the City believes it can

provide possible flexibility of drawing potential State Water Supply

Program funds until 2013-2015 biennium.

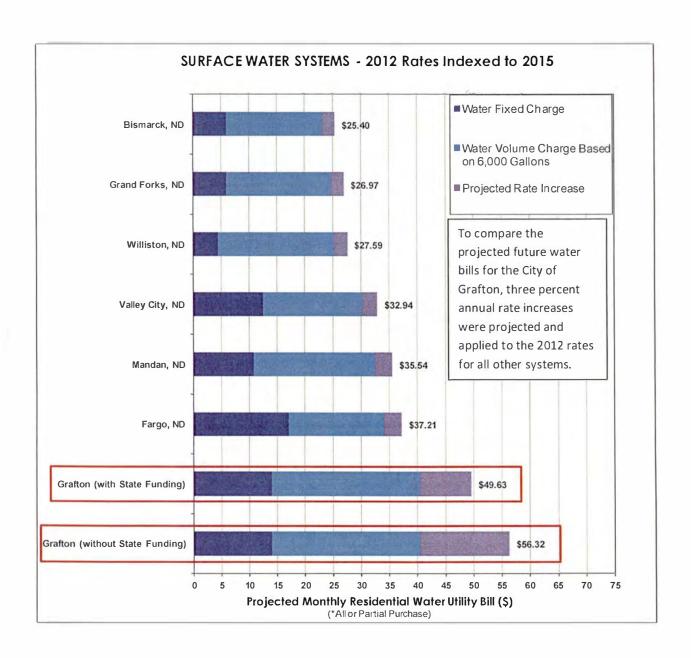
The City is the only large water provider within a 45-mile radius and with a population of 4,300; the City is too large to be a consecutive user served by Walsh Rural Water District and transporting water from Grand Forks would not be cost effective.

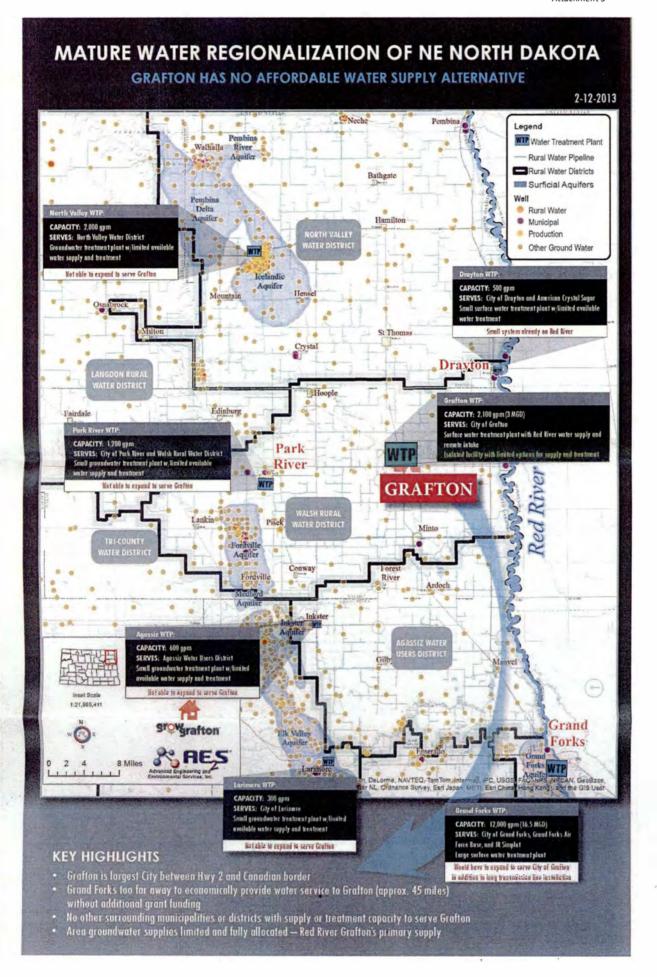
STAG Funding Summary	STAG
FY 2003	\$867,300
FY 2004	\$867,800
FY 2005	\$962,200
FY 2006	\$692,900
TOTALS	\$3,390,200

Project Expenditures to Date	55% STAG	45% Local (DWSRF)	Total
Phase 1 - Pretreatment and Chemical Feed Improvements	\$697,400	\$570,600	\$1,268,000
Phase 2 - Softening Basin and Chemical Feed Improvements	\$670,450	\$548,550	\$1,219,000
TOTALS	\$1,367,850	\$1,119,150	\$2,487,000
Phase 3 - Filtration, BW Recycle, WTP Improvements (2012 Dollars)			\$7,230,000
STAG Project Funding Secured	\$2,022,350		(\$2,022,350)
BALANCE PHASE 3 FUNDING NEEDED			\$5,207,650

PHASE 3 FUNDING (TOTAL COST \$7,230,000)						
	Federal	State	Local			
Total Phase 3	\$2,022,350	\$2,603,825	\$2,603,825			
PERCENT OF PHASE 3 FUNDING	28%	36%	36%			

TOTAL PROJECT FUNDING (TOTAL COST \$9,717,000)						
	Federal	State	Local			
Total Phase 1, 2, and 3	\$3,390,200	\$2,603,825	\$3,722,975			
PERCENT OF TOTAL PROJECT FUNDING	35%	27%	38%			









Jim Neubauer, City Administrator City of Mandan 205 2<sup>nd</sup> Avenue NW Mandan, ND 58554 701-667-3215

Testimony of the City of Mandan
IN SUPPORT OF HB 1020, STATE WATER COMMISSION APPROPRIATION
Senate Appropriations
Senator Holmberg, Chairman
Tuesday, March 19, 2013

Good afternoon Chairman Holmberg and Committee members. My name is Jim Neubauer, City Administrator for the City of Mandan, and I'm here today in support of House Bill 1020. The funding outlined in the \$500 million proposed budget is critical for water infrastructure needs statewide. The City of Mandan will be seeking funding through the Water Supply Program managed by the State Water Commission to support three large water projects over the next three biennia.

The City's projects serve municipal, rural, and industrial users. First, we serve our community. Second, we wholesale water to our regional partners including Missouri West Water System and Southwest Water Authority. And finally, the City shares critical water infrastructure with Tesoro's Mandan Refinery, which is a vital energy industry partner that has been in our community since 1954.

The City's three projects include:

1. New Raw Water Intake. Due to the shifting sediments of the Missouri River, the existing intake has been experiencing significant siltation problems for well over a decade. Study has revealed a new intake in a more stable location on the Missouri River is needed. The cost of this project is estimated at \$18.1 million (2013 \$). This is a common occurrence for communities along the Missouri River as evidence by a similar situation for the City of Washburn.

Testimony of Jim Neubauer, City of Mandan Senate Appropriations Committee – HB 1020 March 19, 2013 Page 2

- Water Treatment Plant Improvements. Several improvements are needed to the water treatment plant, including high service pump station relocation and expansion and facility improvements. The cost of these improvements is estimated at \$7.3 million (2013 \$).
- 3. New 30-Inch Water Transmission Line from the Water Treatment Plant to the Sunset Reservoir. This transmission line is a critical component of our distribution system and has had catastrophic failures over the past few years and needs to be replaced. The cost of this project is estimated at \$5.6 million (2013 \$).

The City is a good steward of its entire infrastructure system and strives to make equitable investments that are needed and paid for by its users rather than passing this burden to future generations. Over the past decade, the City has invested \$20 million in water infrastructure alone. Today, we are in unprecedented times of growth and it is challenging for us to continue making required major infrastructure improvements without financial support from the State.

The Water Supply Program is an instrumental program to help keep water infrastructure statewide at affordable rates to local citizens, rural users, and industry. The total cost of these three water infrastructure projects is \$31 million. As stated earlier, the City has planned to implement these projects over a three biennia period to ease the financial burden to both the City and the State's Water Supply Program. During the 2013-2015 biennium, the City is seeking \$6.3 million from the Water Supply Program to begin implementation of all three projects.

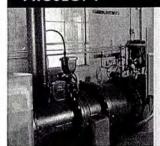
Without the State's Water Supply Program assistance, we estimate a 64 percent increase to our household water rates. This would increase water rates to 2.54 percent of the City's median household income – well above the 1.0 percent "affordability" standard. It's imperative for the Water Supply Program to fund critical water infrastructure improvements statewide to both support continued growth and keep user rates at an affordable level.

Thank you for your time and consideration and I urge your support on HB 1020.

The City of Mandan is submitting three (3) projects that are currently in planning stages for State Water Supply Program funding consideration. The projects are summarized as follows:

#### PROJECT 1

#### **New Raw Water Intake**



#### Problem:

- Existing row water intake has been experiencing significant siltation problems for well over a decade.
- Sediment accumulation severely limits the row water intakes ability to receive water.
- Sediment causes excessive wear on treatment equipment and requires significant manpower to remove settled sediment form various process basins and dredging to keep the intake clean.

#### Solution:

Construct a new intake in a more stable location on the Missauri River.

#### PROJECT 2

# Water Treatment Plant (WTP) Optimization, High Service Pump Station Relocation and Expansion, and Facility Improvements



#### Problem:

- Existing pretreatment basin, recorbonotion basin, filter rewash valves, bulk lime storage and transfer equipment, and process instrumentation are in need of repair and upgrades to meet growing demands as well as to meet OSHA requirements.
- The existing clearwell configuration does not allow the high service pumps full occess to the entire volume of storage,
  especially when the WTP is not in service (such as overnight), which limits the ability to meet the growing water demands
  of the community. This will be addressed through relocation of the High Service Pump Station.
- Relocation of the High Service Pump Station requires relocation of the administrative spaces including office, laboratory, and control rooms.

#### Solution:

Implement Needed Facility Improvements.

#### HOW RATES WILL BE EFFECTED:

If entirely financed through the Drinking Water SRF program, an estimated increase of 64% is anticipated. This would increase rates to 2.54% of the median household income -well above the 1.0% affordability criteria.

#### PROJECT 3

#### 30" Water Transmission Line Replacement



#### Problem:

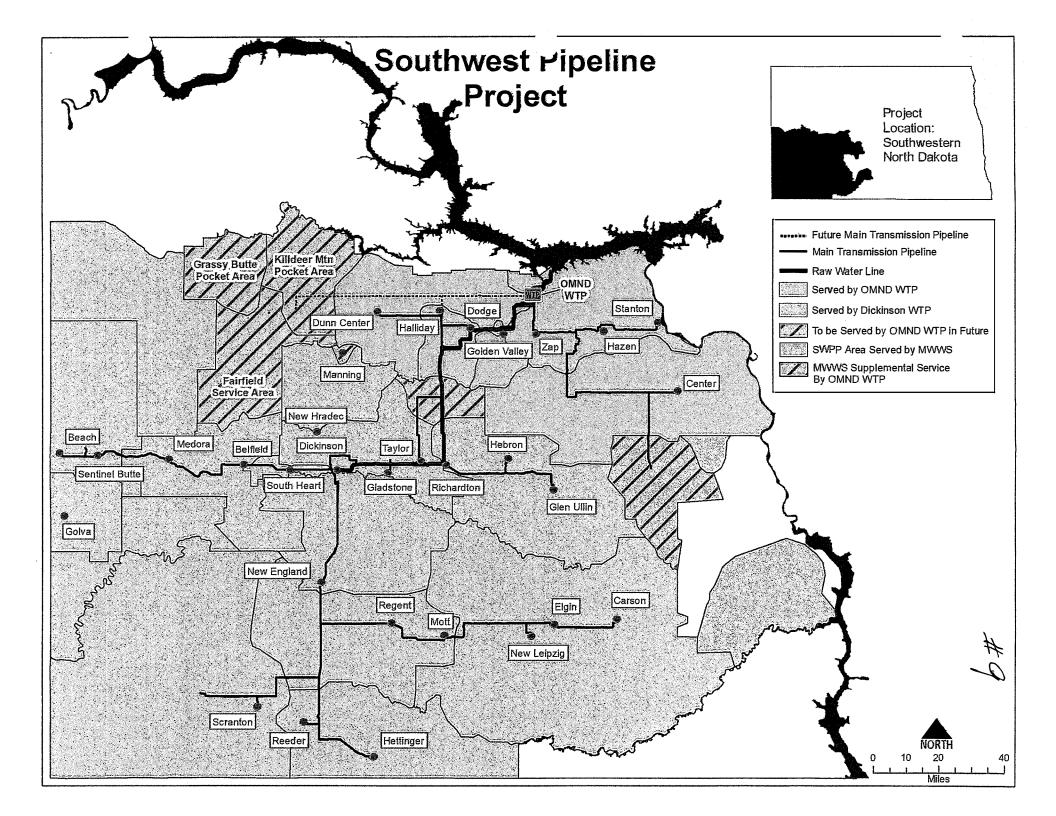
- The City has experienced catastrophic failures in the pipeline over the past several years.
- Replacement of the remaining two-mile segment of the pipeline will minimize the potential for additional failures.
- By replacing the transmission main prior to failure, the City is ensuring that distribution will not be compromised.
- Due to severe deterioration of the existing pipe material, there is a significant potential for failure of the transmission pipeline.

#### Solution

Replace existing 30" PCCP transmission pipeline from the WTF to the Sunset Reservoir.

#### Funding Request Breakdown: Mandan Water Treatment

PROJECT	TOTAL COST	STATE WATER SUPPLY PROGRAM REQUEST PER BIENNIUM					
	(2013 \$)	2013-2015	2015-2017	2017-2019	Total State Request	% State Grant	Local Funds
'Vater Intake	\$18,100,000	\$1,900,000	\$11,700,000		\$13,600,000	75%	\$4,500,000
/TP	\$7,300,000	\$190,000	\$550,000	\$4,750,000	\$5,490,000	75%	\$1,810,000
Transmission Line	\$5,600,000	\$4,200,000			\$4,200,000	75%	\$1,400,000
TOTAL	\$31,000,000	\$6,290,000	\$12,250,000	\$4,750,000	\$23,290,000	75%	\$7,710,000







#### **CURRENTLY SERVING QUALITY WATER TO:**

- More than 50,000 Southwest ND Residents
- 31 Southwest ND Communities
- Over 4,600 farms, ranches & small businesses
- 22 contract customers
- 21 Raw Water customers
- Missouri West Water Rural Water System
- Perkins County Rural Water System
- Red Trail Energy Ethanol Plant
- Two Oil & Gas Crew Camps
- Two Raw Water Depots for Oil & Gas Industry

#### WATER SALES GROWTH:

- 698,867,870 gallons (1995)
- 2,373,063,380 gallons in 2012
- 2013 Projection: 2,622,595,000 gallons 67% INCREASE from 2010

"Your efforts are critical towards providing water for residential, agricultural, and industrial use during this time of rapid growth in western North Dakota. Thank you for your hard work and best wishes as you continue to expand the Southwest Pipeline Project."

– Jack Dalrymple, Governor of North Dakota

#### **EMPLOYMENT:**

Current staff 34 Hijing additional 43 in 2013

#### URRENIPOPULATION

50,208 Southwest North Dakota

#### POPULATION GROWTH:

Unprecedented population projected growth over the next 10 years

#### REPAYMENT TO NORTH DAKOTA:

Through 2012 over \$33 million has been paid back to the State In 2013, nearly \$5 million in capital repayment budgeted

#### TOTAL WATER REVENUES:

2013 Projected Revenue: \$15 million (60% increase over 2012 budget)
Revenue generated through November 2012 is over \$12 million (\$9.9 million budget)

#### OPERATIONS & MAINTENANCE:

Two:Water Treatment Plants
12 MGD:and:3:5 MGD:capacities
21 Water Storage Reservoirs, vary in size from 197,000 - 76,000,000 gallons

## People and Business Succeeding with Quality Water

Southwest Water, Authority does not discriminate on the basis of race; color, national origin, sex, i religion, age; mariital; status or disability in employment or the provision of services.

"As a member of the State Water Commission, I have followed the progress of this project, and consider it a landmark in the development of the Southwest Pipeline Project that will bring fresh, treated water to thousands of people."

– Doug Gochring, North Dakota Agriculture Commissioner





# It's More Than a Pipeline... It's a Lifeline

The Southwest Pipeline Project (SWPP) is North Dakota's largest multi-county regional rural water project. Today, the SWPP brings quality water to over 50,000 people which includes 31 communities, more than 4,600 rural locations, 22 contract customers, 21 raw-water customers, and two rural water systems. In the energy sector, the SWPP provides raw water for two depots, an ethanol plant and two crew camps. The OMND (online 2012) water treatment plant currently serves the communities of Zap, Hazen, Stanton, and Center. Construction is now underway for the Oliver, Mercer, North Dunn (OMND) counties.

The need for quality water in southwest North Dakota is greater than ever. Given 1,417 rural customers continue waiting for water, southwest North Dakota's population is growing at an unprecedented rate, the raw-water needs of the energy industry, and it's easy to see why the continued funding for the SWPP is so important to the economic development of ALL of North Dakota. To date, SWPP has paid back to the state of North Dakota over \$33 million.

**ECONOMIC VIABILITY.** The communities and rural areas currently being served by the Southwest Pipeline Project (SWPP) are basing their current and future growth on the availability of quality water. That's a fact!

**UNPRECEDENTED GROWTH.** Here we are experiencing doubling populations due to the oil and energy industries. The communities receiving quality water from the Southwest Water Authority are literally doubling their populations with no sign of slowing down. All of the projections are for continued population growth and incoming businesses.

FUNDING OF THE SWPP IS VITAL. The requested funding for 2013-2015 will not only help ensure water quality for southwest North Dakota, but will strengthen the economic viability of the entire State. With \$79 million in funding over the next two years, the SWPP can continue to meet the water quality needs of existing customers and the growing needs of communities it serves. Together with the funding support of the SWPP, North Dakota will remain a State people want to do business with and a place they want to raise their children.

WATER QUALITY. With a mission of quality water for southwest North Dakota, the Southwest Pipeline Project continues to meet and/or exceed all of the Environmental Protection Agency (EPA) and North Dakota Department of Health's stringent water quality laws and requirements.

PAYING BACK TO NORTH DAKOTA. Through 2012, over \$33 million has been paid back from the Southwest Pipeline Project to the State of North Dakota.

Quality Water for Southwest North Dakota

Learn More by Visiting www.SWwater.com

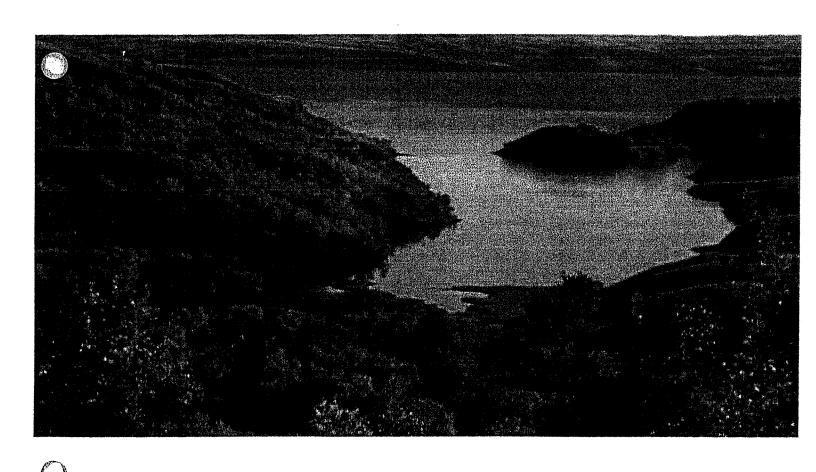


# Mission Statement for Southwest Water Authority

Quality Water for Southwest North Dakota

# Vision Statement for Southwest Water Authority

People and Business Succeeding with Quality Water



## Learn More by Visiting www.SWwater.com

# Southwest Water Authority





#### What is the Southwest Pipeline Project (SWPP)?

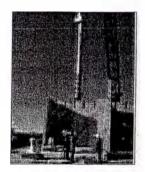
The SWPP is the first large multi-county regional rural water project developed in the State of North Dakota. The SWPP is to provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system. While the SWPP is State owned and administered by the North Dakota State Water Commission (SWC), it has been managed by SWA since 1996.

#### What is the primary focus of the Southwest Pipeline Project?

The SWPP was designed to allow for the transportation of raw water from Lake Sakakawea (the third largest man-made lake in the United States) to the OMND WTP and the Dickinson WTP where it is treated and delivered to the Project's customers in southwest North Dakota and Perkins County, South Dakota.

#### Why did the State Water Commission (SWC) create the Southwest Pipeline Project (SWPP)?

With an annual rainfall of less than 15 inches in southwest North Dakota, there was not enough water to keep wells in the area from running dry and streams and reservoirs from emptying out. Also, the groundwater was, and remains, extremely poor quality.



#### When did the SWA take over management of the SWPP?

SWA took over the management, operations and maintenance on January 1, 1996 from the State Water Commission. SWA alse managing the City of Dickinson's water treatment plant on April 1, 2000.

#### What does the Southwest Pipeline Project provide to North Dakota?

The Southwest Pipeline Project brings water from Lake Sakakawea to provide clean, safe, quality water supply for residents of the southwestern portion of the State. Without access to the Southwest Pipeline Project, many residents of this region would otherwise have to carry drinking water from elsewhere because their drinking water is unsafe. Currently (2012) 31 communities, more than 4,600 rural-service locations, 22 contract customers, 21 raw water customers, and two rural water systems are served quality water by the Pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps.

#### Where would North Dakota be today without the vision of leaders who believed in the SWPP?

t would have remained a rural, barren land. Farmers and ranchers were moving out due to lack of quality water. Drought was encompassing this part of the State. Mayors could not get people or businesses to move in. Oil and gas companies couldn't get raw water. Thanks to the vision of the North Dakota Legislature, state and local leaders, the Southwest Pipeline Project became a reality.

### Who manages the Southwest Pipeline Project?

The SWPP is managed by the Southwest Water Authority 15-member Board of Directors representing the following counties: Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Slope and Stark, as well as the cities of Dickinson and Jandan.



#### What construction for expansion of the SWPP is currently underway?

A second intake, raw water upgrades, and expanded treatment capacity at both water treatment plants are necessary to meet the exponential growth in our region. The OMND (Oliver, Mercer, North Dunn) Regional Service Area is under construction and is essential to meet the growing demand for quality water. A there are more than 1,000 rural customers and all energy sector users, including the power plants, coal plants and the oil industry, waiting for water in this region.

#### loes the SWPP generate a revenue stream sufficient to repay the revenue bonds issued for construction?

es. To date, more than \$33 million in capital repayment has been paid back to the state of North Dakota. The 2013 budget includes early \$5 million in repayment fees, an increase of 63% from the 2012 budget.

# requently Asked Questions

#### is t. e a waiting list for water from SWPP to other service areas?

/es! The southwest region of North Dakota is seeing unprecedented growth with the oil and energy industries. Communities and rural areas being served are in need of much more water. A second intake for the Project is now a bigger need than ever. Expansion of treatment at the water treatment plant in Dickinson is needed for the growth in Dickinson and the region. Upgrades to the Project are needed to meet this fast growth and high demand. There are people today who cannot drink the water from their tap because they are not yet connected to the SWPP. In some cases, people signed up for water and paid their fees more than 20 years ago. There are also people on waiting lists in the areas currently served as the Project is at capacity.

#### With the energy industry having a big economic impact on all of ND, how does SWPP help?

Quality water is essential to keep the State's economic engines growing and moving forward. That's why the SWPP continues to stay true to its vision to help the people and business of southwest North Dakota succeed with quality water.

#### Who funds the Southwest Pipeline Project?

As a State owned project, we are 100% funded by State and federal loan programs. With our customers paying capital repayment, there is no local cost share. The Garrison Diversion Conservancy District's, Municipal, Rural and Industrial (MR&I) Water Supply Grant Program, provides up to 75% of the cost for development of water supply projects. The legislation that created the program gives cost-sharing credit for the funds the State had previously expended on the project. Through November 2012, \$69.84 million from North Dakota's Resources Trust Fund, \$8.47 million from the Water Development Trust Fund and \$100.62 million in MR&I funding has been spent on the SWPP.

#### What funds are needed in the next biennium for the SWPP to continue its mission?

The Southwest Pipeline Project is requesting \$79 million in the next (2013-2015) blennium.

#### Wh loes the needed funding mean to the people and businesses of Southwest ND?

In short, it means building more than 462 miles of pipeline, increasing SWA's pumping capacity of water by the end of 2015, economic development for all of ND, water for the workers coming to ND, and allowing for the ability to serve the citizens who are continuing to repay the State of North Dakota.

#### What happens if Southwest Water Authority does NOT receive all of its needed funding?

Drinking water will need to be rationed to the detriment of existing southwest North Dakota residents. The people already signed up and waiting for quality drinking water will continue to wait. Temporary workers will not want to become permanent residents. Cities will not be able to build the homes needed for incoming workers.

#### What has been accomplished by the Southwest Pipeline Project to date (2012)?

Currently (2013) 31 communities, over 4,600 rural service locations, 22 contract customers, 21 raw water customers in North Dakota, and two rural water systems, are served by this pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps. The current population exceeds 50,000 in North Dakota, up from 35,000 a little more than a year ago.

#### What is Southwest Water Authority?

The North Dakota State Legislature established Southwest Water Authority (SWA), a political subdivision in 1991. SWA was created to supply and distribute water to the people of southwestern North Dakota through a pipeline transmission and delivery system for purposes including domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water, and municipal uses. SWA is also to provide for the future economic welfare and prosperity of the people of ND, particularly the people of southwestern North Dakota.

#### What has Southwest Water Authority accomplished since its inception?

For over 27 years, the SWC has been constructing an efficient network of pipelines, pump stations, reservoirs and treatment facilities to bring southwest North Dakota an adequate supply of quality water. To date, (2012), 31 communities and more than 4,600 rural-service locations are being served by the Pipeline. The SWPP also serves 22 contract customers, 21 raw water customers, as well as two rural water systems. The Pipeline also has two raw water depots serving the oil industry, an ethanol plant and serves potable water to two crew camps.

#### What services does Southwest Water Authority provide southwest North Dakota?

Currently, SWA provides drinking water to 31 communities, more than 4,600 rural-service locations, 22 contract customers, two camps, 21 raw water customers, and two rural water are served by this pipeline. The Project serves an ethanol plant and two rave water depots.

#### What is the water quality that SWA is providing to its customers?

Since the inception of SWA, they have not only met, but also exceeded, all of the Environmental Protection Agency and North Dakota Department of Health's stringent water quality laws. Visit SWA's website to view the Consumer Confidence Reports (CCR) and to learn more at: www.SWwater.com.

#### What infrastructure does SWA manage?

SWA manages, operates and maintains more than 4,000 miles of pipeline as of December 31, 2012; two water treatment plants (12 MGD and 3.5 MGD) capacity, 21 water storage reservoirs varying in size from 197,000 – 6,000,000 gallons.

#### Where is SWA's water treated?

Water for the SWPP is treated at the OMND and at the Dickinson water treatment plants. Both water treatment plants are managed by SWA.

#### How many gallons of water is SWA projecting to be sold in 2013?

It is projected that SWA will sell over 2.6 billion gallons of water in 2013, which is an increase of 67% from 2010.

#### How many communities and people does Southwest Water Authority currently serve?

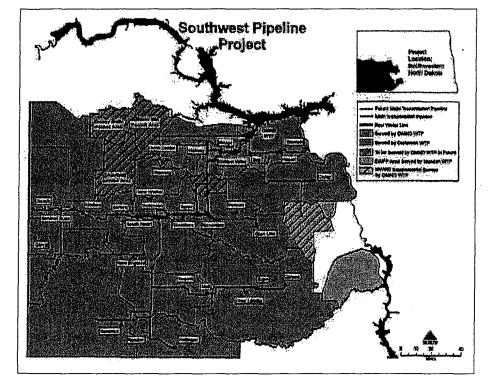
Currently, (2013), 31 communities, over 4,600 rural-service locations, 22 contract customers, 21 raw water customers in North Dakota, and two rural water systems, are served by this pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps. The current population exceeds 50,000 in North Dakota, up from 35,000 eighteen months ago.

#### What are SWA's major expenses for 2013?

In addition to capital repayment fees of nearly \$5 million, power costs of \$1.345 million, an increase of 50% from the 2012 budget, plus salaries and benefits.

#### How many people.does Southwest Water Authority employ?

Currently, SWA has a staff of 34 and will be hiring an additional 13 employees in 2013.









# **Southwest Water Authority Pays Back** 47% of Resources Trust Fund Repaid

### Amount Paid back in the form of Capital Repayment

YEAR	TOTAL	YEAR	TOTAL
1991	\$ 11,166.00		
1992	\$ 212,899.00		
1993	\$ 195,973.00	2004	\$ 1,621,239.25
1994	\$ 300,472.00	2005	\$ 1,706,958.33
1995	\$ 504,179.00	2006	\$ 1,948,480.26
1996	\$ 734,994.15	2007	\$ 2,308,065.86
1997	\$ 857,913.00	2008	\$ 2,455,506.88
1998	\$ 915,791.37	2009	\$ 2,618,988.11
1999	\$ 1,025,997.24	2010	\$ 2,776,546.59
2000	\$ 1,146,779.77	2011	\$ 3,076,416.44
2001	<b>\$ 1,308,267.93</b>	2012*	\$ 4,287,275.86
			R. of The Land School Section 1997
2002	\$ 1,432,224.68	Total	\$ 33,033,598.25
2003	\$ 1,581,284.21	*Through De	ecember 31, 2012
	WEST PIPELINE PROJECT (SWPP) F	UNDING S	SOURCES
	ding (in millions of dollars)		A 60.04
	Trust Fund		
	elopment Trust Fund		
			•
Grants	Ninemia Canana District		
	Diversion Conservancy District al Rural & Industrial Fund		\$ 100.62
-	tes Department of Agriculture - Rural Developme		
	esources Conservation Service PL566		
Subtotal			\$ 116.64
State Bon	ds Repaid by Users		
	venue Bonds		\$ 7.04
	tes Department of Agriculture - Rural Developme		
ND Drinki	ng Water Revolving Loan Fund		<u>\$ 1.50</u>
Subtotal			\$ 24.24

Total Funding......\$219.19

# Southwest Pipeline Project Investment Repayment to North Dakota

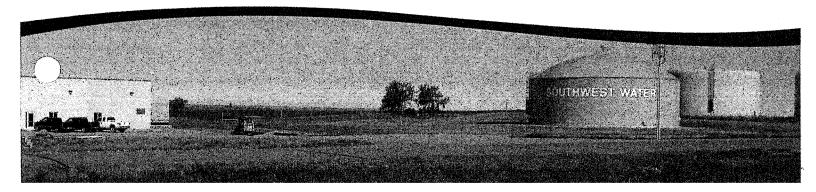
The Southwest Pipeline Project (SWPP) is not only paying great dividends to the state of North Dakota in the form of **ECONOMIC GROWTH** and increased tax revenues, it is **REPAYING** significant dollars to the state treasury.

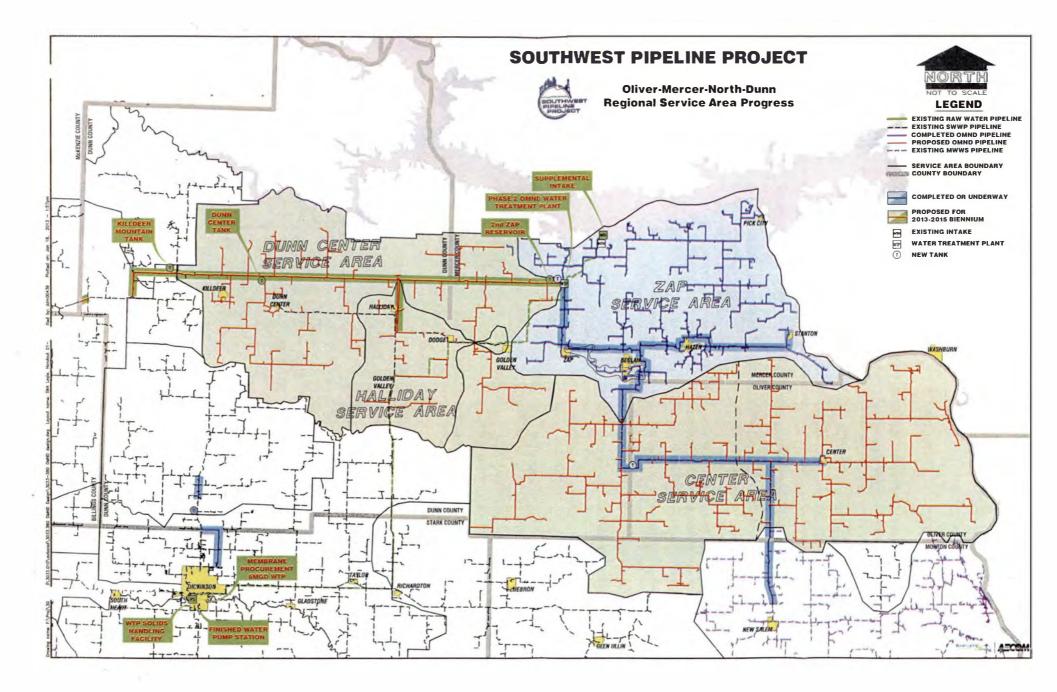
## Return On Investment/Repayment

- 1. State funding through 2012: 78.9 million
  - a. State funding: RTF 61.9 million; WDTF 8.47 million; State bonds 8.54 million
  - b. Federal funding: (Garrison Diversion, ARRA, USDA, NRCS, SRF)
- 2. State funding repaid to date: 32 million
- 3. All operation, maintenance and replacement costs paid by users
- 4. Repayment to the state of North Dakota (estimated 7 million per year)
  - a. To date: 32 million
  - b. 10 years: 70 million (102 m)
  - c. 20 years: 140 million (172 m)
  - d. 30 years: 210 million (242 m)
  - e. 40 years: 280 million (312 m)
- 5. Payments continue permanently
- 6. Estimated revenues could exceed **7 million** per year, depending on population growth and oil development

#### **Economic Growth**

Water is a key component of economic development. With economic growth comes new businesses, new jobs, and increased local and state tax revenues. If we are going to continue to meet the growing needs of southwestern North Dakota, investing in water development is essential.





# 10

# Testimony by Dwaine Helmers, Oliver County Resident On behalf of the Southwest Pipeline Project to the Senate Appropriations Committee Hearing on House Bill 1020

Bismarck, ND March 19, 2013

Good afternoon Mr. Chairman and members of the committee. My name is Dwaine Helmers. I am providing written testimony to ask for your continued support of water development projects, more specifically, for funding of the Southwest Pipeline Project (SWPP) in southwest North Dakota. Please support HB 1020.

I am a heavy equipment operator for the Corps of Engineers; however, I was Chair of the County Commission for Oliver County for twelve years. I am very concerned about getting quality water to our area. I signed up for water about a year ago and have lived on my property since 1997. My wife, our three sons (ages 11-14), and I, live on 480 acres just east of Center. The land is used as farm and pastureland for about 30 head of cows.

Our water well is 180 feet deep. We drilled it in 1996-97. We had water at 50 feet through an older well on the property. The water quality was very poor and rusty. We thought going deeper to 180 feet would be better. It wasn't, the water is still rusty, salty, and very hard on our appliances and clothes. In fact, we don't own light colored clothes because they would all turn yellow or orange. We don't drink this water. It's like sucking on nails. So, like our neighbors, we haul drinking water from town; which is about ten miles away.

It cost around \$6,000 to dig our well, but an even bigger expense is we go through a washing machine about every 18 months. The iron buildup completely plugs up the plumbing with the screen in back of the washer. It isn't that we haven't tried to go deeper for better water; we don't believe we'd ever find good water in the wells. There is a lot of coal in the area and I think we're finding that the water near these coal beds contain harsh minerals. To give you an example, you would only have to observe our livestock. If they have a choice, these animals will automatically go to the water they like best, which in our case is a nearby dam, not the closer troughs that contain the well water!

On the road where I live, there are 16 other families who have all signed up for SWPP water. From a county perspective, we are always trying to think of new ways to attract people into the county to keep it economically strong. It's not a coincidence that the development stops right where the water stops. A guy I know built his house and has been waiting for the well driller since August. He can't close on the new home until this is done. There seem to be a lot fewer well drillers; in fact, the ones who drilled my well are not in business anymore.

When SWPP water arrived in the town of Center, a lot of people signed up for it; but it's just been kind of a long, drawn out process. I field a lot of calls from people who know I've been to meetings and one of our residents, an older fellow in his 80's, said it best. He said, "I was a young man when I signed up for quality water, now I hope to see it before I die." I think everybody's been pretty patient.

The economic quality of our State has never been better. There has been a big explosion in the western part of North Dakota due to new development and the oil industry. Our fear is a rural area such as ours will be postponed in favor of new development growth. We are probably 100 miles from this explosive growth and

we are really worried they will get water and we will not, after all these years of waiting. As you know, agriculture and the oil industry are booming here, so let's take advantage of the resources North Dakota now has to include the agricultural communities that provide so much.

I would also like to note that the State Water Commission operations funding needs to be from the General Fund. Moving this funding to the Resources Trust Fund, would affect the funding of the many needed projects throughout the state.

Email: <u>helmers@westriv.com</u>

I am hopeful that the requested funds will be approved so the rural communities can also thrive. Please support House Bill 1020 to provide funding for the construction of the SWPP and bring our most precious resource, quality water, to the rest of us in need for both now, and for future generations. Thank you.

Respectfully, Dwaine Helmers

Dennis Johnson HB 1020 3-19-13 mmittee

North Dakota Senate Appropriations Committee
House Bill No. 1020
March 19, 2013

Mr. Chairman and members of the committee, my name is Dennis Johnson. I serve as the President of the Dickinson City Commission. I am here today to speak in support of House Bill No. 1020.

The City of Dickinson is experiencing significant population growth and multiple oil related infrastructure and social impacts. To prepare for and manage the infrastructure needs due to the oil impacts, Dickinson retained KLJ Engineering in June 2011 to develop a Comprehensive Plan (Dickinson 2035: Roadmap to the Future) and retained North Dakota State University in September 2011 to develop housing and population projections. NDSU issued its report in August 2012 and KLJ issued its Draft Comprehensive Plan in November 2012. The final draft will be adopted shortly by the city and the documents are available at <a href="https://www.dickinsonplan.com">www.dickinsonplan.com</a>.

NDSU forecasts Dickinson will reach a service population of 47,000 people by 2022. Dickinson's permanent population is expected to stabilize by 2030 at about 42,000. The 2010 Census lists Dickinson at just under 18,000 people. My estimate is that Dickinson is serving about 25,000 people.

Dickinson, in 2010-2011, was the fourth fastest growing small city in the United States and recently was recognized by the U.S. Census Bureau for 2011-2012 as the third fastest growing small city. As illustrated by the tables below, Dickinson's growth has clearly accelerated.

City of Dickinson	2010	2011	2012	
Construction Permit Values	\$75,414,000	\$123,515,000	\$389,495,000	
New Building Permits (Res-Com-Ind)	258	255	783	
Housing Units	211	331	1,517	
City Size	6,734 acres	6,817 acres	8,237 acres	

#### Single Family Housing Permit Issuance

	2011	2012	% Change
Dickinson	137	589	330%
Minot	286	368	29%
Fargo	231	306	32%
Williston	310	208	-33%

During the past two years the city's new building permit values have grown five times and its footprint has increased by 22%. The City Planner expects 2013 building permits to approach \$500 million.

The City of Dickinson does not treat its own water. Dickinson relies on the Southwest Pipeline Project for its treated water. It is Southwest's responsibility to deliver treated water not only to Dickinson but to 30 other southwest North Dakota communities.

The Southwest Pipeline Project's present water allocation of 6,000,000 gallons per day for the City of Dickinson is based on Dickinson serving a population of 24,000 people. KLJ Engineering forecasts Dickinson's daily water consumption to increase substantially in the next five years as shown in the following table.

KLJ writes in the Dickinson Comprehensive Plan, "Water demand from forecast growth far exceeds the city's current water allocation." They further write, "The peak water demand use is expected to exceed the city's water supply during the summer of 2014 and continue during the planning period." As early as the summer of 2014 the city may need to institute water conservation or restriction measures to reduce summer peak day water use."

It is noted in the plan that the daily peak usage is about 130% of the July monthly average. That means the July 2016 peak demand could reach 8,000,000 GPD. By the end of 2016, the City of Dickinson's July average daily water usage will exceed its 6,000,000 GPD allocation.

	July Time Period	Amount	Cumulative Amount
Average Daily Water Usage	2012	3,865,000 GPD	
Forecasted Additional Water Usage	2013-2016	2,362,000 GPD	6,227,000 GPD
Forecasted Additional Water Usage	2017-2018	1,220,000 GPD	7,447,000 GPD
Forecasted Additional Water Usage	2019-2035	1,960,000 GPD	9,407,000 GPD

Non-Industrial water consumption for the city grew by an astounding <u>43.6%</u> in the past two years. Total city water consumption exceeded 1 billion gallons in 2012.

Annual Water Usage (Gallons)	2010	2011	2012
Non-Industrial Usage	611,675,000	661,834,200	878,370,900
Industrial Usage	81,194,700	143,658,200	139,284,600
Total Usage	692,869,700	805,492,400	1,017,655,500

The Comprehensive Plan recommends that the City of Dickinson invest a total of \$160 million just in water distribution and waste water management projects through the biennium ending in June 2017. Dickinson is confronted by ample oil impact challenges without facing a shortage of treated water.

Dickinson's population growth is substantial and we believe sustainable. Funding for the Southwest Pipeline Project is included in the Resource Trust Fund appropriations in this bill. Without approval of this funding, Dickinson and portions of South West North Dakota are facing severe water shortages which could impede its development and ability to house the workforce required for North Dakota's energy development.

I urge you to act favorably on House Bill No. 1020.

#12

Testimony by Randy Becker, Oliver County Resident
On behalf of the

# Southwest Pipeline Project to the

Senate Appropriations Committee Hearing on House Bill 1020

> Bismarck, ND March 19, 2013

Mr. Chairman and members of the committee, my

Mr. Chairman and members of the committee, my name is Randy Becker. I am here today to ask for your continued support of water development projects, more specifically, the funding of the Southwest Pipeline Project in southwest North Dakota. Please support HB 1020.

I am an environmental coordinator in the reclamation field of coal mining. The western half of North Dakota is seeing a very industrialized economic boom in coal mining and the oil industry. Many of the companies here are already using Southwest Pipeline Project water to meet their demands which I can speak to personally. I believe having quality water is essential for continuing to attract businesses which are very lucrative to our state, but I also want to underscore the health importance for our citizens and livestock.

My wife, three sons and I live on about 640 acres that my parents purchased more than 50 years ago and until a few years ago, we raised livestock. Today, about half of the land is used for crops; the other half is pasture land, rented out for livestock. We have a well about 135 feet deep that produces average water. We have issues with manganese which gives off a reddish tint that affects our white clothing and linens, and my wife doesn't like the taste of the well water, so we do have a distiller for drinking water.

The overall quality of health of the population in our region is dependent on a good source of quality water to drink. It is also necessary for the livestock industry. There are many pasture taps signed up to be built in our region. Successful communities and quality water go hand in hand.

Economically, the city of Center in Oliver County, that is already receiving Southwest Pipeline Project water, can see the benefit of not having to invest in expensive, individual water treatment facilities. Everyone benefits from a regionalized economy of scale on one bigger system that the SWPP delivers as a cost-effective operation:

We signed up and paid to be connected to the Southwest Pipeline Project in 1991. I would like to see the whole project finished. In fact, I was a director for Southwest Water Authority for one term from 2000 through 2004. Oliver, Mercer and north Dunn Counties are one of the last phases for rural construction. It is so close, let's build what started as a dream for both now and future generations. It is in the best interest of the North Dakota, businesses, and our residents to do so.

Also, the State Water Commission operations funding needs to be from the General Fund. Moving this funding to the Resources Trust Fund, would impact the funding of the many needed projects throughout the state.

I am hopeful that the requested funds will be approved so the rural communities can also thrive. Please support House Bill 1020 to provide funding for the construction of the Southwest Pipeline Project and bring our most precious resource, quality water, to the rest of us who have been waiting for many years. Thank you.

Respectfully, Randy Becker

Email: rsbecker@westriv.com

# 13

Testimony by Kent Albers Oliver County Resident
On behalf of the

# Southwest Pipeline Project to the

Senate Appropriations Committee Hearing on House Bill 1020

> Bismarck, ND March 19, 2013

Good afternoon, Mr. Chairman and members of the committee. My name is Kent Albers, and I am here today to ask for your continued support of water development projects, more specifically, the funding for the Southwest Pipeline Project in southwest North Dakota.

I am a local rancher in Oliver County whose great-grandparents homesteaded the farmland that has been in my family for four generations. Our total operation is about 15-16,000 acres. I am 64 years old now, in partnership with both of my adult sons, working as livestock farmers (beef cows).

With respect to water quality, our water comes from wells and we have quality issues despite 55-60 foot deep wells; the water comes out of coal beds. Associated with that, comes a foul odor, unpleasant taste, and hardness issues. We must use water softeners, which is an additional expense, beyond the cost (in the tens of thousands) for drilling and maintaining the well.

The economic importance of having a quality source of water for food producers and families is well worth the continued investment in the Southwest Pipeline Project. Quality water affects the entire population. Our quality of life in ranch country is dependent on free flowing water, but many must still depend on earthen, man-made structures that always result in poor quality water, especially in years of poor rainfall. It has been proven high quality water also produces a higher quality of livestock. The value of a farm and a farmstead or any piece of ground is much more valuable with good, quality water, than digging a 50-200 foot hole to find water for that piece of property.

Our neighbor spent thousands of dollars to drill a well with casing for their livestock. Unfortunately, like so many of us, they still don't have a lot of water, and it isn't quality water. That's why I ask you support House Bill 1020.

Kindly review the track record of the Southwest Pipeline Project as a reliable creditor. Their capital repayment to the state has been and will continue to be a wise investment. With the state of North Dakota enjoying a robust oil industry, it makes sense to me to fund infrastructure needs throughout the state, namely water infrastructure, so pipeline construction can continue in order to serve those of us who have been waiting to be connected and provide the lifeline to future customers.

In our particular area, a main line has been installed and a couple of the nearby towns are hooked up to the system. The rest of the rural countryside, however, is dependent on receiving additional funding. I am hopeful that the requested funds will be approved in this current budget cycle so the rural communities can also thrive.

The State Water Commission operations funding needs to come from the General Fund. Moving this funding to the Resources Trust Fund, would affect the funding of the many needed projects throughout the state.

Please support House Bill 1020 to provide funding for the construction of the Southwest Pipeline Project and bringing our most precious resource, quality water, to the rest of us in need now and in the future. Thank you.

Respectfully, Kent Albers

Email: kalbers@westriv.com



# Testimony of John Olson, Lobbyist, WAWS Authority IN SUPPORT OF HB 1020

Senate Appropriation Committee, Sen. Ray Holmberg, Chairman Bismarck, North Dakota – March 19, 2013

John Olson - Opening Comments HB 1020 March 19, 2013

- Good afternoon, my name is John Olson and I am representing the Western Area Water Supply Authority or WAWS as it is commonly known.
- The WAWS Authority strongly supports HB 1020 as a vehicle to provide critical funding to continue the development of the WAWS regional water system. The \$79 million identified in HB 1020, along with the emergency HB 1140 for \$40 million, will serve to address critical infrastructure in the fastest growing region in the State the northwest corner of North Dakota. The economic engine that is the Bakken will continue to thrive as long as we invest in critical infrastructure.
- As you will see from the testimony provided today by Jaret Wirtz, WAWS Executive
  Director, the WAWS project has made incredible progress in efforts to supply much needed
  drinking water to residents, workers, businesses, services, and industry.
- There is no doubt that the accomplishments of the WAWS Authority were achieved by the
  locally elected leadership and Member entity representatives that make up the WAWS
  Authority. These leaders are fueled by the extraordinary growth in the region, passion for the
  project and keen resolve to get things done. I can safely say that this type of progress is
  unprecedented in the State's history of regional water system development.
- You will also hear from Steve Burian, PE, WAWS Authority consulting professional engineer, who will present the 2013 Business Plan Update.
- The WAWS Authority first introduced an extensive business plan during the 2011 legislative session. This business plan was the basis for the original House Bill that created the WAWS Authority and garnered overwhelming support in both the House and Senate.

- Over the past two years, the WAWS Authority has continued to update its business, financial, and operational plans (with the input and oversight of numerous State agencies) to reflect the changing dynamics of the region. Continual planning ensures that:
  - o the system is not over- or under- built;
  - o debt service repayment stays on course;
  - o industrial sales are planned for properly; and
  - o the correct capital tools are used to create a sustainable system for years to come.

## John Olson - Closing Comments HB 1020 March 19, 2013

- In closing, I'd like to reiterate the WAWS Authority support of HB 1020.
- The WAWS Authority is excited to move to the next phase of build out of the system. The funding provided in HB 1020 supports another important step in a well-planned, multi-phase project. But, this biennium is especially critical with peak water demands exceeding the immediate capacity of the system. Planning for people who might arrive has turned into planning for people that have already arrived! With more on the way!
- In fact, Williston ranks as the fastest-growing micropolitan area in the country for the second year in a row according to a recent report announced last week by the U.S. Census Bureau. The Census population estimates show that the Williston area gained 2,281 residents between July 1, 2011, and July 1, 2012, a 9.3 percent increase in one year's time.
- Local elected leaders and Member entity representatives are as committed as ever to move the
  WAWS project forward. A good portion of the hard lifting has been done in terms of creating the
  Authority structure, executing Member contracts, developing business systems, and laying a solid
  ground work for the project over the past two years. Just the right amount of oversight and input
  from State and Federal agencies gave the proper guidance to the WAWS Authority without
  hindering progress.
- The WAWS Authority continues to believe in its business model that creates a link between the private sector and public sector needs for water. Let the industry pay for a public water system that benefits residents in northwestern North Dakota as well as the State as a whole. It just makes sense.

- There have been suggestions to limit the WAWS Authority industrial sales is some shape, way, or manner and I expect you will hear more about that later today. The truth is WAWS is already limited by its fixed pipeline route, its own capacity to sell excess latent capacity, and the accountability of its publically elected or appointed board. This has been presented in the original plan and again in the 2013 Business Plan Update.
- Creating amendments or strings attached to funding provisions to limit the WAWS Authority is
  making the conscious decision to intentionally accommodate a handful of mega private water
  developers over the interest of North Dakota taxpayers.
- Whether it is depots or direct hook-ups to its transmission lines (which is where the entire industry is headed), the ability of WAWS to sell industrial water is critical to:
  - o meet its financial obligations;
  - o maintain reasonable user rates; and
  - o keep our promise to use this unique option to free up grant funding for other important drinking water projects in the State.
- We understand the importance of "getting it right". As a public entity, we are under the scrutiny of the State and all of its citizens. We do not have the luxury of not being accountable for the truth of our statements or not revealing our own financial gains. The WAWS Authority has been under the spotlight for the past two years, and we expect to be under the spotlight for many more. That is ok. The WAWS Authority has made great strides in the past two years and we are very proud of that progress. We endeavor to continue that progress and the funding provided under HB 1020 will support the mission to do so.
- Thank you Chairman Holmberg and committee members for your time today and continued support of the WAWS project through the passage of HB 1020 as it stands today.

Testimony of Jaret Wirtz, Executive Director, WAWSA
In Support of the State Water Commission Budget (House Bill 1020)
Senate Appropriations Committee
Bismarck, North Dakota – March 19, 2013

Chairman Holmberg and members of the Committee, for the record my name is Jaret Wirtz, Executive Director for the Western Area Water Supply Authority (WAWSA). I am here to urge your support for House Bill (HB) 1020.

HB 1020 includes critical funding for the continued construction of the Western Area Water Supply (WAWS) Project to serve water demands which have more than doubled since the initial legislative approval two years ago.

# What a Difference a Year and Half Can Make – Getting the Authority Off and Running

After garnering overwhelming support in the last legislative session, the WAWSA was created when the founding legislation was signed by Governor Dalrymple in May 2011. In the 22 months since that bill was signed, incredible progress has happened both administratively and within system development, design, and construction. The founding legislation appropriated \$110 million to the development of the WAWS Project.

Local leaders came together, giving endlessly of their personal time to develop the Authority. The WAWSA Board of Directors was developed from Member representatives from the City of Williston, McKenzie County Water Resource District (MCWRD), Williams Rural Water District (WRWD), R&T Water Supply Commerce Authority (R&T), and the Burke-Divide-Williams (BDW) Water System Association. The Board also includes a representative from the ND State Water Commission. The WAWSA Members have adopted bylaws, and signed multiple agreements including Water Supply Agreements, Output Agreements, Access and Use Agreements, and Infrastructure Operating Agreements.

WAWSA members have come together in a way that no other regional water entities have. They have agreed to pool their infrastructure resources to achieve great progress for the system. For instance, the City of Williston has turned over the management and operations of its Water Treatment Plant to WAWSA in order to better serve the City as well as the entire



WAWS Project service area. Other WAWSA Members have "turned over" parts of their infrastructure and water fill depots for the benefit of all in the region. The collaborative progress has been, in one word, amazing!

The WAWS Project hit the ground running with unprecedented speed once legislative approval was provided. In 19 short months, WAWSA executed contracts in excess of \$112 million to implement the initial phases of this project using cash generated through water sales for contracts above the approved \$110 million original appropriation.

### Making a Real Difference in One Biennium

Out of the necessity to serve the rapidly expanding population in northwest North Dakota, this project is on track to be the fastest built regional water systems in the State of North Dakota. This was apparent as the WAWS Project was able to achieve immediate results in the first six months.

Crucial milestones that have either been achieved or will be achieved in the near-term include:

- Constructed the interim Williston By-Pass Transmission Line, a 10.5 mile stretch of pipe that extends north and west from Williston to new industrial growth areas, and improvements to the 26th Street Pump Station in 2011.
- Extended service to Basin Electric Power Co-op west of the City of Williston, through a cost share with WAWSA, to serve a new peaking power generation facility as well as provide service to several rural residents served by Williams Rural Water District.
- Constructed a five million gallon reservoir northwest of Williston that serves as the primary supply for growth areas around Williston as well as the rest of the northern WAWSA service area.
- Extended water service to the City of Watford City in the middle of December 2012 which included 30 miles of 20-inch pipeline crossing the Missouri River. Figure 1 shows the before and after of the sodium and hardness in the Watford City water supply on household drinking glasses. The glass on the left reflects the sodium and hardness from Watford City's groundwater while the glass on the right shows the clarity provided by the



Figure 1: Sodium and hardness on household drinking glasses in Watford City before and after WAWSA began service to Watford City in December 2012



WAWSA water supply.

- Built four water depots that are operational, expanded one member depot and incorporated four member-operated depots which are generating revenue and for the WAWSA Business Plan.
- Extended rural water service to western McKenzie County through the installation of 150 miles of distribution pipe.
- Expanding the Williston Regional Water Treatment Plant from 10 to 14 MGD.

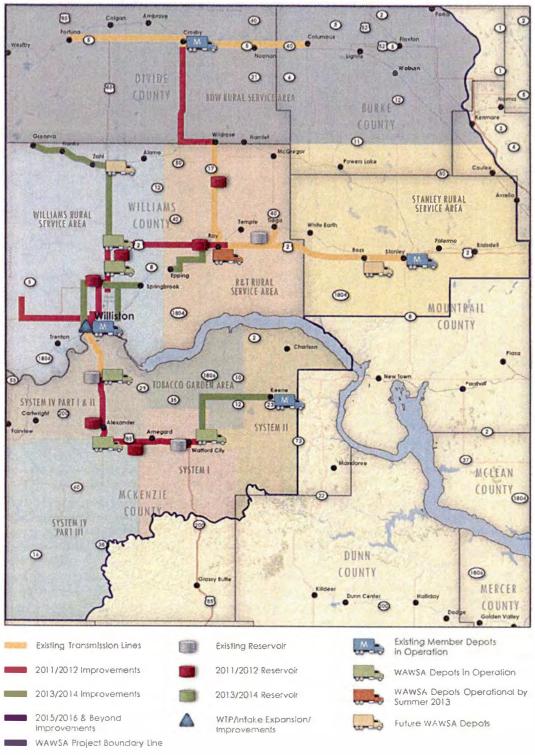
WAWS Project water will officially arrive in Crosby in the spring when service to Ray begins. Until then, Crosby will be served by the R&T Water Supply Commerce Authority, a Member of WAWSA. In addition to Ray, WAWS Project service will begin over the next few months in Wildrose, Ross, Tioga, Stanley, Columbus, and Fortuna, as well as portions of western McKenzie County. We are most proud of the fact that we will be serving ten cities within 24 months of WAWSA's creation with high quality water through the installation of 100 miles of transmission mains, eight reservoirs, and six (includes Phase I stations and retrofits to some existing facilities) pump stations. These major milestones are summarized in Figure 2: Major Infrastructure Components 2011-2013 Biennium.



Figure 2: Major Infrastructure Components

## WESTERN AREA WATER SUPPLY PROJECT

Major Infrastructure Components







## Looking Forward Into the 2013-2015 Biennium – Facing Unprecedented Growth

It is interesting to look back at 2011, when it was argued we were overbuilding the WAWS Project. At the time, drilling rigs were anticipated to peak at 120 statewide compared to the current level of 184. As of February 4, 2013, there are 119 rigs, or 65 percent, operating in the WAWSA service area alone.

The 2011 WAWS Project Business Plan predicted a peak service population within its service area of 48,000. Fast forward two years. We have a population living in the service area estimated at over 58,000 <a href="right-now">right now</a> – far exceeding our 2011 peak population estimate.

According to the recent 2012 North Dakota Statewide Housing Needs Assessment conducted by the Center for Social Research at NDSU, the study forecasts the total population for the five-county region serviced by the WAWS Project to reach almost <a href="100,000">100,000</a> (practically the size of Fargo). That bears repeating, our peak service population is projected to be more than double what it was projected to be just two years ago. The WAWS service area has the fastest growing population in the State, far exceeding any population growth served by any other regional water system, including the Southwest Water Authority. Figure 3 shows the 2011 Population Projections and Updated 2013 Population Projections.

Service Area Population Projections
2011 Population Projections vs. Updated 2013 Population Projections

120,000

Current Projected Total Population

Current Projected Permanent Population

Previous (2011) Projected Total Population

Current Projected Total Population

20,000

Current Projected Temporary Population

Figure 3: 2011 Population Projections and Updated 2013 Population Projections



The WAWS Project is seeing this population growth first hand. When the WAWS Project planning began in 2010, there were requests for 400 rural users. There were no requests for residential developments, commercial lots, crew camps, or RV parks at that time. Since then, the extraordinary growth in the area has brought the user/service requests to approximately 17,000 – approximately 43 times the original plan. Residents, workers, schools, businesses, healthcare, and industry all need water.

### HB 1020 Provides Critical Funding for Water Distribution

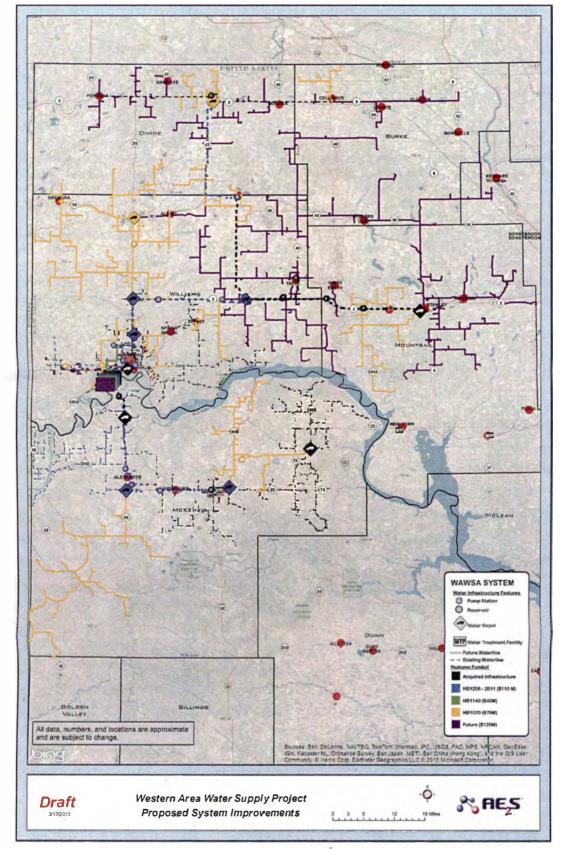
In total, we've identified approximately \$119 million in water infrastructure needs for the next two years. HB 1020 is critical to providing a majority of the funding to meet the extraordinary needs of northwest North Dakota by including \$79 million for the WAWS Project. HB 1020 funding will provide funding for the following project segments:

- Williston Intake Preliminary Engineering
- William RWD Transmission Lines, Blacktail Dam Area Distribution, Service to Grenora
- MCRWD System 1 and 2 Transmission Lines and Rural Distribution
- R&T Epping Transmission Line and Rural Distribution
- BDW Distribution (Crosby and Columbus)
- Stanley Distribution

Every day, our phones ring off the hook with requests for water and inquiries when water service will be available. These calls come from both folks that have been waiting decades for quality water as well as new requests from what we consider "suburban rural" - rural subdivisions with hundreds of housing units as well as temporary housing units, also known as "crew camps", that are home to thousands of workers in the oil patch. Currently, owners of temporary housing units are either stalled in development or hauling water to meet daily water demands of their housing units using extremely limited groundwater supplies.

Rural water distribution has been a long-held goal in northwestern North Dakota. Figure 4 is a detailed presentation of the rural water distribution improvements planned for 2013-2015 biennium as well as future distribution plans. It is WAWSA's goal to begin rural water distribution segments region wide in 2013-2015. These distribution lines are designed for rural farmsteads and crew camps - not industrial water. Any requests for hook ups from large industrial water users must be connected to WAWSA's main transmission lines and paid for by





Jaret Wirtz Testimony, March 18, 2013 HB 1020: State Water Commission Budget Page 7 of 9

the user. These industrial water users cannot be served through the rural distribution lines. The main transmission lines are the bold lines on Figure 2.

With the significant projected population growth, the total project estimate has increased to \$349 million. In 2011, WAWSA was provided State loans in the amount of \$110 million and is requesting \$119 million within HB 1020 and HB 1140 this biennium. WAWSA has selectively prioritized the project segments which would be funded with the \$119 million request to meet the near term growth requirements and priority rural water service, leaving a \$120 million balance that will be funded in the future depending on population growth within the region. Large infrastructure projects such as this are planned with a 20-year planning horizon and cannot be reactively planned without significant cost or service consequences.

## HB 1140 Provides Funding to Prevent Water Shortages

HB 1140 also includes an additional \$40 million with an emergency clause which is necessary to primarily support the immediate improvements necessary to prevent anticipated water shortages. HB 1140 completes the original \$150 million request WAWSA made of the 2011 Legislature and would fund the following segments during the 2013 biennium:

- Williston Regional WTP Expansion (14 to 21 MGD)
- Williston West By-Pass Transmission Lines (30" and 36")
- WRWD West Expansion (Tank-Reservoir/Pump Station)

HB 1140 passed the House 94-0, and we consider this a great vote of confidence in the WAWS Project and acknowledgement as to how important this funding is to our basic ability to continue to serve this ever-increasing demand for domestic water. We project the 2013 and 2014 water demands to exceed the peak day capabilities as illustrated in Figure 5. Based upon the updated population projections, we are very concerned about water shortages in 2013 and 2014. If the Williston Regional WTP expansion is not completed by 2015 as planned, we expect significant peak day water shortages in the summer of 2015 and beyond until the expansion is complete. With anticipated continued population growth, yet another WTP expansion may be required to be completed by 2018.



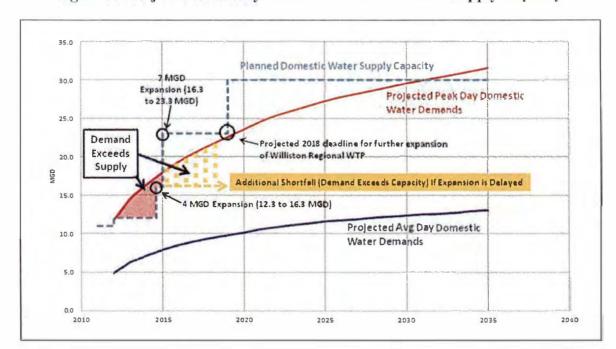


Figure 5: Projected Peak Day Water Demand and Water Supply Capacity

### The Total 2013-2015 Request

The total request pending before the Legislature is \$119 million. WAWS Project has been carefully phased to achieve financial stability while at the same time balancing with intense growth demands. The 2013 to 2015 biennial funding request is the second phase of funding required to complete incremental steps of construction of the WAWS Project and we expect additional phases in the future based on updated population growth estimates.

### We Ask You to Help Us Answer These Calls

An unbelievable amount has been accomplished in two very short years in northwest North Dakota. Still, we see that there is much to do.

We couldn't have achieved this without the hard work of our staff, WAWSA Members, and support from Governor Dalrymple, Todd Sando, and the bill sponsors that brought forth the original WAWS legislation including Representative Skarphol. But there is still much to be done. HB 1020 is essential to continuing the success of the WAWS Project.

Thank you for your time and support of HB 1020.



# WESTERN AREA WATER SUPPLY PROJECT

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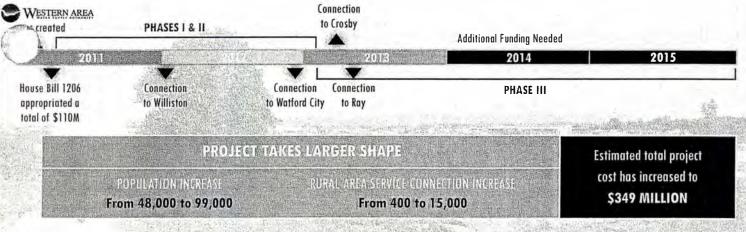
**JANUARY 16, 2013** 

# 2013 BUSINESS PLAN UPDATE

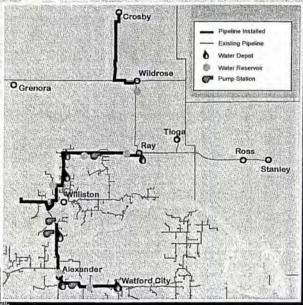
**EXECUTIVE SUMMARY** 

#### PROJECT DEVELOPMENT AND PROGRESS

The WAWSA is governed by a Board of Directors representing the Members, including the City of Williston, McKenzie County Water Resource District (MCRWD), Williams Rural Water District (WRWD), R&T Water Supply Commerce Authority (R&T), and Burke-Divide Williams Rural Water (BDW). The Board of Directors also includes a member of the North Dakota State Water Commission and meets monthly. To date, Water Supply Agreements have been signed by all Members. In addition, Output Agreements for potable water supplies have been signed with the City of Williston and R&T, and Access and Use Agreements and Infrastructure Operating Agreements have been signed between WAWSA and its Members and Sub Members (entities receiving service indirectly from WAWSA through a Member) for use and operation of infrastructure owned either by a Member, Sub Member, or WAWSA.



By the spring of 2013, ten cities beyond Williston are expected to have WAWSA service: Ray, Tioga, Stanley, Ross, Wildrose, Crosby, Columbus, Fortuna, Noonan, and Watford City. The WAWSP will transport Missouri River water that is treated at the Williston Regional Water Treatment Plant to residents in McKenzie, Williams, Divide, Burke, and Mountrail Counties in North Dakota. An additional potable water supply will come from the R&T Water Treatment Plant near Ray to supplement water demand in portions of Williams, Divide, Burke, and Mountrail Counties. Industrial vater supplies will also be supplemented with non-potable water rom Crosby, Tioga, Stanley, and Watford City.



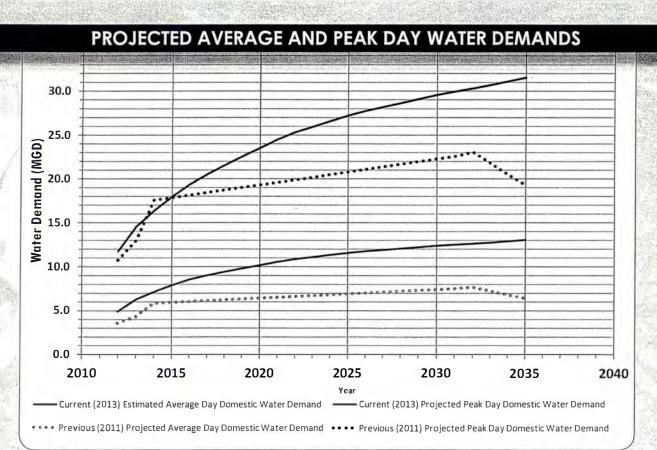


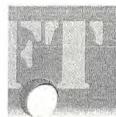
# **UPDATED WATER DEMAND PROJECTIONS**

The 2011 Business Plan was based on water demand projections associated with the best available population data at that time. Growth in the energy industry has exceeded what was originally anticipated, and, as a result, water demands associated with the increased population have exceeded those upon which the 2011 Business Plan was based. As a result, the 2013 Business Plan Update contains revised domestic water demand projections based on population projections completed through housing studies sponsored by the local communities and the North Dakota Housing Finance Agency (2012 North Dakota Statewide Housing Needs Assessment).

SERVICE POPULA	TION PROJECTIONS FOR THE WA	WSP SERVICE AREA
2010	2012	2025
30,700	58,000	99,000

	2035 WATER DEMAND PROJECTION		
	AVERAGE DAY DEMAND	PEAK DAY DEMAND	
2011 BUSINESS PLAN	7.7 MGD	22.9 MGD	
2013 BUSINESS PLAN UPDATE	13.1 MGD	31.7 MGD	





# 2013 BUSINESS PLAN UPDATE EXECUTIVE SUMMARY

## UPDATED PROJECT DESCRIPTION

## 2011-2013 BIENNIUM LOAN PACKAGE

The loans provided for the WAWSP were supplied through the North Dakota State Water Commission via the Resources Trust Fund, Bank of North Dakota assets, and the General Fund. The package included the following loans in the order of disbursement as defined in NDCC Ch. 61-40:

Loan 1 — Resources Trust Fund (0% interest)	\$25,000,000
Loan 2 — Bank of North Dakota (Variable 1.5% over 30-day LIBOR, floor rate of 2%)	\$50,000,000
Loan 3 — North Dakota General Fund (5% fixed interest rate)	\$25,000,000
Loan 4 — Resources Trust Fund (5% fixed interest rate)	\$10,000,000
TOTAL 2011-2013 WAWSP FUNDING (100% LOANS)	\$110,000,000

#### The loan funding provided in the 2011-2013 Biennium was used to complete the following projects:

- Williston ByPass Transmission Line & Reservoir: A transmission line and 5 million gallon reservoir to serve growth areas north and west of Williston.
- Williston Water Treatment Plant (WTP) Expansion: Expansion of the Williston WTP capacity from 10 to 14 million gallons per day (MGD).
- Service to Crosby/BDW Rural Water: A transmission line and reservoir to provide service to the City of Crosby and BDW Rural Water from the R&T Water Com
  - le to R&T Water Commerce Authority: Transmission pipeline, pump stations, reservoirs, and fill depots from Williston to Ray.
- Service to McKenzie County/Watford City: Transmission pipeline, pump stations, reservoirs, and full depots from Williston to Watford City.
- McKenzie County Water Resource District System IV: Distribution lines and pump stations to provide partial rural water service to western McKenzie County.

## 2013-2015 BIENNIUM REQUESTED FUNDING PACKAGE

The following summarizes the funding package the WAWSA is seeking to complete priority projects during the 2013-2015 Biennium:

Resources Trust Fund (Grant Funding)	\$79,000,000
Loan (Bank of North Dakota)	\$40,000,000
TOTAL 2013-2015 WAWSP FUNDING REQUEST	\$119,000,000

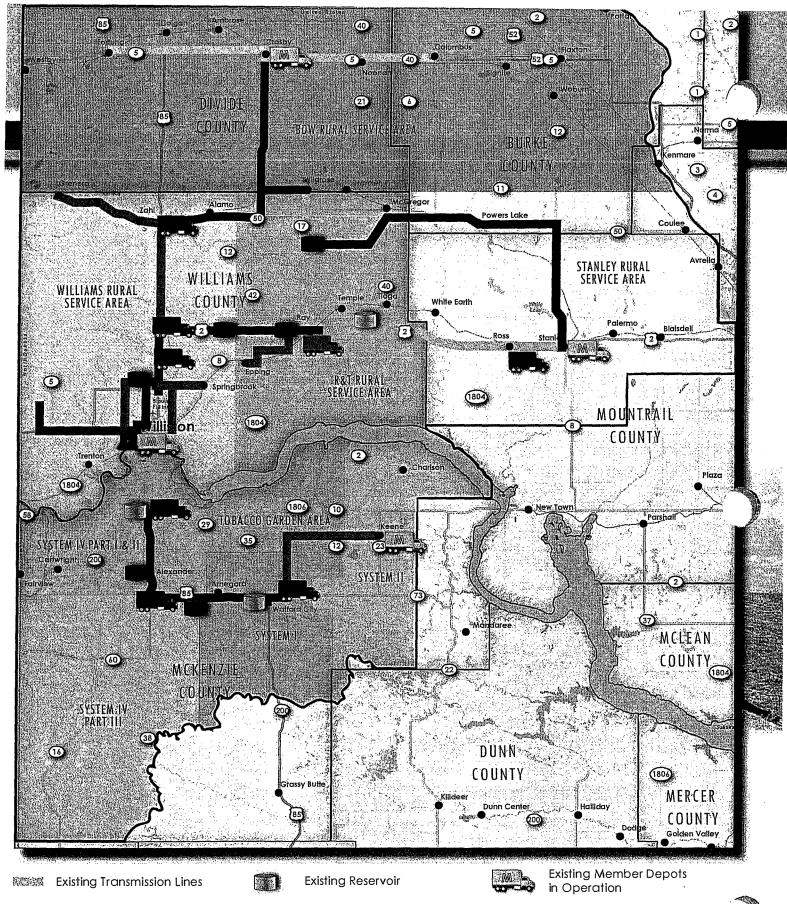
#### The following summarizes broad project categories over which WAWSA intends to allocate 2013-2015 Biennium funds:

- Williston WTP Expansion: Expansion of the Williston WTP capacity from 14 to 21 MGD (\$26.3 million, of which \$4.3 million was interim funding from
  industrial sales).
- Regional Transmission Lines: Regional transmission lines to expand water availability for municipal, rural developments, and rural residences in McK-enzie, Williams, Mountrail, Divide, and Burke counties (\$47.4 million).
- Rural Water Distribution Lines: Rural water distribution lines for service connections to rural developments and rural residences in McKenzie, Williams, Mountrail, Divide, and Burke counties (\$45.3 million).

## EUTURE BIENNIA ANTICIPATED FUNDING

TOTAL FUTURE BIENNIA WAWSP FUNDING NEEDS (SOURCES TO BE DETERMINED) \$120,000,000

Total Project Funding Estimate as Envisioned to Date: \$349,000,000

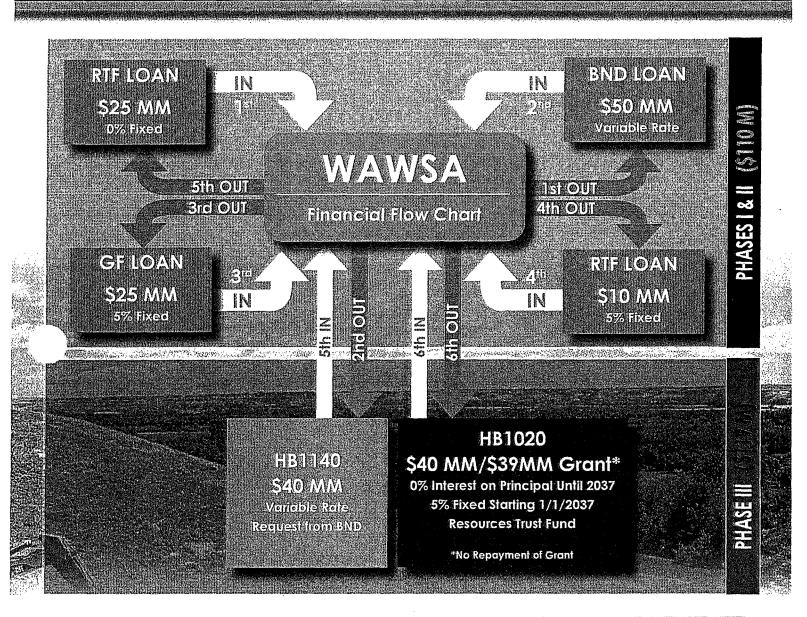






# Western Area Water Supply authority (WAWSA) Loans

#### **JANUARY 28, 2013**

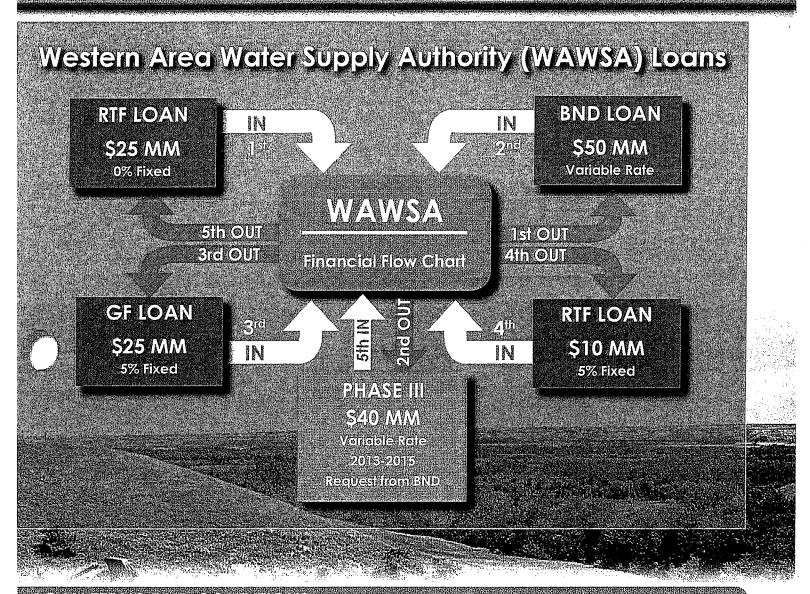


## LOAN TERMS AND CONDITIONS

LOAN#	LENDER	LOAN AMOUNT	SCENARIO 1 TERMS	SCENARIO 2 TERMS
Loan #1	State Water Commission	\$25 million	2022 - 2023	2031 - 2036
Loan #2	Bank of North Dakota	\$50 million	2014 - 2017	2014 - 2021
Loan #3	General Fund Loan	\$25 million	2020 - 2021	2021 - 2029
Loan#4	Resources Trust Fund	\$10 million	2021 - 2022	2029 - 2031
Loan #5*	Bank of North Dakota	\$40 million	2017 - 2020	2015 - 2028
Loan #6*	Resources Trust Fund	\$40 million	NA	2037 - 2056

<sup>\*</sup> Loan #5 and Loan #6: Loans that WAWSA is seeking in the 2013-2015 biennium

# 2013 BUSINESS PLAN UPDATE EXECUTIVE SUMMARY



# LOAN TERMS AND CONDITIONS

	LOAN#	LENDER	LOAN AMOUNT	SCENARIO 1 TERMS	SCENARIO 2 TERMS
	Loan #1	State Water Commission	\$25 million	2022 - 2023	2031 - 2036
	Loan #2	Bank of North Dakota	\$50 million	2014-2017	2014 - 2021
0.00	Loan #3	General Fund Loan	\$25 million	2020 - 2021	2021 - 2029
	ban #4	Resources Trust Fund	\$10 million	2021 - 2022	2029 - 2031
Ž.	Loan #5*	Bank of North Dakota	\$40 million	2017 - 2020	2015 - 2028

<sup>\*</sup> Loan #5: Loan that WAWSA is seeking in 2013-2015 biennium



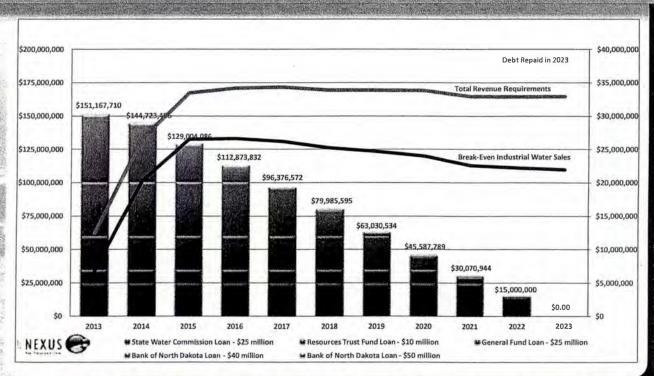
# BREAK-EVEN ANALYSIS | SCENARIO 1

#### CRITICAL YEAR ANALYSIS FOR 10-YEAR DEBT REPAYMENT

REVENUE REQUIREMENTS	2015		2.0	6
Fixed and Variable O&M	\$1,702,002	5.1%	\$1,753,062	5.1%
Member Entity O&M	\$4,254,622	12.7%	\$4,382,260	12.8%
Lost Industrial Reimbursements	\$3,801,742	11.4%	\$3,801,742	11.1%
Debt Service — Existing	\$2,920,388	8.7%	\$2,917,063	8.6%
Debt Service — New	\$20,019,053	59.8%	\$19,780,700	57.9%
Reserve Fund Requirements	\$775,807	2.3%	\$1,529,211	4.5%
Total Revenue Requirements	\$33,473,614	100.0%	\$34,164,038	100.0%
Less: Domestic Water Sales	\$6,965,441		\$7,553,041	
Less: Interest Income	\$100	<b>非正理的</b>	\$100	
Break-Even Industrial Water Sales	\$26,508,073		\$26,610,897	
Required Volume (Barrels)	31,557,229		31,679,639	

Break-Even Frac Requirements		
Required Fracs @ 60,000 barrels/frac	526 per year	528 per year
Required Fracs @ 80,000 barrels/frac	394 per year	396 per year
Required Fracs @ 100,000 barrels/frac	316 per year	317 per year

# Loan Balances and Projected Break-Even Analysis | Scenario 1



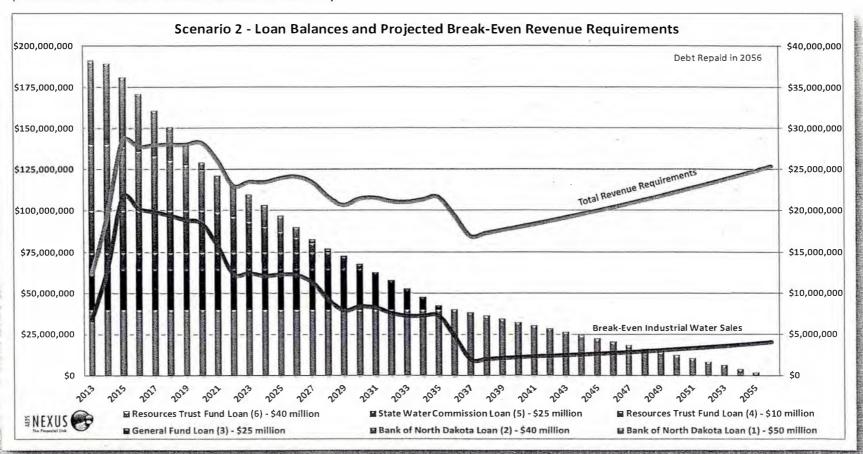


**JANUARY 25, 2013** 

## 2013 BUSINESS PLAN UPDATE FINANCIAL EXCERPT

#### FIGURE 1: LOAN BALANCES AND PROJECTED BREAK-EVEN REVENUE REQUIREMENTS - SCENARIO 2

(EXTENDED TO INCLUDE PROPOSED \$40 MILLION RESOURCES TRUST FUND LOAN)

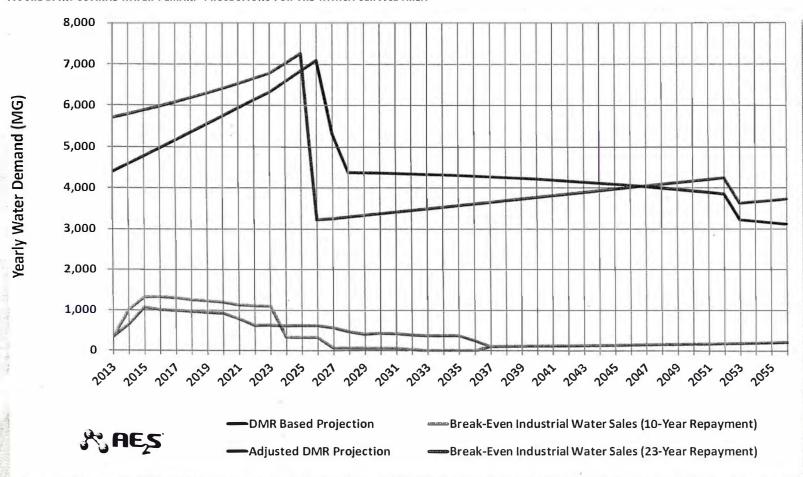




## **JANUARY 25, 2013**

# 2013 BUSINESS PLAN UPDATE FINANCIAL EXCERPT

#### FIGURE 2: INDUSTRIAL WATER DEMAND PROJECTIONS FOR THE WAWSA SERVICE AREA





# 2013 BUSINESS PLAN UPDATE EXECUTIVE SUMMARY

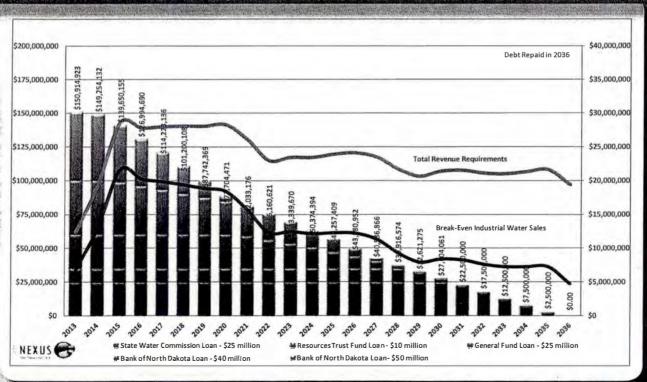
# BREAK-EVEN ANALYSIS | SCENARIO 2

#### CRITICAL YEAR ANALYSIS FOR 23-YEAR DEBT REPAYMENT

REVENUE REQUIREMENTS	20	15	2016		
Fixed and Variable O&M	\$1,702,002	6.0%	\$1,753,062	6.3%	
Member Entity 0&M	\$4,254,622	14.9%	\$4,382,260	15.8%	
Lost Industrial Reimbursements	\$3,801,742	13.3%	\$3,801,742	13.7%	
Debt Service — Existing	\$2,920,388	10.2%	\$2,917,063	10.5%	
Debt Service — New	\$15,374,646	53.9%	\$14,340,344	51.6%	
Reserve Fund Requirements	\$491,136	1.7%	\$584,297	2.1%	
Total Revenue Requirements	\$28,544,535	100.0%	\$27,778,768	100.0%	
Less: Domestic Water Sales	\$6,965,441		\$7,553,041		
Less: Interest Income	\$100	Profesional State of the Control of	\$100	eddickledicke sole	
Break-Even Industrial Water Sales	\$21,578,994		\$20,225,627		
Required Volume (Barrels)	25,689,279		24,078,128		

k-Even Frac Requirements		
quired Fracs @ 60,000 barrels/frac	428 per year	401 per year
Required Fracs @ 80,000 barrels/frac	321 per year	301 per year
Required Fracs @ 100,000 barrels/frac	257 per year	241 per year

# Loan Balances and Projected Break-Even Analysis | Scenario 2



#### WESTERN AREA WATER SUPPLY PROJECT

# 2013 BUSINESS PLAN UPDATE EXECUTIVE SUMMARY

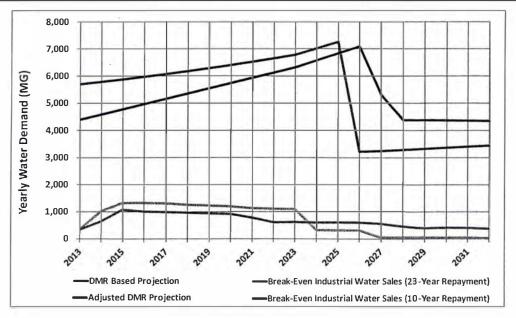


## PROJECTED WAWSA SERVICE AREA INDUSTRIAL WATER DEMANDS

Industrial water demand plays a critical role in the success of the WAWSP. In an attempt to quantify this demand, AE2S met with the Department of Mineral Recourses (DMR) and the North Dakota State Water Commission (NDSWC) to discuss the key variables associated with projecting industrial water demand. Through continued discussion with the DMR, NDSWC, and industrial water users, AE2S developed a list of key variables associated with industrial water demand and their corresponding values displayed in the table below. The two industrial demand projections used were: 1) DMR based projection – based on the information provided by the DMR and NDSWC, and 2) Adjusted DMR – based on the DMR projection but modified for current rig count, a more conservative frac flow per well, and adjusted for average maintenance flow for all wells over time in the service area. The two projections are displayed graphically along with the 10- and 23-year repayment scenarios to provide an overview of the total industrial water demand within the WAWSA service area compared to the break-even industrial water sales.

#### WAWSA SERVICE AREA INDUSTRIAL WATER DEMANDS VARIABLES

VARIABLE	DMR Projection	Adjusted DMR
Rig Count (#)	126	115
Rig Production (wells/rig/yr)	12	12
Total Future Wells (#)	19,780	19,780
Existing Wells (#)	3,613	3,613
Wells Requiring Maintenance Flow (%)	60 increasing to 100%	60 increasing to 100%
Average Well Production Period (years)	45	45
Maintenance Flow (barrels/well/day)	12.5	20 dropping to 10
Fresh Water Required Per Frac (barrels/well)	80,000	60,000
Recycle (% of fresh water frac)	0 increasing to 20%	0 increasing to 20%





### **Notes from Minutes**

First Meeting was 5-31-11

#### 8-30-11

Only one engineering proposal submitted(AE2S). Board discussed opening RFP again, but concern was delay in project.

In MCWRD the regional water system IV was based on 150 users per the business plan and they had prospects of 200 users as of the meeting with the estimate that construction would increase users by an estimated 25%.

One of Executive Director applicants withdrew application so Board decided to reopen solicitation of resumes to "ensure a competitive field of applicants." (Surely the same would have been appropriate with engineering firm despite delay)

#### 9-27-11

Engineering contract was discussed. Michelle Klose only member to vote No. Ward Koeser absent.

#### 10-11-11

David Johnson gave update on water depot locations. "The current water depot map includes some consolidation of smaller water depots and locations that have utilities needed for the water depots. It was requested that AE2S provide the board with a written memo explaining the placement of all water depots."

#### 11-08-11

David Johnson discussed depot locations. Mortenson, Paulson and Wheeler advised they did not have enough time to advise on input for locations of depots and asked about rates and whether Armstrong had to bid on project and whether open to public to bid. IWP added to December agenda to discuss depots.

#### 12-13-11

Wirtz added as Executive Director.

IWP presentation on depots and Lindale Pipeline.

Zubke stated that there "was no need for discussion on the Indian Hills Water Depot or the North Williston Water Depot as they both have been part of the projected plan from the beginning."

#### 1-10-12

Discussion of AE2S fees/hours. Board wanted clarification on how much of the bill from AE2S was related to issue at County Road 7.

Discussion of EA objection by IWP.

Indian Hills to be 2 port cold water depot b/c hot water not cost effective.

Board advised Mortenson number of ports at depots would not be lessened. According to minutes, Mortenson said "looks like WAWSA has minimized most of them."

Board voted on sites for depots and Michelle voted No because she did not have enough time to review packet.

#### 2-14-12

Discussion about AE2S fees and Board wanting advance notice of rate increase. Rate increase of 4% was done without notice or negotiation.

Discussion started of funding in upcoming biennimum. Wirtz says request should be closer to \$80m because of growth in rural systems and general cost of doing business in ND.

No discussion on IWP letter of 1/18/12 or response—Denton will send response.

#### 3-13-12

All depots except North Williston site will have ports that are open for public, non-contract sales. North Williston is an exception since Armstrong is constructing, owning and operating that depot site, with WAWSA having public sales access only if Armstrong's hot water clients do not buy sufficient water from WAWSA to justify WAWSA stepping in.

Estimated amount to date for Phase I and Phase II of project is still under budget of \$110m.

At this point, Williams Rural Water had approximately 300 signups in rural areas.

#### 4-18-12

Michelle Klose brought up indemnification language in AE2S contract and limited liability of AE2S.

Contracts for bulk industrial water can now be offered. Oil related industrial water sales requests go directly to WAWSA and residential go to the member entities.

Policy presented on voluntary acquisition of right of way. If property owners voluntarily enter into easement agreements or sell property to WAWSA then WAWSA will favorably consider providing water service from the project if requested. If not voluntarily, WAWSA will likely not consider any request for project water from the owner. The Motion on this Policy passed unanimously.

Contractor delay b/c of IWP challenge to EA on McKenzie line—cost of \$78k.

#### 5-2-12

Executive committee meeting to discuss appraisals and condemnation if necessary on the properties of Roger Sanders, Thomas Irgens, Tim Dwyer Trust and Michael Dwyer.

#### 5-16-12

Hess contract up for renewal August 30, 2012. Motion to renew at .84 per barrel upon expiration.

Motion to hire John Olson as attorney specializing in "governmental affairs"—cost to come from O&M budget.

Motion to approve industrial contract with CRI.

#### 6-20-12

Williston Water Treatment Plant expansion bids came in higher than expected so AE2S recommended rejecting all bids and repacking and rebidding the project. Approved unanimously. (one of the most important pieces of the project and another look was ok along with the delay unlike engineering contract)

Board entered executive session to discuss several items including agreement with EOG.

### 8-3-12 (conference call)

Approval of option to modify water treatment plant to handle up to 14MGD until further funding available.

#### 8-15-12

Motion made and passed unanimously to amend pay voucher for added cost of \$1,893,187.00 to cover the Granite Peak allocation for North Williston site.

#### 9-19-12

Unidentified Industrial contract approved in executive session.

Motion to approve turn-out for Jeff Berger dba Pro-Frac 2 miles east of 13 mile for industrial oilfield use. Executive session.

#### 10-17-12

Water treatment plant project awarded after rebids.

Executive session to discuss several items including contract with Power Fuels for dedicated lanes at fill stations, industrial water sales policy concerning sale of maintenance water off the member entity infrastructure and legislative strategy regarding HB1206.

Minutes from December and January not yet posted.

#### SENATE APPROPRIATIONS COMMITTEE

March 19, 2013

PROPOSED Amendments to HB 1020 (SWC appropriations) as follows:

For new funds authorized to western area water supply authority in 2013-2015:

- a. Prior to any expenditure or commitment of funds for rural and domestic water supply the State Water Commission shall obtain independent verification of the local domestic or rural water demands and the design and specifications of the system required to meet the demand, in a schedule and manner as determined by the Commission.
- b. All funds must be used exclusively to meet municipal and rural water needs. Funds and infrastructure resulting from said funds may not be used for industrial water supply.
- c. All industrial water sales conducted by Western Area Water Supply Authority shall be through 12 water depots approved by the State Water Commission.
- d. All funds authorized under this section shall first be applied to any federal loans owed by the authority or its participating entities.

INDEPENDENT WATER PROVIDERS

808 11th St. West Williston, ND 58801 Home Phone (701) 572-5873 Cell Phone (701) 770-0942 smortens@wil.midco.net

Steve Mortenson

HB 1020 3-19-13

HB 1020 Senate Approbations Committee

**Chairman Holmberg and Members of the Committee** 

My name is Steven Mortenson, chairman of the Independent Water Providers. I have testified at three committee hearings on bills dealing with WAWS and the IWP. I felt I have been fairly positive and have provided options and solutions to solve this problem. This project needs your help.

I was going thru the WAWS business plan numbers this weekend and became very upset and frustrated with the numbers revealed in the business plan. Let me explain. We have spent two years (including four months of mediation) with WAWS trying to resolve this issue, and figure out what it takes for them to cash-flow---all with little cooperation from WAWS. We asked time and time again for their updated business plan but were told it wasn't updated. Here are some of the specific reasons WHY WAWS needs more oversight and control from you and the executive branch (whether it's the Governor or the SWC).

- 1. The business plan shows WAWS (and Advanced Engineering) is misleading the Legislature on what they need to cash flow. In their 23 year plan they show \$15,374,646 for new debt service. They show \$15,374,646 in year 2012 to provide which is the highest payment WAWS needs. The next year the payment drops by \$1,000,000 to \$14,340,340 for five years, and then drops to \$11,322,580 for a year and then to \$8,304,821 for six years and continues to drop to 2036. My point being is that they do not need \$15,374,646 for 23 years, and is misleading to suggest otherwise.
- 2. Denton Zubke stated at the last committee he testified at," that he could not negotiate with the IWP because it was all about the money to us". We have tried time and time again to find a solution---only to be rejected. We are not the ones that used public funds from McKenzie County and WAWS to threaten private projects with the 1926(b). Meanwhile, Denton helped his mother-in-law to apply for expansion of her water permit, while she sold water from her depot near Watford City.
- 3. I am very upset and frustrated with the money we have spent, the money that McKenzie County has spent, the money the WAWS has spent on this problem, trying to find a solution when we are were mislead and given false information.
- 4. On a recent talk show WAWS representatives suggested that this is what the <u>Legislature</u> directed the northwest area to do if it wanted water. The Legislature never directed anyone; this was a plan designed by an engineering firm who has profited greatly. (WAWS paid them \$10,800,000 on a \$110 million spend JUST in 2012).
- 5. Denton was asked if he could prove how much was needed for rural hookup. If he would look in the WAWS financials it states that they have \$342,000 on deposits from rural water users which amount to 342 requests, a far cry from 17,000. But, ask how many NEW rural customers WAWS has served---and they can't/won't tell you.

- 6. WAWS says they have accrued \$45 million in debt from the local entities. Their Technical Memorandum of 1/15/2013 says \$35 million. Which is it? Whether its \$35 million or \$45 million---why is it not listed on their most recent balance sheet. It's not shown, so we don't have an accurate display of their finances.
- 7. We have offered solutions, after solutions—all of which were flatly rejected by WAWS. We are dealing with some people within WAWS who do not want to find a solution—except on their terms. (And it is unfair for WAWS to come to the Legislature and suggest that YOU now have to fix their mistakes).
- 8. At one of our meetings with WAWS (in July, 2012) I asked Denton if he could offer a solution what would it be. He stated and I quote "there is no problem--you sell your water and we will sell ours". In 2011 you directed WAWS to "minimize the impacts" upon the private water sellers when they placed their depots. WAWS has told us time and time again-----they did that, and that is the ONLY restraint left on them. THAT is the problem. They think they can do anything they want, to sell as much water, as soon as they want regardless of how it impacts us who are in the business. THAT is the problem and THAT is why we need your intervention.

We are asking the Senate to put conditions on the new funding for WAWS: not saddle them with any more debt; grant what they need, limit them to 12 depots to sell water, don't allow them to oppose or make any objections against any public or private projects with any state or federal statues, and have the SWC make then justify any new money they get for municipal and rural water use only, like this project was supposed to do.

Thank you,

Steven Mortenson, chairman of IWP

## 2013 BUSINESS PLAN UPDATE **EXECUTIVE SUMMARY**

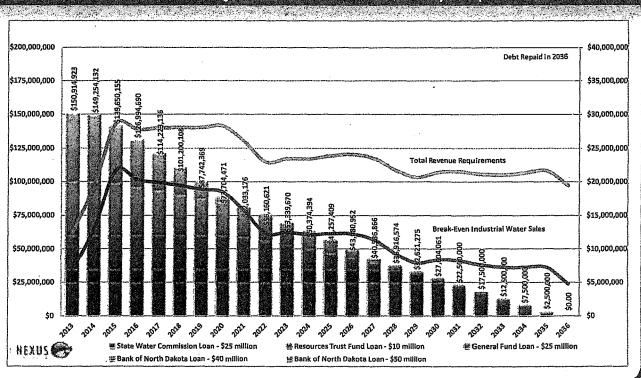
#### CRITICAL YEAR ANALYSIS FOR 23-YEAR DEBT REPAYMENT

REVENUE REQUIREMENTS	20	15	20	16
Fixed and Variable D&M	\$1,702,002	6.0%	\$1,753,062	6.3%
Member Entity O&M	\$4,254,622	14.9%	\$4,382,260	15.8%
Lost Industrial Reimbursements	\$3,801,742	13.3%	\$3,801,742	13.7%
Debt Service — Existing	\$2,920,388	10.2%	\$2,917,063	10.5%
Debt Service — New	\$15,374,646	53.9%	\$14,340,344	51.6%
Reserve Fund Requirements	\$491,136	1.7%	\$584,297	2.1%
Total Revenue Requirements	\$28,544,535	100.0%	\$27,778,768	100.0%
Less: Domestic Water Sales	\$6,965,441		\$7,553,041	
Less: Interest Income	\$100		\$100	
Break-Even Industrial Water Sales	\$21,578,994		\$20,225,627	
Required Volume (Barrels)	25,689,279		24,078,128	

84 L

-Even Frac Requirements		
uired Fracs @ 60,000 barrels/frac	428 per year	401 per year
Required Fracs @ 80,000 barrels/frac	321 per year	301 per year
Required Fracs @ 100,000 barrels/frac	257 per year	241 per year

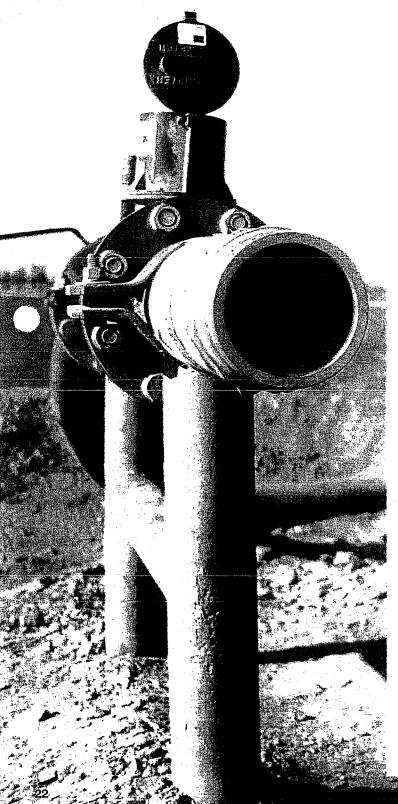
#### Loan Balances and Projected Break-Even Analysis Scenario 2



			<b>23 YEA</b>	R DEBT	REPAYN	<b>1ENT P</b>	LAN FOR	R WAW	S		
		MAKING WAWS ASSUME NEW DEBT OF \$40 MILLION									
	SOURCE		SOURCE		SOURCE		SOURCE		SOURCE		
	BANK OF	INT. RATE	GENERAL	INT. RATE	RESOURCES	INT. RATE	BANK OF	INT. RATE	RESOURCES	INT. RATE	
	ND	variable	FUND	5%	TRUST FUND	5%	ND	variable	TRUST FUND	0.0%	TOTAL LOAN
	\$ 50,000,000		\$ 25,000,000		\$ 10,000,000		\$ 40,000,000		\$ 25,000,000		\$ 150,000,000
LOAN #	2	2	3	3	4	4	5	5	1	1	
DATE	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	PRINCIPI_E	INTEREST	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	YEARLY PAYMENT
2014	\$ 1,660,790	\$2,048,229									\$ 3,709,019
2015	\$ 7,106,234	\$ 1,487,367		\$ 3,691,941		\$1,343,917	\$ 998,263	\$ 746,920			\$ 15,374,642
2016	\$ 7,143,884	\$ 1,449,717		\$ 1,254,957		\$ 501,877	\$ 2,955,406	\$ 1,034,499			\$ 14,340,340
2017	\$ 7,255,894	\$1,337,707		\$ 1,254,957		\$ 501,877	\$ 2,861,536	\$ 1,128,369			\$ 14,340,340
2018	\$ 7,446,971	\$1,146,630		\$ 1,254,957		\$ 501,877	\$ 2,793,751	\$ 1,196,154			\$ 14,340,340
2019	\$ 7,762,075	\$ 831,526		\$ 1,254,957		\$ 501,877	\$ 2,751,926	\$ 1,237,979			\$ 14,340,340
2020	\$ 8,159,198	\$ 434,404		\$ 1,254,957		\$ 501,877	\$ 2,736,464	\$ 1,253,442			\$ 14,340,342
2021	\$ 4,234,829	\$ 61,971	\$ 1,292,438	\$ 1,241,560		\$ 501,877	\$ 2,808,130	\$ 1,181,775			\$ 11,322,580
2022	PAID OFF	PAID OFF	\$ 2,683,650	\$ 1,129,389		\$ 501,877	\$ 2,951,799	\$ 1,038,106			\$ 8,304,821
2023	PAID OFF	PAID OFF	\$ 2,820,951	\$ 992,089		\$ 501,877	\$ 3,102,819	\$ 887,087			\$ 8,304,823
2024	PAID OFF	PAID OFF	\$ 2,965,276	\$ 847,763		\$ 501,877	\$ 3,261,565	\$ 728,340			\$ 8,304,821
2025	PAID OFF	PAID OFF	\$ 3,116,985	\$ 696,054		\$ 501,877	\$ 3,428,433	\$ 561,473			\$ 8,304,822
2026	PAID OFF	PAID OFF	\$ 3,276,456	\$ 536,583		\$ 501,877	\$ 3,603,838	\$ 386,067			\$ 8,304,821
2027	PAID OFF	PAID OFF	\$ 3,444,086	\$ 368,954		\$ 501,877	\$ 3,788,217	\$ 201,688			\$ 8,304,822
2028	PAID OFF	PAID OFF	\$ 3,620,291	\$ 192,748		\$ 501,877	\$ 1,966,179	\$ 28,773			\$ 6,309,868
2029	PAID OFF	PAID OFF	\$ 1,879,022	\$ 27,497	\$ 2,416,276	\$ 476,830	PAID OFF	PAID OFF			\$ 4,799,625
2030	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,017,214	\$ 267,121	PAID OFF	PAID OFF			\$ 5,284,335
2031	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 2,604,060	\$ 3,817	PAID OFF	PAID OFF	\$ 2,500,000		\$ 5,107,877
2032	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000
2033	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000
2034	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000
2035	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000
2036	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 2,500,000		
	\$50,769,875	\$8,797,551	\$ 25,099,155	\$ 15,999,363	\$ 10,037,550	\$8,616,086	\$40,008,326	\$ 11,610,672	\$ 25,000,000		\$ 193,438,578

		<b>23 YEA</b>	R DEBT	REPAY	MENT P	LAN FO	<b>R WAW</b>	S		
		<b>GRAN1</b>	TING \$40	MILLIC	ON DOL	LAR LO	AN			
	SOURCE		SOURCE		SOURCE		SOURCE			
	BANK OF	INT. RATE	GENERAL	INT. RATE	RESOURCES	INT. RATE	RESOURCES	INT. RATE		
	ND	variable	FUND	5%	TRUST FUND	5%	TRUST FUND	0.0%	TOTALLOAN	
	\$ 50,000,000		\$ 25,000,000		\$ 10,000,000		\$ 25,000,000		\$110,000,000	
LOAN #	2	2	3	3	4	4	1	1		
DATE	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	EARLY PAYMENT	
2014	\$ 1,660,790	\$ 2,048,229							\$ 3,709,019	
2015	\$ 7,106,234	\$1,487,367		\$ 3,691,941		\$ 1,343,917			\$ 13,629,459	
2016	\$ 7,143,884	\$1,449,717		\$ 1,254,957		\$ 501,877			\$ 10,350,435	
2017	\$ 7,255,894	\$1,337,707		\$ 1,254,957		\$ 501,877			\$ 10,350,435	
2018	\$ 7,446,971	\$1,146,630		\$ 1,254,957		\$ 501,877			\$ 10,350,435	
2019	\$ 7,762,075	\$ 831,526		\$ 1,254,957		\$ 501,877			\$ 10,350,435	
2020	\$ 8,159,198	\$ 434,404		\$ 1,254,957		\$ 501,877			\$ 10,350,436	
2021	\$ 4,234,829	\$ 61,971	\$ 1,292,438	\$ 1,241,560		\$ 501,877			\$ 7,332,675	
2022	PAID OFF	PAID OFF	\$ 2,683,650	\$ 1,129,389		\$ 501,877			\$ 4,314,916	
2023	PAID OFF	PAID OFF	\$ 2,820,951	\$ 992,089		\$ 501,877			\$ 4,314,917	
2024	PAID OFF	PAID OFF	\$ 2,965,276	\$ 847,763		\$ 501,877			\$ 4,314,916	
2025	PAID OFF	PAID OFF	\$ 3,116,985	\$ 696,054		\$ 501,877			\$ 4,314,916	
2026	PAID OFF	PAID OFF	\$ 3,276,456	\$ 536,583		\$ 501,877			\$ 4,314,916	
2027	PAID OFF	PAID OFF	\$ 3,444,086	\$ 368,954		\$ 501,877			\$ 4,314,917	
2028	PAID OFF	PAID OFF	\$ 3,620,291	\$ 192,748		\$ 501,877			\$ 4,314,916	
2029	PAID OFF	PAID OFF	\$ 1,879,022	\$ 27,497	\$ 2,416,276	\$ 476,830			\$ 4,799,625	
2030	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,017,214	\$ 267,121			\$ 5,284,335	
2031	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 2,604,060	\$ 3,817	\$ 2,500,000		\$ 5,107,877	
2032	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000					
2033	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000					
2034	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000					
2035	PAID OFF	PAID OFF	\$ 5,000,000		\$ 5,000,000					
2036	PAID OFF	PAID OFF	\$ 2,500,000							
	\$50,769,875	\$8,797,551	\$ 25,099,155	\$ 15,999,363	\$ 10,037,550	\$8,616,086	\$ 25,000,000		\$ 141,819,580	

# Krabseth, Simpson Provide Water, Find Financial Security



oil companies in North Dakota currently use nearly 7,000 acre-feet of water per year to hydraulically fracture the state's oil wells. For the past several years, farmers and ranchers have been providing 70 to 80 percent of this water by selling water to the oil industry. "Water depots are an additional source of income for many farm families," says Steve Mortenson, a farmer who owns and operates a depot near Williston. "Independent water providers were the first to build depots in rural area, which was a significant investment with no guarantee of a return. Many of the families in oil country don't have mineral rights, and they legally can't deny drilling on their land, so this is one way they can benefit from the oil activity."

### Bruce Krabseth

Bruce Krabseth has temporarily converted his irrigation permit to an industrial permit, and started selling water to the oil industry last year. A fourth generation farmer from 24 miles north of Williston, Krabseth said the major investment of constructing a water depot was a big risk, but he decided to take that risk because he knew how badly the oil

companies needed water and that they were having a hard time getting it.

So he built the depot, complete with two showers, a restroom, washer and dryer, and a kitchen with a coffee pot and microwave. "It's how I get the drivers to come to my depot instead of the other guys," Krabseth says. And it has worked. "It's not a guaranteed cash flow, but it's a good cash flow. It's an added



source of revenue that definitely makes the bills easier to pay," he says.

"It's been a really good experience," he adds. "It comes

with its headaches, but independently owned depots have led to really good relationships between

y farmers and oil companies. Vve understand their side and they understand ours."

### **Don and Randy Simpson**

Randy Simpson owns and operates the Crown Water, LLC water depot with his father, Don. Crown Water is located between the cities of Wildrose and Ray. Unlike Krabseth, this depot is served with a strictly industrial water permit, and began operating in late 2010. Its water comes from a large aquifer on their land that is not widely used.

They currently have a water permit for 300 acre-feet per year, but they are eligible for another 400 acre-feet if they can demonstrate that they use their entire first allocation. "With the drilling moving toward us, things have really picked up this year, and I'm pretty sure we'll use our first allocation. We're hoping to get the second 400 acre-feet port year," Randy Simpson says.

he idea for this depot came from an oil company that approached the Simpsons in early 2010. "My dad had just recently semi-retired, so he wasn't sure he wanted to take such a gamble because it was such a big investment.

uce Krabseth, a arth generation farmer m north of Williston, nporarily converted irrigation permit to industrial permit. He s been selling water the oil industry since it year.

Me, I was willing to give it a whirl," Simpson says. The Simpsons did as much work as they could themselves – using their equipment and borrowing from family and friends to try to save as much money as they could. Even after doing a large chunk themselves, they still ended up hiring local contractors and other businesses to do about a quarter of a million dollars' worth of work. "It was quite an investment, but it made us feel good to contribute to the local economy as a whole," he says.

The Simpsons now have two depots, about a mile apart. Simpson

says their depots are larger than most because they have very large storage impoundments that hold 6 million gallons of water. They did this in case of problems with

Don Simpson (pictured here with his wife, Noraine) partnered with his son, Randy, to own and operate Crown Water, LLC, a water depot between Wildrose and Ray.

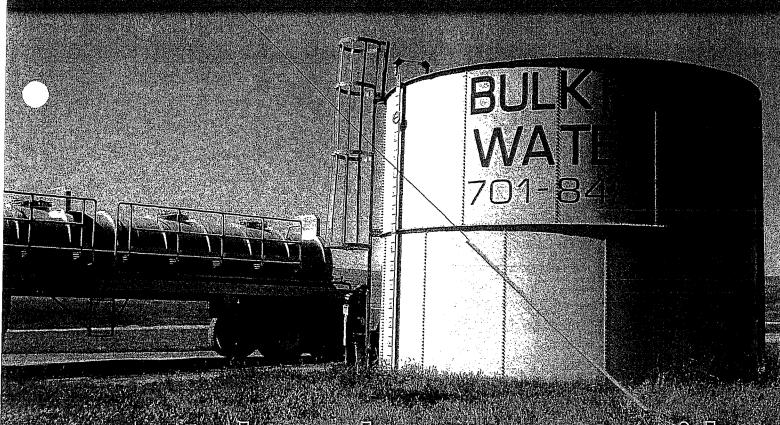


their well or pumps; but the storage, together with the eight combined ports at the two depots, have allowed them to move up to 25 trucks through in an hour. Simpson says the truckers not only like their depots because they can get in and out quickly, but also because there is so much room to maneuver their large trucks, because they are off the beaten path – away from towns and not near major highways. He says there are depots to the west and the north of theirs, but they don't have as big of an allocation of water, so they run out of water more quickly. The Simpsons' depots are also set up to heat the water. While all water is heated before it is used in the hydraulic fracturing process, it is heated at the Simpsons' depot sites to help save money and reduce equipment congestion at the well site.

"This has been a great opportunity for us and many other independent farmers and ranchers in western North Dakota – people like my family that have been on the land for 100 or more years," Simpson says. "It is a real opportunity to supplement their income, and helps provide financial security."

Simpson continues, "This is capitalism at its best. It was a huge investment of time and money, but it has paid off for a lot of people. It shows how private people can serve a need. We brought the water to market when there were no other services to do so. It is very rewarding to be part of a group of people who had an idea and worked hard to make it happen."

This article was sponsored by the Independent Water Providers.



Independent Water Providers
Supply Water Needed

for Oil Development

By Angela Magstadt



Limoine and Clarice Hartel live west of Watford City on the land that Limoine's father and grandfather owned before him. A spring that runs through their land supplies them and their cattle with their daily water needs. In 2008, the Hartels' business-minded son mentioned that they should think about selling their extra water to the oil industry for use in hydraulically fracturing wells.

Before they began construction, they first checked with their neighbors to make sure they didn't have any objections. When there were none, they began construction on their

simple, 2,000-barrel tank that is filled by the spring that runs through their land. "We've been selling our excess water to the

oil industry since 2008, and it has been very helpful," Lemoine Hartel says. "It makes it a lot easier to farm and ranch. We can pay our bills now."

Clarice and Limoine Hartel

(pictured) with their water

depot (above).

The Hartels say the depot doesn't negatively impact their farming operation. Their cattle take what they need, the family

"We've been selling our excess water to the oil industry since 2008, and it has been very helpful. It makes it a lot easier to farm and ranch. We can pay our bills now."

Lemoine Hartel

takes what it needs, and the extra goes into the tank. "We don't have the

mineral rights to this land, J we're not benefitting from that," Limoine Hartel says. "This is our oil well. Without the income the water depot provides, we would

have to sell the land to

be able to retire."

Oil companies in

North Dakota currently

use nearly 7,000 acre feet of

water per year to hydraulically
fracture the state's oil wells. For the

past several years, farmers and ranchers have been providing 70 to 80 percent of this water by selling excess water or foregoing irrigation on their land to sell their allocated irrigation water to the oil industry. "Water depots are an additional source of income for many farm families," says Steve Mortenson, a farmer who owns and operates a depot near Williston. "Independent water providers were the first to build depots in rural areas, which was a

gnificant investment with no guarantee of a return. Many of the families in oil country don't have mineral rights, and they legally can't deny drilling on their land, so this is one way they can benefit from the oil activity."

### Lyle and Eddie Bratcher —

Such is the case with brothers Lyle and Eddie Bratcher, who grew up in rural Alexander. When times got tough in the 1980s, they nearly lost their farm, but revenue from a water depot on their land now keeps them in business. This depot, named the Timber Creek Depot, operates under a temporary conversion permit using water that they formerly used for irrigation. The brothers still grow wheat and barley on their land under dryland conditions.

The Timber Lake Depot uses water from the

Charbonneau Aquifer. This aquifer, which has plentiful water, is monitored by the

state. The depot has two buildings, each with its own water port. One of the buildings is equipped to heat water, because some oil companies prefer it, saying it is

companies prefer it, saying it is more effective in the hydraulic fracturing process, especially in cold temperatures. The depot also includes a filtering system and treatment with chlorine to make sure the water going to the oil fields is good, clean water. A snow melt system

has been added to the depot for increased safety. During the winter months, ice from trucks hooking

and unhooking their hoses built up and caused slippery conditions. The snow melt system takes care of that problem. The facility is also set up for water transferring, which allows pipes to take the water directly to the fracturing tanks so it doesn't have to be hauled by truck, reducing truck traffic in an area that has become inundated with 18-wheelers. The location near Alexander reduces long-haul truck traffic, while the city benefits from the increased sale of diesel, food, and other products.

Brothers Lyle and

Eddie Bratcher.



A truck driver enjoys the free bottled water left for him and other truckers at the Timber Creek Depot.



### Going the Extra Mile

In addition to providing quality water and additional features to make the fracturing process go more smoothly, many independent water providers provide many "extras" to cater to the drivers who spend long days hauling water. The Timber Lake Depot has a bathroom, microwave, and a fridge stocked with bottled water and free snacks. Steve

Mortenson's depot near Williston includes a washer and dryer. "Independent water providers really go the extra mile for the drivers," says Mike Ames, who has helped develop several private depots in oil country. "It's a personal touch to show the drivers how much they appreciate their business."

The water depots that dot the northwest corner of the state have not only provided the booming oil industry with the

> water it has needed when it needed it, but they have also been a welcome source of additional income for many farmers and ranchers like the Hartels and Bratchers, allowing them to pay their bills, remain on their family farms and ultimately continue to do what they love. As the market grows, more farmers and ranchers in the area are seeing the opportunities selling their excess water can provide, and more depots are being constructed, benefiting them, the oil industry, and the communities where they are located. "These independently owned depots are a win-win for all involved," Mortenson says. "We hope the benefits they provide will continue for many years to come."

### Industrial Water Depot Locations (Cond/Perfected/Abey/App) and Industrial Water Depot Use B 00 for the Year of 2011 B Legend Cond/Perfect Water Depots (P-Date to Mar2011) Permits with 2011Water Use Cond/Perfect Water Depots (P-Date to Mar2011) O Permits without 2011 Water Use Temporary Depot Permits WAWS Depot Sites (Current) WAWS Depot Sites (Previous) Lake Sakakawea **ND** Counties Western North Dakota Industrail Water Depot Use for 2011 Cond/Perfected/IrrToInd = 7,849 Acre-Feet Temporary Water Permits = 1,305 Acre-Feet WAWS Service Area 10 Miles Radius Buffer 30 Miles Total Water Use = 9,154 Acre-Feet WAWS Service Area 15 Miles Radius Buffer Map produce by Office of State Engineer on March 27, 2012 Industrial Water Depot Use within the 20 Mile Buffer Zone WAWS Service Area 20 Miles Radius Buffer Cond/Perfected/irrToind = 5,272 Acre-Feet Temporary Water Permits = 987 Acre-Feet

Total Water Use = 6,259 Acre-Feet

### Water the Lifeblood for Oil

Water is the life-blood of the Bakken and Three Forks oil development. As additional water depots are developed in western North Dakota, delivery of water will become more efficient, truck traffic should be reduced throughout the west, and costs to the oil industry and the state's many mineral owners should decrease.

The risks taken by the private sector that developed water to be used in the oil industry has been instrumental in the evolution of the Bakken and Three Forks oil play and North Dakota's newfound wealth.

### **WAWS INDUSTRIAL CAPACITY**

Ownership	Bulk Fill Depots	De de		Estimated Time of Operation
	Williston 2nd Street Fill Station	5	1.0 Million	Currently Operationa
	Crosby Fill Station	2	0.4 Million	Currently Operationa
Existing Member Depots that are	Indian Hill Fill Station	2	0.4 Million	Currently Operationa
Operational	Keene Fill Station	1 1	0.2 Million	Currently Operationa
	Stanley Fill Station	Ports   Parks	0.4 Million	Currently Operationa
	Watford City Fill Station	Fill Station 5 1.0 Million ation 2 0.4 Million Station 2 0.4 Million ation 1 0.2 Million ation 2 0.4 Million ation 2 0.4 Million Station 1 0.2 Million Station 1 0.2 Million 1 0.2 Milli	Currently Operationa	
WAWSA Depots that are Operational	North Williston Fill Station	Lane 6	1.2 Million	Currently Operational
	North Williston Fill Station Lane 6 1.2 Million lad indian Hill Water Depot Addition 4 .8 Million	January 1, 2012		
WAWSA Depots	13-Mile Corner Fill Station	2nd Street Fill Station 5 1.0 Million osby Fill Station 2 0.4 Million on Hill Fill Station 2 0.4 Million on Hill Fill Station 1 0.2 Million on Hill Fill Station 1 0.2 Million on Hill Station 1 0.2 Million on City Fill Station 2 0.4 Million on City Fill Station 1 0.2 Million Water Depot Addition 4 8 Million Corner Fill Station 6 1.2 Million on the Fill Station 6 1.2 Million 6 1.	1.2 Million	Early 2013
Under Construction in	Alexander Fill Station	6	1.2 Million	OPen
2012	R & T Fill Station	6	1.2 Million	To Be Determined
	Watford City Fill Station	6	1.2 Million	Open

TOTAL FILL PORTS

TOTAL MONTHLY BARREL CAPACITY

TOTAL YEARLY BARREL CAPACITY

TOTAL CAPACITY OF FRACS PER YEAR

9,400,000

112,800,00

1410

80,000 BARRELS PER FRAC @ .84 PER /BARREL =

67,200

YEARLY REVENUE DOING 365 FRACS PER YEAR

365 FRACS @ \$67,200 PER FRAC

24,528,000

80,000 BARREL DIVIDED BY 7758 BARRELS IN ONE (1) ACRE FOOT = 10.31 ACRE FEET PER FRAC

365 FRACS X 10.31 ACRE FOOT =

**3763 ACRE FEET PER YEAR** 

2012 WATER USE 13,400 ACRE FEET DIVIDED BY 3763 ACRE FEET=

28% MARKET SHARE

## Southwest Water Authority Pays Back 47 percent to the Resources Trust Fund

### Amount Paid back in the form of Capital Repayment

YEAR	TOTAL	YEAR	TOTAL
1991	\$ 11,166.00		
1992	\$ 212,899.00		
1993	\$ 195,973.00	2004	\$ 1,621,239.25
1994	\$ 300,472.00	2005	\$ 1,706,958.33
1995	\$ 504,179.00	2006	\$ 1,948,480.26
1996	\$ 734,994.15	2007	\$ 2,308,065.86
1997	\$ 857,913.00	2008	\$ 2,455,506.88
1998	\$ 915,791.37	2009	\$ 2,618,988.11
1999	<b>\$ 1,025,997.24</b>	2010	\$ 2,776,546.59
2000	\$ 1,146,779.77	2011	\$ 3,076,416.44
2001	\$ 1,308,267.93	2012*	\$ 4,287,275.86
2002	\$ 1,432,224.68	Total	\$ 33,033,598.25
2003	\$ 1,581,284.21	*Through De	c. 31, 2012

### SOUTHWEST PIPELINE PROJECT (SWPP) FUNDING SOURCES State funding (in millions of dollars)

State funding (in minions of donars)	
Resources Trust Fund	\$ 69.84
Water Development Trust Fund	\$ 8.47
Subtotal	

#### Grants

Municipal Rural & Industrial Fund	2	100.62
United States Department of Agriculture - Rural Development	\$	15.09
Natural Resources Conservation Service PL566	<u>\$</u>	0.93
Subtotal	\$	116.64

### State Bonds Repaid by Users

Public Revenue Bonds\$	7.04
United States Department of Agriculture - Rural Development \$1	5.70
North Dakota Drinking Water Revolving Loan Fund\$_	1.50
Subtotal\$2	

### **SWPP FUNDING SOURCE**

\$219.19 million as of Nov. 30, 2012

**TESTIMONY FOR HB1020** 

#### SENATE APPROAPRIATIONS COMMITTEE

### BYJON MCCREARY, PRESIDENT, WEST DAKOTA WATER LLC

MARCH 19, 2013

Since WAWSA was established their forecast for domestic water needs have increased almost 100%. Due to this increase in demand, they are short of industrial water and cannot meet the sales requirements of their business plan. There are several options to 1. replace forecasted revenue and 2. save costs which can be used together to make WAWSA a successful project without increasing rates to existing customers, and without encroaching further on private business. Two weeks ago, WAWSA testified to the State Water Commission that they plan on rationing water and shutting down industrial customers periodically for the next two years at least. Separately, they are trying to shut down private water sellers. It does not make sense for WAWSA to be out of water, AND be attempting to shut down private water sellers.

WHY I BELIEVE WAWSA NEEDS OVERSIGHT – THEY ARE MISSING OPPORTUNITIES TO SAVE MONEY AND TO INCREASE PROJECT REVENUE.

### **INCREASE REVENUE**

Increased demand for residential water has greatly reduced the amount of water WAWSA has for industrial sales. One solution to this problem is to ask those new users including developers, apartment builders etc to pay for a small part of the added infrastructure that makes their project possible AND to have that money applied to pay down WAWSA debt. This is standard practice all across North Dakota and the entire country. Most water systems charge higher rates, higher hook up fees and higher rates to their expansion customers, while leaving existing customer rates stable. If they don't have excess water for industrial sales, the money has to come from other sources.

#### SAVE COSTS

WAWSA has relied upon a population forecast for the year 2035, 22 years into the unforeseeable future, to justify a second treatment plant expansion which may never be necessary. We can wait and see if this \$26 million investment is actually needed. Seperately, WAWSA spent \$10.8 million in 2012 on a lump sum engineering contract, which would have required 63 staff dedicated full time to the project to generate the \$10.8 million (at an average rate of \$110 per hour and 75% billable time). There is clearly some room to save money. Additionally, WAWSA is threatening wasting tax payer money suing competitors.

### Solutions:

- EARN \$41MM: INCREASE HOOK UP FEES. I have a development in McKenzie County where I am being charged \$3,000 per lot, or \$489,000, in hook up fees. None of that money is in the WAWSA business plan to pay down debt. In fact if all forecasted new users were asked to pay the same fee I am being asked to pay, there would be an additional \$41 million available to pay down WAWSA debt. ATTACHMENT A, COLUMN 4
- 2. EARN \$98MM: INCREASE WATER RATES FOR NEW DEVELOPMENTS AND CONSTRUCTION.

  Again, this is a typical means to pay for the expansion of a water system. A \$2.00 per thousand increase, ONLY for new customers, would generate \$98MM over the life of the WAWSA loans.

  ATTACHMENT A, COLUMN 5
- 3. EARN \$100MM: CHARGE AN ADDITIONAL CAPITAL REPAYMENT COMPONENT TO NEW DEVELOPMENT AND CONSTRUCTION. This too, is a typical method to finance water project expansion. A \$30 per month minimum fee would generate \$100MM in additional revenue over the next 23 years. The combined monthly payment for water would only increase by \$19.73 per person with all these adjustments. Clearly, this is fair in an environment where all costs are much higher than normal. ATTACHMENT A, COLUMN 6
- 4. <u>DEFER \$31MM</u>: LOANS CAN BE EXTENDED. Currently, WAWSA has forecasted a need for a high level of industrial water sales in an attempt to payoff much of their debt in a five to ten year timeframe. A standard 23 year amortization would save WAWSA \$31MM in the first nine years of operations. This delay allows for the growth of the domestic revenue to help pay off the loans, and corrects a timing difference by better aligning project cash inflow and outflow. ATTACHMENT A, COLUMN 7, and ATTATCHMENT B, LAST COLUMN
- 5. GRANTS AND OR ZERO INTEREST LOANS CAN BE USED FOR 2013 2015 EXPANSION. WAWSA is a public works project. The oil industry has provided a great deal of revenue for the state to help supply its people with drinking water.
- 6. SAVE \$26MM: DECREASE PLANNED EXPANSION OF TREATMENT PLANT. WAWSA is using a 2035 demand forecast to justify the need for a treatment plant expansion to 21 MGD. WAWSA wants \$26MM to expand a second time from 15 MGD to 21 MGD, even though the water would not be needed for a decade, or is not needed at all. Further, WAWSA assumptions regarding 160 gpd/person are much higher than the actual usage within the City of Dickinson, for example, of 102 gpd/person. Additionally, WAWSA uses a peak factor of 3x average need, other water systems use a peak factor of 2.0 2.5x peak which, combined with a lower average usage assumption decreases WAWSA forecasted peak water need by approximate 50%.
- 7. <u>ALL CHANGES REFERED TO WILL COMBINE TO INCREASE THE WAWSA CASHFLOW BY OVER</u> \$224MM DURING THE 23 YEAR LIFE OF THE WAWSA LOANS. ATTACHMENT A, COLUMN 8
- 8. INSTEAD OF NEEDING \$30 MILLION IN ANNUAL INDUSTRIAL SALES, THEY REALLY NEED VERY LITTLE IF ANY TO MAKE THEIR PROJECT SUCCESSFUL. THEY WILL HAVE MORE THAN ENOUGH MONEY BY STICKING TO THE CONSTRAINTS OF HB1206 AND SELLING INDUSTRIAL WATER ONLY THROUGH THEIR TWELVE DEPOTS.

WAWSA wants a large market share of industrial water sales at protected prices that the oil industry will not support. There are a lot of solutions to WAWSA's growing pains that do not involve dictating who can buy from who and at what price. Please help WAWSA by considering some simple and traditional approaches to saving money, earning project revenue, and repaying the state with revenue coming from those that actually will use the water. There is no need to encroach further into competing with the State's own tax payers for a product WAWSA does not even have available. With a few simple adjustments to the WAWSA business plan, WAWSA can repay all their debt from the existing depots, and have a lot of money left over.

We urge that you support amendments to HB1020 by limiting WAWSA to its twelve depots for industrial sales. We urge that you restrict their ability to oppose other private water sellers. We urge that you require the State Water Commission to approve any line expansion and have increased project oversight. We urge that you remove the ten mile sales barrier, impose a 25% cap on their market share, and remove the language that disallows new entrants into the water sales market.

Thank you.

## WAWSA - Increase Residential Demand = Less Need for Indus...al Sales Adjusted Industrial Sales Required for Breakeven

(In Millions)

Note: WAWSA can easily obtain the \$0MM - \$7MM in required breakeven sales from its twelve depots

New Customers: Increase in montly payments per person

\$19.73

Existing Customers: Increase in montly payments

\$0.00

11						
		WAWSA				
		Forecasted	Assumed			
		Breakeven	Service			
Year		Industrial Sales	Population			
	2013	7.00	30,700			
	2014	12.00	44,350			
	2015	22.00	58,000			
	2016	20.00	63,000			
	2017	19.00	68,000			
	2018	19.00	73,000			
	2019	18.00	78,000			
	2020	18.00	83,000			
	2021	16.00	88,000			
	2022	12.00	93,000			
	2023	13.00	98,000			
	2024	12.00	99,000			
	2025	12.00	99,000			
	2026	12.00	99,000			
	2027	12.00	99,000			
	2028	9.00	99,000			
	2029	8.00	99,000			
	2030	8.00	99,000			
	2031	8.00	99,000			
	2032	7.00	99,000			
	2033	7.00	99,000			
	2034	7.00	99,000			
	2035	7.00	99,000			
	2036	5.00	99,000			
		290.00				

	es For New Custo			
Standard Hook Up Fees*, **	Increase in Usage Rate for New Users by \$2/1,000 gal**	Increase In Capital Repayment Fee Per Month \$30	Decreased Debt Service (23 yr amort)	Total Adjustments to Required Industrial Sales
5.00	0.58	0.60	(5.13)	1.05
5.00	1.17	1.20	6.53	
5.00	1.75	1.80	5.50	13.90 14.05
5.00	2.34	2.40	5.50	15.24
5.00	2.92	3.00	5.50	16.42
5.00	3.50	3.60	5.50	17.60
5.00	4.09	4.20	5.50	18.79
5.00	4.67	4.80	2.48	16.95
1.00	4.79	4.92	(0.54)	10.17
	4.79	4.92	(0.54)	9.17
_	4.79	4.92	(0.54)	9.17
-	4.79	4.92	(0.54)	9.17
_	4.79	4.92	(0.54)	9.17
_	4.79	4.92	(0.54)	9.17
-	4.79	4.92	(2.53)	7.18
-	4.79	4.92	(4.04)	5.67
-	4.79	4.92	(3.56)	6.15
=	4.79	4.92	(3.73)	5.98
-	4.79	4.92	(3.84)	5.87
-	4.79	4.92	(3.84)	5.87
-	4.79	4.92	(3.84)	5.87
-	4.79	4.92	(3.84)	5.87
-	4.79	4.92	(6.34)	3.37
-	4.79	4.92	(7.38)	2.33
41.00	97.64	100.32	(14.76)	224.21

Adjusted
Breakeven
Industrial
Sales
Required
5.95
(1.90)
7.95
4.76
2.58
1.40
(0.79)
1.05
5.83
2.83
3.83
2.83
2.83
2.83
4.82
3.33
1.85
2.02
2.13
1.13
1.13
1.13
3.63
2.67
65.79
65.79

Attachment A

<sup>\*</sup> Some members charge \$3,000 and also require user to pay for all direct expenses making the hookup fee 100% "profit" Assume one new "hook up" for every three persons the of population growth.

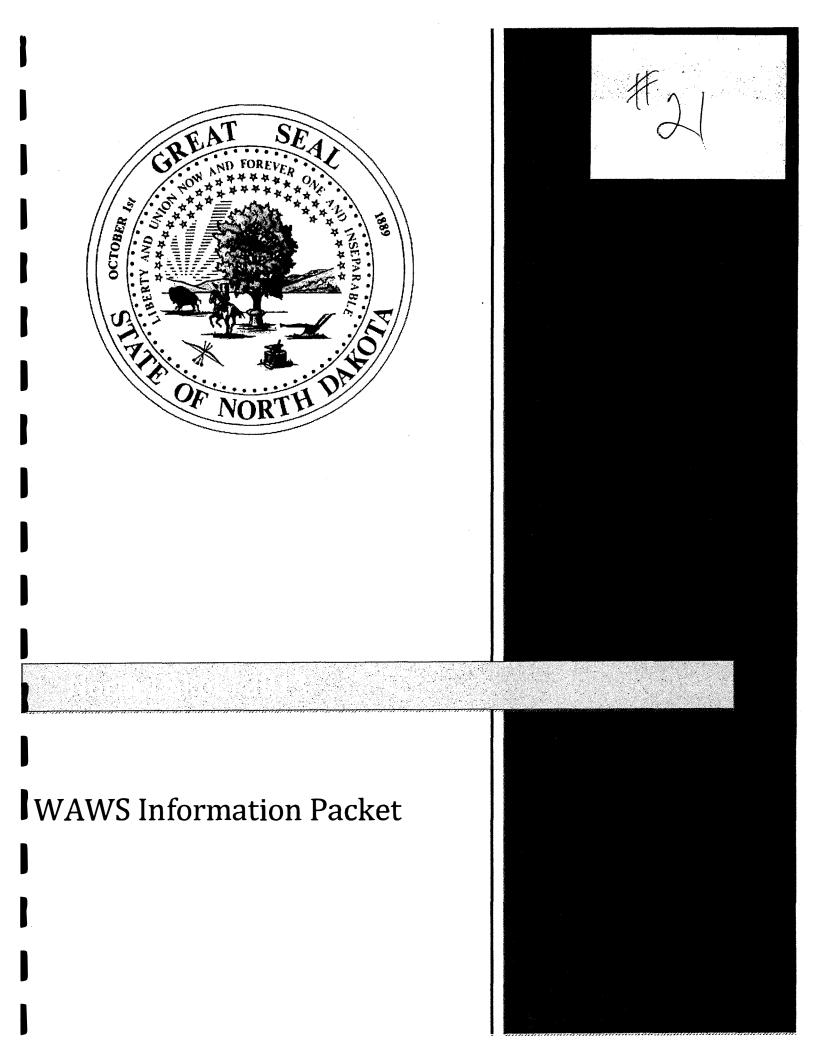
<sup>\*\*</sup> Assume 3 persons/household; Revenue from water rates assumes 160 gpcd

<sup>\*\*\*</sup> Based upon testimony at State Water Commission Meeting stating they are using 4MGD for industrial sales currently

Attachment

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			23 YEAR [	DEBT RE	PAYMENT	PLAN F	OR WAY	NS						·······	
********		ΜΔΚΙΝ	S WAWS A	SSLIME	NEW DE	RT OF \$4	O MILLI	)N			<del></del>				·
	SOURCE	1417 (14114)	SOURCE	TOOTVIL	SOURCE	1 01 9	SOURCE	<u> </u>	SOURCE	_		+			
1	BANK OF	INT. RATE	GENERAL	INT. RATE	RESOURCES	INT. RATE	BANK OF	INT. RATE	RESOURCES	INT. RATE	<u> </u>	<del>-</del>	Payment at		1
	ND	variable	FUND	5%	TRUST FUND	5%	ND	variable	TRUST FUND	0.0%	TOTALLOAN		Standard	Difference	
	\$ 50,000,000		\$ 25,000,000		\$ 10,000,000	Ī	\$ 40,000,000		\$ 25,000,000		\$ 150,000,000		23 year	VS Standard	ļ
LOAN #	2	2	3	3	4	4	5	5	1	1			Amortization	Amortization	
DATE	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	PRINCIPLE	INTEREST	YEARLY PAYMENT				
2014	\$ 1,660,790	\$ 2,048,229					ž				\$ 3,709,019		(\$8,839,916.92)	(\$5,130,897.92)	
2015	\$ 7,106,234	\$ 1,487,367		\$ 3,691,941		\$ 1,343,917	\$ 998,263	\$ 746,920			\$ 15,374,642		(\$8,839,916.92)	\$6,534,725.08	more cash flow
2016	\$ 7,143,884	\$ 1,449,717		\$ 1,254,957		\$ 501,877	\$ 2,955,406	\$ 1,034,499			\$ 14,340,340		(\$8,839,916.92)	\$5,500,423.08	in early years
2017	\$ 7,255,894	\$ 1,337,707		\$ 1,254,957		\$ 501,877	\$ 2,861,536	\$ 1,128,369			\$ 14,340,340		(\$8,839,916.92)	\$5,500,423.08	while residential
2018	\$ 7,446,971	\$ 1,146,630		\$ 1,254,957		\$ 501,877	\$ 2,793,751	\$ 1,196,154		1	\$ 14,340,340		(\$8,839,916.92)	\$5,500,423.08	customer base
2019	\$ 7,762,075	\$ 831,526		\$ 1,254,957		\$ 501,877	\$ 2,751,926	\$ 1,237,979		<u> </u>	\$ 14,340,340		(\$8,839,916.92)	\$5,500,423.08	grows
2020	\$ 8,159,198	\$ 434,404		\$ 1,254,957		\$ 501,877	\$ 2,736,464	\$ 1,253,442			\$ 14,340,342		(\$8,839,916.92)	\$5,500,425.08	
2021	\$ 4,234,829	\$ 61,971	\$ 1,292,438	\$ 1,241,560		\$ 501,877	\$ 2,808,130	\$ 1,181,775		<u> </u>	\$ 11,322,580		(\$8,839,916.92)	\$2,482,663.08	\$31,388,607.69
2022	PAID OFF	PAID OFF	\$ 2,683,650	\$ 1,129,389		\$ 501,877	\$ 2,951,799	\$ 1,038,106		Į	\$ 8,304,821		(\$8,839,916.92)	(\$535,095.92)	
2023	PAID OFF	PAID OFF	\$ 2,820,951	\$ 992,089		\$ 501,877	\$ 3,102,819	\$ 887,087			\$ 8,304,823		(\$8,839,916.92)	(\$535,093.92)	
2024	PAID OFF	PAID OFF	\$ 2,965,276	\$ 847,763		\$ 501,877	\$ 3,261,565	\$ 728,340		ļ	\$ 8,304,821		(\$8,839,916.92)	(\$535,095.92)	1
2025	PAID OFF	PAID OFF	\$ 3,116,985	\$ 696,054		\$ 501,877	\$ 3,428,433	\$ 561,473		<u> </u>	\$ 8,304,822		(\$8,839,916.92)	(\$535,094.92)	
2026	PAID OFF	PAID OFF	\$ 3,276,456	\$ 536,583		\$ 501,877	\$ 3,603,838	\$ 386,067		<u> </u>	\$ 8,304,821		(\$8,839,916.92)	(\$535,095.92)	
2027	PAID OFF	PAID OFF	\$ 3,444,086	\$ 368,954		\$ 501,877	\$ 3,788,217	\$ 201,688			\$ 8,304,822		(\$8,839,916.92)	(\$535,094.92)	
2028	PAID OFF	PAID OFF	\$ 3,620,291	\$ 192,748		\$ 501,877	\$ 1,966,179	\$ 28,773			\$ 6,309,868		(\$8,839,916.92)	(\$2,530,048.92)	
2029	PAID OFF	PAID OFF	\$ 1,879,022	\$ 27,497	\$ 2,416,276	\$ 476,830	PAID OFF	PAID OFF			\$ 4,799,625		(\$8,839,916.92)	(\$4,040,291.92)	
2030	PAID OFF	PAIDOFF	PAID OFF	PAID OFF	\$ 5,017,214	\$ 267,121	PAID OFF	PAID OFF	[		\$ 5,284,335		(\$8,839,916.92)	(\$3,555,581.92)	
2031	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 2,604,060	\$ 3,817	PAID OFF	PAID OFF	\$ 2,500,000		\$ 5,107,877		(\$8,839,916.92)	(\$3,732,039.92)	
2032	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000	ļ	\$ 5,000,000		(\$8,839,916.92)	(\$3,839,916.92)	
2033	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAIDOFF	PAID OFF	\$ 5,000,000	!	\$ 5,000,000	·	(\$8,839,916.92)	(\$3,839,916.92)	<u> </u>
2034	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000	<u> </u>	\$ 5,000,000	ļ	(\$8,839,916.92)	(\$3,839,916.92)	
2035	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 5,000,000	ļ	\$ 5,000,000		(\$8,839,916.92)	(\$3,839,916.92)	
2036	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	PAID OFF	\$ 2,500,000	<del> </del>	\$ 2,500,000		(\$8,839,916.92)	(\$6,339,916.92)	4
	\$ 50,769,875	\$ 8,797,551	\$ 25,099,155	\$ 15,999,363	\$ 10,037,550	\$ 8,616,086	\$ 40,008,326	\$ 11,610,672	\$ 25,000,000	1 .	\$ 195,938,578	1		(\$7,379,511.12)	1



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- WAWS Condemnation Policy Bulletin
- Pictures of WAWS Leaks/Construction Issues
- Solutions
- Governor Schafer Email
- Congressman Cramer Article
- MLB Consulting, Inc. Email

private users, such as oil and gas producers, for the sale of water for use within or outside the

authority boundaries or the state. The western area water supply authority shall consider in the

process of locating industrial water depots the location of private water sellers so as to minimize

the impact on private water sellers.

### 61-40-02. Western area water supply authority.

The western area water supply authority consists of participating political subdivisions located within McKenzie. Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. Other cities and water systems, within or outside the authority counties' boundaries, including cities or water systems in Montana, may contract with the authority for a bulk water supply. The authority is a political subdivision of the state, a governmental agency, body politic and corporate, with the authority to exercise the powers specified in this chapter, or which may be reasonably implied. Participating member entities may be required to pay dues; or water sale income, or bond revenue to the authority, as determined by the bylaws and future resolutions of the authority. Participating member entities may not withdraw from the authority or fail or refuse to pay any water sale income or bond revenue to the authority; if any bonds or refunding bonds issued under this chapter remain outstanding or a grant of up to thirty million dellars the twenty-five million dollar zero interest loan from the state water commission has not been repaid.

### 61-40-03. Western area water supply authority - Board of directors.

- The initial board of directors of the western area water supply authority consists of two representatives from each of the following entities: Williams rural water district, McKenzie County water resource district, the city of Williston, BDW water system association, and R&T water supply association. Each The governing body of each member entity shall select two representatives to the authority board who are water users of the member entity. If a vacancy arises for a member entity, that the governing body of the member entity shall select a new representative to act on its behalf on the authority board. In addition, the state engineer or designee is a voting member on the authority's board of directors. Directors have a term of one year and may be reappointed.
- 2.2. Additional political subdivisions or water systems may be given membership on the board upon two-thirds majority vote of the existing board. To be eligible for



### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW . (Mailing addr.) 201 5th ST.NW, Suite 1456 Wetford City ND 58854 Tel: 701-842-2821 ext 7 - Fex: 701-842-2822

Denton Zubka, Chairman PO Box 927 Watford City, ND 58854-0927 701-444-8484 work 701-842-3061 home dentarizated de de la company

July 5, 2012

Jo Ellen Darcy, Assistant Secretary of the Army, Civil Works 108 Army Pentagon Washington, DC 20310-0108

Gene Veeder, Vice-Chairman Watford City, ND 58654-0899 701-444-2804 gveeder@co.mcterziend.us

Private Water Permits within McKenzie County Re:

Doar Assistant Socretary Darcy

Los Tjelde, Board Member 14984 HWY 200 Centwright, ND 68838 701-828-3008 gles eyes avelos.com

The Mokenzie County Water Resource District (MCWRD) is informed of verious pagnit applications . and current intentions by private parties who intend to divert water from the Missouri River and create an extravagant pipoline system to soil significant amounts of water to the oil industry within McKenzis County. In some losteness, this information has been coupled with domands by the independent water provider community for MCWRD and the Western Area Water Supply Authority to reduce their water sales at water depots so as not to compete with the private water sellers. While MCWRD has historically not objected to the development of isolated private water sellers to meet the demands of the oil industry, the more recent private development plans are simply too extensive to allow to proceed given MCWRD's algolificant investment in infrastructure and need to generate income to ropey its federal lose obligations as well as the state foun obligations authorized in House Bill 1206 during the last legislative accordan-

Leif Jellesod, Board Marribar 10581 HWY 1808 E W TOWN, ND 68763-9084 701-676-249D ted Jetsen Sha

MCWRD is requesting information from those private water sellors, out of concern that these culties may be encroaching on the MCWRD water franchise area. Federal law is very protective of a rural water system's water sales territory if the rural water system is indebted to the Federal government through a federal loan for the water system's infrastructure, See 7 U.S.C.A. 1926(b). MCWRD has outstanding federal Raval Development leans through the USDA and qualifies for the franchise protection of Section 1926(b).

Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-828-3666 home 408-489-1704 col

MCWRD believes that the grant of water appropriation pennits by the State Engineer's Office or the eccess permits and easements by the Corps would constitute governmental action that will provide a private water franchise to develop within the MCWRD jurisdiction. The purpose of this letter is to advise you that MCWRD intends to protect its franchise territory from firther encroschment by private water sellers, and to request that you forego the banance of any permits for private water development within McKenzle County without engaging MCWRD in discussion for each permit requested.

**Clint Healter** Assistant Menager Waterd City, ND 58884 701-812-2821 701-200-6791-0 CHARLES MAN TO ALLE

Respectfully

Denton Zubke

Chairman of MCWRD



## DEPARTMENT OF THE ARMY OFFICE OF THE ASSISTANT SECRETARY CIVIL WORKS 108 ARMY PENTAGON WASHINGTON DC 20310-0108

SEP 27 2012

Mr. Denton Zubke Chairman, McKenzie County Water Resources District 201 5<sup>th</sup> Street, NW, Suite 1456 Watford City, North Dakota 58854

Dear Mr. Zubke:

This is in response to your July 5, 2012, letter concerning private water permits within McKenzie County. I apologize for the delay in responding.

In your letter you requested that the Corps of Engineers (Corps) engage the McKenzie County Water Resources District (MCWRD) in discussions prior to issuing surplus water agreements or easements associated with private water development within McKenzie County. You contend that executing such agreements or easements could facilitate a private franchise within the boundaries of your service area, thereby undermining the protections granted by Section 306(b) of the Consolidated Farm and Rural Development Act, 7 U.S.C. Section 1926(b).

The Corps has completed an extensive public review process in formulating the Final Garrison Dam/Lake Sakakawea Project Surplus Water Report and Environmental Assessment to support the granting of easements and the execution of surplus water agreements for the withdrawal of water for municipal and industrial purposes at Lake Sakakawea. To my knowledge, your letter of July 5 is the first reference made to the potential applicability of 7 U.S.C. 1926(b), and requires further review.

I am requesting the Omaha District of the Corps to review the issues you raise and to respond to your letter. My staff point of contact for coordination of this matter is Mr. Andrew Hagelin, <a href="mailto:andrew.hagelin@us.army.mil">andrew.hagelin@us.army.mil</a> or (703) 697-7084, and the point of contact in the Omaha District is Mr. Larry Janis, <a href="mailto:Larry.D.Janis@usace.army.mil">Larry.D.Janis@usace.army.mil</a> or (402) 995-2440.

Thank you for your interest in the Army's Civil Works program.

Very truly yours,

Men desur

Jø-Ellen Darcy

Assistant Secretary of the Army

(Civil Works)



August 20, 2012

Norm Haak, President
North Dakota Water Users Association
PO Box 2254
Bismarck, ND 58502-2254

RE: Clarification of McKenzie County Letter Regarding Permit Issuance

Dear Mr. Haak and NDWUA Board Members:

This letter is to clarify a quote made in a North Dakota Water Users Association (NDWUA) Memo dated July 24, 2012 to Governor Dalrymple, State Engineer Todd Sando, and State Water Commission Members. The Memo references a letter from the McKenzie County Water Resources District (MCWRD) Board requesting that MCWRD be engaged in discussion for each water permit application request that may encroach on the MCWRD water franchise area.

The NDWUA Memo quotes that the MCWRD is asking the State Engineer and the Corp of Engineers to "forego the issuance of any permits for private water development". That quote is only a portion of a larger sentence in the MCWRD letter which states, "The purpose of this letter is to advise you that MCWRD intends to protect its franchise territory from further encroachment by private water sellers, and to request that you forego the issuance of any permits for private water development within McKenzie County without engaging MCWRD in discussion for each permit requested."

The NDWUA Memo goes on to state that "this position (referencing MCWRD's position on 1926(b)) is completely adverse to the long standing water policy and long standing efforts to develop North Dakota's right to the Missouri River." In contrast, MCWRD fully supports putting the Missouri River water to beneficial use for the State of North Dakota. We are disappointed that MCWRD intentions were misrepresented in this manner.

As a member of the NDWUA, MCWRD supports the NDWUA's goals to develop and perfect the Missouri River water and is in support of future economic development initiatives. We also believe these initiatives need to be balanced with the goals and obligations of current projects. MCWRD and every rural water system with Federal Rural Development loans through USDA are protected by Section 1926(b). This Federal law is in place to protect the water sales territory if the rural water system is indebted to the Federal government and has been used several times across North Dakota to ensure the financial viability of rural water systems.



Additionally, MCWRD is part of the larger Western Area Water Supply Project which is obligated to pay back State loans through the sale of industrial water. Given our financial obligations to the State and Federal governments, MCWRD is very interested in being engaged in the water permit application process when it directly affects McKenzie County. We would expect that the NDWUA would be concerned with the financial viability of the many rural water systems in the State as well as ours.

MCWRD believes this issue is vitally important to all NDWUA members. We would appreciate the opportunity to schedule a time at your next board meeting to allow us to fully inform the board of the threats to our system and the intentions of the MCWRD.

Respectfully,

Denton Zubke

Chairman of MCWRD

cc: Governor Jack Dalrymple

State Water Commission Members

Todd Sando, State Engineer

Mike Dwyer, NDWUA Executive Director



### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW • Mailing; 201 5<sup>th</sup> St NW, Suite 1456 Watford City, ND 58854

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Gene Veeder,Vice-Chairman PO Box 699 Watford City, ND 58854-0699 701-444-2804 gveeder@co.mckenzie.nd.us

> Lee Tjelde, Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 glaseyes@yahoo.com

Leif Jellesed, Board Member 10561 HWY 1806 E New Town, ND 58763-9084 701-675-2490 jellesed@restel.net

Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-489-1704 cell 701-828-3555 home

Clint Hecker Assistant Manager Watford City, ND 58854 701-842--2821 701-290-6791 cell checker@co.mckenzie.nd.us September 3, 2012

Todd Sando, P.E. North Dakota State Engineer ND State Water Commission 900 East Boulevard Bismarck, ND 58505-0850

Dear Mr. Sando:

As Chairman of the McKenzie County Water Resource District (MCWRD) Board of Directors I am writing this letter regarding permit number ND2012-14330 submitted by Park Construction Co. that is intended to take water from Cherry Creek McKenzie County. It is the MCWRD Board's decision to request the State Water Commission to deny this permit based on concerns for domestic and agricultural users. The Board also feels there are other reliable sources to better serve this type of water use in McKenzie County.

Sincerely,

Denton Zubke

Chairman



### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

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Clint Hecker Assistant Manager Watford City, ND 58854 701-842-2821 701-290-6791cell checker@co.mckenzie.nd.us October 8, 2012

Todd Sando, P.E. North Dakota State Engineer ND State Water Commission 900 East Boulevard Bismarck, ND 58505-0850

Dear Mr. Sando:

As Chairman of the McKenzie County Water Resource District (MCWRD) Board of Directors I am writing this letter regarding permit application number ND2012-14462 submitted by North Star Energy and Construction, LLC that is intended to take water from the Arnegard Dam in McKenzie County. It is the MCWRD Board's decision to request the State Water Commission to deny this permit due to the dry conditions, quality of water available, impact to potential wetland areas and also recreational opportunities.

Sincerely,

Denton Zubke

Chairman

McKenzie County Water Resource District

cc. North Star Energy

## Hardy Distance

### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW • Mailing; 201 5<sup>th</sup> St NW, Suite 1456 Watford City, ND 58854

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Clint Hecker Assistant Manager Watford City, ND 58854 701-842--2821 701-290-6791cell checker@co\_mckenzie.nd.us October 8, 2012

Todd Sando, P.E. North Dakota State Engineer ND State Water Commission 900 East Boulevard Bismarck, ND 58505-0850

Dear Mr. Sando:

As Chairman of the McKenzie County Water Resource District (MCWRD) Board of Directors I am writing this letter regarding permit application number ND2012-14470 submitted by Northwest Transfer that is intended to take water from Demmicks Lake in McKenzie County for industrial use. It is the MCWRD Board's decision to request the State Water Commission to deny this permit due to the dry conditions, quality of water available, impact to potential wetland areas and also recreational oppor unities.

OCT 1 1 100

Sincerely,

**Denton Zubke** 

Chairman

## Hurth Daticks

### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW • Mailing; 201 5th St NW, Suite 1456 Watford City, ND 58854

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Clint Hecker Assistant Manager Watford City, ND 58854 701-842-2821 701-290-6791cell checker@co.mckenzie.nd.us October 8, 2012

Todd Sando, P.E. North Dakota State Engineer ND State Water Commission 900 East Boulevard Bismarck, ND 58505-0850

Dear Mr. Sando:

As Chairman of the McKenzie County Water Resource District (MCWRD) Board of Directors I am writing this letter regarding permit application number ND2012-14454 submitted by SM Energy Company that is intended to take water from an un-named pond in McKenzie County for industrial use. It is the MCWRD Board's decision to request the State Water Commission to deny this permit due to the dry conditions, quality of water available, impact to potential wetland areas and also recreational opportunities.

Sincerely,

**Denton Zubke** 

Chairman

## Kirk Chaus

### MCKENZIE COUNTY, NORTH DAKOTA

**Water Resources District Board** 

205 6th St. NW • Mailing; 201 5<sup>th</sup> St NW, Suite 1456 Watford City, ND 58854

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Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-489-1704 cell 701-828-3555 home

Clint Hecker Assistant Manager Watford City, ND 58854 701-842--2821 701-290-6791cell checker@co.mckenzie.nd.us October 8, 2012

Todd Sando, P.E. North Dakota State Engineer ND State Water Commission 900 East Boulevard Bismarck, ND 58505-0850

Dear Mr. Sando:

As Chairman of the McKenzie County Water Resource District (MCWRD) Board of Directors I am writing this letter regarding permit application number ND2012-14477 submitted by Ronnie and Mavis Berry that is intended to take water from the Yellowstone River for industrial use in McKenzie County. It is the MCWRD Board's decision to request the State Water Commission to deny this permit based on concerns over bank stabilization, contamination, and infrastructure concerns.

Sincerely,

**Denton Zubke** 

Chairman

### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW • Mailing; 201 5th St NW, Suite 1456

Watford City, ND 58854

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> Lee Tjelde, Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 glaseyes@yahoo.com

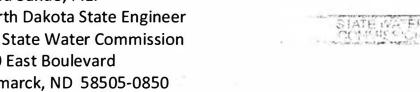
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Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-489-1704 cell 701-828-3555 home

Clint Hecker Assistant Manager Watford City, ND 58854 701-842--2821 701-290-6791cell checker@co.mckenzie.nd.us

October 8, 2012

Todd Sando, P.E. North Dakota State Engineer **ND State Water Commission** 900 East Boulevard Bismarck, ND 58505-0850



Dear Mr. Sando:

As Chairman of the McKenzie County Water Resource District (MCWRD) Board of Directors I am writing this letter regarding permit application number ND2012-14488 submitted by Northwest Water Transfer that is intended to take water from Missouri River for industrial use in McKenzie County. It is the MCWRD Board's decision to request the State Water Commission to deny this permit based on concerns over bank stabilization, contamination, and infrastructure concerns.

Sincerely,

Denton Zubke

Chairman

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### Corps agrees to release lake water for industry

Recommend 0

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Email

By LAUREN DONOVAN | Bismarck Tribune

A company that plans to sell Lake Sakakawea water for hydraulic fracturing will get a temporary, five-year permit under the first surplus water agreement approved by the U.S. Army Corps of Engineers and signed Wednesday.

Select Energy Services, formerly International Western, can draw 6,000 acre feet annually from a selected site along the lake in Williams County.

That's enough to frack about 1,000 wells at roughly 2 million gallons per well.

For now, the company won't be charged for the water while the corps works to come up with a "storage" fee for holding the surplus water in the Garrison Dam reservoir.

It has proposed an annual fee of \$21.60 per acre foot, which for Select Energy would amount to \$130,000.

The corps is conducting a surplus water study across the country and will suspend fees until it comes up with a rule and national policy for handling the water, according to corps' spokesperson Monique Farmer.

lauren@westriv.com

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### MCKENZIE COUNTY, NORTH DAKOTA

### Water Resources District Board

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Denton Zubke, Chairman PO Box 927 Watford City, ND 58854-0927 701-444-6484 work 701-842-3081 home dentonz@dakotawestcu.org January 15, 2013

Select Energy Services 1551 South Sunset Street, Suite A Longmont, CO 80501 Select Energy Services PO Box 1826 Williston, ND 58802

Gene Veeder,Vice-Chairman PO Box 699 Watford City, ND 58854-0699 701-444-2804 gveeder@co.mckenzie.nd.us Re: Proposed Water Project

Dear Select Energy Services,

Lee Tjelde, Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 glaseyes@yahoo.com The McKenzie County Water Resource District (MCWRD) understands that you have applied to the State Water Commission for water appropriation Permit Number 6182, requesting 1950 acre feet of water annually in McKenzie County. I write to get more information about your plans to put that significant water supply to use.

Leif Jellesed, Board Member 10561 HWY 1806 E New Town, ND 58763-9084 701-675-2490 jellesed@restel.net MCWRD is in the business of selling water to meet McKenzie County water supply needs. MCRWD is a rural water district that supplies water for domestic, commercial, rural and industrial uses throughout the entirety of McKenzie County. In order to meet these public water supply demands, MCWRD has also invested heavily in infrastructure, including a large transmission line from the Williston Treatment Plant throughout McKenzie County and the construction of industrial water depots at Indian Hill and in Keene. Much of MCWRD's infrastructure was constructed using federal USDA Rural Development loans.

Clint Hecker Assistant Manager Watford City, ND 58854 701-842--2821 701-290-6791cell checker@co.mckenzie.nd.us The fact that MCWRD has these federal loans outstanding is significant. Federal law is very protective of a rural water system's water sales territory if the rural water system is indebted to the Federal government through a federal loan for the water system's infrastructure. See 7 U.S.C.A. 1926(b). Pursuant to Section 1926(b), federal law does not allow public or private water systems to develop or expand in a manner that will encroach on an indebted rural water system's territory and take sales from the rural water system.

MCWRD has no information about your specific plans to develop this private water system. Please consider this letter as a request for information for your plans to develop a private water system, with specific information about your intended client base, water supply, depot location and pipeline development plans so MCWRD can better assess any 1926(b) franchise encroachment concerns.

In addition, there are two state statutes that provide similar franchise protection to rural water districts that built infrastructure using loans from the State of North Dakota Public Finance Authority (NDCC 6-09.4-22) and/or loans from the State Water Commission (NDCC 61-02-68.18), both of which apply to MCWRD. An example of the protection provided to water districts that have outstanding loans or indebtedness to the State Water Commission is found in the following relevant language:

1. The service provided or made available by owners of water projects through the construction or acquisition of an improvement, or the improvement revenues, financed in whole or in part with a guarantee or loan to the owners of water projects from the commission or any other state entity, may not be curtailed or limited by inclusion of all or any part of the area served by the owners of water projects within the boundaries of any other owners of water projects, or by the granting of any private franchise for similar service within the area served by the owners of water projects, during the term of the guarantee or loan. (NDCC 61-02-68.18)

It is noteworthy that the statute defines an "owner" of an encroaching water project as including private companies like yours. As such, state and federal law provide protection of MCWRD's water sales franchise territories from encroachment by private entities who wish to develop competing water sales businesses. Given MCWRD's significant investment in infrastructure and need to generate income to repay its federal obligations, MCWRD needs more information to fully evaluate your project.

MCWRD has recently initiated discussions with another party that similarly planned to develop a private water system within MCWRD's franchise area. I have attached a letter that our legal counsel sent to West Dakota Water's legal counsel, outlining MCWRD's legal rights and obligations to the USDA to protect our collateral for a Rural Development plan. As you can see, the law strongly favors USDA-indebted entities and provides some relatively onerous legal remedies to MCWRD. I am also attaching a legal opinion from September 2012, which very clearly reflects the USDA's position that 1926(b) rights apply to sales of non-potable water within an exclusive franchise area.

MCWRD is meeting with another private water seller in hopes to reach an agreement whereby MCWRD can allow some private water sales within the franchise area. MCWRD would welcome a similar meeting with your office to discuss how you can develop a water supply within our franchise area. Without an agreement with MCWRD, any construction of a private water system could be subject to enforcement action, which has some fairly onerous remedies. We would appreciate hearing from you within two weeks.

Respectfully

Denton Zubke

Cc: WAWSA Board Members

Slip Copy, 2012 WL 4434736 (S.D.Miss.) (Cite as: 2012 WL 4434736 (S.D.Miss.))

Only the Westlaw citation is currently available.

United States District Court,
S.D. Mississippi,
Western Division.
ADAMS COUNTY WATER ASSOCIATION, INC.,
Plaintiff

CITY OF NATCHEZ, MISSISSIPPI, et al, Defendants.

Civil Action No. 5:10CV199-DCB-RHW. Sept. 24, 2012.

James H. Herring, Herring, Long & Joiner, Canton, MS, for Plaintiff.

John Walter Brown, Jr., Walter Brown Law Office, Edgar Hvde Carby, Carby And Carby, PC, Everett T. Sanders. Sanders Law Firm, Natchez, MS, John L. Maxey, II, William Holcomb Hussey, Maxey Wann, PLLC, Jackson, MS. for Defendants.

## ORDER GRANTING LEAVE TO INTERVENE ROBERT H. WALKER, United States Magistrate Judge.

\*1 Before the Court is a[91] Motion to Intervene filed by the United States of America. The United States argues that it is a direct and interested party in the outcome of the present litigation based on two loans issued to Plaintiff Adams County Water Association, Inc. (ACWAI) by Rural Development, United States Department of Agriculture (Rural Development). Rural Development is a secured party-in-interest and mortgage lien holder with respect to Adams County's water system. The United States argues that ACWAI's revenues and income are pledged to Rural Development by deeds of trust; therefore, any decline in revenue caused by Defendants fragmentation of ACW Al's exclusive service area would affect its ability to repay loans to Rural Development. The United States further argues that Defendants' "dirty water" argument would violate 7 U.S.C. 8 1926(b), which provides in relevant part that:

The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body; or by the granting of any private franchise for similar service within such area during the term of such loan ...

In its reply, the United States elaborates that if Defendants prevail on their "dirty water" just ACWAI's certificated area.

The "dirty water" argument was initially raised in ACWAI's [24] Motion to Strike, in which ACWAI moved for the Court to strike from Defendants' answer the claim that ACWAI's exclusive service rights are limited only to the service of drinking water and not other types of water service. ACWAI argued that such an interpretation, among other things, is in violation of 7 U.S.C. § 1926(b). ACWAl further argued that if Defendants are allowed to expand non-potable water services into ACWAI's certificated area, it would "cripple ACWAI's ability to gain financing for its future projects and seriously compromise the collateral currently held by USDA Rural Development against the assets of ACWAI exchange for its existing loans to ACWAI." Dkt. entry [25] at 16. In its response to the motion to strike, Defendants did not disavow an interest in providing non-potable water services within ACW Al's exclusive service area. Rather, Defendants simply argued that ACWAI's assertion that it has the exclusive right to provide non-potable or industrial water is without legal basis. The Court denied ACWAI's motion to strike finding that a ruling would be premature. See dkt. entry [67] at 4-5. Hence, the issue regarding Defendants' right to provide non-potable water services within ACWAI's exclusive service area remains unresolved.

In its response to the motion to intervene, Defendants assert that the United States does not have an intervention of right because (1) the motion is untimely; (2) the United States' interest in being repaid its loan would not be affected by the disposition of the case; and (3) ACWAI adequately represents any interest the United States might have in the outcome of this litigation. Defendants further argue that permissive intervention of the United States is not warranted.

Slip Copy, 2012 WL 4434736 (S.D.Miss.) (Cite as: 2012 WL 4434736 (S.D.Miss.))

\*2 The Court finds that the motion to intervene is not untimely. On February 13, 2012, United States District Judge David C. Bramlette, III entered an order denying ACW Al's motion to strike the dirty water argument. The United States argues that at that moment it became aware of the dirty water argument and its potential impact; it gathered facts on the issue through Rural Development; and it prepared the motion to intervene. The Court agrees that the motion to strike and Judge Bramlette's order denying the motion to strike placed the issue in a posture such that the Court finds that the motion is not untimely. The Court further finds that Defendants have failed to demonstrate how they would be prejudiced by the intervention. The Court recognizes that there is potential for some delay, but otherwise there has been no argument of potential prejudice in allowing the intervention.

The Court also finds that the United States' interest in the litigation does not directly coincide with that of ACWAI and therefore it may not be adequately represented by ACWAI. The United States asserts that if as a matter of law Defendants are permitted to provide non-potable (dirty) water to customers in ACWAI's certificated area, this would result in a reduction in ACWAI's revenue stream and would thus affect its ability to re-pay its loans. Moreover, the United States argues that such an outcome may be a violation of 7 U.S.C. § 1926. If Defendants prevail on their dirty water argument, the United States asserts that there could be a wide-ranging effect on provision of water to rural areas throughout the country. Hence, the United States is not merely protecting common interests with ACWAI, but is protecting the interests of a wider range of United States citizens. See Sierra Club v. Glickman, 82 F.3d 106, 110 (5th Cir. 1996); Southeast Winston Rural WaterAss'n v. City of Louisville, 303 F.Supp. 974 (N.D.Miss. 1969).

The Court finds precedent for allowing intervention. In Southeast Winston Rural Water Ass'n., cited above, a United States District Court allowed the United States to intervene in a dispute regarding exclusive water service and § 1926. The court at least implicitly found that the interests of the United States and the interests of the rural water association were distinct. Specifically, the court cited to the government's brief in which it argued that the water association sought to protect its "commercial integrity", while the United States sought to protect the congressionally

declared policy of making water service available to rural residents. See 303 F.Supp. at 979. The court ultimately allowed the intervention and found that "the disposition of the controversy may impair or impede the ability of the United States to protect its interest." Id.

The United States was also allowed to intervene in a 1980 chancery court proceeding, which was later removed to federal court, involving the City of Natchez and ACWAI. See City of Natchez, Mississippi v. Adams County Water Association, Civil Action No. W80-7 (W.D.Miss.). The parties disputed the possible acquisition by the City of Natchez of a portion of the water system built and operated by ACWAI. As in the instant case, the United States argued that a fragmentation of the water service would affect ACWAI's ability to repay federal loans. Based on the foregoing, the Court finds that the intervention should be allowed.

\*3 IT IS THEREFORE ORDERED AND AD-JUDGED that the [91] Motion to Intervene is GRANTED and that the United States is given leave to intervene as a Plaintiff in this matter.

### SO ORDERED.

S.D.Miss.,2012. Adams County Water Ass'n, Inc. v. City of Natchez, Miss. Slip Copy, 2012 WL 4434736 (S.D.Miss.)

END OF DOCUMENT

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Fed. I.D. 73-1034582

### Email: johnp@jmacresources.com and Certified U.S. Mail

September 17, 2012

Mr. John Petrik Attorney at Law JMAC Resources 5009 139th Ave NW Williston, ND 58801

Re: Title 7, United States Code, Section 1926(b)

Dear Mr. Petrik:

We have spoken a few times by telephone regarding the prospect of organizing a meeting between our respective clients. I understand your client is West Dakota Water (an entity affiliated with JMAC Resources) ("WDW"). My client is McKenzie County Water Resource District ("McKenzie" or "District").

The McKenzie Board engaged me to review the district's formation documents associated with the origination of McKenzie, McKenzie's federal loans (existing and in process), McKenzie's physical ability to provide water service within its territory and federal statutory rights enjoyed by McKenzie's pursuant to 7 U.S.C. § 1926(b) ("§ 1926(b)").

<sup>&</sup>lt;sup>1</sup> "(b) Curtailment or limitation of service prohibited. The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event." 7 U.S.C. § 1926(b)

### Introduction - Federal Law:

As I know you are aware, § 1926(b) is a federal statute passed by the U.S. Congress in 1961. Congress intended to grant federally indebted water resource districts such as McKenzie, the exclusive right to provide water service within those areas where McKenzie has the legal right to provide water service and where McKenzie has the physical ability to provide water service or can do so within a *reasonable* period of time following a request for water service.

The 8th Circuit Court of Appeals has previously ruled that any doubts about whether a water district is entitled to the protections of § 1926(b) should be resolved in favor of the federally indebted association (McKenzie here).<sup>2</sup>

There are only four elements associated with the enforcement of § 1926(b) rights. McKenzie must show: (1) McKenzie has the legal right to provide water service under state law to the customers/area in controversy, (2) McKenzie is indebted to the federal government (during the relevant time periods), (3) McKenzie has made water service available to the water customers/areas in dispute or can do so within a reasonable period of time, and (4) other entities are selling water in competition with McKenzie or threatening to do so (to customers which McKenzie has made service available or can do so within a reasonable period of time). I view your client WDW as being an entity which is threatening to provide competitive water service within McKenzie's federally recognized service area.

All evidentiary uncertainties as to whether McKenzie can prove/show these four (4) elements should be resolved in favor of McKenzie.<sup>3</sup> This means that there is a presumption that McKenzie is entitled to § 1926(b) protection. All courts that have considered § 1926(b) acknowledge that its provisions should be given a liberal interpretation that protects water districts/associations indebted to the USDA from encroachment/competition.<sup>4</sup>

§ 1926(b) protection is not limited to municipal encroachment but rather is broad in scope to preclude competition from any entity whether public or private. See for example *Moongate Water Co., Inc. v. Butterfield Park Mut. Domestic Water Ass'n* 291 F.3d 1262 (10th Cir.2002). In

<sup>&</sup>lt;sup>2</sup> "Finally, any "[d]oubts about whether a water association is entitled to protection from competition under § 1926(b) should be resolved in favor of the FmHA-indebted party seeking protection for its territory." Sequoyah County Rural Water Dist. No. 7 v. Town of Muldrow, 191 F.3d 1192, 1197 (10th Cir.1999) (citations omitted). Congress enacted section 1926(b) to encourage rural water development and to provide greater security for FmHA loans. See id. at 1196. Therefore, our holding is supported by the policy underlying the federal statute." Rural Water System No. 1 v. City of Sioux Center 202 F.3d 1035, 1038 (8th Cir.2000)

<sup>&</sup>lt;sup>3</sup> "As noted above, <u>evidentiary uncertainties</u> should be resolved in favor of Plaintiff, the party seeking to protect its territory, on remand." Sequoyah County Rural Water Dist. No. 7 v. Town of Muldrow 191 F.3d 1192, 1206 (10th Cir.1999) (emphasis added)

<sup>&</sup>lt;sup>4</sup> Bluefield Water Ass'n, Inc. v. City of Starkville, Miss. 577 F.3d 250, 252 (5th Cir.2009).

Moongate, the encroacher was a <u>privately owned water company</u> that was selling water in competition with Butterfield. Butterfield was indebted to the USDA. The federal district court enjoined Moongate from selling water in competition with Butterfield pursuant to § 1926(b). This decision by the district court was affirmed on appeal to the 10th Circuit.

It is important to note that § 1926(b) preempts all state and local laws which function to frustrate or deny McKenzie's right of exclusivity under § 1926(b). When North Dakota authorized McKenzie to borrow money from the federal government the State of North Dakota accepted all of the federal statutory and regulatory restrictions associated with such borrowing.<sup>5</sup> (§ 1926(b) is "Spending Clause" legislation.) This federal preemption serves to functionally nullify the granting of any franchise or permit by local or state government which functions to allow some other entity (public or private) to sell water in competition with McKenzie.

McKenzie has in the past, and continues to provide "industrial" water service in addition to domestic potable water service. McKenzie is in the process of expanding its industrial capacity to satisfy anticipated future demand. You will note that § 1926(b) is intended to protect the "service provided or made available" by the federally indebted entity. Because McKenzie provides both domestic and industrial water service, both aspects of such service would fall within the scope of § 1926(b) protections.

I anticipate that WDW may attempt to draw a distinction under § 1926(b) between sales of raw water and treated water. For purposes of § 1926(b) I see no meaningful distinction between water that has received no treatment whatever, and water that has been treated to some degree. The

<sup>&</sup>lt;sup>5</sup> "We held that "where the federal § 1926 protections have attached, § 1926 preempts local or state law that can be used to justify ... encroachment upon [a] disputed area in which an indebted association is legally providing service under state law." *Id.* at 715 (emphasis added) (internal quotation marks and brackets omitted). In other words, a state or local government may not act "to take away from an indebted rural water association any territory for which the association is entitled to invoke the protection of § 1926(b)." *Id.* at 716 (emphasis added)." *Moongate Water Co., Inc. v. Dona Ana Mutual Domestic Water Consumers Ass'n* 420 F.3d 1082, 1090 (10th Cir.2005).

<sup>&</sup>quot;Application of § 1926 to the facts of this case is similarly consistent with the limits of the Spending Clause. "Congress' spending power enables it to further broad policy objectives by conditioning receipt of federal moneys upon compliance by the recipient with federal statutory and administrative directives." Kansas v. United States, 214 F.3d 1196, 1198 (10th Cir.2000) (quoting Fullilove v. Klutznick, 448 U.S. 448, 474, 100 S.Ct. 2758, 65 L.Ed.2d 902 (1980))." Glenpool Utility Services Authority v. Creek County Rural Water Dist. No. 2, 861 F.2d 1211, 1216 (10th Cir.1988)

<sup>&</sup>quot;Oklahoma thus authorized District No. 2 to borrow from the federal government and to enter into any required agreements in connection with those loans. In so borrowing, Oklahoma-through its authorized entity District No. 2-bound itself and all of its subdivisions, including the City of Glenpool, to the conditions it had accepted." *Glenpool*, 861 F.2d 1211 (10th Cir.1988)

level or extent of treatment is irrelevant in the context of § 1926(b). § 1926(b) has been broadly construed to accomplish its purposes. "Fine line distinctions" or narrow interpretations of § 1926(b) have been uniformly rejected by the Courts. Drawing any distinction between the physical character of water being sold, would simply constitute some effort to create a "loophole" in the statute. In City of Madison, Miss. v. Bear Creek Water Ass'n, Inc. 816 F.2d 1057, 1059 (5th Cir.1987) the 5th Circuit described § 1926(b) as an "absolute prohibition", forbidding any efforts to create a loophole or circumvent the law.

At least one purpose of the statute is to cause McKenzie to expand to obtain the maximum number of customers as is possible so that McKenzie will achieve an economy of scale. See James Island Public Service Dist. v. City of Charleston, South Carolina 249 F.3d 323, 330 (4th Cir.2001). Another purpose (as noted in James Island) is to protect McKenzie's ability to repay its federal loans. § 1926(b) protection has the further indirect beneficial effect of protecting McKenzie's ability to repay it state loans and other contractual obligations.

Lastly on the issue of industrial water sales, I have had prior experience with another § 1926(b) protected water district in North Dakota relative to its § 1926(b) rights associated with the industrial sale/use of non-potable water. There was no serious dispute that § 1926(b) was applicable to such industrial water sales and the issue was resolved amicably.

### **Settlement Negotiations With Competing Water Providers:**

McKenzie is permitted (subject to USDA regulations) to sell or license portions of its facilities or territory to competitors. Any such sale or license, and the amount of compensation to be received by McKenzie from such purchaser(s)/licensee(s) <u>must be approved by the USDA</u>. In *City of Madison, Miss. v. Bear Creek Water Ass'n, Inc.* 816 F.2d 1057, 1060 (5th Cir.1987) the Court held:

<sup>&</sup>lt;sup>6</sup> "To read a loophole into this absolute prohibition, as Madison would have us do, and allow a city to do via condemnation what it is forbidden by other means, would render nugatory the clear purpose of § 1926(b)." City of Madison, Miss. v. Bear Creek Water Ass'n, Inc. 816 F.2d 1057, 1059 (5th Cir.1987)

<sup>&</sup>lt;sup>7</sup> "Section 1926(b) protects from curtailment or limitation not only the ability of James Island to pay its federal debt, but also the "service provided" by the District. 7 U.S.C. § 1926(b) (emphasis added). Thus, § 1926(b) safeguards James Island's "ability to repay its federal loan and to provide low per [luser cost to its customers." Bell Arthur Water Corp. v. Greenville Utils. Comm'n, 173 F.3d 517, 524 (4th Cir.1999). "[B]oth of these goals depend on economies of scale and maximization of [the district's] entire customer base, and can only be accomplished by treating the protection as applicable to the entire service area rather than merely the increments improved by the loan." Id. See also North Alamo Water Supply Corp. v. City of San Juan, 90 F.3d 910, 915 (5th Cir.1996). James Island Public Service Dist. v. City of Charleston, South Carolina 249 F.3d 323, 330 (4th Cir.2001) (emphasis added)

"Our interpretation of § 1926(b) is also inferentially supported by FmHA regulations regarding the transfer of water facilities subject to FmHA liens. These regulations require that any transfer must be approved by FmHA to insure that services will not be curtailed and that repayment of the FmHA loans is not jeopardized. 7 C.F.R. 1951.209, 1951.214 (1986). The regulations also suggest an alternate means by which the city might acquire the facilities it desires, in the context of a consensual sale."

Nearly all § 1926(b) disputes are eventually settled. Settlements my firm has negotiated in the past, have been varied to meet the needs of the client and the competitive water seller. Most often the settlement has been premised on payment by the competitor of a license fee for permission to sell water within the district's territory. The fee has been calculated in a variety of ways and can be volume based (royalty calculated on a price per thousand gallons basis). USDA has adopted a flexible policy in approving such settlement arrangements. In the past 23 years I have never seen the USDA refuse to approve a settlement that was proposed by a district.

This letter is not intended to suggest or indicate that any firm decision has been made by McKenzie wherein it will grant WDW permission or a license to provide water service inside of McKenzie's protected service area. However, I understand that McKenzie is willing to meet and discuss the matter with representatives of WDW.

### Evidence Supporting the Four (4) Elements Of § 1926(b):

### 1. Legal Right Of Mckenzie To Sell Water in McKenzie County

North Dakota statutes grant McKenzie extensive powers which include the legal right and power to sell water. This legal right element of § 1926(b) is rarely challenged in court actions. I find no basis which would support a challenge here.

Some courts include within this first element the requirement that McKenzie demonstrate it is a "qualifying entity". McKenzie was formed in accord with state law for purposes which satisfy § 1926. McKenzie would not have been able to borrow money from the USDA if it was not a "qualifying entity", thus this element is satisfied.

### 2. McKenzie Is Indebted To The Federal Government (USDA)

I have reviewed USDA loan documentation provided to me by McKenzie. McKenzie satisfies the federal debt requirement of § 1926(b).

### 3. McKenzie Has Made Water Service Available

Engineering data, including maps, location of water delivery facilities, and expansion of those facilities currently in process provided to me, as well my discussion with McKenzie's engineer, indicate that McKenzie is currently providing industrial water service and has made industrial water service available as those terms have been interpreted by the Courts when construing § 1926(b). The "made service available" element is usually a "customer by customer" analysis.

Therefore as new customers appear in the future, each such customer must be reviewed by McKenzie's engineer.

### 4. Existence Of Or Threatened Competitive Water Sales

McKenzie has provided to me sufficient information for me to conclude that third parties are planning to sell water in competition with McKenzie, namely WDW.

As noted above, these four (4) factual issues are construed in a light most favorable to McKenzie. To the extent a competitor of McKenzie suggests or claims that there is doubt regarding whether McKenzie has or can satisfy the four (4) elements listed above, all such doubts should, as a matter of 8th Circuit law, be resolved in favor of McKenzie.

### Defenses To Enforcement of § 1926(b) Rights:

§1926(b) allows very few defenses because it is deemed a "public policy" statute. Equitable defenses such as waiver, laches and estoppel are not permitted. The 5th and 7th Circuits have refused to allow equitable defenses to a § 1926(b) suit.

#### Remedies:

McKenzie has available to it extensive remedies under § 1926(b). These remedies include but are not limited to the granting of an injunction preventing/forbidding competitive water sales, damages for any past water sales and forfeiture of infrastructure utilized by the competitor to violate § 1926(b). As noted in *North Alamo*, federal courts have broad discretion to fashion a suitable remedy. In addition to these remedies, to the extent any competitor is utilizing state powers and is considered a "state actor", McKenzie is entitled, pursuant to 42 U.S.C. § 1983, to an attorney fee award and its costs of litigation against the competitor if suit is filed.

<sup>&</sup>lt;sup>8</sup> Jennings Water, Inc. v. City of North Vernon, Ind. 895 F.2d 311, 317 (7th Cir.1989)

<sup>&</sup>lt;sup>9</sup> "At least one circuit court has refused to apply principles of equity to block application of the statute, arguing that the very strong public interest promoted by § 1926(b) is more important than individual equitable concerns. See Jennings Water, Inc. v. City of North Vernon, 895 F.2d 311, 316-17 (7th Cir.1989) (equitable estoppel). We agree. We have previously refused "[t]o read a loophole into this absolute prohibition" provided by § 1926(b), Bear Creek, 816 F.2d at 1059, and we will not begin now." Post Oak Special Utility Dist. v. City of Coolidge, TX 1996 WL 556992, 4 (5th Cir.1996).

<sup>&</sup>quot;We conclude that in <u>ordering the transfer of the infrastructures to the Utility</u>, the district court did not abuse its discretion. Rule 54(c) vests district courts with broad discretion to fashion a remedy, even if the remedy awarded is not specifically requested in the prayer for relief." *North Alamo Water Supply Corp. v. City of San Juan, Tex.* 90 F.3d 910, 918 -919 (5th Cir.1996) (emphasis added)

### Conclusion:

This letter is intended to frame the legal issues which may be the topic of discussion between McKenzie and WDW. It may be helpful to speed the negotiation/discussion process between WDW and McKenzie for WDW to provide information regarding where specifically it would like to sell water (inside of McKenzie's federally protected service area). Please note that McKenzie's federally protected service area, is not limited to McKenzie County and not limited to the political boundaries of McKenzie. Its federally recognized service area is that area where McKenzie has the legal right to sell water, and where McKenzie has made water service available or can do so within a reasonable period of time.

I look forward to working with you and your client to achieve an amicable resolution that is advantageous to both McKenzie and WDW.

Best regards,

Steven M. Harris

1682-2.Petrikltr:tf

cc: Board of Directors of McKenzie



### MCKENZIE COUNTY, NORTH DAKOTA

Water Resources District Board

205 6th St. NW - (Mailing addr.) 201 5th ST. NW, Suite 1456 Watford City, ND 58854

Tel: 701-842-2821 • Fax: 701-842-2822

Denton Zubke, Cheirman PO Box 927 Walford City, ND 58854-0927 701-444-6484 work 701-842-3081 home dentonz@dakotawestcu.org January 4, 2013

Dale Behan Lindale Pipeline, LLC 600 N. Carroll Avenue Southlake, TX 76092

Gene Veeder,Vice-Chairman PO Box 699 Watford Cily, ND 58854-0699 701-444-2804 gveeder@co.mckenzie.nd.us Re: Request for approval of 3 McKenzie County, North Dakota irrigation ponds

Dear Mr. Behan,

Lee Tjelde,Board Member 14984 HWY 200 Cartwright, ND 58838 701-828-3008 glaseyes@yahoo.com At the McKenzie County Water Resource District (MCWRD) meeting on December 18, 2012, your representatives from Epic Engineering presented a request for the approval of the construction of three containment ponds to impound water for irrigation purposes, to provide for irrigation of adjacent farmland.

Leif Jeliesed, Board Member 10561 HWY 1806 E New Town, ND 58763-9084 701-675-2490 Jeliesed@restel.net Given the State's anti-corporate farming law and the fact that we have not previously heard that Lindale Pipeline was in the business of supplying irrigation waters supplies, MCWRD wants to reiterate that these impoundments cannot be used for any industrial water supplies. Be advised that the MCWRD's approval of these three impoundments is specifically contingent upon and conditioned upon the fact that they are solely for storage of irrigation water and to be used for irrigation purposes. As MCWRD has previously advised you, the Lindale Pipeline LLC's plan to sell industrial water within McKenzie County violates the MCWRD franchise territory protection afforded by federal and state law. In addition to the federal franchise protection afforded by 7 USC 1926b, MCWRD's industrial water sales franchise is protected by two state-statutes since MCWRD has outstanding loan: financed by the North Dakota Public Finance Authority (NDCC 6-09.4-22) and/or funding through the State Water Commission (NDCC 61-02-68.18).

Lane Haugen, Board Member 14914 Hwy 68 Alexander, ND 58831 701-828-3555 home 406-489-1704 cell

You are hereby advised that, to the extent the ponds are used for any industrial water to be sold in McKenzie County, it will be a violation of the terms and conditions of this permit approval and will subject you to immediate enforcement action in the form of a permanent injunction to prohibit use of the ponds as well as any and all other remedies available pursuant to state and federal law.

Clint Hecker Assistant Manager Watford City,ND 58854 701-842--2821 701-290-6791cell checker@co.mckenzie.nd.us

Very truly, yours,

Denton Zubke MCWRD Chairman LAW OFFICES

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Fed. I.D. 73-1034582

### E-Mail (mmoore@bppw.com) and U.S. Mail

January 29, 2013

Michael J. Moore Brown, Pruitt, Peterson, and Wambsganss P.C. Attorneys and Counselors at Law 801 Wells Fargo Tower 201 Main Street Fort Worth, Texas 76102

Dear Mr. Moore:

For some reason I did not receive the attached email message directly from you. It was forwarded to me by others.

As I explained in my letter to you (attached with exhibits) McKenzie County Water Resource District's (MCWRD) cancellation/retraction of its approval of the three (3) ponds at issue was premised on the failure of the condition precedent for the original approval.

This action by the Board does not preclude the land owner or others from submitting a new application which will be independently considered by the Board.

Best regards,

1682-2.mooreltr2:tf

Steven M. Harri

cc: Denton Zubke, Chairman

From: Michael Moore [mailto:mmoore@bppw.com]

Sent: Monday, January 28, 2013 3:27 PM

To: steve.harris@1926blaw.com; dentonz@dakotawestcu.org; Tami L Norgard

Cc: Dale Behan; kwalker@epiceng.net; bill@premiernwe.com

Subject: FW: Message from KMBT\_601

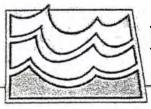
Steve- thank you for this attached package with regard to McKenzie. The Lindale name will be changed on our end for a variety of reasons- but that is not what I am emailing about.

Specifically- I did say and these pits that our located on Mr. Behan's private property will be used for industrial purpose. That is correct. With regard to your email "Mr. Zubke, chairman of MCWRD explained in his letter of January 4, 2013 (Exhibit 1) that MCWRD's approval of the three ponds was contingent and conditional. The condition/contingency was that the ponds must not be used for industrial purposes. As a result, the condition/contingency has failed. MCWRD intends to proceed to cancel/retract its prior approval of the ponds at its next regular meeting of the Board of Directors of MCWRD."

Obviously- with the letter included in this packet- these SWC was notified/worked with on their construction. My question is what is the denial above going to be based on? (code, statute, rule, etc. or is it just 1926(b)?

Thanks-

Mike



## North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850 701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: http://swc.nd.gov

## WATER APPROPRIATION DIVISION (701) 328-2754

February 7, 2011

Ms. Alice Simonson Box 512 Watford City, ND 58854

Dear Ms. Simonson:

Denton Zubke has mailed us the 2010 report of annual water use at your water sales depot, as per Water Permit Nos. 3882 and 6106. On the form for Permit No. 6106, Mr. Zubke asks whether a note on the form will suffice as a request for an increase in pumping rate or if a separate letter is required. A separate letter is required. Section 89-03-02-11 of the North Dakota Administrative Code states, "Requests to increase a permittee's pumping rate must be made in writing to the state engineer." We have received your February 7, 2011 letter requesting the increase in pumping rate and the signed stipulation/waiver for Permit No. 3882.

In your reported 2010 industrial water use, Mr. Zubke included:

130.6 acre-feet as per Permit No. 6106,

20 acre-feet of a permitted 25 acre-feet as per Temporary Permit ND2010-4393,

19.4 acre-feet for industrial use as per Permit 3882, and

45 acre-feet allowed for irrigation as per Water Permit No. 3882,

A lower-rated type of water use, industrial, can be converted to a higher rated type of use, irrigation, but not vice versa. Permit No. 3882, which is part irrigation and part industrial, can be converted to all irrigation, but cannot be converted to all industrial. Therefore, the 45 acre-feet permitted for irrigation in Permit No. 3882 cannot be converted to industrial use. Temporary one-year conversions of ongoing irrigation water use to industrial use are being allowed in 2011. However, since you have not irrigated for the past 17 years, you have no 'ongoing irrigation use' to convert. You are therefore permitted 150 acre-feet for industrial use in 2011, 130.6 acre-feet from Permit No. 6106 and 19.4 acre-feet from Permit No 3882. Later this year, towards fall, we will review the effect the increased pumping is having on water levels in the Tobacco Garden aquifer and consider granting all or part of the remaining 69.4 acre-feet per year, keeping in mind your waiving of the 45 acre-feet for irrigation.

Sincerely,

Alan Wanek, Hydrologist Manager

an Warrell

AW:sc/3882/6106

cc: Denton Zubke PO Box 927

Watford City, ND 58854

### STATE OF NORTH DAKOTA

### **CONDITIONAL WATER PERMIT NO. 6106**

# ATTACHMENT "B" Approval of Portion Held in Abeyance

Conditional Water Permit No. 6106 is approved for the annual appropriation of 130.60 acrefeet of ground water, from the point of diversion located in the NE1/4 of Section 22, Township 150 N., Range 099 W., at a maximum pumping rate of 1,000 gallons per minute for industrial use. The remaining 69.40 acre-feet of ground water initially requested was held in abeyance.

A comprehensive hydrogeologic analysis of the permit evaluation area was conducted. It is recommended in staff memorandum dated March 15, 2012, that an additional 69.4 acrefeet of water held in abeyance be approved. All parties of record on the permit were notified of the recommendation, and the deadline to submit comments or concerns was 5:00pm, Wednesday, May 16, 2012. The only comment received was from Rodney Johnsrud, who stated he was not requesting a hearing in regard to the application.

Therefore, on Monday, June 11, 2012, the State Engineer approves the following:

An additional 69.4 acre-feet of water, which was previously held in abeyance.

Conditional Water Permit No. 6106 is hereby approved for the following:

200.0 acre-feet of ground water annually, from the point of diversion located in the NE1/4 of Section 22, Township 150 N., Range 099 W., McKenzie County, at a maximum pumping rate of 1,000 gallons per minute for industrial use.

All other provisions and conditios stipulated on the water permit shall remain unchanged.

SEAL



Todd Sando, PE State Engineer

Date: June 11, 2012

SCANNI

Application	No.	6209	

### STATE OF NORTH DAKOTA APPLICATION FOR CONDITIONAL WATER PERMIT

NOTE: Use one application for each type of source (ground water, surface water). Check all appropriate boxes and fill in each blank line. If the question is not applicable to your proposed development, enter NA (not applicable). If more space is necessary, attach additional sheets.

(PLEASE TYPE OR PRINT IN INK)

1. Name of Applicant

1. 1	Name of Applican	STORME TO THE		ALICE SIMONS	ON FAMILY	TRUST	CESSER
P	Mailing Address_			BO)	(512		
(	Oity	WATFORD CITY	Lann.	State	ND	Zip	58854
F	Phone: 701-842-	3517 (Home)_		(Cell)		(Work)701	-570-4043 (Other)
E	mail: dentonz@d	akotawestcu.org	>		_		
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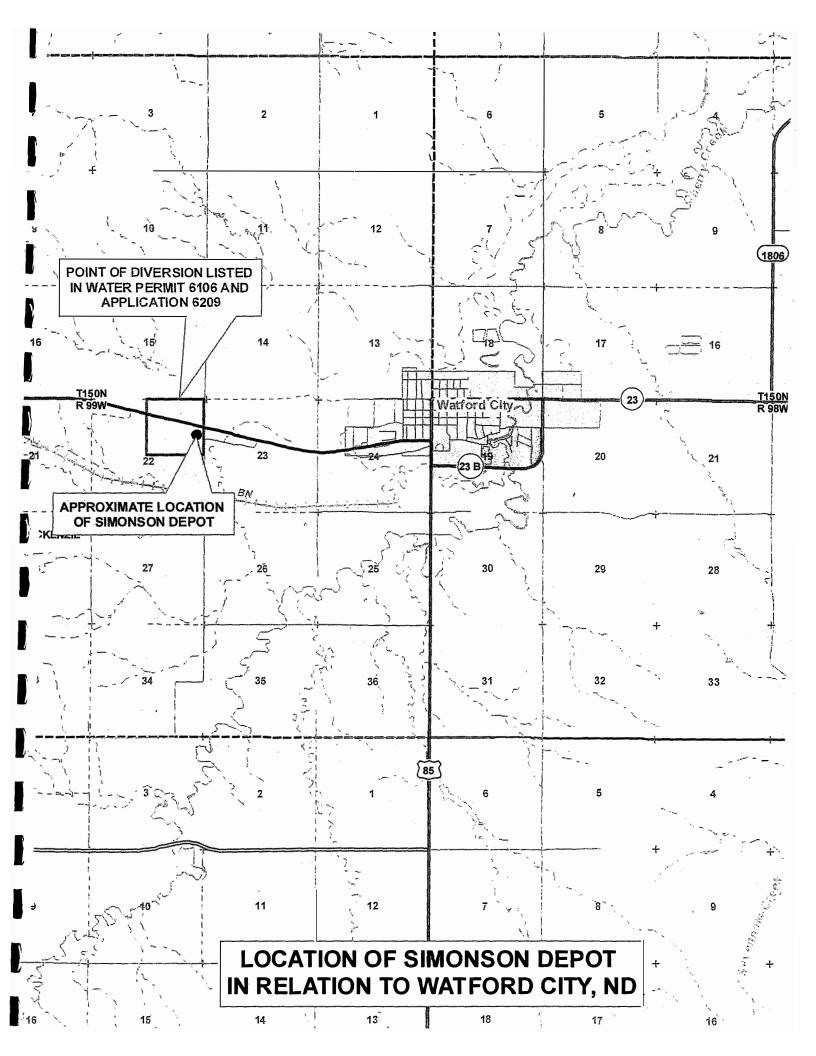
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### INDUSTRIAL USE PERMIT GROUND WATER SOURCE

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### POLICY BULLETIN NO.

SUBJECT: Availability of Project Water for Voluntary Acquisition of Right of Way

### POLICY:

To meet the Business Plan, WAWSA needs to acquire a significant amount of right of way in a short time period.

For property owners who voluntarily enter into easement agreements or sell property to WAWSA, WAWSA will favorably consider providing water service from the Project if requested by these property owners. If the property owner is served by a WAWSA member, the WAWSA board will recommendation to the member that service be provided to the property owner.

For any property owner who does not voluntarily grant an easement or sell property to WAWSA, where condemnation is initiated, WAWSA will likely not consider any requests for project water from the owner of the condemned property. If water service is instead provided by a WAWSA member system, the WAWSA board will likely recommend that the member deny any requests for service from that property owner.

Adopted April 18, 2012

Western Area Water Supply Project (WAWSP)
Informational/Signup Meetings Documentation (McKenzie Area)

Potential Member/User:

As stated and shown in the attached documentation WAWSP is a large regional domestic water supply project being designed and built in your area. Additional information can be obtained by going to the WAWSP web site at <a href="https://www.wawsp.com">www.wawsp.com</a>.

As part of the regional water system that will deliver water to area communities in McKenzie, Williams, Divide, Burke, and Mountrail Counties, it is also the goal of the regional system to meet all of the rural residential needs located within the overall project area. In an effort to meet that goal we have sent a meeting notification to any potential resident located within the proposed project area. Based on that mailing you have responded and requirements to become a part of the regional water system.

The initial \$1,000 dollar hook-up fee that we are requesting is to show that you are sincerely interested in obtaining water from the system and allow for the start of the preliminary design to determine feasibility of the project in your area. If it is determined that your location cannot be served by the system these funds will be return to you and you will have no further obligations to the system.

PLEASE NOTE THAT IF YOU ARE DETERMINED THAT YOU CAN BE SERVED BY THE SYSTEM AND YOU DECIDE NOT TO PROVIDE CONTINUE WITH YOUR MEMBERSHIP YOUR \$1,000 WILL BE FORFEIT (these funds are being used for the preliminary feasibility study).

The deadline for getting the membership/hookup fee submitted is May 15, 2012. The membership fee will increase to \$3,000 if paid after May 15, 2012.

It is ESTIMATED that the individual costs for participation in the regional water system will be as follows:

1. Membership/Hook-up Fee:

\$1,000 (if paid prior to May 15, 2012)

2. Membership/Hook-up Fee:

\$3,000 (If paid after May 15, 2012)

3. Estimated Water Rates Upon Water Service Availability:

a. Monthly Minimum Fee:

\$45-\$55 per month. (Does not include water)

b. Water Costs:

\$5.00-\$7.00 per 1,000 gallons.

If you still have a specific question that has not been answered you can contact us with your question at <code>Jaret:Wirtz@wawsp.com</code> or <u>Cal.Thelen@ae2s.com</u> and we will get a response to you as soon as possible.

If upon review of the enclosed documentation you have decided you wish to participate in the regional water projects, please complete the following:

- 1. Complete "Water Users Survey" (the quantity and location of water service is very important).
- 2. Execute with Notary "Water Users Agreement".
- 3. Provide \$1,000 check payable to "McKenzie County Water Resource District".
- 4. Return documents in preaddressed envelope (AE2S, 4050 Grand View Drive, Suite 200, Grand Forks, ND 58201).

Michael Moore <mmoore@bppw.com>&
To: Candace Vanwade <cvanwade@brownpruitt.com>
Emailing: 2013-01-20\_13-47-47\_145 (2)

February 11, 2013 10:06 AM

1 Attachment, 117 KB

Your message is ready to be sent with the following file or link attachments:

2013-01-20\_13-47-47\_145 (2)

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



1 Attachment, 123 KB

Your message is ready to be sent with the following file or link attachments:

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Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

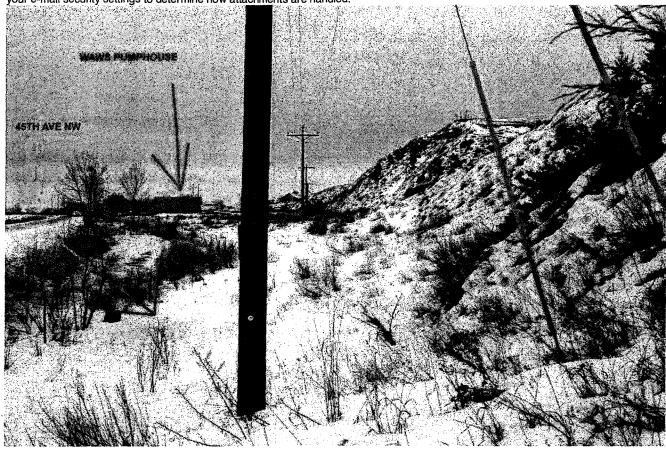


1 Attachment, 132 KB

Your message is ready to be sent with the following file or link attachments:

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Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



FACT: Passed in 2011; HB 1206 represented a compromise in public policy:

- 1. Create a public entity (WAWS) to enter private market to sell industrial water through depots
- 2. WAWS---was mandated to "minimize impacts" on private water sellers in placement of water depots
- 3.

Market was fully served; 80% by private sector; 20,000 ac.ft. of <u>new</u> competitive permits were pending in 2011.

**FACT**: Concept was to build trunk-line from Williston to other communities; strategically place water depots along trunk-line for water sales and reduce truck traffic. A super-structure (of lateral pipelines to oil wells, turn outs, private truck ports) across northwest ND was NOT part of the deal approved by the Legislature in 2011.

FACT: Project cost has grown from \$150 million to \$350 million in 2 years. Current debt: \$110 million + \$35 million assumed from participating entities. (Pending: \$40 million HB 1140, ½ of \$79 million in HB 1020).

FACT: Project was to be paid over 20 years; HB 1206—lays-out 23 year pay-back. (See #2,3,4 of HB 1206).

**FACT:** WAWS (or its members) has threatened private water development with lawsuits, confiscation of property, threatened landowners with eminent domain, and written letters to Corps of Engineers, the Governor and State Engineer interfering with private water development and threatening ND access to Lake Sakakawea.

FACT: After all the debts are paid---financed by ND taxpayers---WAWS gets to keep all the money (less 5%).

<u>THE WAWS PROBLEM</u>: WAWS needs sufficient industrial water to pay its loans from the people of ND. WE AGREE. WAWS does not need to dominate the market—was not created to do so, but views itself free to compete for as much water, as quickly as it chooses---impacting the private sector. THAT is the problem.

### **HOW DO WE SOLVETHIS?**

**KEY principles to solve THE WAWS PROBLEM:** 

- Slow down (get it right)---trunk line to cities is in. (Growth-well underway before 2011-not a surprise)
- 2. Limit the amount of additional debt it acquires
- 3. Caution on population projections. (We needn't build today, for people who might arrive in 2025).
- 4. Reasonable water rates to northwest ND (comparable to rest of state)
- 5. Sufficient industrial water sales to provide debt service (approximately 20-30%)
- 6. Meaningful SWC approval/oversight of rural build out (current oversight is a fiction—and impotent)
- 7. Resolve 1926 (b) -state and federal version
- 8. Value engineering; independent assessment of rural water demand and a financial Audit on the project

### **SPECIFIC REQUESTS:**

- 1. Support SB 2359 with amendments to remove 10 mile barrier around WAWS depots
  - a. Industrial sales by 12 depots approved by SWC
  - b. May not restrict other water development for industrial use
  - c. Attempts to make clear---project is subject to SWC approval
  - d. Imposes 30% cap on WAWS for industrial sales; (SHOULD BE 25%)
  - e. But, imposes unworkable 10 mile barrier around WAWS depots, (REMOVE)
  - f. grandfather exemption to permit holders selling by 7/01/2013 (REMOVE)
- 2. Amend HB 1020 (SWC appropriations) as follows:

For new funds authorized to western area water supply authority in 2013-2015:

a. Prior to any expenditure or commitment of funds for rural and domestic water supply the State Water Commission shall obtain independent verification of the local domestic or rural water

- demands and the design and specifications of the system required to meet the demand, in a schedule and manner as determined by the Commission.
- b. All funds must be used exclusively to meet municipal and rural water needs. Funds and infrastructure resulting from said funds may not be used for industrial water supply.

Michael Moore <mmoore@bppw.com>
To. Candace Vanwade <cvanwade@brownpruitl.com>
(No Subject)

From: Ed Schafer [mailto:ed@extendamerica.com]

Sent: Tuesday, March 15, 2011 5:31 PM

**To:** 'Ron Ness'; Cramer, Kevin; 'Mike Cantrell'; 'Scott Hennen'; 'Ed Schafer' **Subject:** RE: Western ND legislators look at \$300M regional water pipeline

Hi All. I really appreciate Kevin calling this project like it is---a government takeover of something that could be easily met in the private sector. I have long been worried about The Petroleum Council's support for the \$150-200 million water project. Spending tax payers money on a water treatment plant to the tune of \$50 million falls well within the parameters of public works, but the next \$100-150 million competes directly with the private sector. And now the new proposal from so called Republicans wants to do even more! This is a perfect example of what happens when there is too much money available to legislators. They dream up ways to spend it and try to figure out how to solve problems with tax payers money instead of incenting the private sector and stimulating market forces to get the work done. Sure one can make the case that water is a public resource and those arguments can be made for our oil resources also. But the development of water resources in the public sector clearly should be focused on municipal delivery of good, safe, clean water. On this project specifically and the argument of using this project to get water to western North Dakota municipalities, that project has already been designed. The Northwest Area Water Supply (NAWS) project mirrors the Southwest Water Pipeline project which has been tremendously successful in water delivery to municipalities in the southwestern part of the state. Why would we duplicate a project that is already on the books. The hang-up with that project is the Canadian Government's objections. It isn't the Corps holding up the show it is the 1909 Boundary Waters Treaty Act between the USA and Canada. And it is naive to think that the Corp will not have anything to say about removing water from the Missouri River. And at the very first mention of this project, the State of Missouri will be on the Corps to stop the project under the Missouri River management authority for the Dam structures because they claim that removing water upstream affects their water delivery. The other downstream states will join the complaint and the politics of upstream/downstream states will hold up the project for years. And it has been my experience that the downstream states have more political clout than we do and we usually lose our battles with water projects. So we have the Canadians to deal with and the down-stream states too. So my point is if we need water delivery to municipalities in the northwestern part of the state, why don't we just figure out how to get the existing NAWS project on the road. The Canadian's objections are that we are transferring water from one watershed to another and this might lead to biota transfer on the Canadian side of the watershed. Their arguments are without merit but because of the Treaty they are able to hold up the show. The project design is to pipe the water to the Minot treatment facility and distribute the water north and west from there. The Canadians are demanding a treatment facility at the beginning of the pipe where the water comes out of the big lake! Wouldn't a smarter approach to water delivery be to build the water treatment plant lakeside which would overcome the Canadian objections. It would be a lot cheaper than the \$300mm that is being proposed. It seems to me the only historic opportunity

here is for Republicans who have lost their conservative values to tread into water where they shouldn't go! Jeesh!---is Kevin the only conservative left in the Capitol? E

Ed Schafer 4426 Carrie Rose Lane 701.367.4344 ed@schafer.net To: Candace Vanwade <cvanwade@prownpruitl.com>
(No Subject)

# North Dakota Senators Should Oppose The Western Area Water Supply Project

Kevin Cramer · March 16, 2011

Share |

The following is a guest op/ed submitted by North Dakota Public Service Commissioner Kevin Cramer.

While solving problems is a noble goal for government, it should never intrude on free enterprise. President Reagan once said, "Government does not solve problems, it subsidizes them."

Republicans were swept into power in 2010 largely as a result of the government's overreach into private enterprise.

Obamacare accompanied by intrusion into the <u>auto industry</u>, <u>financial services</u>, <u>housing</u>, <u>student loans</u>, and attempts at energy choice all contributed to the power shift in Washington.

In North Dakota, state senators are considering a bill that would put the government in direct competition with private enterprise by guaranteeing bonds to <u>finance</u> a pipeline project designed to deliver water to the oil industry. The proposal is called the Western Area Water Supply Project (HB 1206) and would pump water from the Missouri River to be sold to cities and oil companies. While the state may have a legitimate role in facilitating the <u>delivery</u> of potable water for human consumption, it has no <u>business selling</u> it to the oil industry when individual entrepreneurs are already doing it or building the infrastructure to do it better and more efficiently.

Proponents of the plan say it cannot go forward without a guarantee. They also say it is a rare opportunity to get a <u>water project</u> paid for by private industry. If the oil industry is certain to pay the project off, why does it require a guarantee from taxpayers?

Private <u>pipeline companies</u> are already building projects to deliver water from Lake Sakakawea to the oil patch for hydraulic fracturing. The price they are offering is less than the WAWSP needs in order to pay off the state <u>debt</u>. That means either the government project will not be price competitive and taxpayers will be on the hook for a failed business, or the government will undercut the private sector, sending <u>the entrepreneurs</u> packing until the state has a monopoly on water sales in the oil patch. After which the government can charge whatever it wants or needs to cover the debt.

Our entire system of freedom was founded by skeptics of government intrusion. Thomas Jefferson said, "I predict future happiness for Americans if they can prevent the government from wasting the labors of the people under the pretense of taking care of them."

I encourage our senators to approach this issue with caution and resist the temptation to take care of things already being taken care of.

Mr. Mayor,

My name is Mitchel Brown. Perhaps you have heard of me, perhaps not. I am the completion consultant that worked on the Brigham Exploration wells in North Dakota. And, yes, I am the one that began the large multistage frac work that is now the dominant practice in the Bakken. I now am the owner of a consulting firm in North Dakota that employs a 180 employees in and around the Williston area. My companies name is MLB Consulting. The majority of my work is with StatOil. I am also the one that brought Mr. Behand and his company to Williston. When the Bakken play began, there was no one that could help us in North Dakota with the water issues we faced and no one was even interested in attempting to move water for us at sub zero temperatures. But with a little bit of country ingenuity, we learned how to do it very proficiently. And that is how the water permits and pipelines were born. It bothers me to see the WAWSA project trying to "bully" the common man out of business for the benefit of an already corrupt government system that will inevitably fail due to the corruption. I say this because I have built a house south of 1804 and west of county rd 9, about 1 mile south and west of the Stoney Creek Township hall. I have been patiently awaiting the rural water to be brought close enough for me to afford to get it tied into my house. My patience has allowed me to witness the delivery of water to Continental wells thru the system that would deliver the water to my house, but I assume it has been more profitable to deliver it to a major operator than to the common man. The idea of forcing the common man out is being taken to new levels by catering to the industry instead of the people that need it the most.

Sincerely, Mitchel L. Brown President MLB Consulting, Inc. 940-389-4252

Hoeven Press Release HB 1020 3-26-13

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### Hoeven says diversion project set for Senate floor

11 HOURS AGO · ASSOCIATED PRESS

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FARGO, N.D. — U.S. Sen. John Hoeven provided a spark for flood-fatigued officials in his home state Monday, announcing that a measure that authorizes a proposed Red River diversion project should reach the Senate floor in April or May.

The North Dakota Republican said language for the proposal was approved last week by the Senate Environment and Public Works Committee. He believes the bill to approve the nearly \$2 billion project will pass the Senate, and then it would go to the House. Authorization means construction can begin, but the federal funding will need to be appropriated each year to cover the cost of construction, which is shared by local, state and federal governments.

"This was a huge hurdle for us," Hoeven told a group of more than two-dozen federal, state and local officials who gathered to plan for what could be the Fargo area's fourth major spring flood in five years. "We've taken a big step toward getting the diversion authorized at the federal level."

The White House has signed off on a 36-mile diversion channel that would move water from the north-flowing river around the Fargo and Moorhead, Minn., metropolitan area of about 200,000 people. But the project needs approval from Congress.

"Sen. Hoeven, thank you for the good news," North Dakota Gov. Jack Dalrymple told his fellow Republican.

But there are unanswered questions about funding. The original plan called for the federal government to pay \$785 million for its share of the diversion, leaving a \$985 million tab for state and local entities. Some North Dakota lawmakers have been unwilling to back to the project until they get a federal commitment.

Fargo Mayor Dennis Walaker bristled Monday when asked about legislators and others who don't think the diversion is needed.

"It's not needed? These people must be living in a cocoon as far as I'm concerned," Walaker said. "Come on guys, get your head out of the sand. You have to understand what this is about."

Dalrymple said he expects a provision in a state bill that wouldn't allow money to go toward home buyouts or the diversion project to be changed. The city of Fargo has been in the process of buying out homes in low-lying areas for several years, depending on the money it has available.

"I think the (state) Senate is going to alter the language in the bill to make it clear that Fargo funds can be used for whatever purpose they want to use them for," Dalrymple said.

The National Weather Service said the Red River has 50 percent chance of reaching 38 feet in the Fargo area — 20 feet above flood stage. The top five crests in the area were 40.84 feet in 2009, 39.72 feet in 1997, 39.10 feet in 1897, 38.81 feet in 2011 and 37.34 feet in 1969.

Area officials feel they can handle a 38-foot flood without any damage to structures. Fargo has spent \$100 million on flood protection since the 2009 flood, buying out hundreds of homes in low-lying areas and

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building about 20 levees. Moorhead has invested more than \$88 million on similar projects in the last four years.

Even so, city and county officials outlined plans Monday to fill more than 1 million sandbags when "Sandbag Central" opens on April 3. Fargo is moving its garbage trucks out of a storage warehouse to make room for three machines that can fill 5,000 bags an hour.

Walaker said the preparation and cleanup takes a toll on residents.

"This is getting to be an almost ridiculous process that we have to go through each and every year," Walaker said. "People aren't getting a rest. We got one in 2012 and I was hoping we would get one in 2013."

Dalrymple told officials that the state will provide enough money to help with flood protection and expressed confidence in the city's ability to hold back high water.

"Fargo has the best flood-fighting team in the United States," the governor said.

Between early and late March, the weather service increased its crest prediction by 4 feet partly because of two late winter storms that added to an above-normal snowpack.

Dalrymple said he was hoping to see black dirt — instead of snow — as he flew over the eastern part of the state Monday.

"Unfortunately I couldn't find any," he said.

### NDLA, S APP ASST - Laning, Rose

Dave Laschkewitsch #1

From:

Laschkewitsch, David A.

**Sent:** Monday, March 25, 2013 10:54 AM **To:** NDLA, S APP ASST - Laning, Rose

Cc: Sandness, Sheila M.; Sando, Todd S.; Fridgen, Patrick M.

Subject: Water Commission - Additional Costs Due to Removal of General Funds

**Attachments:** Century Code References.pdf; HB 1021.pdf

Good Morning Rose,

Senator Holmberg asked that I document additional costs that would result from the removal of the Water Commission's general fund dollars. Please distribute this to the sub-committee members. The three areas that come to mind are our reimbursements to the State Auditor for agency audits; our reimbursements to the Attorney General's office for legal services; and our payments to the Office of Management and Budget for rent. These costs are allocated so that general funds are not used to pay them. Eliminating the Commission's general funding would change the small percentage that we currently pay to 100% of the costs. I have attached the sections of the Century Code that reference these payments.

The State Auditor's last billing is based on the actual hours worked. The Commission was billed \$5,462, which was a percentage of the actual costs attributed to our audit. If we had to pay the full cost it would have been approximately \$32,000 dollars. We are audited twice each biennium and estimate that we would pay an additional \$26,500 per audit. We would need an additional \$53,000 in our budget to pay these costs.

The Attorney General's office provides our attorney services. We have one attorney assigned to us and use this person full time. The billing rate is \$77.23 per hour. We estimate that we would be billed 2080 hours per year (2080 X 77.23) for \$160,638. This needs to be doubled for the biennium so an additional \$321,276 would be needed.

The last billable item would be the rent. The full bill for rent would total \$245,842.23 per year or \$491,684.46 per biennium. The Commission currently pays \$30,447.96 per year or \$60,895.92 per biennium. We would need an additional \$430,789 for rent.

The legislature has previously exempted us from the payment of these fees, however, the legislature only planned on using special funds to fund the agency for one biennium. That language is contained in 2005 House Bill 1021 Sections 12 and 15. I have also attached a copy of that bill.

If you have any questions concerning this please let me know.

Thank You, Dave Laschkewitsch

Director of Administrative Services, ND State Water Commission (701) 328-1956

### CHAPTER 54-10 STATE AUDITOR

### 54-10-01. Powers and duties of state auditor.

The state auditor shall:

- Be vested with the duties, powers, and responsibilities involved in performing the
  postaudit of all financial transactions of the state government, detecting and reporting
  any defaults, and determining that expenditures have been made in accordance with
  law and appropriation acts.
- 2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and non-general fund moneys. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.
- 3. Be vested with the authority to determine whether to audit the international peace garden at the request of the board of directors of the international peace garden.
- 4. Perform or provide for performance audits of state agencies as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits. The state auditor may not hire a consultant to assist with conducting a performance audit of a state agency without the prior approval of the legislative audit and fiscal review committee. The state auditor shall notify an agency of the need for a consultant before requesting approval by the legislative audit and fiscal review committee. The agency that is audited shall pay for the cost of any consultant approved.
- 5. For the audits and reviews the state auditor is authorized to perform or provide for under this section, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. If the state auditor determines that the audit or review will be done pursuant to contract, the state auditor, except for occupational or professional boards, shall execute the contract, and any executive branch agency, including higher education institutions, shall pay the fees of the contractor.
- 6. Be responsible for the above functions and report thereon to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
- 7. Perform all other duties as prescribed by law.

### 54-10-01.1. State auditor to audit emergency commission action.

The state auditor's office, in the course of its audits of state agencies, departments, and institutions, shall review the expenditure of funds transferred or made available by the emergency commission to such state agencies, departments, and institutions, and shall have incorporated in the financial statements of such governmental units expenditures arising from emergency commission action.

### 54-10-02. Auditor to have access to all state offices.

Except for active investigatory work product of the attorney general as defined in section 44-04-19.1, the state auditor shall have access to all state offices during business hours for the

## 54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation.

After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, the board of higher education, and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, and the state hospital.

### 54-12-08.1. Contingent fee arrangements.

The attorney general may not appoint or allow to be employed a special assistant attorney general in a civil case in which the amount in controversy exceeds one hundred fifty thousand dollars and the special assistant attorney general is compensated by a contingent fee arrangement, unless the contingent fee arrangement is approved by the emergency commission. A state governmental entity may not contract for legal services that are compensated by a contingent fee arrangement, unless the entity receives an appointment from the attorney general for a special assistant attorney general for each case in which there is a contingent fee arrangement. Any proceeding or information used by the emergency commission under this section is not subject to sections 44-04-18 and 44-04-19, unless made public by order of the emergency commission.

## 54-12-09. Assistant attorney general for board of university and school lands - Appointment - Revocation - Oath.

The attorney general shall appoint an assistant attorney general to act under the direction and supervision of the attorney general as attorney for the board of university and school lands. The appointment is revocable at the pleasure of the attorney general. Such assistant attorney general upon appointment and before assuming the person's duties shall take the oath prescribed for civil officers.

- 3. To consolidate the functions, services, and activities of state offices and agencies thereof so as to eliminate duplication of service and expense wherever it exists.
- 4. To correlate the functions and services of the several offices and agencies of the state government.
- To eliminate obsolete methods, unnecessary functions and services carried on by the state government and to render those functions and services which are determined to be absolutely essential and more economical and efficient.

### 54-44.1-15. Indirect cost recoveries from federal programs and special funds.

The office of management and budget shall develop a statewide central service indirect cost allocation plan according to federal cost allocation principles. Any state agency receiving federal funds shall seek reimbursement from the federal programs for indirect costs appropriately allocated to the agency in the plan. Any recoveries of central service indirect costs must be deposited in the state general fund at least once annually by the agency as determined by the office of management and budget. The office of management and budget may exclude an agency or agencies from the requirements of this section.

The office of management and budget may bill special fund agencies for central service indirect costs as determined in the cost allocation plan in the ratio that the agency's special funds are to its total budget. Appropriation authority to cover the billings must be included in the budgets of the special fund agencies.

## 54-44.1-16. Office of the budget and information technology department - New building construction cost-benefit analyses.

The office of the budget shall complete a cost-benefit analysis for each new building construction project included in budget requests submitted by state agencies, departments, and institutions. The analysis must review options for co-locating with other state agencies, departments, or institutions and consider information on related technology costs and savings. The office of the budget shall obtain the assistance of the information technology department, and that department shall review the technology costs and savings involved in the proposed building and provide the analysis to the office of the budget. The office of the budget shall report on the cost-benefit analyses for building projects included in the governor's budget recommendation to the legislative assembly at the same time as the governor's budget and revenue proposals are presented.

### 54-44.1-17. Bank of North Dakota transfers to the general fund - Restoration.

Notwithstanding section 54-27.2-02 and subject to the availability of funds in the general fund, at the end of the biennium the director of the budget shall return to the Bank of North Dakota any funds transferred from the Bank to the general fund in response to a projected shortfall of general fund revenues pursuant to a contingent authorization by the legislative assembly. The amount returned to the Bank as required by this section must be the amount of the contingent transfer or the unobligated balance of the general fund at the end of the biennium, whichever is less. For purposes of this section "at the end of the biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

#### 54-44.1-18. Searchable database of expenditures.

- 1. By June 30, 2011, the director of the budget shall develop and make publicly available an aggregate and searchable budget database website that includes the following information for the biennium ending June 30, 2009:
  - a. Each budget unit making expenditures.
  - b. The amount of funds expended.
  - c. The source of the funds expended.
  - d. The budget program of the expenditure.
  - e. Any other information determined relevant by the director of the budget.
- 2. The director of the budget shall include the name and city of the recipient of each expenditure in the budget database website after the director has completed

# Fifty-ninth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 4, 2005

HOUSE BILL NO. 1021 (Appropriations Committee) (At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to provide a line of credit and an appropriation for repayment; to amend and reenact section 61-02-23.3 of the North Dakota Century Code, relating to the operation of the Devils Lake outlet; to provide legislative intent; to provide water commission authority to issue bonds; to provide an exemption from payment of fees; and to authorize a cash advance from the general fund.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this section represent the base level funding component appropriated to the state water commission in section 3 of this Act as follows:

Administrative and support services	\$2,076,235
Water and atmospheric resources	<u>157,782,619</u>
Total all funds - Base level	\$159,858,854
Less estimated income - Base level	<u> 150,473,458</u>
Total general fund - Base level	\$9,385,396

**SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the state water commission which are included in the appropriation in section 3 of this Act as follows:

Administrative and support services	\$92,903
Water and atmospheric resources	(33,963,759)
Total all funds - Adjustments/enhancements	(\$33,870,856)
Less estimated income - Adjustments/enhancements	(25,485,460)
Total general fund - Adjustments/enhancements	(\$8,385,396)

**SECTION 3. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Administrative and support services	\$2,169,138
Water and atmospheric resources	123,818,860
Total all funds	\$125,987,998
Less estimated income	124,987,998
Total general fund appropriation	\$1,000,000

**SECTION 4. RESOURCES TRUST FUND - APPROPRIATION.** The sum of \$54,013,116, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act is from the resources trust fund and must be used by the state water commission for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any additional amount in the resources trust fund that becomes available is appropriated to the

state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 5. WATER DEVELOPMENT TRUST FUND - APPROPRIATION.** The sum of \$29,963,873, or so much of the sum as may be necessary, included in the estimated income line item in section 3 of this Act is from the water development trust fund and must be used by the state water commission for purposes authorized by the legislative assembly, for the biennium beginning July 1, 2005, and ending June 30, 2007. Any additional amount in the water development trust fund that becomes available is appropriated to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007.

## SECTION 6. SALE AND PURCHASE OF LAND AND BUILDING - AUTHORITY - CONTINUING APPROPRIATION.

1. The state water commission, on behalf of the state of North Dakota, may sell in one or more parcels the land and building known as the "state water commission maintenance shop" located at 2603 East Broadway Avenue, Bismarck, North Dakota, and legally described as follows:

A tract of land lying in the Northwest Quarter (NW 1/4) of Section Two (2), Township One Hundred Thirty-Eight (138) North, Range Eighty (80) West of the Fifth (5) Principal Meridian, in the County of Burleigh and State of North Dakota, and described as follows:

Commencing at the northwest corner of said section two: thence traveling in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six-tenths feet (774.60); thence turning a right angle to the left in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet (47.00), which shall be called the true point of beginning; thence continuing due east along said line for a distance of eight hundred forty-two and nine-tenths feet (842.90); thence turning a deflection angle of ninety degrees and twenty-two minutes (90 degrees 22') to the right and traveling in a southerly direction to a point of intersection with the north fifty foot railroad right-of-way line; thence traveling in a westerly direction along said north fifty foot railroad right-of-way line to a point of intersection with the west boundary of said section two; thence traveling in a northerly direction along the west boundary of said section two for a distance of four hundred seventy-two and one-tenth feet (472.10); thence turning a right angle to the right in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet (47.00); thence traveling in a northerly direction along a line which is parallel to the west boundary of said section two for a distance of one hundred fifty feet (150.00) to the point of beginning. Including all of the property bounded by the above described line, subject to existing rights-of-way and easements.

The above described tract of land contains 11.77 acres, more or less.

- 2. The conveyance authorized by this section is exempt from sections 54-01-05.2 and 54-01-05.5. The conveyance may only be made after the property has been appraised and the property must be sold at public auction unless no bid equals or exceeds the minimum appraised value. The appraisal must be dated no earlier than eighteen months before the auction. If at the public auction no bid equals or exceeds the minimum appraised value, the state water commission may negotiate a price for the land with a purchaser.
- 3. All proceeds from the sale or so much of the sale proceeds as may be necessary, not otherwise appropriated, are appropriated on a continuing basis to the state water commission for the purchase or lease of land and the construction of a building and associated appurtenances to be used as a new maintenance facility. The purchase

- authorized by this subsection may proceed only after completion of a certified appraisal of the property to be purchased and completion of a physical inspection of any building to be purchased demonstrating that the building is structurally sound and suitable for the state water commission's purposes.
- 4. The attorney general shall review and approve the form and legality of all legal documents required for the conveyance and purchase authorized by this section, including title opinions.
- SECTION 7. BUILDING SALE PROCEEDS. Proceeds of the sale of the state water commission maintenance shop located in east Bismarck, as provided in section 6 of this Act, must be used to purchase or lease land and construct a new maintenance shop building. If the proceeds from the sale are less than \$977,100, the state water commission may use other funds appropriated to the state water commission for the purpose of purchasing or leasing land and constructing a new maintenance shop building. If the proceeds from the sale are not available at the time the state water commission needs to purchase or lease land and construct the new building and associated appurtenances, the state water commission may use other funds appropriated to the commission provided that, upon receipt of the proceeds of the sale, the state water commission shall transfer to the funds from which money was taken an amount equal to any funds utilized for the purchase or lease of land and construction of the new maintenance building. If the state water commission uses other funds appropriated to the commission because the funds from the sale of the land and building are insufficient, the state water commission need not make a transfer of sale proceeds. No more than a total of \$977,100 may be expended from the amounts appropriated under this Act to purchase land and construct the new maintenance building and associated appurtenances.
- SECTION 8. GRANTS WATER-RELATED PROJECTS CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the water and atmospheric resources line item in section 3 of this Act. However, this exclusion is only in effect for two years after June 30, 2007. Any unexpended funds appropriated from the resources trust fund after that period has expired must be transferred to the resources trust fund and any unexpended funds appropriated from the water development trust fund after that period has expired must be transferred to the water development trust fund.
- **SECTION 9. LINE OF CREDIT CONTINGENT APPROPRIATION.** If determined necessary by the state water commission, the Bank of North Dakota shall extend a line of credit, not to exceed \$25,000,000, which is appropriated to the state water commission, for the biennium beginning July 1, 2005, and ending June 30, 2007.
- **SECTION 10. REPAYMENT OF LINE OF CREDIT CONTINGENT APPROPRIATION.** If the line of credit authorized in section 9 of this Act is extended to the state water commission by the Bank of North Dakota, there is appropriated out of any moneys in the water development trust fund, the resources trust fund, bond proceeds, or other sources, the sum of \$25,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of repaying the line of credit, for the biennium beginning July 1, 2005, and ending June 30, 2007.
- **SECTION 11. AMENDMENT.** Section 61-02-23.3 of the North Dakota Century Code is amended and reenacted as follows:
- Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors. The state engineer may employ full-time personnel and may employ such other personnel as are necessary for the operation and maintenance of the Devils Lake outlet within the limits of legislative appropriations for that purpose. Notwithstanding section 61-02-64.1, funds disbursed from the contract fund and apprepriated for the

- purposes of this section may be used for salaries, equipment, operations, and maintenance costs relating to the Devils Lake outlet.
- **SECTION 12. LEGISLATIVE INTENT ADMINISTRATIVE EXPENSES.** It is the intent of the fifty-ninth legislative assembly that the use of water development trust fund moneys as a source of funding for state water commission administrative expenses be reduced during the 2007-09 biennium and discontinued as a source thereafter.
- **SECTION 13. LEGISLATIVE INTENT NELSON COUNTY INFRASTRUCTURE.** It is the intent of the fifty-ninth legislative assembly that the state water commission provide up to \$500,000 for water-related damage to infrastructure in Nelson County.
- **SECTION 14. BONDING AUTHORITY WATER PROJECTS.** In addition to the \$60,000,000 of bonding authority authorized in section 61-02.1-02.1, the state water commission may issue an additional amount of bonds not to exceed \$7,000,000 plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves during the biennium beginning July 1, 2005, and ending June 30, 2007. The repayment provision of the additional \$7,000,000 bond issuance must be the same as the \$60,000,000 bond issuance as provided for in section 61-02.1-02.1.
- **SECTION 15. EXEMPTION FROM PAYMENT OF FEES.** For purposes of charging fees or requiring payment for services pursuant to sections 54-10-01, 54-12-08, and 54-44.1-15, the state auditor, attorney general, and the director of the office of management and budget shall consider the funds appropriated to the state water commission from the water development trust fund in the same manner as if the funds were appropriated from the general fund for the 2005-07 biennium.
- **SECTION 16. STATE WATER COMMISSION CASH ADVANCE FROM STATE GENERAL FUND.** Notwithstanding any other provision of law, the state water commission may receive a cash advance of up to \$5,000,000 from the state general fund during the biennium beginning July 1, 2005, and ending June 30, 2007. The cash advance may be made available for the state water commission only to pay for administrative expenses if sufficient funding is not available in the water development trust fund for these expenses. The cash advance must be repaid upon the deposit of additional tobacco settlement collections in the water development trust fund. The state water commission shall inform the office of management and budget of any cash advance required pursuant to this section. Any cash advance under this section must be repaid to the state general fund by June 30, 2007.

### H. B. No. 1021 - Page 5

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Jur Vision: People and Business Succeeding with Quality Water Our Mission: Quality Water for Southwest North Dakota

Senate Appropriations Subcommittee for

House Bill 1020 Bismarck, ND April 2, 2013, 2:30 p.m. CDT

Southwest Water Authority on behalf of the Southwest Pipeline Project

Mary Massad, Manager/CEO Southwest Water Authority 4665 Second Street Southwest Dickinson, ND 58601-7231

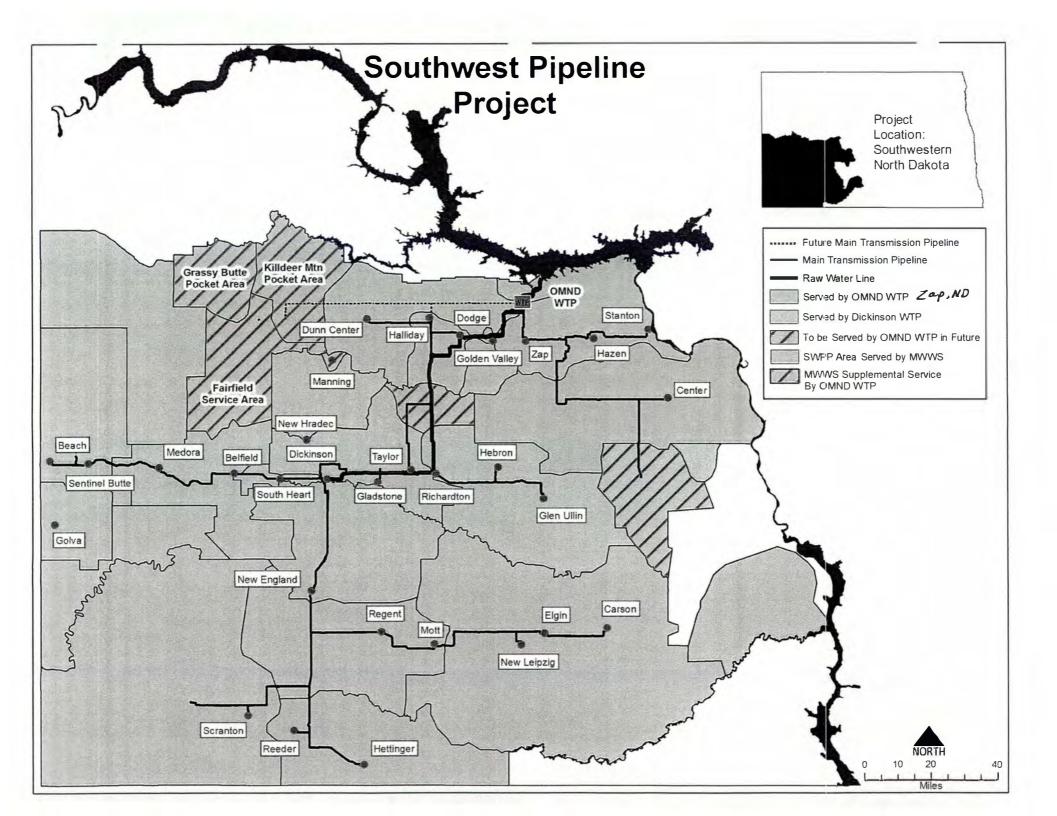
mmassad@swwater.com

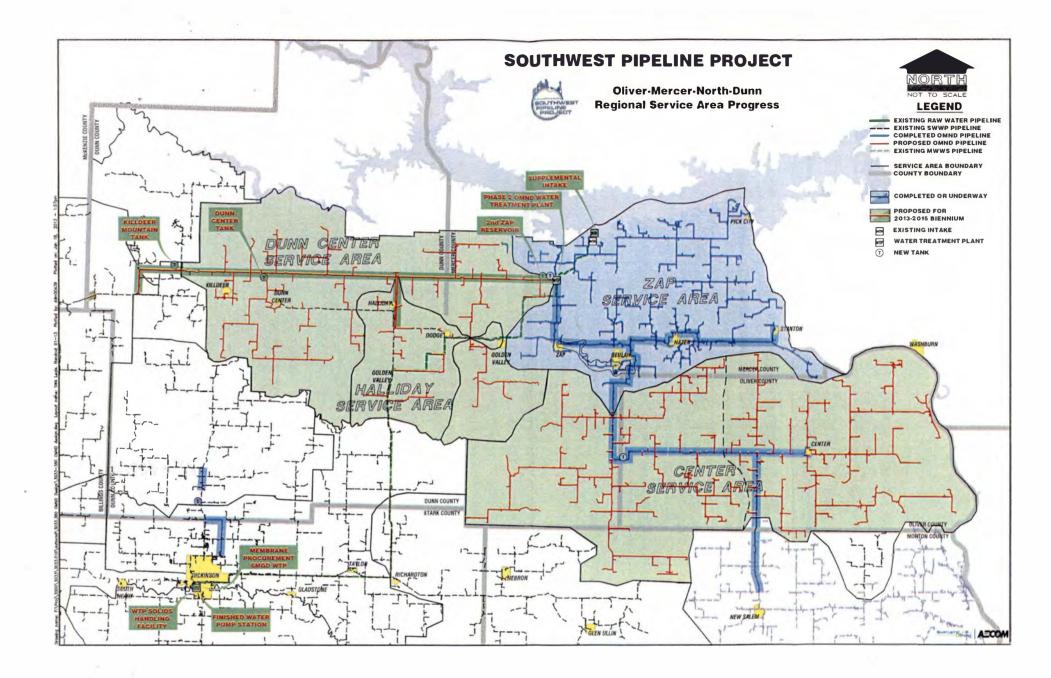
Work: 701-225-0241 Cell: 701-290-2519

Larry Bares, Chairperson Southwest Water Authority 4665 Second Street Southwest Dickinson, ND 58601-7231

lebares@ndsupernet.com

Home: 701-225-2030





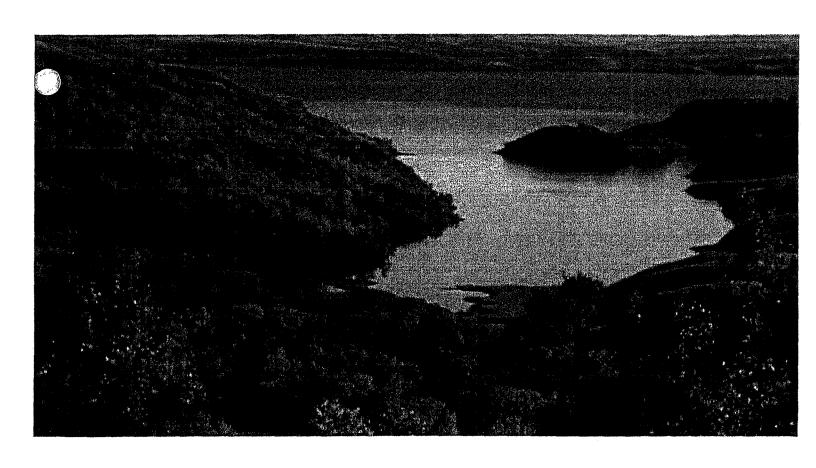


# Mission Statement for Southwest Water Authority

Quality Water for Southwest North Dakota

# Vision Statement for Southwest Water Authority

People and Business Succeeding with Quality Water



# Learn More by Visiting www.SWwater.com

# Southwest Water Authority





## What is the Southwest Pipeline Project (SWPP)?

The SWPP is the first large multi-county regional rural water project developed in the State of North Dakota. The SWPP is to provide for the supply and distribution of water to the people of southwestern North Dakota through a pipeline transmission and delivery system. While the SWPP is State owned and administered by the North Dakota State Water Commission (SWC), it has been managed by SWA since 1996.

## What is the primary focus of the Southwest Pipeline Project?

The SWPP was designed to allow for the transportation of raw water from Lake Sakakawea (the third largest man-made lake in the United States) to the OMND WTP and the Dickinson WTP where it is treated and delivered to the Project's customers in southwest North Dakota and Perkins County, South Dakota.

# Why did the State Water Commission (SWC) create the Southwest Pipeline Project (SWPP)?

With an annual rainfall of less than 15 inches in southwest North Dakota, there was not enough water to keep wells in the area from running dry and-streams and reservoirs from emptying out. Also, the groundwater was, and remains, extremely poor quality.



# When did the SWA take over management of the SWPP?

sWA took over the management, operations and maintenance on January 1, 1996 from the State Water Commission. SWA also began managing the City of Dickinson's water treatment plant on April 1, 2000.

# What does the Southwest Pipeline Project provide to North Dakota?

The Southwest Pipeline Project brings water from Lake Sakakawea to provide clean, safe, quality water supply for residents of the southwestern portion of the State. Without access to the Southwest Pipeline Project, many residents of this region would otherwise have to carry drinking water from elsewhere because their drinking water is unsafe. Currently (2012) 31 communities, more than 1,600 rural-service locations, 22 contract customers, 21 raw water customers, and two rural water systems are served quality water by the Pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew tamps.

## Where would North Dakota be today without the vision of leaders who believed in the SWPP?

t would have remained a rural, barren land. Farmers and ranchers were moving out due to lack of quality water. Drought was encompassing this part of the State. Mayors could not get people or businesses to move in. Oil and gas companies couldn't get raw water. Thanks to the vision of the North Dakota Legislature, state and local leaders, the Southwest Pipeline Project became a reality.

# Who manages the Southwest Pipeline Project?

he SWPP is managed by the Southwest Water Authority 15-member Board of Directors representing the following counties: Adams, Illings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Slope and Stark, as well as the cities of Dickinson and Jandan.



# What construction for expansion of the SWPP is currently underway?

A second intake, raw water upgrades, and expanded treatment capacity at both water treatment plants are necessary to meet the exponential growth in our region. The OMND (Oliver, Mercer, North Dunn) Regional Service Area is under construction and is essential to meet the growing demand for quality water. Also there are more than 1,000 rural customers and all energy sector users, including the power plants, couplants and the oil industry, waiting for water in this region.

# Does the SWPP generate a revenue stream sufficient to repay the revenue bonds issued for construction?

es. To date, more than \$33 million in capital repayment has been paid back to the state of North Dakota. The 2013 budget includes

# Frequently Asked Questions

## Is 're a waiting list for water from SWPP to other service areas?

Yes: The southwest region of North Dakota is seeing unprecedented growth with the oil and energy industries. Communities and rural areas being served are in need of much more water. A second intake for the Project is now a bigger need than ever. Expansion of treatment at the water treatment plant in Dickinson is needed for the growth in Dickinson and the region. Upgrades to the Project are needed to meet this fast growth and high demand. There are people today who cannot drink the water from their tap because they are not yet connected to the SWPP. In some cases, people signed up for water and paid their fees more than 20 years ago. There are also people on waiting lists in the areas currently served as the Project is at capacity.

## With the energy industry having a big economic impact on all of ND, how does SWPP help?

Quality water is essential to keep the State's economic engines growing and moving forward. That's why the SWPP continues to stay true to its vision to help the people and business of southwest North Dakota succeed with quality water.

# Who funds the Southwest Pipeline Project?

As a State owned project, we are 100% funded by State and federal loan programs. With our customers paying capital repayment, there is no local cost share. The Garrison Diversion Conservancy District's, Municipal, Rural and Industrial (MR&I) Water Supply Grant Program, provides up to 75% of the cost for development of water supply projects. The legislation that created the program gives cost-sharing credit for the funds the State had previously expended on the project. Through November 2012, \$69.84 million from North Dakota's Resources Trust Fund, \$8.47 million from the Water Development Trust Fund and \$100.62 million in MR&I funding has been spent on the SWPP.

## What funds are needed in the next biennium for the SWPP to continue its mission?

The Southwest Pipeline Project is requesting \$79 million in the next (2013-2015) blennium.

# What does the needed funding mean to the people and businesses of Southwest ND?

In \$\int\_\tau\$, it means building more than 462 miles of pipeline, increasing SWA's pumping capacity of water by the end of 2015, economic development for all of ND, water for the workers coming to ND, and allowing for the ability to serve the citizens who are continuing to repay the State of North Dakota.

# What happens if Southwest Water Authority does NOT receive all of its needed funding?

Drinking water will need to be rationed to the detriment of existing southwest North Dakota residents. The people already signed up and waiting for quality drinking water will continue to wait. Temporary workers will not want to become permanent residents. Cities will not be able to build the homes needed for incoming workers.

# What has been accomplished by the Southwest Pipeline Project to date (2012)?

Currently (2013) 31 communities, over 4,600 rural service locations, 22 contract customers, 21 raw water customers in North Dakota, and two rural water systems, are served by this pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps. The current population exceeds 50,000 in North Dakota, up from 35,000 a little more than a year ago.

# What is Southwest Water Authority?

The North Dakota State Legislature established Southwest Water Authority (SWA), a political subdivision in 1991. SWA was created to supply and distribute water to the people of southwestern North Dakota through a pipeline transmission and delivery system for purposes including domestic, rural water, municipal, livestock, light industrial, mining, and other uses, with primary emphasis on domestic, rural water, and municipal uses. SWA is also to provide for the future economic welfare and prosperity of the people of ND, particularly the people of southwestern North Dakota.

# Who has Southwest Water Authority accomplished since its inception?

For over 27 years, the SWC has been constructing an efficient network of pipelines, pump stations, reservoirs and treatment facilities to bring southwest North Dakota an adequate supply of quality water. To date, (2012), 31 communities and more than 4,600 rural-service locations are being served by the Pipeline. The SWPP also serves 22 contract customers, 21 raw water customers, as well as two rural water systems. The Pipeline also has two raw water depots serving the oil industry, an ethanol plant and serves potable water to two crew camps.

## What services does Southwest Water Authority provide southwest North Dakota?

Currently, SWA provides drinking water to 31 communities, more than 4,600 rural-service locations, 22 contract customers, two crew camps, 21 raw water customers, and two rural water are served by this pipeline. The Project serves an ethanol plant and two raw water depots.

## What is the water quality that SWA is providing to its customers?

Since the inception of SWA, they have not only met, but also exceeded, all of the Environmental Protection Agency and North Dakota Department of Health's stringent water quality laws. Visit SWA's website to view the Consumer Confidence Reports (CCR) and to learn more at: www.SWwater.com.

## What infrastructure does SWA manage?

SWA manages, operates and maintains more than 4,000 miles of pipeline as of December 31, 2012; two water treatment plants (12 MGD and 3.5 MGD) capacity, 21 water storage reservoirs varying in size from 197,000 – 6,000,000 gallons.

#### Where is SWA's water treated?

Water for the SWPP is treated at the OMND and at the Dickinson water treatment plants. Both water treatment plants are managed by SWA.

## How many gallons of water is SWA projecting to be sold in 2013?

It is projected that SWA will sell over 2.6 billion gallons of water in 2013, which is an increase of 67% from 2010.

## How many communities and people does Southwest Water Authority currently serve?

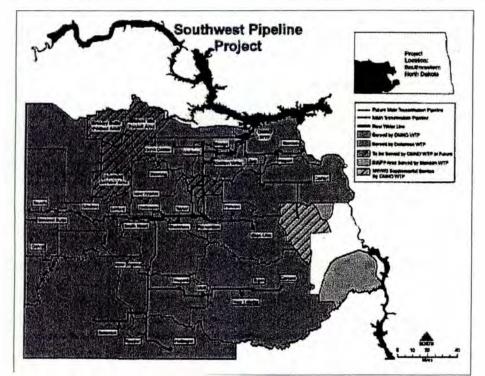
Currently, (2013), 31 communities, over 4,600 rural-service locations, 22 contract customers, 21 raw water customers in North Dakota, and two rural water systems, are served by this pipeline. Two raw water depots also serve the oil industry, an ethanol plant and drinking water for two energy-related crew camps. The current population exceeds 50,000 in North Dakota, up from 35,000 eighteen months ago.

# What are SWA's major expenses for 2013?

In addition to capital repayment fees of nearly \$5 million, power costs of \$1.345 million, an increase of 50% from the 2012 budget, plus salaries and benefits.

# How many people does Southwest Water Authority employ?

Currently, SWA has a staff of 34 and will be hiring an additional 13 employees in 2013.











# It's More Than a Pipeline... It's a Lifeline

The Southwest Pipeline Project (SWPP) is North Dakota's largest multi-county regional rural water project. Today, the SWPP brings quality water to over 50,000 people which includes 31 communities, more than 4,600 rural locations, 22 contract customers, 21 raw-water customers, and two rural water systems. In the energy sector, the SWPP provides raw water for two depots, an ethanol plant and two crew camps. The OMND (online 2012) water treatment plant currently serves the communities of Zap, Hazen, Stanton, and Center. Construction is now underway for the Oliver, Mercer, North Dunn (OMND) counties.

The need for quality water in southwest North Dakota is greater than ever. Given 1,417 rural customers continue waiting for water, southwest North Dakota's population is growing at an unprecedented rate, the raw-water needs of the energy industry, and it's easy to see why the continued funding for the SWPP is so important to the economic development of ALL of North Dakota. To date, SWPP has paid back to the state of North Dakota over \$33 million.

**ECONOMIC VIABILITY.** The communities and rural areas currently being served by the Southwest Pipeline Project (SWPP) are basing their current and future growth on the availability of quality water. That's a fact!

UNPRECEDENTED GROWTH. Here we are experiencing doubling populations due to the oil and energy industries. The communities receiving quality water from the Southwest Water Authority are literally doubling their populations with no sign of slowing down. All of the projections are for continued population growth and incoming businesses.

FUNDING OF THE SWPP IS VITAL. The requested funding for 2013-2015 will not only help ensure water quality for southwest North Dakota, but will strengthen the economic viability of the entire State. With \$79 million in funding over the next two years, the SWPP can continue to meet the water quality needs of existing customers and the growing needs of communities it serves. Together with the funding support of the SWPP, North Dakota will remain a State people want to do business with and a place they want to raise their children.

WATER QUALITY. With a mission of quality water for southwest North Dakota, the Southwest Pipeline Project continues to meet and/or exceed all of the Environmental Protection Agency (EPA) and North Dakota Department of Health's stringent water quality laws and requirements.

PAYING BACK TO NORTH DAKOTA. Through 2012, over \$33 million has been paid back from the Southwest Pipeline Project to the State of North Dakota.

# Quality Water for Southwest North Dakota

Learn More by Visiting www.SWwater.com





# **CURRENTLY SERVING QUALITY WATER TO:**

- More than 50,000 Southwest ND Residents
- 31 Southwest ND Communities
- Over 4,600 farms, ranches & small businesses
- 22 contract customers
- 21 Raw Water customers
- Missouri West Water Rural Water System
- Perkins County Rural Water System
- Red Trail Energy Ethanol Plant
- Two Oil & Gas Crew Camps
- Two Raw Water Depots for Oil & Gas Industry

# WATER SALES GROWTH:

- 698,867,870 gallons (1995)
- 2,373,063,380 gallons in 2012
- 2013 Projection: 2,622,595,000 gallons 67% INCREASE from 2010

"Your efforts are critical towards providing water for residential, agricultural, and industrial use during this time of rapid growth in western North Dakota. Thank you for your hard work and best wishes as you continue to expand the Southwest Pipeline Project."

Jack Dalrymple,
 Governor of North Dakota

## EMPLOYMENT:

Current staff — 34 Hiring — additional 13 in 2013

# CURRENT POPULATION:

50,208 Southwest North Dakota

# POPULATION GROWTH:

Unprecedented population projected growth over the next 10 years.

## REPAYMENT TO NORTH DAKOTA:

Through 2012 over \$33 million has been paid back to the State In 2013, nearly \$5 million in capital repayment budgeted

## TOTAL WATER REVENUES:

2013 Projected Revenue: \$15 million (60% increase over 2012 budget)
Revenue generated through November 2012 is over \$12 million (\$9.9 million budget)

# **OPERATIONS & MAINTENANCE:**

Two Water Treatment Plants
12 MGD and 3.5 MGD capacities
21 Water Storage Reservoirs, vary in size from 197,000 - 6,000,000 gallons

# People and Business Succeeding with Quality Water

Southwest Water Authority does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or disability in employment or the provision of services.

"As a member of the State Water Commission, I have followed the progress of this project, and consider it a landmark in the development of the Southwest Pipeline Project that will bring fresh, treated water to thousands of people."

– Doug Goehring, North Dakota Agriculture Commissioner

# **Southwest Water Authority Pays Back 47% of Resources Trust Fund Repaid**

# Amount Paid back in the form of Capital Repayment

YEAR	TOTAL	<b>YEAR</b>	TOTAL
1991	\$ 11,166.00		
1992	\$ 212,899.00		
1993	\$ 195,973.00	2004	\$ 1,621,239.25
1994	\$ 300,472.00	2005	\$ 1,706,958.33
1995	\$ 504,179.00	2006	\$ 1,948,480.26
1996	\$ 734,994.15	2007	\$ 2,308,065.86
1997	\$ 857,913.00	2008	\$ 2,455,506.88
1998	\$ 915,791.37	2009	\$ 2,618,988.11
1999	\$ 1,025,997.24	2010	\$ 2,776,546.59
2000	\$ 1,146,779.77	2011	\$ 3,076,416.44
2001	\$ 1,308,267.93	2012*	\$ 4,287,275.86
2002	\$ 1,432,224.68	Total	\$ 33,033,598.25
2003	\$ 1,581,284.21	*Through D	December 31, 2012
State Fund	WEST PIPELINE PROJECT (SWPP) I		
	Trust Fund		
	elopment Trust Fund		
Grants Garrison D	Diversion Conservancy District		
	al Rural & Industrial Fund		\$ 100.62
	tes Department of Agriculture - Rural Developme	ent	\$ 15.09
			\$ 0.93
Subtotal		•••••	\$ 110.04
	ds Repaid by Users		
	ten Department of Agricultura, Purel Davidonme		
	tes Department of Agriculture - Rural Developmeng Water Revolving Loan Fund		
	ing water Revolving Loan Fund		

# Southwest Pipeline Project Investment Repayment to North Dakota

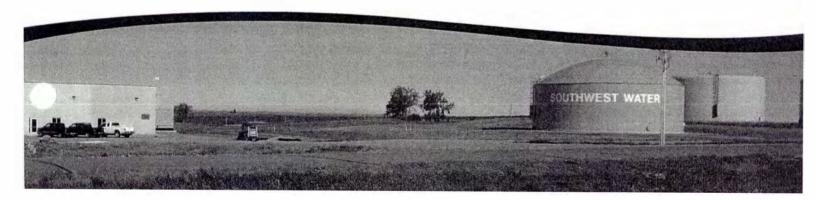
The Southwest Pipeline Project (SWPP) is not only paying great dividends to the state of North Dakota in the form of **ECONOMIC GROWTH** and increased tax revenues, it is **REPAYING** significant dollars to the state treasury.

# Return On Investment/Repayment

- 1. State funding through 2012: 78.9 million
  - a. State funding: RTF 61.9 million; WDTF 8.47 million; State bonds 8.54 million
  - b. Federal funding: (Garrison Diversion, ARRA, USDA, NRCS, SRF)
- 2. State funding repaid to date: 32 million
- 3. All operation, maintenance and replacement costs paid by users
- 4. Repayment to the state of North Dakota (estimated **7 million** per year)
  - a. To date: 32 million
  - b. 10 years: 70 million (102 m)
  - c. 20 years: 140 million (172 m)
  - d. 30 years: 210 million (242 m)
  - e. 40 years: 280 million (312 m)
- 5. Payments continue permanently
- 6. Estimated revenues could exceed **7 million** per year, depending on population growth and oil development

# **Economic Growth**

Water is a key component of economic development. With economic growth comes new businesses, new jobs, and increased local and state tax revenues. If we are going to continue to meet the growing needs of southwestern North Dakota, investing in water development is essential.





# Proposed for 2013-2015 Biennium Funding Requirements for the Southwest Pipeline Project



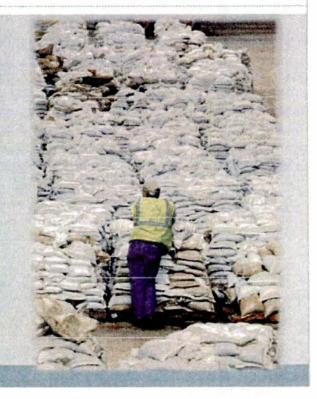
	A STATE OF THE PARTY OF THE PAR	Proposed for 2013-2015 Biennium	-	-	
3-1F	Ozone equipment procurement for the OMND WTP	Ozone equipment procurement for the OMND WTP	5/15/2013	3/30/2014	\$500,000
3-1G	Membrane Equipment Procurement for OMND WTP	2 UF skids and 1 RO skid	5/15/2013	3/30/2014	\$2,000,000
2-8E	Dunn Center SA MTL Phase 1	18.75 miles 12"-10" 6 miles 6" PVC, OMND WTP to Halliday Trnt, Halliday to 2-7C Conn, Dunn Center Booster Station	4/30/2013	6/30/2014	\$6,948,000
4-6	Dunn Center SA Pumps inside the OMND WTP	3 Pumps @ 50HP each	4/30/2013	11/30/2013	\$750,000
5-158	2nd Zap Potable Water Reservoir	1.67 Mgal Ground Storage, 107 diameter x 25' high	5/15/2013	8/15/2014	\$2,004,600
8-3	Killdeer Mtn. Tank Elevated Tank	200 Kgal Elevated Tank	5/30/2013	9/15/2014	\$850,000
2-8F	. Dunn Center SA MTL Phase 2	25.8 miles 18"-8" PVC, Halliday Turnout to 7-9I, 6 miles to Killdeer and DC, 9 miles 7-9I	5/30/2013	10/1/2014	\$10,300,000
1-2A	Supplemental Raw Water Intake	Phase 1, (4,500 gpm) 2 700 HP pumps, VFD's	7/15/2013		\$13,472,250
7-9F	Center SA Rural Distribution System, Phase 1 (East)	230 miles 6"-1%" PVC, 271 users	8/15/2013	10/15/2014	\$8,395,000
7-9E	Center SA, Rural Distribution System Phase 2 (West)	232 miles 6"-1 1/2" PVC, 178 users	10/15/2013	7/1/2015	\$8,519,00
6	SCADA Modifications, Change Order 22	Telemetry for NH tank, supplemental intake, Dunn Center BPS, Halliday Tank CV, Dunn Center Tank, Killdeer Mtn BPS, Fairfield BPS			\$350,00
3-1H	Phase 2 OMND WTP, 1.5 MGD upgrade	Equipment Installation	8/15/2013	3/30/2014	\$1,925,00
4-5	Dickinson WTP Finished Water Pump Station	Move Dickinson HS and RCPS Transfer Pumps to New Facility, Genset	11/1/2013		\$6,000,00
7-9G	Halliday SA Rural Distribution System	35.5 mi. 4"-1½" PVC GV, 33 Users, Halliday SA	4/15/2014	7/1/2015	\$1,128,29
7-9H	Dunn Center SA Rural Distribution System	191 mi. 6"-1%" PVC, 161 Users Dunn Center SA	4/15/2014	7/1/2015	\$6,829,22
6	SCADA Modifications Contract 6, Change Order 23	OMND WTP, FWPS, 2nd Zap reservoir			\$190,00
3-2A	New Dickinson WTP Membrane Procurement	Membrane Equipment Procurement for new 6MGD WTP			\$2,725,00
3-2B	Dickinson Sludge Handling Facility	2 sludge thickeners, 2 pumps, 2 filter presses			\$5,625,00
Totals	Distributions and Estation 19 (1916)				\$78,510,00
10(0)3	NAME OF TAXABLE PARTY OF TAXABLE PARTY.	AGENCY OPERATION			\$750,00
	the state of the s	Funding Needed in 2013-2015 Biennium			\$79,260,00

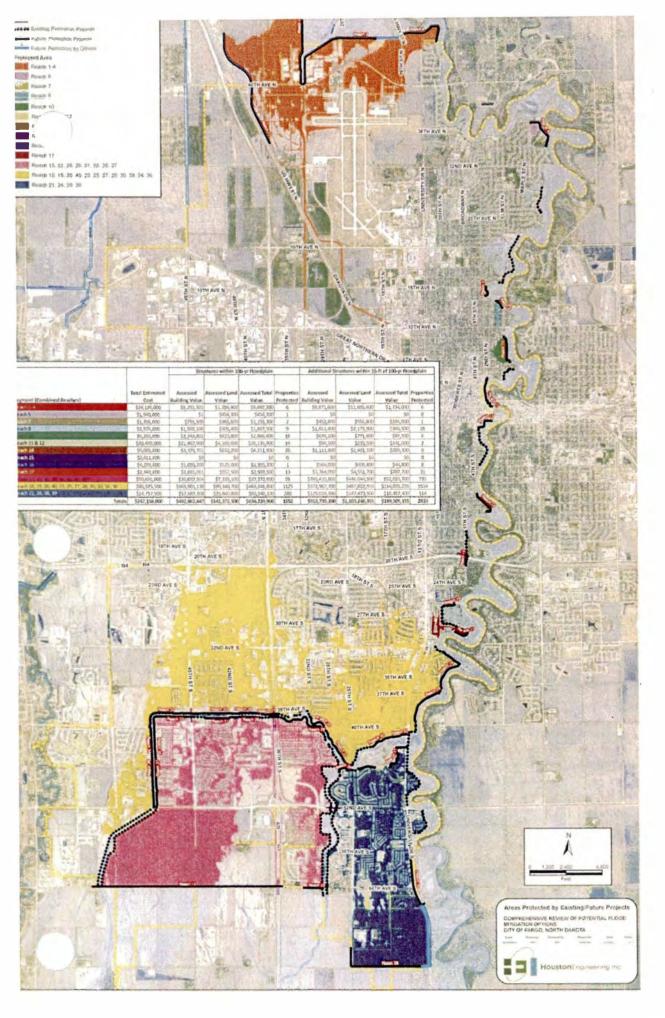
Craig Hertzgaard #1 HB 1020 4-2-13

Fargo City Commission 42.5 Foot Dike Presentation 8-12-2012

# Comprehensive Flood Protection

- Current Floodplain
  - o 38.5 Feet River Gage (29,300 cfs)
  - 475 Impacted Structures
  - o 19,700 Acres Impacted
- Preliminary Floodplain
  - o 39.4 Feet River Gage (29,300 cfs)
  - Approx. 2,300 Impacted Structures
  - o 27,600 Acres Impacted
- Flood of Record
  - o 40.8 Feet River Gage
- Future of the Floodplain
  - 6 USACE 41.1 River Gage (34,700 cfs)
  - o Approx. 19,400 Impacted Structures
  - o 36,430 Acres Impacted

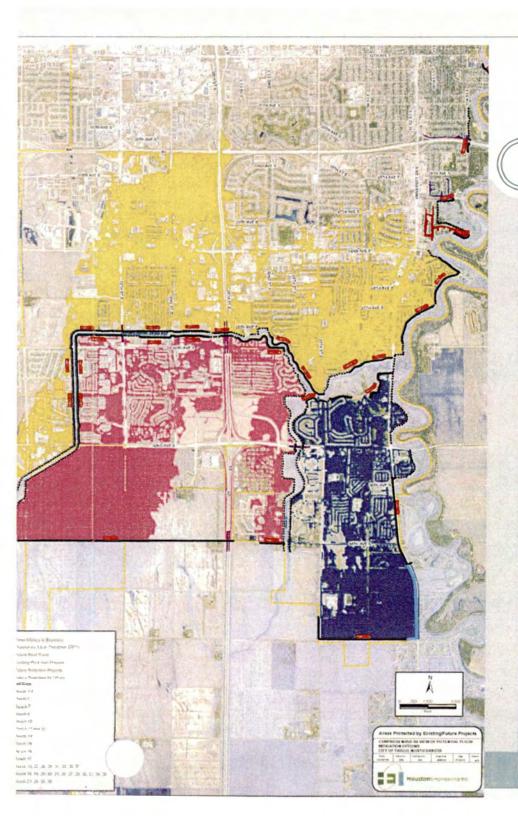




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# Comprehensive Plan

- Certifiable Protection
   From the Preliminary
   Floodplain (39.4 Feet)
- Only Proposed Projects If Protection Extended to Interior Property
- Identified an Estimated
   \$247 M in Projects
- Would require
  - o 197 residential buyouts
  - 5 commercial/Industrial buyouts



# Comprehensive Plan

- Area South of I-94 was identified as having a greater area at risk
- Yellow area has approx
   1,500 structures in floodplain
- Recognizing funding limitations staff sought to prioritize potential projects

#### FARGO SOUTHSIDE FLOOD CONTROL PROJECT

#### Need

- A large area of Fargo south of I-94 is in jeopardy of overland flooding from the Wild Rice River similar to that which occurred in 1997.
- The City of Fargo is the last Red River Valley community to receive federal and state funding for completion of flood control improvements in response to the 1997 flood.

#### Status

Four alternatives have been evaluated and are being presented for consideration:

		Base Project	+Channel Ext. Drain	+Supplemental
			Ext. & Exist storage	Storage
1.	Wild Rice River Levee Alternative	\$50 M	\$80 M	\$100 M
	<ul> <li>with Wild Rice Mini-Bypass</li> </ul>	\$65 M	\$95 M	\$115 M
2.	70 <sup>th</sup> Avenue South Outlet Alternative	\$80 M	\$100 M	\$120 M
3.	Rose Coulee Outlet Alternative	\$105 M	\$130 M	\$150 M
4.	Wild Rice River Diversion Alternative	\$85 M	\$105 M	\$125 M
5.	Wild Rice River Bypass Alternative	\$110 M	\$130 M	\$150 M

#### Funding

- FEMA has approved 9.5 million in HMGP funds towards an earlier version of the 70<sup>th</sup> Avenue South outlet alternative. An additional \$1.5 million in HMGP funding (\$11 million total) may be assigned to the project subject to FEMA completion of the environmental assessment of the selected alternative.
- ND has committed \$14.5 million to the project. Additional ND funding (\$30 to \$37.5 M) will be requested during the 2009 legislative session.

	Wild Rice <u>Levee</u>	With "Mini-Bypass"
Federal	\$11 M	\$11 M
Fargo	\$44.5 M	\$52 M
ND Committed	\$14.5 M	\$14.5 M
2009 ND Request	\$30 M	\$37.5 M
Total	\$100 M	\$115 M

- Local funding to come from the following sources:
  - Infrastructure sales tax
  - 2. Storm sewer utility
  - 3. Special assessment

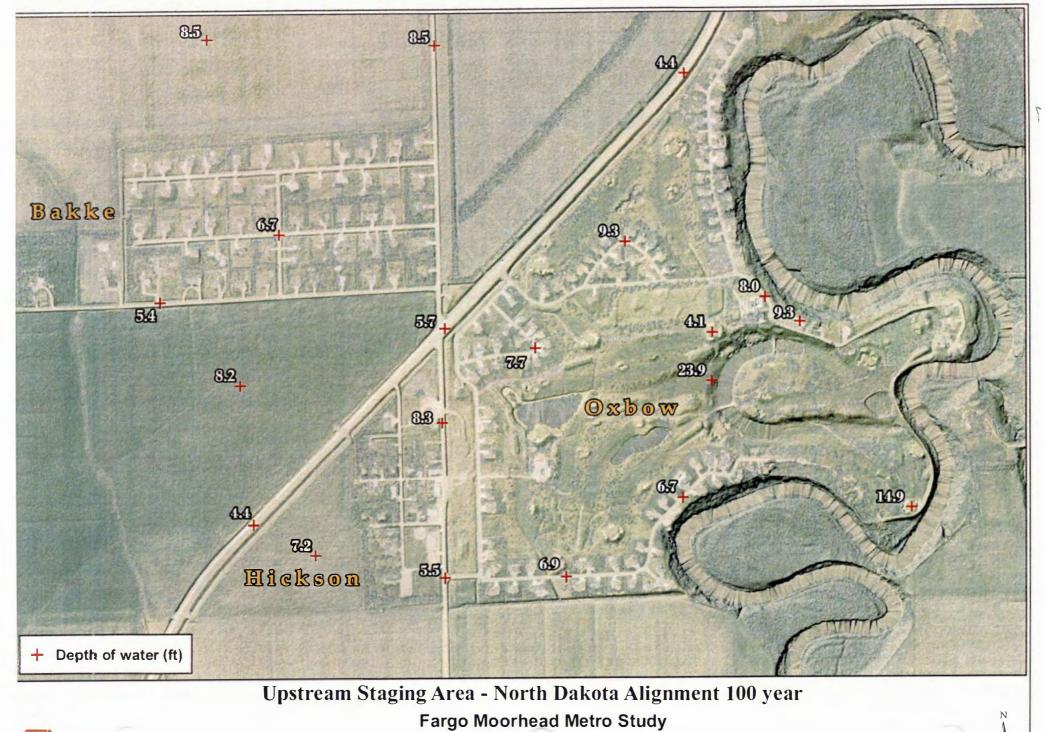
# Southside Flood Control

- Provide Protection from overland flooding that threatens the majority of properties south of I-94.
- Prevent extensive expansion of South Fargo Floodplain and mandatory flood insurance requirement.
- Provide growth area, helping to keep our region's economy healthy.





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Miles



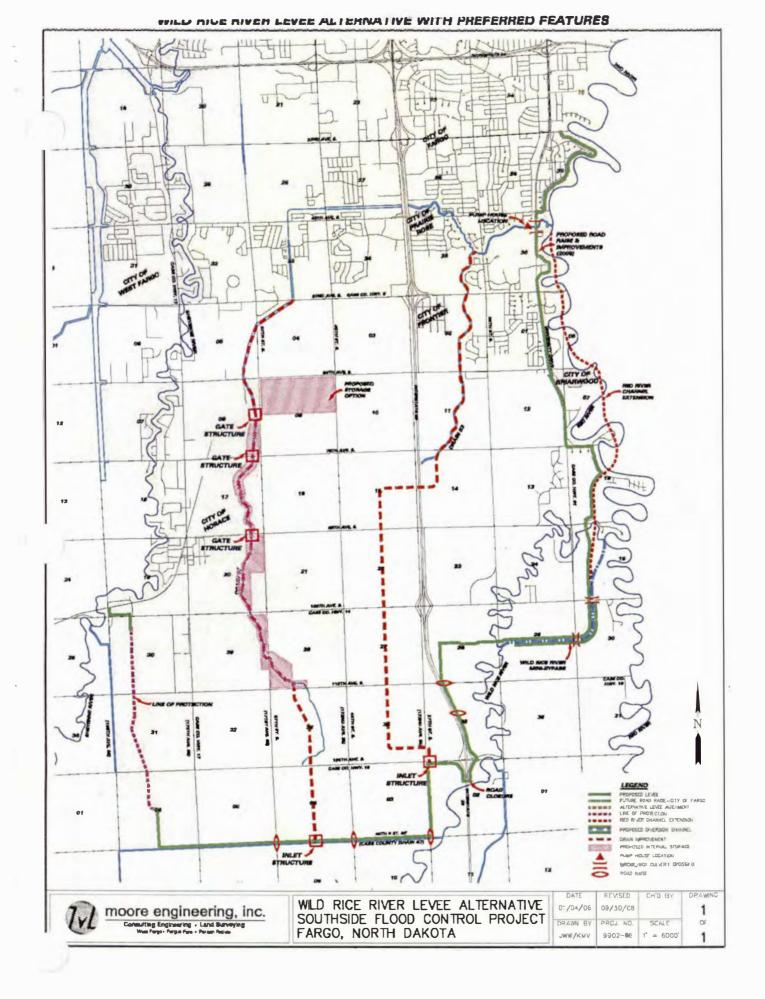


Table D-18
Summary of Estimated Stage Reduction at Cities along the Red River of the North and Tributaries based on Peak Flow Reduction Goals based on Implementing Additional Upstream Storage

			100 Year Flood			200 Year Flood				500 Year Flood								
		oal f <b>or</b> Peak eduction	Existing C	Modified Conditions with Additional sting Gonditions Upstream Storage			Modified Conditions with Additional  Existing Conditions  Upstream Storage							d Conditions with Additional Upstream Storage				
City/Location	Percent Reduction	Discharge (cfs)	Discharge (cfs)	Stage (ft)	Discharge (cfs)	Stage(ft)	Change in Stage from Existing Conditions (ft)	Discharge (cfs)	Stage (ft)	Discharge (cfs)	Stage (ft)	Change in Stage from Existing Conditions (ft)	Discharge (cfs)	Stage (ft)	Discharge (cfs)	Stage (ft)	Change in Stage from Existing Conditions (ft)	No
iver Main Stem	2001 Ba	seline Hy	drology											THE STATE OF	10000			
Wahpeton/ Breckenridge	20%	2,600	12,200	17.9	9,600	15.5	2.4	16,000	19.7	13,400	18.7	1.0	THE STATE OF	-	10000000000000000000000000000000000000	1000		2
Fargo/ Moorhead - existing without diversion channel	20%	5,700	29,300	40.0	23,600	37.6	2.3	40,000	42.1	34,300	41.0	1.1	50,000	44.1	44,300	42.9	1.1	
Fargo/Moorhead - proposed with ND diversion channel	20%	5,700	29,300	30.0	23,600	29.2	0.8	40,000	32.6	34,300	30.6	2.0	50,000	36.0	44,300	34.0	2.0	1,
Georgetown	20%	11,300	56,600	881.4	45,300	880.6	0.8	71.800	881.9	60,500	881.5	0.4	Control	STATE OF THE PARTY	125 FEB.	5 0000	White Table 1	1
Perley	20%	11,300	56,600	876.4	45,300	875.4	1.0	71,800	877.5	60,500	876.7	0.8	STAN	STATE OF	100000000000000000000000000000000000000	190 P. P. P. S. S.	WEST STATE	1
Hendrum	20%	11,500	57,700	35.0	46,200	33.6	1.5	74,900	36.1	63,400	35.4	0.7		1353005	WO S	SELECTED SERVICES	THE RESERVE	
Halstad	20%	14,300	62,200	39.9	47,900	38.2	1.7	80,000	41.4	65,700	40.2	1.2	SECTION .	ESERGE	1000		JUST 学及节	1
Shelly	20%	14,600	73,000	22.3	58,400	19.7	2.6	93,900	24.7	79,300	23.0	1.7	13000	40000	3480040	SALES	4360 A. S. S. S. S. S. S.	1
Nielsville	20%	14,900	74,500	861.1	59,600	857.2	3.9	95,800	864.2	80,900	862.0	2.2	1500 N		TO LOS DE	THE SERVICE		1
Climax	20%	15,500	77,500	37.6	62,000	33.3	4.3	99,700	41.0	84,200	38.6	2.4	Vesting	10000000	MASSES	ASSESTED BY		1
Grand Forks/East Grand Forks	20%	22,200	108,000	52.9	85,800	49.8	3.1	130,000	54.7	107,800	52.8	1.9	161,000	57.3	138,800	55.4	1.9	
Oslo	20%	23,000	109,000	37.8	86,000	36.9	0.8	131,400	38.7	108,400	37.7	0.9	Barrell		Washington	Million St.		1
Drayton	20%	25,700	112,000	45.1	86,300	43.4	1.7	140,000	46.4	114,300	45.2	1.3		温温度	STATE OF THE PARTY	200000		
Pembina/St, Vincent	20%	26,000	117,000	54.5	91,000	53.0	1.5	150,000	55.7	124,000	54.8	0.9		345	#15 SEC.	THE SALES	1000年代表	
Emerson	20%	26,000	117,000	92.3	91,000	91.0	1.2			124,000	92.4	0.5	ST BEEN					
iver Main Stem	Sensitiv	ity Analy	sis: 2011	Draft W	et Hydro	logy												
Fargo/ Moorhead - existing without diversion channel	20%	5,700	34,700	41.1	29,000	39.7	1,4	46,200	41.9	40,500	41.5	0.4	61,700	43.1	56,000	42.7	0.4	
Fargo/Moorhead - proposed with ND diversion channel	20%	5,700	34,700	30.8	29,000	30.0	0.8	46,200	34.7	40,500	32.8	1.9	61,700	40.0	56,000	38.1	1.9	1
Georgetown	20%	11,300	56,700	882.3	45,400	881.6	0.7	68,700	882.8	57,400	882.4	0.4	estimates	理解の	. 包含物色	SERVICE .	製造品を	1
Perley	20%	11,300	56,700	877.4	45,400	876.5	0.9	68,700	878.0	57,400	877.5	0.6	TO SUPER		大学の大学の大学	學是學	10年後の大学	1
Hendrum	20%	11,500	58,200	872.6	46,700	871.5	1.1	70,100	873.5	58,600	872.7	0.8	SECRETARIES.			The same		
Halstad	20%	14,300	70,800	41.4	56,500	40.0	1.4	82,900	42.4	68,600	41.1	1.2	STEEDING.		SE SE	100000		1
Shelly	20%	14,600	82,500	22.3	67,900	19.7	2.6	96,600	24.0	82,000	22.2	1.9	THE PARTY	TO SERVE		S SERIE		
Nielsville	20%	14,900	82,500	860.6	67,600	857.2	3.4	96,600	862.8	81,700	860.4	2.4		THE WAR	STATE OF	-	Sales Co	
Climax	20%	15,500	86,800	36.5	71,300	32.9	3.6	101,000	38.7	85,500	36.2	2.6		100	10000	200		1
Grand Forks/East Grand Forks	20%	22,200	106,800	52.9	84,600	50.3	2.6	123,200	54.3	101,000	52.2	2.1	145,700	56.3	123,500	54.4	1.9	
Oslo	20%	24,000	112,600	39.2	88,600	38.6	0.7	130,000	39.6	106,000	39.1	0.6	\$200 SE	PROPERTY.	1000	STATE OF THE PARTY		
Drayton	20%	25,700	118,800	45.6	93,100	44.1	1.5	136,800	46.6	111,100	45.1	1.5	ALTERNATION OF THE PARTY OF THE	R STORY	1000000	2000	Service and the service of the servi	1

#### Notes:

- Stages for modified conditions were obtained by linearly interpolating between existing discharges and stages
- (1) Existing conditions discharges obtained from USACE, September 2001, Final Hydrology Report, Hydrologic Analyses The Red River of the North Main Stem Wahpeton/Breckenridge to Emerson, Manitoba and existing conditions stages obtained from USACE, January 2003, Regional Red River Flood Assessment Report, Wahpeton, North Dakota/Breckenridge, Minnesota To Emerson, Manitoba
- (2) Stages for existing and modified conditions with additional upstream storage at Wahpeton/Breckenridge take Into account reductions in stage associated with the diversion channel
- (3) Stages for proposed and modified conditions with additional upstream storage at Fargo/Moorhead take into account reductions in stage associated with the proposed diversion channel using the discharge-stage rating curve from the Draft 2011 USACE Fargo-Moorhead Metro Flood Risk Management Project-General Report-Table 2
- (4) Existing conditions discharges and stages obtained from Table B-1 and Table B-2.
- (5) Existing conditions discharges obtained from Table 8-1. Existing conditions stage interpolated from the discharge-stage rating curve from Draft 2011 USACE Fargo-Moorhead Metro Flood Risk Management Project-General Report-Table 2
- (6) Existing conditions discharge and stage from Table 8-4 of Appendix B. Reduced (Wet) Period of Record (1942-2009) from April 2011 USACE Supplemental Draft Feasibility Report and Environmental impact Statement, Fargo-Moorhead Metropolitan Area Flood Risk Management, Appendix A Hydrology Executive Summary Summary Discharge Table
- Stages for proposed and modified conditions with additional upstream storage at Grafton take Into account reductions in stage associated with the proposed diversion channel using the discharge-stage rating curve from the 2003 USACE General Reevaluation Report and Environmental Assessment, Flood Control Project, Park River at Grafton, North Dakota
- (8) Original goal for peak flow reduction was not provided at this city. It was assumed to be 20% of the 100-year discharge, which is fairly similar to the 1997 discharge.

b this of

April Walker 4B 1020 4-2-13

#2

# **Testimony to Senate Appropriations Sub-Committee on HB 1020**

My name is April Walker and I am the City Engineer for the City of Fargo. I would like to say thank you for the commitment the State has shown to Fargo for helping fund numerous flood risk reduction projects within the City. As I am sure you are now aware, this is a complicated issue and the City has taken a constant and aggressive approach in order to limit the risk of flooding. Fargo has removed 247 homes since 1992 and, if no Diversion is built, we will be required to remove an additional 500 more homes. Even with the displacement of all of these residents, the best we can hope to achieve is a 50-year level of protection. This is not an appropriate level of protection for any community.

The City has diligently managed floodplain development. The requirements we have instituted exceed the standards set by the federal government. New structures need to be elevated to 2.5 feet above the FEMA Base Flood Elevation, which exceeds the state requirements by 1.5 feet

Along the river, we have adopted building setbacks that are stricter than standard and require homes to be built 450' from the river or 100' from the floodway, whichever is greater. We also have restrictions on existing structures that are already within this boundary. These standards have helped manage our growth and have helped prevent the problem from worsening. Some of the areas developed in the past may have been done differently in hindsight, but the problem we are faced with today is not due to where development is happening. The problem we are faced with today is one of flooding and seemingly ever increasing flood forecasts.

Our floodplain management efforts, coupled with continuing to buyout the most flood prone of homes in our community to construct permanent projects, has allowed us the opportunity to be successful flood fighters. This is not a title that we want, nor is it one we can sustain without a long-term approach to flood risk reduction. Our interim solution is to continue to build projects that are complimentary to a diversion. These projects are being built to the 42.5' level that you have heard so much about and that is written into HB1020 as an amendment. These proposed projects are only in areas where the natural ground is less than 39.5' today. This approach of building to 42.5' only provides protection to a water surface of 39.5' while providing just the minimum FEMA required freeboard of 3 feet. The benefit of this level is that it does reduce the amount of emergency measures that are needed. This is a good short-term plan. It is, however, an ineffective long-term plan without a diversion. As our recent history has shown us, we are experiencing a period of repetitive, severe flooding. We have seen larger floods occur across our state and across the country. We are hoping that we don't see a larger flood in Fargo, but hope is not a plan. There is a flood out there that will overcome our levees and floodwalls.

This short-term 42.5' plan leaves our community at risk in a number of ways. One is from an event that exceeds the freeboard elevation or overwhelms the still necessary emergency measures and inundates the City. Another is from the rising costs of flood insurance that threaten to cripple our local economy and trap people in their homes with no hope of a sale, or conversely drive them from their homes via foreclosure. I am referring to the Biggert-Waters Act of 2012 that was signed into law by President Obama last July.

We are just starting to get a glimpse of how this Flood Insurance Reform Act will be implemented by FEMA and I must say, it does not look good for Fargo or the state. On its face and as a national policy, the principles that were the drivers for the law don't sound like a bad idea: Stop subsidizing the National Flood Insurance Program and make it self sufficient. Let those who are at risk foot the bill. Fargo, however, is uniquely positioned to be harmed by this bill for two primary reasons; our designation as a basement exempt community and our impending floodplain remap. FEMA has indicated that they will roll out the changes in phases. The intent being to convert policies to actuarial based rates over time. Triggers for rate conversions include:

- Buying or selling a home
- Having a lapse in insurance
- Having a flood insurance loss that is severe or having multiple losses
- Being a business in a flood zone
- Adopting a new Flood Insurance Rate Map

The City of Fargo is currently in the process of adopting a new map and depending on the timing of the implementation of the rule we could be affected by this rule change in 2014.

In addition, Fargo is currently a community that has been granted a basement exception. This exception has been in place since 1975 and previously allowed for the floodproofed construction of foundations to be considered when rating a structure for flood insurance. This meant that the top of the floodproof foundation was used to establish the point of risk. Under the new rules, this method of construction that has been proven to lower damages, may no longer be eligible for consideration and the top of the basement slab will likely be used to rate structures. On average there is an 8' elevation difference between these points on a foundation. The elimination of the basement exception will be devastating to our community. The only way to avoid higher rates will be to fill in our basements or remove thousands of residences from the floodplain altogether.

The diversion is the only flood protection plan that can achieve certifiable 100-year flood protection and can remove costly, federally mandated flood insurance which will affect an estimated 2,500-14,600 homes with an estimated annual premiums totaling in excess of \$2.3M-13.9M. That is a lot of money flowing out of the local economy and away from taxpayers and citizens.

I have attached a copy of information provided by FEMA on the Biggert-Water Act for your review. I hope that you will take this into consideration when deciding what the future of Cass County and Fargo's flood risk reduction should look like. As a member of the teams that have developed numerous flood risk reduction projects for Fargo, it is abundantly clear to me that the ultimate solution includes the construction of the FM Area Diversion.

I thank you for the opportunity to speak to you today.



# Flood Insurance Reform Act of 2012

# Impact of changes to the NFIP

Note: This Fact Sheet deals specifically with Sections 205 and 207 of the Act.

rederal Emergency Management Agency (FEMA), and other agencies, to make a number of changes to the way the NFIP is run. As the law is implemented, some of these changes have already occurred, and others will be implemented in the coming months. Key provisions of the legislation will require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how Flood Insurance Rate Map (FIRM) updates impact policyholders. The changes will mean premium rate increases for some – but not all – policyholders over time.

#### Background:

In 1968, Congress created the National Flood Insurance Program (NFIP). Since most homeowners' insurance policies did not cover flood, property owners who experienced a flood often found themselves financially devastated and unable to rebuild. The NFIP was formed to fill that gap. To ensure the program did not take on unnecessary risks, one of the key requirements to participate in the program was that communities had to adopt standards for new construction and development.

Pre-existing homes and businesses, though, could remain as they were. Owners of many of these older properties could obtain insurance at lower, subsidized, rates that did not reflect the property's real risk. In addition, as the initial flood risk identified by the NFIP has been updated over the years, many homes and businesses in areas where the revised risk was determined to be higher have also received discounted rates. This "Grandfathering" approach prevented rate increases for existing properties when the flood risk in their area increased.

Fast forward 45 years, flood risks continue and the costs and consequences of flooding are increasing dramatically. In 2012, Congress passed legislation to make the National Flood Insurance Program more sustainable and financially sound over the long term.

#### What this means:

The new law eliminates some artificially low rates and discounts which are no longer sustainable. Most flood insurance rates will reflect full risk, and flood insurance rates will rise on some policies.

Actions such as buying or selling a property, or allowing a policy to lapse, can trigger rate changes. You should talk to your insurance agent about how changes may affect your property and flood insurance policy. There are investments you and your community can make to reduce the impact of rate changes. And FEMA can help communities lower flood risk and flood insurance premiums.

#### What is Changing Now?

Most rates for most properties will more accurately reflect risk. Subsidized rates for non-primary/secondary residences are being phased out now. Subsidized rates for other classes of properties will be eliminated over time, beginning in late 2013. There are several actions which can March 2013

# Federal Emergency Management Agency

trigger a rate change, and not everyone will be affected. It's important to know the distinctions and actions to avoid, or to take, to lessen the impacts.

Not everyone will be affected immediately by the new law – only 20 percent of NFIP policies receive subsidies. Talk to your agent about how rate changes could affect your policy.

- Owners of non-primary/secondary residences in a Special Flood Hazard Area (SFHA) will see 25 percent increase annually until rates reflect true risk began January 1, 2013.
- Owners of property which has experienced severe or repeated flooding will see 25 percent rate increase annually until rates reflect true risk beginning October 1, 2013.
- Owners of business properties in a Special Flood Hazard Area will see 25 percent rate increase annually until rates reflect true risk -- beginning October 1, 2013.

Owners of primary residences in SFHAs will be able to keep their subsidized rates unless or until:

- You sell your property;
- You allow your policy to lapse;
- · You suffer severe, repeated, flood losses; or
- You purchase a new policy.

#### Grandfathering Changes Expected in 2014

The Act calls for a phase-out of discounts, including grandfathered rates, and a move to risk-based rates for most properties when the community adopts a new Flood Insurance Rate Map. So if you live in a community that adopts a new, updated Flood Insurance Rate Map (FIRM), discounts – including grandfathered rates – will be phased out. This will happen gradually, with new rates increasing by 20% per year for five years. Implementation is anticipated in 2014.

#### What Can Be Done to Lower Costs?

For home owners and business owners:

- Talk to your insurance agent about your insurance options.
- You'll probably need an Elevation Certificate to determine your correct rate.
- Higher deductibles might lower your premium.
- · Consider remodeling or rebuilding.
- Building or rebuilding higher will lower your risk and could reduce your premium.
- Consider adding vents to your foundation or using breakaway walls.
- Talk with local officials about community-wide mitigation steps.

### For community officials:

- Consider joining the Community Rating System (CRS) or increasing your CRS activities to lower premiums for residents.
- Talk to your state about grants. FEMA issues grants to states which can distribute the funds to communities to help with mitigation and rebuilding.

# Flood insurance Changes Might Affect You

As risks change, insurance premiums also change to reflect those risks. Your flood insurance premiums may be going up.

However, you may be able to reduce your premium if you build your home or business to be safer, higher, and stronger.

The Biggert-Waters National Flood Insurance Reform Act of 2012 provides long-term changes to the National Flood Insurance Program.

Under the new law, rates are likely to increase overall to reflect the true flood risk of your home and many insurance discounts will be eliminated.

For example, rates for certain secondary homes in high-risk areas will increase 25 percent per year over the next 4 years starting in 2013.

Policy rates for all properties could increase based on one or all of the following circumstances:

- Change of ownership
- Lapse in coverage
- Change in risk
- Substantial damage or improvement to a building

Some changes will depend on external factors such as when flood risk maps are revised, buildings are damaged or improved, or when flood claims are filed.

Talk with your community of ficials and insurance agent to see how these changes could affect you.

# Resources for More Information

To ask questions and get information about flood insurance, call the National Elood Insurance.

Program Elelp Center at 1-800-427-4661.

To see if you are digible for Hazard Mingation against and loans.

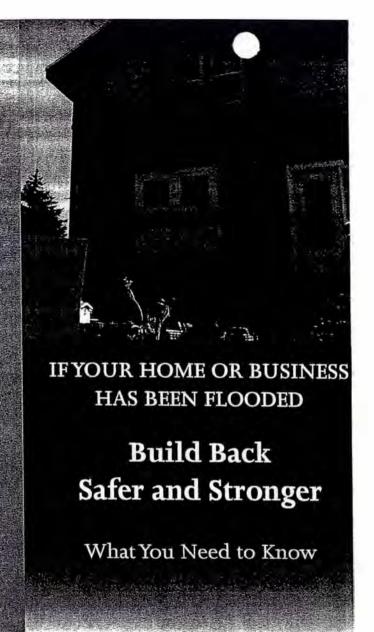
www.femal.gov/hezzird=mitigatilon-assistance

To learn how to build safer and snoriger and potentially decrease your flood insurance premiums.

www.fama.gov/buildling-science/hub-teamesandy-buildling-science-activities-resources,

To learn more about the Nanonel Blood Insurance Program or field an Heamands agent www.PloodSmark.gov or 1-888-229-0437

Ror thiomation about building code and perhal requirements, contact some consumation officials.







# Manage Your Future Risk

If your home or business was damaged or be destroyed by Sandy, you face major decisions about your property. Do you repair? Do you rebuild? Do you relocate?

The decisions you make now can help provide a safer, stronger future for you and your family. If you decide to repair or rebuild, here are some points to consider:

- The risk you faced yesterday might not be the same risk you face today or in the future.
- By rebuilding higher, you can reduce or perhaps avoid — future flood loss and reduce the impact on your finances.
- The financial consequences of not having flood insurance coverage could be devastating if another flood occurs.

Before you build, consult your local government officials to determine the mandatory elevations for your home or building.

BASE FLOOD ELEVATION (BFE) — The elevation shown on the Flood Insurance Rate Map (FIRM) for high-risk flood zones ("A" and "V" zones) indicates the water surface elevation resulting from a flood that has a 1 percent chance of equaling or exceeding that level in any given year.

# Reduce Your Risk, Reduce Your Premium

A primary way to reduce or avoid future flood losses is to raise your building above the Base Flood Elevation (BFE). As the graphic below shows, you could reduce your flood insurance premium by 85 percent or more — and save thousands of dollars over the life of your home or business. It is important to understand the long-term costs and benefits when considering your options for repairing, rebuilding, or relocating.

#### Insurance Considerations:

- How elevating your home or business can help reduce your rates
- · Future premium increases for all homes and businesses
- Options for insuring your building and its contents
- Changes in rates for secondary homes
- · Other circumstances that could increase your rates

## **Building Considerations:**

- · Meeting building code requirements and current best practices
- Revised Flood Insurance Rate Maps and advisory flood risk products
- Hazard mitigation grant programs
- Other grant programs and loans to help rebuild or acquire your home or business

Under the Flood Insurance Reform Act of 2012, You Could Save More than \$90,000 over 10 Years if You Build 3 Feet above Base Flood Elevation\*

PREMIUM AT 4 FEET BELOW BASE FLOOD ELEVATION

\$9,500/year **\$95,000/10 years**  PREMIUM AT BASE FLOOD ELEVATION

\$1,410/year **\$14,100/10 years**  PREMIUM AT 3 FEET ABOVE BASE FLOOD ELEVATION

If you rebuild to pre-flood

insurance premium could

increase dramatically in

conditions, your flood

the future.

\$427/year **\$4,270/10 years** 







FF

\*\$250,000 building coverage only (does not include contents), AE (high to moderate risk) zone, single-family, one-story structure without a basement at: 4 feet below Base Flood Elevation (BFE); at BFE; and at 3 feet above BFE. (Rating per FEMA flood insurance manual, October 1, 2012). The illustration above is based on a standard National Flood Insurance Program (NFIP) deductible.

Rose Hoefs #3

## QUALIFICATIONS OF ROSE M. HOEFS

#### **AFFILIATION**

The Appraisal Institute, Chicago, Ill., 1986; Associate Member The International Right of Way Association CCR; registered minority business \*DUNS available on request

#### **MEMBER OF**

Greater Minnesota Chapter of the Appraisal Institute Greater North Dakota Chapter of the Appraisal Institute Fargo-Moorhead Board of Realtors

#### LICENSES AND DESIGNATIONS

North Dakota Certified General Appraiser, 1993; #1063 Minnesota Certified General Appraiser, 1993; #4002095 North Dakota Real Estate Broker, 1976; lapsed 2005 GRI (Graduate Realtors Institute) 1976; CRS (Certified Residential Specialist) 1977

#### EDUCATION - APPRAISAL INSTITUTE COURSES

Advanced Applications
2000 University of St. Thomas, Minneapolis, Minnesota

Advanced Sales Comparison and Cost Approaches
1999 University of St. Thomas, Minneapolis, Minnesota

Basic Valuation Procedures
1989 University of Minnesota, Minneapolis, Minnesota

Capitalization Theory and Technique, Parts A and B 1990 University of Colorado, Boulder, Colorado

Case Studies

1992 University of St. Thomas, Minneapolis, Minnesota

Condemnation Appraising / Advanced Topics and Applications 1999 University of Colorado, Boulder, Colorado

Condemnation Appraising / Basic Principles and Applications 1999 University of Colorado, Boulder, Colorado

Demonstration Report Writing
2000 Appraisal Institute, Chicago, Illinois

Real Estate Principles
1988 University of Colorado, Boulder, Colorado

Report Writing and Valuation
1991 Houston Chapter, Appraisal Institute; Houston, Texas

Uniform Standards for Federal Land Acquisitions
2007 St. Paul, Minnesota
2001 Sheridan, Wyoming

#### QUALIFICATIONS OF ROSE M. HOEFS

Unifor	m Standards of Professional Appraisal Practice, Parts A, B & C
2012	State of Minnesota, Department of Commerce; update
2010	North Dakota Chapter, Appraisal Institute; update
2008	North Dakota Chapter, Appraisal Institute; update
2006	North Dakota Chapter, Appraisal Institute; update
2005	North Dakota Chapter, Appraisal Institute; update
1999	Houston Chapter, Appraisal Institute; Houston, Texas
1994	University of Minnesota, Minneapolis, Minnesota
1988	University of Minnesota, Minneapolis, Minnesota

#### REAL ESTATE AND APPRAISAL EXPERIENCE

1996-present	RM Hoefs & Associates, Inc.; Fargo, North Dakota; Fee Appraiser
1995-1998	Parsons Brinkerhoff; Herndon, Virginia; FEMA Inspector
1990-1996	TW Sapa & Associates; Fargo, North Dakota; Fee Appraiser
1989-1990	Fargo Planning Commission; Fargo, North Dakota; Board Member
1984-1990	H.R. Arneson & Associates; Fargo, North Dakota; Fee Appraiser
1983-1984	Bagan Real Estate; Jamestown, North Dakota; Broker - Owner
1975-1981	Bagan Real Estate; Jamestown, North Dakota; Real Estate Sales
1974-1975	Rueben Liechty & Company; Jamestown, North Dakota; Real Estate Sales

Appraisal Experience includes over 5,000 self-contained, summary or restricted appraisals of vacant land, mixed residential properties and commercial, industrial and special purpose properties. Primary focus is litigation and eminent domain issues.

Purpose of the Appraisals includes purchase, sale, refinance, government acquisition, easements, contamination, insurance, litigation, and damaged properties. Appraisal Area includes all of North Dakota, Western Minnesota, and North Eastern South Dakota.

Court Experience: Qualified expert witness; appraisal and reviewer; decision North Dakota Supreme Court/review/ {City of Grand Forks v. Hendon, No. 20050197}.

#### PARTIAL LIST OF CLIENTS

Government

U.S. Department of the Army / Corps of Engineers – St. Paul, MN

Homeland Security, North Dakota / Army Corps Engineers – Rock Island, Ill

North Dakota Department of Transportation (NDDOT)

Minnesota Department of Transportation (MNDOT)

Federal Aviation Administration (FAA)

Wahpeton Airport Authority

Mayville Airport Authority

Grand Forks Airport Authority

Fargo Airport Authority

Bismarck Airport Authority

Federal Housing Administration (FHA)

General Services Administration (GSA)

City of Fargo, North Dakota

City of West Fargo, North Dakota

City of East Grand Forks, Minnesota

City of Grand Forks, North Dakota

City of Moorhead, Minnesota

City of Breckenridge, Minnesota

Cass County, North Dakota

Clay County, Minnesota

#### PARTIAL LIST OF CLIENTS

**Engineering Firms** 

Apex Engineering Group, Inc

Bartlett and West - AECOM Engineers, Inc

HDR Engineering, Inc.

Houston Engineering, Inc

Interstate Engineering, Inc

Kadrmas, Lee, and Jackson

Moore Engineering, Inc

SRF Consulting, Inc

Tait & Associates, Inc.

Ultieg Engineers, Inc

#### **Financial Institutions**

Allied Mortgage

American State Bank

Community First Bank

Dakota Bank and Trust

Express Financial

First Bank of North Dakota

First Interstate Bank of Fargo, ND

Gate City Federal Savings Bank

Metropolitan Federal Savings Bank

Midwest Savings Bank

Moorhead State Bank

Norwest Bank Systems

State Bank of Fargo

State Bank of Hawley

Stutsman County State Bank

US Appraisal

Viking Bank

#### Entities

American Society for Environmental Education

AT&T

Burlington Northern and Santa Fe Railroad

Cargill, Inc

Cass County Electric

Coca Cola

Concordia College

Consolidated Beef

General Motors

**Great Plains Supply** 

John Deere

Minnesota Mining and Manufacturing

Minnkota Power Cooperative, Inc.

Northwestern Bell

Pamida, Inc.

Pepsi Cola

Ramada Inns

Regency Inns

Roadway Express

Steiger Tractor

Super Valu Stores

Surplus Tractor, Inc.

# RM HOEFS & ASSOCIATES, INC.

#### REFERENCES

Garyelle Stewart, Attorney at Law; Solberg, Stewart, Miller; Fargo, North Dakota 701-237-3166 Howard Swanson, City Attorney and Special Assistant to the Attorney General of North Dakota; Grand Forks, North Dakota 701-772-3407

Richard Lane, PE; SRF Consulting Group, Inc.; Fargo, North Dakota 701-237-0010 Terry Fasteen, Right of Way Specialist; Kadrmas, Lee, & Jackson; Fargo, North Dakota 701-232-5353

#### MAJOR PROJECTS (1996 - PRESENT)

#### AIRPORT NEW CONSTRUCTION OR EXPANSION

Fargo, ND

Grand Forks, ND

Gwinner, ND

Jamestown, ND

Kindred, ND

Lisbon, ND

Stanley, ND

Wahpeton, ND

### AIRPORT REVIEW

Bismarck, ND

Gen Ulen, ND

Grand Forks, ND

Kindred, ND

Lakota, ND

Linton, ND

Oaks, ND

Washburn, ND

#### STREETS, HIGHWAYS AND UTILITIES

#### North Dakota Department of Transportation

Construction Dickinson Bypass, Dickinson, ND (pending)

Construction of Minnkota Power transmission line, various counties, ND

Construction of U.S. Highway 281 Bypass, (approximately 12 miles) Jamestown, ND

Construction Williston Bypass, Williston, ND (pending)

Construction Williston Temporary Bypass, Williston, ND

Construction, I-94 sound wall; Fargo, ND

Construction/reconstruction I-29 & Main Avenue Railroad Shoofly, Fargo, ND

Reconstruction 1-29 and 52<sup>nd</sup> Avenue Overpass; Fargo, North Dakota

Reconstruction Dakota Avenue, City limits to Red /Ottertail/Bois de Sioux River; Wahpeton, ND

Reconstruction Highway 83; Max, ND

Reconstruction of 12<sup>th</sup> Avenue North and University Drive, Fargo, ND

Reconstruction of Highway 20, Devils Lake, ND

Reconstruction of Highway 23, Mountrail County, ND

Reconstruction of Highway 19, Devils Lake, ND

Reconstruction of Intersection of Highways 1804 and 58, Buford, ND (pending) Reconstruction of Main Ave & 25<sup>th</sup> Street Underpass/Shoofly, Fargo, ND

Reconstruction of Main Ave & University Drive Underpass/Shoofly, Fargo, ND

Reconstruction of West Main Avenue, West Fargo, ND

Reconstruction roads & bridges; Ward County and FEMA; Ward County, ND

Reconstruction South University Drive, north of 52<sup>nd</sup> Avenue; Fargo, ND

Reconstruction State Highway 200, Killdeer, North Dakota

Reconstruction State Highway 46, Gackle, North Dakota

Reconstruction, Highway 281 South, Mill Hill to City limits, Jamestown ND

Reconstruction, North Broadway, Minot, North Dakota, total takings

City of Fargo, North Dakota

• City of Fargo, North Dakota

Construction 17<sup>th</sup> Avenue Underpass / I-29, Fargo, ND

Construction 42<sup>nd</sup> Avenue South Underpass / I-29, Fargo, ND

Construction 64<sup>th</sup> Avenue South and 25<sup>th</sup> Street, Fargo, ND

Construction/reconstruction of 32<sup>nd</sup> Avenue S - 45<sup>th</sup> Street to 38<sup>th</sup> Street, Fargo, ND

Construction/reconstruction of 45<sup>th</sup> Street - I-94 to 52<sup>nd</sup> Avenue, Fargo, ND

Reconstruction of 13<sup>th</sup> Avenue South - 25<sup>th</sup> Street to I-29, Fargo, ND

Reconstruction of 42<sup>nd</sup> Street - 9<sup>th</sup> Avenue S to 32<sup>nd</sup> Avenue S, Fargo, ND

Reconstruction of 45<sup>th</sup> Street - 9<sup>th</sup> Avenue South to I-94

Reconstruction of Main Avenue - 45<sup>th</sup> Street to 25<sup>th</sup> Street, Fargo, ND

#### • Cass County, North Dakota

Cass County Highway 32, Alice, North Dakota

Cass County Highway 4, Argusville ND to CC Highway 18

Construction County Road 14, Horace, ND to I-29

Reconstruction Cass County 17 from County Road 6 to Horace, ND

#### **WATER PROJECTS**

#### • Total and Partial Takings / Government Participation (2000 – 2010)

Basic Data Book; levee construction, Norman County Minnesota; Wild Rice Water District; and Update

Becker County, MN; Becker County Dam / South Branch of Wild Rice River

Breckenridge, MN, floodwall and levee construction; Corps of Engineers

Devils Lake East End Outlet - North Dakota Water Commission

Devils Lake West End Outlet; Property Owners versus State of North Dakota Water Commission

East Grand Forks, MN; floodwall and levee construction; Corps of Engineers

Fargo and Cass County, ND; south side flood project; preliminary projection

Fargo, ND; levee construction; City of Fargo (on going)

Grand Forks, ND: floodwall and levee construction; Corps of Engineers

Hendrum, Minnesota, ring dike; Wild Rice Water District

Little Missouri pipeline break, Medora, ND

Neva, Minnesota, ring dike; Wild Rice Water District

North Dakota Water Commission Oxbow, North Dakota

Oxbow, North Dakota Emergency Buyouts - Corps of Engineers & FM Metro Area Diversion

Perley, Minnesota ring dike; Wild Rice Water District

Shelly, Minnesota, ring dike; Wild Rice Water District

Valley City, ND; 5' Pool Raise, Baldhill Dam / Lake Ashtabula; Corps of Engineers

#### Voluntary Buyouts / Government Participation (2000 – 2010)

Breckenridge, MN

Cass County, ND

City of Fargo, ND

Clay County, MN

Norman County, MN

Wild Rice Water District, MN

#### • Flood Damaged Properties (1997 - Present)

Cass County, ND

Clay County, MN

East Grand Forks, MN

Fargo, ND

Grand Forks, ND

Lisbon, ND

Moorhead, MN

Norman County, MN

Rodger Olson #44 4-2-13

# **Testimony to Senate Appropriations Sub-Committee on HB1020**

Members of the Senate Appropriations Subcommittee on HB1020. My name is Rodger Olson and I am a member of the FM Area Diversion Authority. I serve on the Authority as representation of the Joint Water Resource District. I also chair the Diversion Authority's Agriculture Subcommittee, which includes numerous members representing area farms, both impacted and not. In addition, I have been a member of the Cass County Water Resources District for 15 years. I have also farmed for 39 years near Leonard. I am here today to talk to you about what affect their might be on farmland in the proposed staging area and what the Diversion Authority is doing to limit and mitigate the impacts on farm land.

The proposed staging area of the Diversion Project has been at the center of a lot of debate, and for good reason. The staging area is a critical piece of the entire project and, without it, the project could not happen. When the impacts of the original diversion plan were initially studied it was determined that there were negative impacts from immediately north of the project all the way to Canada. In order to eliminate those impacts, the retention area immediately south of the project was developed; what we now call the staging area.

Too much water is the problem. Only so much water can be sent through the metro area at one time. With a Diversion, we can pass a lot more around the cities, but even then, we have too much water and the timing of peaks caused the previously identified downstream impacts. The staging area allows us to retain the water for a very limited, known amount of time until we can send it on its way north. As opposed to the downstream impacts, the impacts upstream can be kept to a defined area and therefore be mitigated.

When this concept was first proposed, and because the transparency of the Diversion Project has been incredibly open, impacted landowners found out about the concept relatively at the same time as the rest of us. Similar to the process that happens here in Bismarck during the legislative session, given time to review the initial plans and concepts, language and plans are tweaked and many of the problems are worked out. In the interim though, there is a lot of concern and anxiety over the initial ideas that come forward. Like the legislature, we are working to manage that concern and anxiety and, at the same time, fix the problems to get the best end product possible.

Before I get into the work the Diversion Authority has done on Crop Insurance, I want to make clear a couple pieces of misinformation that have been thrown around. I have heard it said that this area will become a dead zone and that all the proposed staging area will no longer be allowed to be farm. This is blatantly false. In fact, operation of the Diversion and therefore the staging area, will only happen at greater than a 10-year event. This means that in any given year there is only a 1 in 10 chance that any additional water will be on any of this land. In addition, when the staging area is operated, even in the areas holding the most water, the maximum number of additional days of flooding will be less than a week. In any given year, there is a 90 percent chance that farming will continue as normal; hardly a dead zone as I have hear been said.

page 1

Now I would like to talk about what happens in the 10 percent of years where, in the Spring, there is additional water on this land. I say Spring because when you put in the data that we have available for the last 100 years of Summer rain events, there has never been a summer flood big enough where the staging area would have be operated. I am not saying there will never be such an event in the future, but looking back at our history, the Diversion would have helped during Summer events, not hurt. I also think it is important to note that the staging area is roughly 32,000 acres; and roughly 18,000 of those acres flood and have water on them already during a spring flood today and will likely have water on them during this spring's pending flood.

The goal of the Diversion Authority is to develop a plan for crop insurance so that farmers will not have any noticeable differences in their coverage. This is not an easy process and many of the finer details are still being worked out, but as a farmer and chair of the Agriculture Subcommittee, I am here to tell you that we have made a lot of progress and there is absolute commitment to this goal. The Diversion is a large project that has many years left before any impacts in this area are seen; so I am not saying we can take our time developing a crop insurance plan, but we need to take the proper amount of time so that we do it right. We owe it to the taxpayers and to the farmers impacted.

The Diversion Authority's crop insurance will not be in replacement to federal crop insurance. The proposed plan is to develop supplemental crop insurance coverage that would kick in where federal crop insurance stops, so that the farmer still has the same coverage regardless if the damage is from a natural event, a manmade event, or a combination. We are working closely with the USAD's Risk Management Agency, or RMA to understand their role and the role of federal insurance reinsurers, who are contracted to RMA to administer the crop insurance program.

Based on several meetings and conversations with RMA representatives, our plan is to self-insure for the rare incidences when federal crop insurance will not apply. It is important to note that federal crop insurance will be available when farmers are able to get their crops planted. This is the expectation even if spring floods require operation of the project and staging area.

If the staging area is operated because of spring flooding, and if the additional flooding prohibits farmers from planting, the Diversion Authority's supplemental policy would cover prevent plant losses to the famers. Also, in the very rare event that the project needs to operate in the summer and growing crops are impacted, the Diversion Authority's supplemental policy would cover crop damages.

The Diversion Authority will contract with one of the re-insurers to help administer the program. The re-insurers will work closely with RMA decision makers to determine where the federal crop insurance stops and where the supplemental policy would pick up. This damage adjusting process would be very similar to the process used in 2011 along the Mississippi River when severe flooding required the Corps to blow the levees and flood farmland in Missouri. In the Mississippi event, the RMA leaders were heavily engaged and they drafted specific position papers for this unique event. It was ultimately ruled that the federal crop insurance did apply.

For perspective, if a summer flood did require project operation, and if it was ruled that crop damage in the entire 32,000 acre staging area was 100 percent the fault of the Project, the total liability to the

page 2

Diversion Authority, based on 2012 average crop prices in Cass and Clay counties would be approximately \$14.5 Million. Knowing how rare of event this would be, and knowing that much of the area is already impacted by flooding, the Diversion Authority is comfortable with this risk. However, we are working to refine the total liability and risks so that we can properly fund a reserve account as part of the annual O&M for the project.

In summary, we want to do right by the citizens impacted by the Diversion. We understand the nervousness out there surrounding the staging area and are sympathetic to the unknown state a lot of folks are in right now. The design and construction process is a long one and, like I mentioned earlier, we don't want to drag our feet, but we need to proceed forward appropriately to produce the right mitigation programs. A lot of work has been done throughout this incredibly open and transparent process. We will continue to work with the best experts in the country to develop a crop insurance plan to give farmers the confidence they need and deserve.

Thank you for the time today. I have included an additional summary handout of our crop insurance plan for your information.

Rodger Olson

spage 3

# Rodger Olson

# FM Area Diversion

# DIVERSION

# **AG IMPACTS MITIGATION PLAN**

# FLOWAGE EASEMENT

- The easement provides the legal ability to inundate property as part of the operation of the Project.
- Value of flowage easement will follow Federal/USACE process and will be determined by appraisal. Factors that will be considered are depth, duration, and frequency of additional flooding and highest and best use of the property.
- USACE policy defines a flowage easement as a one-time payment made at the time that the easement is acquired, currently estimated in 2020.
- Appraiser may consider future impacts including delayed planting, yield loss, debris, and limitations to future land use, resulting from operation of the Project.
- Values of flowage easement will vary depending on the location of the property, magnitude of impacts, and future risks to the property.
- Flowage easements will allow for farming to continue on properties, however development will be limited.
- The Corps' Feasibility Study estimated Ag flowage easements at 25 percent of land costs, on average. The actual value will be adjusted to reflect current valuation when easements are acquired.

# **CROP INSURANCE**

- Federal crop insurance will apply if a crop can be planted before the established late planting dates.
- The Diversion Authority intends to provide a supplemental risk policy. The draft policy provides equivalent crop insurance coverage as growers have today.
- The risk policy will cover prevent plant scenarios where Project operation would prohibit planting.
- The risk policy would also cover damages caused by project operation to planted crops (summer impacts).
- The Diversion Authority will base its risk policy on federal crop insurance programs administered by the Risk Management Agency (RMA)/USDA.
- RMA policies and procedures will be used to define insurance coverage for damages caused by the Diversion Project.
- The Diversion Authority intends to contract with an independent insurance provider to administer the coverage and damage adjustment process.
- The Diversion Authority will explore selfinsurance vs. supplemental insurance through a provider.
- There is a 90 percent chance that the staging area will not be used in any given year, and for the 10 percent chance that the staging area will operate in any year, additional flooding will exist for a maximum of 5.5 days beyond existing conditions.

-page 4

Darrell Vanyo #5

# SENATE APPROPRIATIONS SUB-COMMITTEE HB 1020 - DIVERSION FUNDING

My name is Darrell Vanyo, current Cass County Commissioner, and chair of the FM Area Diversion Authority Board. You have heard from Rose Hoefs regarding the process for any buyouts or easements necessary for the diversion project. The process is a fair one, regulated by federal guidelines, and no one will lose financially as a result of the diversion project. You have heard from Rodger Olson regarding the flowage easement and insurance that farmers will have to ensure that they are fairly compensated for the right to stage water on their land and that they are made whole for any crop damages created by the operations of the diversion. In addition, the Diversion Authority has worked hard to ensure that the Kindred School District does not suffer as a result of buyouts and loss of valuation. We are proposing to do this by protecting the largest development within the Kindred School District aside from the city of Kindred itself. A ring dike would provide up to 500 year level protection for the cities of Oxbow, Hickson, and Bakke. Yes, this would require a buyout of some 44 homes. However, these homes would either be moved or new homes could be built to replace them within the protected area. The surest and fastest way to bring the Oxbow area out of the limbo state that they are in is to move forward on ring dikes. Without this moving forward, the limbo state of uncertainty regarding the diversion and its' completion could cause many years of waiting for any buyouts to occur.

With a ring dike completed, there would be between 51 and 84 structures remaining to be reviewed for either ring dikes or buyouts. The reason I am giving you that range is because the low end number relates to the number of structures within the redline area on the ND side identified by the Corps of Engineers and the high number relates to the number of structures on both sides of the river including those outside the red line area. Outside the redline area means that there is less than one foot of project impact. I spoke to the Corps of Engineers and the flexibility that they gave was this. Residences within the redlined area could be ring diked if the project impact was 3 feet or less but would require a buyout for structures impacted above the 3 foot level. (Of course, they would allow a little variance if a structure had only a few inches above the 3 foot project impact.)

For farmsteads, the Corps of Engineers indicated a willingness to perhaps go a little higher, but I gathered that this meant perhaps a 4 foot level at In addition to the Corps of Engineers guidance on this, there are other factors that can enter in to a decision to ring dike or buyout. include the logical conclusion that technically a ring dike cannot be done due to the proximity to a river which inhibits any construction of the dike altogether. And then lastly, costs may make ring diking a questionable decision. For example, if a ring dike were 4 to 5 times the cost of the structures within the ring dike and the project impact was 4 feet or greater; this may negate any further consideration for a ring dike since it already is borderline according to the Corps of Engineers for safety purposes. The reason that the Corps of Engineers allows for greater levees or ring dikes in communities than for individual residences or farmsteads is that in a community there are sheer numbers to keep eyes on neighbors and there is typically the infrastructure and assets to deal with water levels at this height. Individuals left to fend for themselves with no land access present a far greater risk that the Corps of Engineers does not wish to take.

Having said all this, the numbers in Cass County are as follows. We have 37 residences and 14 farmsteads to deal with within the redline area. We have not sat down with these people. In fact, the data on these structures has only recently been computed and meetings are currently being set up to discuss the project impact with each residence or farmstead owner. Keep in mind that the final alignment of the diversion was only determined 5 months ago. Based upon the guideline established by the Corps of Engineers and the technical feasibility of constructing ring dikes for each location, it appears that perhaps 30% may qualify for ring dikes and 70% may require a buyout. This is preliminary and we will continue to work on this.

Members of this sub-committee, I hope that this review of mitigation efforts leaves you with the understanding that we do care about our neighbors to the south. Those most directly affected should not and will not have to bear a financial price for the protection afforded the nearly 200,000 people within the diversion. Yes, there will be some buyouts, but with the enormous size of the protected area, it is virtually impossible not to have such impacts. We have previously gone over why retention cannot replace the diversion and why levees alone will not work as described by April Walker. The only solution for a 100 year protection of the FM Area is the DIVERSION.

The only other item that I wish to address is the commitment of state dollars and the fear of beginning diversion or diversion related efforts prior to the federal government authorization and funding. While we truly appreciate the \$75 million dollars previously appropriated and the potential for an additional \$100 million dollars for the next biennium; we believe that unless we are given the freedom to use those dollars in the most expeditious and meaningful way, we will be losing ground on our efforts to provide flood protection sooner rather than later. In other words, if monies are directed solely toward Fargo's levees for the next biennium, we will lose two years worth of efforts that could go toward the 8.5 year construction of the diversion itself and mitigation activities related to the diversion. The levee work and the diversion work are two separate but integrated parts of the overall diversion project. They do not and should not be viewed as a sequential process, but rather as a parallel process for construction.

The Diversion Authority is very cautious with the expenditures and oversight of the project. We recognize the sacrifices of the local and state government to provide the dollars for such a project. We will ensure that proper cooperative agreements are followed with the Corps of Engineers in an effort NOT to jeopardize or diminish the potential for federal dollars.

I would ask you to consider the fact that, without the freedom to have a three pronged approach to flood protection activity ( work to the north, south, and with Fargo levees), the next legislative session could see less than the appropriated monies spent. I realize that these could be carried over; but if there is an acknowledgement that protection is necessary, then shouldn't there be a concern to move as quickly as possible in getting the project started? I am not speaking of moving so quickly as to NOT be thorough in our oversight. It has been 4 years to get us to this point and we are now positioned to begin some construction prior to the next legislative session. Please allow the Diversion Authority to work through this project with local, state, and federal partners in the true sense of what a partnership can be - a team effort toward a common goal. We truly need you, we need our federal partner, we need our Minnesota partner. We will work tirelessly to ensure that we do not let you down regarding any fears you may have.

I ask that you take out the amendments which restrict our intended purpose for the requested appropriation in the first place. Thank you. Questions?

# Western Area Water Supply Authority HB 1020 Responses to Sen. Grindberg April 3, 2013

This document has been developed by the Western Area Water Supply Authority (WAWSA) to address specific questions dated March 27, 2013 from Sen. Grindberg under the consideration of House Bill 1020.

# Number of "traditional" (rural homes/farmsteads) rural users, water rate, and revenue generated.

The following table shows the number of historical users in the "traditional" rural setting. Traditional rural residential users include rural homes and farmsteads. Also included in this table are the rural commercial and industrial users as well as bulk users, RV Parks, and temporary housing units which were in place and served by the WA WSA Members prior to the development of WAWSA. The WAWSA Members retain the associated revenue stream from these users.

	Historical	Rate *	MINERAL SALDON TO	oss Revenue
	Number of Users	(Average/Mont	i) 植物	2012
McKenzie County Water Resource District				
Residential	360	\$ 60	\$	285,120
Commercial/Industrial	35	\$ 302	\$	126,840
Bulk/RV Park/Temporary Housing	29	\$ 750	\$	261,000
Williams Rural Water District				
Residential	1,416	\$ 87	\$	1,478,304
Commercial/Industrial	249	\$ 231	\$	690,228
Bulk/RV Parks/Temporary Housing	29	\$ 1,850	\$	643,800
<b>R&amp;T Water Supply Commerce Authority</b>				
Residential	45	\$ 41	\$	22,140
Burke Divide Williams Rural Water	-	\$ 82	\$	-
Total	2,163		\$	3,507,432
	Me	ember System Rev	enue	

<sup>\*</sup>Monthly average rates were based upon monthly minimun and volumetric charges as follows: Williams Rural Water District: historical billing.

McKenzie County Water Resource District: base rate \$45 plus \$5.25 x 4,000 gallons for residential; 10,000 gallons for commercial; and 95,000 gallons for bulk.

R&T Water Supply Commerce Authority: 2012 AE2S Rate Survey with average residential rate of \$41 per month based on 6,000 gal per month.

The following table includes the new traditional rural residential user requests currently on file. Based on past experience, it is expected the estimated new rural residential users could increase by as much as 30 percent as the system is constructed. This increase is not included in the table.



	Rate * New Traditional Rural User		tional Rural Users Re	s Requests	
	(Average/Month)	2011-2013	2013-2015	Future	
McKenzie County Water Resource District			(A) 2 (A)		
Residential	\$ 66	200	115	60	
Commercial/Industrial	\$ 302	- 1		*	
Bulk/RV Park/Temporary Housing	\$ 750			2	
Williams Rural Water District					
Residential	\$ 87	- 1	205	-	
Commercial/Industrial	\$ 231	-		-	
Bulk/RV Parks/Temporary Housing	\$ 1,850	-		1	
R&T Water Supply Commerce Authority			The fact of the second		
Residential	\$ 41	-	81	325	
Burke Divide Williams Rural Water		9			
Residential	\$ 82	-	42	165	
Total	AND DESCRIPTION	200	443	550	
Estimated Annual Gross Revenue		\$ 158,400	\$386,280 \$	369,780	
		Negotiating Rev	venue Split Between Me WAWSA	ember and	

<sup>\*</sup>Monthly average rates were based upon monthly minimun and volumetric charges as follows:

Williams Rural Water District: historical billing.

McKenzie County Water Resource District: base rate \$45 plus \$5.25 x 4,000 gallons for residential; 10,000 gallons for commercial; and 95,000 gallons for bulk.

R&T Water Supply Commerce Authority: 2012 AE2S Rate Survey with average residential rate of \$41 per month based on 6,000 gal per month.

# 2. Number of cities served by WAWSA, rate, volume water utilized, and revenue generated.

WAWSA provides bulk water service to its Members. Members utilize the WAWSA bulk water supply for their systems and, in many cases, supply water to other bulk systems (cities) within the Member service areas. The following table provides the Member systems, rate per 1,000 gallons domestic water as a wholesale supply to the Members, estimated volume, and revenue received by WAWSA to date from these Member systems.

	Initial WAWSA	Rate per	Estimated	,	WAWSA
Member	Service Date	1,000 gal	Gallons	Rev	enue to Date
City of Williston	Mar-12	\$ 1.83	1,249,746	\$	2,287,035
McKenzie County Water Resource District	Jan-13	\$ 3.87	48,665	\$	188,334
Williams Rural Water District	Nov-12	\$ 3.16	103,476	\$	326,983
R&T Water Supply Commerce Authority	-	\$ 3.16	54.5		85-81
Burke Divide Williams Rural Water	-	\$ 3.16	5-6		5.6
Total			1,401,887	\$	2,802,352

WAWSA indirectly serves or is planning to serve the following 19 cities and towns: Alamo, Alexander, Arnegard, Columbus, Crosby, Epping, Fortuna, Grenora, Hanks, Keene, Powers Lake, Ray, Ross, Springbrook, Stanley, Tioga, Watford City, Wildrose, and Zahl.



# 3. Number of other hook-ups for domestic water (rural residential subdivisions, commercial and industrial users, and bulk, RV Park, and temporary housing units, rural, etc.)

The table below includes an estimated number of new development users. These developments are rural residential subdivisions, rural commercial and industrial users, and bulk, RV Parks, and Temporary Housing Units. The total estimated users are the estimated number of individual hook ups per category.

		ENTER A SERVEN DE L'EXPLORE LE LES TOUR LE PRENE LE LES TOURS LE PRENE LE LES TOURS LE PRENE LE LES TOURS LE LE LE LES TOURS LE	<ul><li></li></ul>	Development Users
	(Av	erage/Month)	2013-2015	Future
McKenzie County Water Resource District				
Residential	\$	66		-
Commercial/Industrial	\$	302	Called Physics	-
Bulk/RV Park/Temporary Housing	\$	750		-
Williams Rural Water District				
Residential - Rural Subdivision Units	\$	87	2,400	3,250
Commercial/Industrial	\$	231	150.	200
Bulk Service - Rural Subdivisions (1,000 Units)	\$	35	-10	
Bulk Service - Rural Subdivisions (5,100 Units)	\$	35		5
RV Park/Temporary Housing Units	\$	20	2,000	1,500
R&T Water Supply Commerce Authority		2.3		
Residential - Rural Subdivisions Units	\$	41	100	845
Burke Divide Williams Rural Water		TBD		-
Total			4,660	5,800
Estimated Annual Gross Revenue*			\$ 3,870,600	\$ 6,865,140

Negotiating revenue split between member and WAWSA.

This estimated revenue is currently in the 2013 Business

Plan Update,

Residential - Rural Subdivision Units are based upon existing sales to this user class.

Commercial/Industrial are based upon existing sales to this user class.

Bulk Service - Rural Subdivisions are estimated at 4,000 gallons per month per unit.

RV Parks/Temporary Housing Units are estimated at 2,000 gallons per month.

# 4. Number of depots currently in operation and revenue generated monthly and annually.

There are currently nine depots in operation which include depots formerly operated by Member systems. In total, the depots generated \$13.2 million in gross revenue for the period April 2012 through March 2013. The revenue generated in the most current month, March 2013, was \$1.75 million. The estimated annual depot revenue in 2013 is \$18 million. Over time, it is anticipated depot revenue will generally decrease as the industry shifts to more lateral connections to provide service directly to the sites.



<sup>\*</sup>Volume and Rate Assumptions:

# 5. Number of industrial hook-ups (direct lateral connections, other) in operation and monthly and annual revenue?

There are currently two direct connections to the WAWSA transmission line and several temporary connections which generated approximately \$720,000 in March 2013 and total sales of \$1.8 million from January through March 2013. There are an additional four to five pending requests and requests in negotiations. Again, it is anticipated direct lateral connections will become a standard method of water delivery directly to well sites or field locations which will decrease depot revenue and increase direct connections revenue.

# WAWSA's annual administrative and operations and maintenance (O&M) budget (2013).

The WAWSA administrative and O&M budget in 2013 is approximately \$833,000 as presented in the following table. This budget includes the normal administrative services to operate the WAWSA and the O&M expenses incurred directly by WAWSA. This budget excludes capitalized expenditures as noted.



WAWSA Administrative and O&M Expenses <sup>1</sup>	2013	Budget
Advertising	\$	4,000
Board of Directors	\$	10,000
Computer Expenses	\$	1,900
Contract Labor	\$	3,000
Dues and Subscriptions	\$	2,000
Employee Benefits	\$	149,500
Insurance	\$	10,000
Office Expenses	\$	500
Payroll Expenses	\$	495,000
	\$ \$	•
Postage Promotional	\$ \$	1,000
		500
Rent or Lease	\$	16,700
Repair and Maintenance	\$	100,000
Small Tools and Equipments	\$	2,500
Telephone	\$	4,200
Travel	\$	10,000
Utilities	\$	1,000
Vehicle	_\$	21,300
Total Administrative Expense	\$ 8	33,100
1. Excludes the following capitalized items:		
Vehicle	\$	50,000
Dumpster	\$	900
Crop Damage Payments	\$	50,000
Office Equipment	\$	10,000

# 7. Annual consulting fees and description of services.

As a start-up entity, WAWSA contracted for administrative services while it began its own hiring of administrative and operational staff throughout 2011, 2012, and 2013. Currently WAWSA employs six staff in the following positions and respective hire dates:

Position	Hire Date
Executive Director	12/1/11
Business Manager	3/26/12
Operations Manager	8/15/12
Operator	11/26/12
Operator	12/3/12
Administrative Assistant	3/4/13



WA WSA contracts for consultants to provide specialized professional services which include legal, public information, and other consultant services. These services totaled \$530,000 in 2011 and \$898,000 in 2012. WAWSA has budgeted \$750,000 for these services in 2013. These services are summarized in the table below. These consulting fees do not include design and construction engineering services which are included in each individual project segment.

Professional Fees	2011 Billed	2012 Billed	2013 Budget
Legal Fees (Vogel Law Firm)	\$ 148,463	\$ 340,534	\$ 250,000
Public Information (AE <sub>2</sub> S)	\$ 28,577	\$ 92,567	\$ 100,000
Other Consultant Services (AE <sub>2</sub> S and AE <sub>2</sub> S Nexus)			
Capital Accounting	\$ 55,118	\$ 88,179	\$ 50,000
Funding Application	\$ 71,621	\$ 34,573	\$ 37,165
Rate Modeling and Water Contract Support	\$ 88,381	\$107,565	\$ 46,079
Program Management	\$108,351	\$138,751	\$ 64,074
Business Plan Update and Legislative Support	\$ 29,127	\$ 95,521	\$202,682
Total Other Consultant Fees	\$297,480	\$376,409	\$350,000
Total Professional Fees	\$529,638	\$897,689	\$750,000

# 8. Annual Contracted Member O&M budget (2013).

Contracted Member O&M Expenses	2013 Bud	get
Burke Divide Williams Rural Water	\$ 158,0	000
City of Williston	\$ 1,785,2	320
McKenzie County Water Resource District	\$ 482,8	831
R&T Water Supply Commerce Authority	\$ 1,354,0	683
Williams Rural Water District	\$ 117,0	000
Total	\$ 3,897,8	334



# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "and sections 6 and 7 of"

Page 1, line 6, remove "chapter 46 of the 2011 Session Laws"

Page 1, line 6, remove ", the"

Page 1, line 7, remove "water-related topics overview committee, and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,620,136	\$4,850,009
Water and atmospheric resources	<u>498.413.774</u>	<u>324,694,788</u>	823,108,562
Total all funds	\$501,643,647	\$326,314,924	\$827,958,571
Less estimated income	<u>486,648,448</u>	<u>341,310,123</u>	<u>827,958,571</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, line 25, remove the comma

Page 2, line 26, remove "subject to budget section approval,"

Page 2, after line 28, insert:

"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

Page 4, replace lines 1 through 13 with:

"SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for

levee and dike protection until federal authorization is received for a river diversion project, at which time these funds may be expended for a river diversion project.

# SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove lines 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 31
- Page 6, replace lines 1 through 3 with:

# "SECTION 12. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. The Fargo-Moorhead area diversion authority board shall report to the budget section prior to December 2013 and prior to October 2014 regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool, mitigation efforts, easements, and the project budget."

- Page 6, remove lines 12 through 30
- Page 7, remove lines 1 through 16
- Page 7, line 17, after "1" insert "of this Act and section 5"
- Page 7, line 18, replace "is" with "are"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

## House Bill No. 1020 - State Water Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Administrative and support services	\$4,042,784	\$3,909,500	\$940,509	\$4,850,009
Water and atmospheric resources	823,096,248	822,339,358	769,204	823,108,562
Accrued leave payments		325,774	(325,774)	
Total all funds	\$827,139,032	\$826,574,632	\$1,383,939	\$827,958,571
Less estimated income	809,359,388	826,574,632	1,383,939	827,958,571

General fund	\$17,779,644	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00

# Department No. 770 - State Water Commission - Detail of Senate Changes

	Restores Executive Compensation Package <sup>1</sup>	Removes Separate Line Item for Accrued Leave Payments <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Senate Changes
Administrative and support services	\$86,252	\$49,192	\$805,065	\$940,509
Water and atmospheric resources	492,622	276,582		769,204
Accrued leave payments		(325,774)		(325,774)
Total all funds	\$578,874	\$0	\$805,065	\$1,383,939
Less estimated income	578,874	0	805,065	1,383,939
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

- Audit fees \$53,000 State Auditor
- Attorney fees \$321,276 Attorney General
- Rent \$430,789 Office of Management and Budget

### This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to Fargo flood control funding. The House amendments changed legislative guidelines for Fargo flood control project expenditures.
- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million.
- Sections added by the House directing the State Water Commission to study the use of ring
  dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red
  River Valley.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing.
- A section added by the House which increases the membership of the Water-Related Topics
   Overview Committee and directs the committee to prepare a water project priority schedule to be
   included in the committee's final report to the Legislative Management.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center.
- A section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013.
- The requirement that the State Water Commission receive Budget Section approval prior to

<sup>&</sup>lt;sup>2</sup> The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

<sup>&</sup>lt;sup>3</sup> Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from general fund to special funds:

spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium.

## In addition, this amendment:

- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure.
- Adds a section to provide funds designated by the Legislative Assembly for Fargo flood control
  are available only for levee and dike protection until federal authorization is received for a river
  diversion project, at which time these funds may be expended for a river diversion project.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million.
- Adds a section requiring Fargo-Moorhead Area Diversion Authority reports to the Budget Section.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation.

Prepared by the North Dakota Legislative Council staff

April 2013

Attachment 1. April 22, 2013 HB 1020

# **HOUSE BILL NO. 1020 - SECTION COMPARISON**

This memorandum provides information on the versions of House Bill No. 1020. The schedule below compares the sections of House Bill No. 1020 as introduced, engrossed (House version), and engrossed with Senate amendments (Senate version).

Executive Recommendation	House Version	Senate Version
SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT. Directs the State Water Commission to provide a grant of \$135,000 from the general fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state	Because the funding source of the administration of	GRANT. (Same as House version)
SECTION 4. ADDITIONAL INCOME - APPROPRIATION. Provides that in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund, any additional amounts that become available in those funds are appropriated to the commission for the purpose of defraying the expenses of the commission for the 2013-15 biennium	SECTION 4. ADDITIONAL INCOME - APPROPRIATION. (Amended by House)  • Amended to provide the additional funds are appropriated, subject to Budget Section approval	SECTION 4. ADDITIONAL INCOME APPROPRIATION. (Amended by Senate)  Removes the requirement that the State Water Commission receive Budget Section approval prior to spending any additional funds that may become available in the resources trust fund or water development trust fund during the 2013-15 biennium The same as the executive recommendation.  SECTION 5. BANK OF NORTH DAKOTA LOAN
		<ul> <li>WESTERN AREA WATER SUPPLY AUTHORITY.</li> <li>(Added by Senate)</li> <li>A section is added to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure.</li> </ul>
SECTION 5. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. Authorizes the State Water Commission to continue any unexpended 2013-15 appropriation authority for grants or water-related projects in the 2015-17 biennium	<b>PROJECTS - CARRYOVER AUTHORITY.</b> No change from the executive recommendation	SECTION 6. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. No change from the House version and the executive recommendation
	<ul> <li>SECTION 6. AMENDMENT - 2009 SESSION LAWS. (Added by House)</li> <li>A section is added to amend the 2009 Session Laws, previously amended in 2011, related to Fargo flood control funding. The amendments change legislative guidelines for Fargo flood control project expenditures.</li> </ul>	
	SECTION 7. AMENDMENT - 2011 SESSION LAWS. (Added by House)  A section is added to amend the 2011 Session Laws related to Fargo flood control funding. The amendments change legislative guidelines for Fargo flood control project expenditures.	(Removed by Senate)

April 2013

Executive Recommendation	House Version	Senate Version
		SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING. (Added by Senate)
		<ul> <li>A section is added to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, and there is a federal appropriation for construction. In addition, the budget for the Fargo flood control project must be approved by the State Water Commission.</li> </ul>
		SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD
	*	CONTROL PROJECT FUNDING. (Added by Senate)
		<ul> <li>A section is added to provide legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million.</li> </ul>
	SECTION 8. FARGO FLOOD CONTROL PROJECT	SECTION 9. FARGO FLOOD CONTROL PROJECT
	FUNDING - EXEMPTION. (Added by House)	FUNDING - EXEMPTION. (Amended by Senate)
	<ul> <li>A section is added to provide that of the funds appropriated to the State Water Commission for grants and projects for the 2013-15 biennium, \$100 million is for Fargo flood control projects, which must be continued into the next or subsequent bienniums and to provide legislative guidelines for Fargo flood control project expenditures.</li> </ul>	House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62 <sup>nd</sup> and
	SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD	(Removed by Senate)
	<ul> <li>CONTROL PROJECT FUNDING. (Added by House)</li> <li>A section is added to provide flood protection for the city of Fargo to the 42 ½-foot level and that total Fargo flood control project funding provided by the state not exceed \$325 million.</li> </ul>	
		SECTION 10. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY. No change from the House version

2

Executive Recommendation  SECTION 6. LEGISLATIVE INTENT - BOND SPAYMENTS. Provides legislative intent that, if funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds \$515 million, of the funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the commission's outstanding bond issues. The contingent	PAYMENTS. No change from the executive	Senate Version  SECTION 11. LEGISLATIVE INTENT - BOND  PAYMENTS. (Amended by Senate)  • Amended to allow the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the House version and the executive recommendation
PAYMENTS. Provides legislative intent that, if funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds \$515 million, of the funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the	PAYMENTS. No change from the executive	<ul> <li>PAYMENTS. (Amended by Senate)</li> <li>Amended to allow the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the House version</li> </ul>
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for the 2013-15 biennium exceeds \$515 million, of the funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the		funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the House version
funds appropriated to the State Water Commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the		defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the House version
water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the		the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the House version
from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the		than \$515 million, as provided in the House version
commission for the purpose of paying off or defeasing the		
		and the executive recommendation
funding from the resources trust fund (\$60 million) and		
funding from the water development trust fund provided		
for bond payments (\$16.9 million) totaling \$76.9 million		
would be available to defease the commission's		
outstanding bond issues of \$75,250,000 and pay related		
fees.		
	SECTION 42 STATE WATER COMMISSION STUDY	I/D the Consts)
1	SECTION 12. STATE WATER COMMISSION STUDY -	(Removed by Senate)
	ARGO FLOOD CONTROL. (Added by House)	
•	A section is added directing the State Water	
	Commission to study the use of ring dikes as part of a	
	flood protection plan for the city of Fargo.	
	ECTION 13. STATE WATER COMMISSION STUDY -	(Removed by Senate)
	RED RIVER VALLEY WATER SUPPLY. (Added by	DOT BLEET
II I	louse)	
	A section is added directing the State Water	
	Commission to study water supply needs in the Red	
	River Valley.	
	ECTION 14. INFORMATION TECHNOLOGY	(Removed by Senate)
	ARDWARE - TRANSFER TO SECURE DATA	
	ENTER. (Added by House)	
	A section is added to require the State Water	
	Commission to move information technology	
	hardware to the Information Technology Department	
	secure data center.	
SE	ECTION 15. STATE WATER COMMISSION	(Removed by Senate)
Pi	RIORITY PROJECTS LIST - REPORTS TO THE	,
BU	UDGET SECTION. (Added by House)	
	A section is added to require the State Water	
	Commission to report to the Budget Section within	
	90 days of any changes made to the water project	
	priority list presented to the Legislative Assembly in	
	2013.	
		SECTION 12. FARGO FLOOD CONTROL - REPORTS
		TO THE BUDGET SECTION. (Added by Senate)
		A section is added to require Fargo-Moorhead Area
		Diversion Authority reports to the Budget Section.

Executive Recommendation	House Version	Senate Version
		SECTION 13. AMENDMENT. Section 6-09.5-03. No
Code Section 6-09.5-03. Amends Section 6-09.5-03 to		change from the House version and the executive
increase the authorized ceiling of the community water		recommendation
facility revolving loan fund administered by the Bank of		
North Dakota to supplement United States Department of		
Agriculture Rural Development financing for community		
water projects by \$15 million to provide a maximum of \$25 million		
423 Million	SECTION 17. AMENDMENT. Section 54-35-02.7.	(Pamayad by Canata)
	(Added by House)	(Nemoved by Senate)
	<ul> <li>A section is added to amend Section 54-35-02.7 to</li> </ul>	
	increase the membership of the Water-Related	
	Topics Overview Committee and directs the	
	committee to prepare a water project priority schedule	
	to be included in the committee's final report to the	
	Legislative Management.	
	SECTION 18. A new section to Chapter 61-02.	(Removed by Senate)
	(Added by House)	
	A section is added to create a new section to	
	Chapter 61-02 to require the State Water Commission	
	to adopt policies regarding project development and	
DESCRIPTION OF THE PROPERTY OF	financing.	
		SECTION 14. EMERGENCY. (Amended by Senate)
appropriated to the State Water Commission in the water	executive recommendation	Amended to include the Bank of North Dakota loan to
and atmospheric resources line item are declared to be an		the Western Area Water Supply Authority as an
emergency measure		emergency measure



# North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850 701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: http://swc.nd.gov

Attach ment 1. April 22, 2013 HB 1020

April 22, 2013

Senator Tony Grindberg State Capitol 600 East Boulevard Avenue Bismarck, ND 58505

Dear Senator Grindberg:

The State Water Commission (SWC), its staff, and the Office of the State Engineer have been involved in the Fargo-Moorhead Metropolitan Area Flood Risk Management Project (F-M Flood Project) in a number of ways. The SWC first discussed this project at its April 2010 meeting, and has received a project update from the local sponsors at all of its regularly scheduled meetings since March 2011. This is one of the few projects across the state that is a standard item on the Commission's agenda. The U.S. Army Corps of Engineers (Corps) is the lead agency for the F-M Flood project. As a result, the NEPA process requires many meetings both for the scoping process and EIS development. State Water Commission staff attends both agency and working group meetings that have been held as part of the NEPA process. In addition, staff attends the Fargo-Moorhead Diversion Authority's meetings.

The Office of the State Engineer has also had staff attend agency meetings both to understand the project for eventual permitting and to ensure the Corps and the local sponsors understand the State Engineer's permitting requirements.

In addition to receiving project updates, the SWC approves the state cost share for the project. To date, the SWC approved \$75 million for Fargo flood protection. In addition, the SWC approved the Water Plan that included \$102 million for the F-M flood protection that was submitted to the legislature in support of the SWC's budget.

Sincerely,

Todd Sando, P.E.

Jodd Sal

State Engineer

and Chief Engineer-Secretary to the State Water Commission

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" NO PET

April 2013

HOUSE BILL NO. 1020 - SECTION COMPARISON

April 22, 2013

HB 1020

This memorandum provides information on the versions of House Bill No. 1020. The schedule below compares the sections of House Bill No. 1020 as introduced, engrossed (House version), and engrossed with Senate amendments (Senate version).

Executive Recommendation	House Version	Senate Version
SECTION 3. SOVEREIGN LANDS ENFORCEMENT	SECTION 3. SOVEREIGN LANDS ENFORCEMENT	SECTION 3. SOVEREIGN LANDS ENFORCEMENT
GRANT. Directs the State Water Commission to provide	GRANT. (Amended by House)	GRANT. (Same as House version)
a grant of \$135,000 from the general fund to the Game		
and Fish Department for law enforcement activities on		
sovereign lands in the state	funds, the funding source of the grant is changed to	la l
	the resources trust fund.	
SECTION 4. ADDITIONAL INCOME - APPROPRIATION.		SECTION 4. ADDITIONAL INCOME -
Provides that in addition to the amounts appropriated to		APPROPRIATION. (Amended by Senate)
the State Water Commission from the resources trust fund	The state of the s	
and the water development trust fund, any additional		Commission receive Budget Section approval prior to
amounts that become available in those funds are		spending any additional funds that may become
appropriated to the commission for the purpose of defraying the expenses of the commission for the 2013-15		available in the resources trust fund or water development trust fund during the 2013-15 biennium -
biennium		The same as the executive recommendation.
Distribution		SECTION 5. BANK OF NORTH DAKOTA LOAN -
		WESTERN AREA WATER SUPPLY AUTHORITY.
		(Added by Senate)
		A section is added to provide for a \$40 million loan
		from the Bank of North Dakota to the Western Area
		Water Supply Authority for construction of the project,
		which is declared an emergency measure.
SECTION 5. GRANTS - WATER-RELATED		
PROJECTS - CARRYOVER AUTHORITY. Authorizes		
the State Water Commission to continue any unexpended	from the executive recommendation	from the House version and the executive recommendation
2013-15 appropriation authority for grants or water-related projects in the 2015-17 biennium		recommendation
projects in the 2013-17 dieninam	SECTION 6. AMENDMENT - 2009 SESSION LAWS.	(Pamayad by Sanata)
	(Added by House)	(Removed by Senate)
	<ul> <li>A section is added to amend the 2009 Session Laws,</li> </ul>	
	previously amended in 2011, related to Fargo flood	
	control funding. The amendments change legislative	
	guidelines for Fargo flood control project	
	expenditures.	
,	SECTION 7. AMENDMENT - 2011 SESSION LAWS.	(Removed by Senate)
	(Added by House)	
	A section is added to amend the 2011 Session Laws	
	related to Fargo flood control funding. The	
	amendments change legislative guidelines for Fargo	
	flood control project expenditures.	

Executive Recommendation	House Version	Senate Version
		SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING. (Added by Senate)
		<ul> <li>A section is added to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, and there is a federal appropriation for construction. In addition, the budget for the Fargo flood control project must be approved by the State Water Commission.</li> </ul>
		<ul> <li>SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. (Added by Senate)</li> <li>A section is added to provide legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million.</li> </ul>
	SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION. (Added by House)  • A section is added to provide that of the funds appropriated to the State Water Commission for grants and projects for the 2013-15 biennium, \$100 million is for Fargo flood control projects, which must be continued into the next or subsequent bienniums and to provide legislative guidelines for Fargo flood control project expenditures.	expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62 <sup>nd</sup> and
	SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. (Added by House)  • A section is added to provide flood protection for the city of Fargo to the 42 ½-foot level and that total Fargo flood control project funding provided by the state not exceed \$325 million.	(Removed by Senate)

Executive Recommendation	House Version	Senate Version
SECTION 6. LEGISLATIVE INTENT - BOND		SECTION 11. LEGISLATIVE INTENT - BOND
PAYMENTS. Provides legislative intent that, if funding		PAYMENTS. (Amended by Senate)
available from the resources trust fund for water projects		Amended to allow the State Water Commission to use
for the 2013-15 biennium exceeds \$515 million, of the	recommendation	funding in the resources trust fund to pay off or
funds appropriated to the State Water Commission in the		defease outstanding bond issues when the balance in
water and atmospheric resources line item, \$60 million		the resources trust fund exceeds \$287 million rather
from the resources trust fund is provided to the		than \$515 million, as provided in the House version
commission for the purpose of paying off or defeasing the		and the executive recommendation
commission's outstanding bond issues. The contingent		and the executive recommendation
funding from the resources trust fund (\$60 million) and		
funding from the water development trust fund provided		
for bond payments (\$16.9 million) totaling \$76.9 million		
would be available to defease the commission's		
outstanding bond issues of \$75,250,000 and pay related		
fees.		
	SECTION 12. STATE WATER COMMISSION STUDY -	(Removed by Senate)
	FARGO FLOOD CONTROL. (Added by House)	(
	A section is added directing the State Water	
	Commission to study the use of ring dikes as part of a	
	flood protection plan for the city of Fargo.	
	SECTION 13. STATE WATER COMMISSION STUDY -	(Removed by Senate)
	RED RIVER VALLEY WATER SUPPLY. (Added by	,
	House)	
	<ul> <li>A section is added directing the State Water</li> </ul>	
	Commission to study water supply needs in the Red	
	River Valley.	
1	SECTION 14. INFORMATION TECHNOLOGY	(Removed by Senate)
	HARDWARE - TRANSFER TO SECURE DATA	
	CENTER. (Added by House)	
	<ul> <li>A section is added to require the State Water</li> </ul>	
	Commission to move information technology	
	hardware to the Information Technology Department	
	secure data center.	
1	SECTION 15. STATE WATER COMMISSION	(Removed by Senate)
	PRIORITY PROJECTS LIST - REPORTS TO THE	
	BUDGET SECTION. (Added by House)	
	A section is added to require the State Water  Commission to sense to the Budget Section within	
	Commission to report to the Budget Section within	
	90 days of any changes made to the water project priority list presented to the Legislative Assembly in	
	2013.	
		SECTION 12. FARGO FLOOD CONTROL - REPORTS
		TO THE BUDGET SECTION. (Added by Senate)
	·	A section is added to require Fargo-Moorhead Area
		Diversion Authority reports to the Budget Section.
		The state of the s

Executive Recommendation	House Version	Senate Version
SECTION 7. AMENDMENT. North Dakota Century Code Section 6-09.5-03. Amends Section 6-09.5-03 to increase the authorized ceiling of the community water facility revolving loan fund administered by the Bank of North Dakota to supplement United States Department of Agriculture Rural Development financing for community water projects by \$15 million to provide a maximum of \$25 million	change from the executive recommendation	SECTION 13. AMENDMENT. Section 6-09.5-03. No change from the House version and the executive recommendation
	<ul> <li>SECTION 17. AMENDMENT. Section 54-35-02.7. (Added by House)</li> <li>A section is added to amend Section 54-35-02.7 to increase the membership of the Water-Related Topics Overview Committee and directs the committee to prepare a water project priority schedule to be included in the committee's final report to the Legislative Management.</li> </ul>	
	<ul> <li>SECTION 18. A new section to Chapter 61-02. (Added by House)</li> <li>A section is added to create a new section to Chapter 61-02 to require the State Water Commission to adopt policies regarding project development and financing.</li> </ul>	(Removed by Senate)
SECTION 8. EMERGENCY. Provides that funds appropriated to the State Water Commission in the water and atmospheric resources line item are declared to be an emergency measure		<ul> <li>SECTION 14. EMERGENCY. (Amended by Senate)</li> <li>Amended to include the Bank of North Dakota loan to the Western Area Water Supply Authority as an emergency measure</li> </ul>

SWC Priority Projects	Potential 2013-2015 Allocations
Community Water Facility Rev. Loan Fund	\$15,000,000
Devils Lake Flood Control	10,000,000
Fargo Flood Control	100,000,000
Mouse River Flood Control	61,000,000
Sheyenne River Flood Control	$21,000,000^2$
General Water Management <sup>3</sup>	33,000,000
Irrigation	5,000,000
Fargo Water Supply	15,000,000
Northwest Area Water Supply	14,000,000
Red River Valley Water Supply	11,000,000
Southwest Pipeline Project	79,000,000 <sup>2,4</sup>
Water Supply Program	71,000,000
Western Area Water Supply	$79,000,000^5$
Weather Modification	1,000,000
Project Totals	\$515,000,000

<sup>&</sup>lt;sup>1</sup> The Water Commission's original priorities as presented in the 2013-2015 Water Development Plan included \$102 million for Fargo flood control. House amendments to HB 1020 moved \$2 million from Fargo flood control to the Red River Water Supply Project.

<sup>&</sup>lt;sup>2</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>3</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

<sup>&</sup>lt;sup>4</sup> Advanced emergency funding of \$21 million was approved for the Southwest Pipeline and \$10.35 million for three water supply program projects in House Bill 1269.

<sup>&</sup>lt;sup>5</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.

April 2013

# ANALYSIS OF THE RESOURCES TRUST FUND FOR THE 2011-13 AND 2013-15 BIENNIUMS (REFLECTING LEGISLATIVE CHANGES FOR CONFERENCE COMMITTEE)

	2011-13 B	iennium	2013-15 B	iennium
Beginning balance		\$155,940,058		\$263,074,460
Add estimated revenues Oil extraction tax collections	\$383,988,108		\$546,953,350	
Estimated increase in oil extraction tax allocations pursuant to 2013 HB 1234 (Senate version)			12,380,000 <sup>1</sup>	
Repayments and reimbursements	4,995,000		8,614,000	
Investment earnings/miscellaneous income	1,252,893		1,359,000	
Total estimated revenues		390,236,001 <sup>1</sup>		569,306,350
Total available		\$546,176,059		\$832,380,810
Less estimated expenditures and transfers State Water Commission - Grants, projects, and project administration, including expenditures approved by the Budget Section pursuant to 2011 SB 2020 and SB 2371 and 2013 HB 1020 (Senate version)	\$273,101,599 <sup>2</sup>		\$700,875,000 <sup>3</sup>	
State Water Commission - Administration (Senate version of 2013 HB 1020)			18,597,157	
State Water Commission - Western Area Water Supply Authority \$25 million zero interest loan (2011 SB 2020)	0 <sup>2</sup>			
Bank of North Dakota - Western Area Water Supply Authority 5 percent interest loan pursuant to 2011 HB 1206	10,000,000 <sup>2</sup>			
State Water Commission - Projects (2013 HB 1269)			31,350,000	
Total estimated expenditures and transfers		283,101,599 <sup>2</sup>		750,822,157
Estimated ending balance (shortfall)		\$263,074,460		\$81,558,65

<sup>1</sup>Estimated revenues - Based on actual revenues through February 2013 and estimated revenues for the remainder of the 2011-13 biennium and the 2013-15 biennium per the February 2013 legislative revenue forecast. The current estimate of revenues for the 2011-13 biennium is \$177,037,658 more than the estimate of \$213,198,343 made at the close of the 2011 special legislative session in November 2011. The increase is attributable to the following changes:

Increase in oil extraction tax collections	\$175,354,696
Increase in repayments and reimbursements	1,500,000
Increase in investment income	182,962
Net increase from revenue amount previously estimated for the 2011-13 biennium	\$177,037,658

The estimated effect of proposed legislation on oil extraction tax allocations during the 2013-15 biennium is based on production levels used for the February 2013 legislative revenue forecast.

<sup>2</sup>Sections 1 and 4 of 2011 Senate Bill No. 2020 appropriated \$332.4 million, or any additional amount that becomes available, from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium. The Legislative Assembly added 1 full-time equivalent (FTE) Water Development Division Director position funded from the resources trust fund (\$231,899) and appropriated an additional \$500,000 from the resources trust fund for a remote metering device reimbursement program. The sections relating to the remote metering of water permits were vetoed by Governor Jack Dalrymple. The Legislative Assembly required the commission receive Budget Section approval prior to the expenditure of any funds in excess of funding appropriated to the commission for water and atmospheric resources. In addition, the Legislative Assembly in 2011 House Bill No. 1206 provided the commission make available, from funding appropriated from the resources trust fund for projects, \$25 million for a zero interest loan to the Western Area Water Supply Authority. House Bill No. 1206 also appropriated \$10 million from the resources trust fund to the Bank of North Dakota for a 5 percent loan to the Western Area Water Supply Authority.

The Legislative Assembly, during its special legislative session in November 2011, appropriated \$50 million from the resources trust fund to defray the expenses of the State Water Commission (2011 Senate Bill No. 2371), subject to Budget Section approval as provided in Section 4 of Senate Bill No. 2020 relating to the appropriation of additional income in the resources trust fund and the water development trust fund. The Budget Section approved the commission's requests pursuant to Senate Bill No. 2371 and Section 4 of Senate Bill No. 2020 to spend \$50 million of additional funding available in the resources trust fund for the following projects:

December 2011 Budget Section meeting	
City of Minot	\$2,500,000
City of Valley City	3,000,000
Souris River Joint Water Resource District	50,000
March 2012 Budget Section meeting	
Burleigh County property acquisitions	1,425,000
City of Minot	17,750,000
City of Burlington	1,039,000
Ward County	11,500,000
June 2012 Budget Section meeting	
Burleigh County storm water pump station	1,282,400
City of Sawyer property acquisitions	184,260
Mouse River additional engineering for flood protection plan	1,926,750
Future property acquisitions for flood control in McHenry and Ward Counties and the city of Minot as determined by the State Water Commission	9,342,590
Total 2011-13 biennium requests approved by the Budget Section	\$50,000,000

The State Water Commission estimates 2011-13 expenditures from the resources trust fund to total \$283.1 million.

<sup>3</sup>Sections 1 and 4 of 2013 House Bill No. 1020 (Senate version) appropriate \$700.9 million, or any additional amount that becomes available from the resources trust fund for the purpose of defraying the expenses of the State Water Commission for the 2013-15 biennium. The House version of the bill requires Budget Section approval for the expenditure of additional funds that become available in the resources trust fund. If funding available from the resources trust fund for water projects for the 2013-15 biennium exceeds \$287 million (\$515 million in the executive recommendation and the House version), Section 11 of House Bill No. 1020 provides legislative intent that, of the funds appropriated to the commission in the water and atmospheric resources line item, \$60 million from the resources trust fund is provided to the commission for the purpose of paying off or defeasing the commission's outstanding bond issues. Funding from the water development trust fund provided for bond payments (\$16.9 million) and contingent funding from the resources trust fund (\$60 million) totaling \$76.9 million would be available to defease the commission's outstanding bond issues of \$75,250,000 and pay related fees.

<sup>4</sup>The executive recommendation provides for transfers of one-half of 1 percent of the oil extraction tax revenue deposited in the resources trust fund to each the renewable energy development fund and a newly created energy conservation grant fund to provide energy conservation and efficiency grants to political subdivisions. The Senate in Senate Bill No. 2014 provides for quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund—up to \$3 million per biennium. The Senate did not change the executive budget recommendation regarding transfers to the energy conservation grant fund. The House removed these provisions.

#### **FUND HISTORY**

3

The resources trust fund was created pursuant to passage of measure No. 6 in the November 1980 general election. Measure No. 6 created a 6.5 percent oil extraction tax, 10 percent of which was to be allocated to the resources trust fund. In June 1990 the Constitution of North Dakota was amended to establish the resources trust fund as a constitutional trust fund and provide that the principal and income of the fund could be spent only upon legislative appropriations for:

- Constructing water-related projects, including rural water systems.
- · Energy conservation programs.

In November 1994 the voters of North Dakota approved a constitutional amendment, which is now Article X, Section 24, of the Constitution of North Dakota, to provide that 20 percent of oil extraction taxes be allocated as follows:

- 50 percent (of the 20 percent) to the common schools trust fund.
- 50 percent (of the 20 percent) to the foundation aid stabilization fund.

North Dakota Century Code Section 57-51.1-07, as amended by 2011 Senate Bill No. 2129, provides that oil extraction tax revenues be distributed as follows:

- 20 percent to the resources trust fund.
- 20 percent allocated as provided in Article X, Section 24, of the Constitution of North Dakota.
- 30 percent to the legacy fund.
- 30 percent to be allocated to the state's general fund with certain funds designated for deposit in the property tax relief sustainability fund, the strategic investment and improvements fund, and the state disaster relief fund as provided in 2011 House Bill No. 1451.

The 2013-15 executive budget recommendation provides for transfers of one-half of 1 percent of the oil extraction tax revenue deposited in the resources trust fund to each the renewable energy development fund and a newly created energy conservation grant fund to provide energy conservation and efficiency grants to political subdivisions. The Senate in Senate Bill No. 2014 provides for quarterly transfers of 5 percent of the amount credited to the resources trust fund to the renewable energy development fund--up to \$3 million per biennium. The Senate did not change the executive budget recommendation regarding transfers to the energy conservation grant fund. The House removed these provisions.

October 2011

# FLOOD CONTROL COSTS IN GRAND FORKS

Attachment 2. April 24, 2013 HB 1020

# FLOOD CONTROL COSTS/ SOURCE OF FUNDS

Work on the Corps of Engineers permanent flood damage reduction and recreation project in Grand Forks is substantially complete and has been accepted by the Federal Emergency Management Agency. Although the total project costs have not been finalized, the latest estimate from the corps for the Grand Forks and East Grand Forks permanent flood damage reduction and recreation project is \$409.3 million. The federal government share of the total project cost for Grand Forks and East Grand Forks is estimated to total \$224.5 million or 54.8 percent. The nonfederal share for the cities of Grand Forks and East Grand Forks is estimated to total \$119.3 million and \$65.5 million, respectively. However, the local cost-share of the project for the city of Grand Forks is expected to total \$125.7 million. This amount includes the cost of project components in which the corps did not participate. Of the \$125.7 million nonfederal share, the state provided \$52 million, or 41.4 percent, leaving a balance of \$73.7 million to be paid by the city of Grand Forks. The city of Grand Forks reports the \$73.7 million local share was provided from a combination of special assessments (\$40 million), general obligation bonds (\$14.5 million), and sales tax revenue (\$19.2 million).

## LEGISLATIVE ACTION

Senate Bill No. 2188, approved by the Legislative Assembly in 1999, authorized the issuance of bonds for statewide water development, including up to \$52 million for Grand Forks flood control. The State Water Commission issued \$23 million of bonds in 2000 for Grand Forks flood control. In 2001 the Legislative Assembly extended the State Water Commission's bonding authority through June 30, 2003, but no additional bonds were issued. In 2003 the bonding authority specific to Grand Forks flood control was allowed to expire, and bonding authority was broadened to include all water projects. State funding for the remainder of the Grand Forks flood control project was provided from a combination of bond proceeds, the water development trust fund, and the resources trust fund.

The Legislative Assembly in 2007 Senate Bill No. 2020 amended the North Dakota Century Code to increase the eligible cost-share for the Grand Forks flood control program in order for the city to access the entire \$52 million state share dedicated for the project. The entire \$52 million authorized by the state has been spent on the Grand Forks flood control project.

# ND State Water Commission Grand Forks Flood Control Project Expenditures

Biennium	
99-01	13,992,814
01-03	19,900,957
03-05	14,325,854
05-07	1,395,818
07-09	2,384,557
Total	52,000,000

SWC Priority Projects	Potential 2013-2015 Allocations
Community Water Facility Rev. Loan Fund	\$15,000,000
Devils Lake Flood Control	10,000,000
Fargo Flood Control	100,000,000
Mouse River Flood Control	61,000,000
Sheyenne River Flood Control	21,000,000 <sup>2</sup>
General Water Management <sup>3</sup>	33,000,000
Irrigation	5,000,000
Fargo Water Supply	15,000,000
Northwest Area Water Supply	14,000,000
Red River Valley Water Supply	11,000,000
Southwest Pipeline Project	79,000,000 <sup>2,4</sup>
Water Supply Program	71,000,000⁴
Western Area Water Supply	79,000,000 <sup>5</sup>
Weather Modification	1.000,000
Project Totals	\$515,000,000

<sup>&</sup>lt;sup>1</sup> The Water Commission's original priorities as presented in the 2013-2015 Water Development Plan included \$102 million for Fargo flood control. House amendments to HB 1020 moved \$2 million from Fargo flood control to the Red River Water Supply Project.

<sup>&</sup>lt;sup>2</sup> A portion of the project funding identified as a priority will be provided in the form of a loan or a capital repayment plan.

<sup>&</sup>lt;sup>3</sup> General water management includes rural flood control; other flood control; dam safety, repairs and reconstructions; snagging and clearing; studies and planning; and Devils Lake outlet downstream mitigation.

<sup>&</sup>lt;sup>4</sup> Advanced emergency funding of \$21 million was approved for the Southwest Pipeline and \$10.35 million for three water supply program projects in House Bill 1269.

<sup>&</sup>lt;sup>5</sup> Of the \$79 million budgeted for WAWS, anticipate half will be provided in the form of a loan.

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "and sections 6 and 7 of"

Page 1, line 6, remove "chapter 46 of the 2011 Session Laws"

Page 1, line 6, after the first comma insert "and section 54-35-02.7 of the of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly,"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498.413.774</u>	<u>324,194,592</u>	<u>822,608,366</u>
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, after line 28, insert:

"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

"SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove line 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 29
- Page 5, line 31, after "section" insert "every six months during the 2013-14 interim regarding"
- Page 6, line 2, remove "within ninety days of the state water commission approving the change"
- Page 6, after line 3, insert:

# "SECTION 13. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. The Fargo-Moorhead area diversion authority board shall report to the budget section prior to December 2013 and prior to October 2014 regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool, mitigation efforts, easements, and the project budget."

Page 6, replace lines 12 through 30 with:

"SECTION 15. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

# 54-35-02.7. Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and the prioritization of water projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities. The committee shall also study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees."

Page 7, remove lines 1 through 16

Page 7, line 17, after "1" insert "of this Act and section 5"

Page 7, line 18, replace "is" with "are"

Renumber accordingly

### STATEMENT OF PURPOSE OF AMENDMENT:

# House Bill No. 1020 - State Water Commission - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Administrative and support services	\$4,042,784	\$3,909,500	\$852,165	\$4,761,665	\$4,850,009	(\$88,344)
Water and atmospheric resources	823,096,248	822,339,358	269,008	822,608,366	823,108,562	(500,196)
Accrued leave payments		325,774		325,774		325,774
Total all funds Less estimated income	\$827,139,032 809,359,388	\$826,574,632 826,574,632	\$1,121,173 1,121,173	\$827,695,805 827,695,805	\$827,958,571 827,958,571	(\$262,766) (262,766)
General fund	\$17,779,644	\$0	\$0	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00	90.00	0.00

## Department No. 770 - State Water Commission - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package <sup>1</sup>	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Administrative and support services	\$86,252	(\$39,152)	\$805,065	\$852,165
Water and atmospheric resources	492,622	(223,614)		269,008

Accrued leave payments				
Total all funds Less estimated income	\$578,874 578,874	(\$262,766) (262,766)	\$805,065 805,065	\$1,121,173 1,121,173
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Changes made by the House to the executive compensation package are removed.

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

- Audit fees \$53,000 State Auditor
- Attorney's fees \$321,276 Attorney General
- Rent \$430,789 Office of Management and Budget

#### This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related legislative guidelines for Fargo flood control project expenditures, the same as the Senate.
- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million, the same as the Senate.
- Sections added by the House directing the State Water Commission to study the use of ring
  dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red
  River Valley, the same as the Senate.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing, the same as the Senate.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center, the same as the Senate.

#### In addition, this amendment:

- Restores the requirement that the State Water Commission receive Budget Section approval
  prior to spending any additional funds that may become available in the resources trust fund or
  water development trust fund during the 2013-15 biennium, the same as the House. The Senate
  removed this requirement.
- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure, the same as the Senate.
- Adds a section to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for construction, and the budget for the Fargo flood control project is approved by the State Water Commission, the same as the Senate.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of

<sup>&</sup>lt;sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

<sup>&</sup>lt;sup>3</sup> The Senate did not remove the House funding source change for the administration of the State Water Commission from the general fund to the resources trust fund. Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from the general fund to special funds, the same as the Senate version:

- constructing a federally authorized the Fargo flood control project and that total Fargo flood control project funding not exceed \$450 million, the same as the Senate. In addition, the conference committee provided further intent that the \$275 million yet to be designated for Fargo flood control is to be made available in equal installments over the next four bienniums.
- Adds a section requiring Fargo-Moorhead Area Diversion Authority reports to the Budget Section, the same as the Senate.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes, the same as the Senate.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation, the same as the Senate.
- Amends a section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013 to provide the State Water Commission report every six months. The Senate removed this section.
- Replaces a section added by the House, but removed by the Senate, which increases the
  membership of the Water-Related Topics Overview Committee and directs the committee to
  prepare a water project priority schedule to be included in the committee's final report to the
  Legislative Management. The new section amends Section 54-35-02.7 related to the WaterRelated Topics Overview Committee, as amended by Senate Bill No. 2233, to provide the
  committee study policies regarding the development and financing of municipal projects. In
  addition, the amendments require the State Water Commission and the State Engineer assist the
  committee in developing a schedule of priorities with respect to water projects.

Prepared by the Legislative Council staff for Representative Carlson

April 25, 2013

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows

Page 4, after line 13, insert:

"FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT. Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States Army Corps of Engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advanced funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility."

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows

Page 6, after line 3, insert:

"SECTION 16. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. During the 2013-14 interim, the Fargo-Moorhead area diversion authority board shall report to the budget section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The Minnesota North Dakota Upstream Coalition shall report to the budget section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs."

Prepared by the Legislative Council staff for Representative Williams

April 25, 2013

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 4, after line 13, insert:

"SECTION 8. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION. Any construction relating to the Fargo flood control project during the 2013-15 biennium may not include components of the project located south of the city of Fargo's extraterritorial zoning jurisdiction."

Prepared by the Legislative Council staff for Representative Williams

April 25, 2013

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 4, after line 13, insert:

"SECTION 8. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION. Except for construction of a ring dike around the city of Oxbow, any construction relating to the Fargo flood control project during the 2013-15 biennium may not include components of the project located south of the city of Fargo's extraterritorial zoning jurisdiction."

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 4, after line 13, insert:

"SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission. When these conditions have been met, state funding for the remaining components of the Fargo flood control project may be made available only to the extent the funding plan for each component includes a federal commitment for the federal share of the costs of the component."

# PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1677-1681 of the House Journal and pages 1476-1480 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, remove "to create and enact a new"

Page 1, remove line 3

Page 1, line 4, remove "policies and procedures of the state water commission;"

Page 1, line 4, replace "sections" with "section"

Page 1, line 5, remove "and 54-35-02.37"

Page 1, line 5, remove "and sections 6 and 7 of"

Page 1, line 6, remove "chapter 46 of the 2011 Session Laws"

Page 1, line 6, after the first comma insert "and section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly,"

Page 1, line 6, after the second comma insert "and"

Page 1, line 7, remove ", and Fargo flood control project funding"

Page 1, line 8, after the semicolon insert "to provide for a loan from the Bank of North Dakota;"

Page 1, replace lines 17 through 22 with:

"Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498.413.774</u>	<u>324,194,592</u>	<u>822,608,366</u>
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0"

Page 2, after line 28, insert:

"SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09."

Page 3, remove lines 5 through 31

"SECTION 7. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION. Except for the construction of levees, construction relating to Fargo flood control project components located south of the city of Fargo's extraterritorial zoning jurisdiction may not begin until after July 1, 2014.

SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

# SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT.

Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States Army Corps of Engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside the state of North Dakota. An advance funding agreement between the United States Army Corps of Engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

# SECTION 10. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that the state provide

one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums."

- Page 4, line 19, after "projects" insert ", including levees and dikes"
- Page 4, line 21, remove "or for a river diversion project. Notwithstanding"
- Page 4, remove lines 22 and 23
- Page 4, line 24, remove "Fargo flood control project"
- Page 4, line 27, after the period insert "Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."
- Page 4, remove line 28 through 31
- Page 5, remove lines 1 through 3
- Page 5, line 13, replace "\$515,000,000" with "\$287,000,000"
- Page 5, remove lines 14 through 29
- Page 5, line 31, after "section" insert "every six months during the 2013-14 interim regarding"

Page 6, line 2, remove "within ninety days of the state water commission approving the change"

Page 6, after line 3, insert:

"SECTION 15. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. During the 2013-14 interim, the Fargo-Moorhead area diversion authority board shall report to the budget section biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak Upstream Coalition shall report to the budget section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs."

Page 6, remove lines 12 through 30

Page 7, replace lines 1 through 16 with:

"SECTION 17. AMENDMENT. Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

54-35-02.7. Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and the prioritization of water projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee shall also study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members and the legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees."

Page 7, line 17, after "1" insert "of this Act and section 5"

Page 7, line 18, replace "is" with "are"

#### STATEMENT OF PURPOSE OF AMENDMENT:

#### House Bill No. 1020 - State Water Commission - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Administrative and support services	\$4,042,784	\$3,909,500	\$852,165	\$4,761,665	\$4,850,009	(\$88,344)
Water and atmospheric resources	823,096,248	822,339,358	269,008	822,608,366	823,108,562	(500,196)
Accrued leave payments		325,774		325,774		325,774
Total all funds	\$827,139,032	\$826,574,632	\$1,121,173	\$827,695,805	\$827,958,571	(\$262,766)
Less estimated income	809,359,388	826,574,632	1,121,173	827,695,805	827,958,571	(262,766)
General fund	\$17,779,644	\$0	\$0	\$0	\$0	\$0
FTE	90.00	90.00	0.00	90.00	90.00	0.00

# Department No. 770 - State Water Commission - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package¹	Adjusts State Employee Compensation and Benefits Package <sup>2</sup>	Increases Funding for Operating Expenses <sup>3</sup>	Total Conference Committee Changes
Administrative and support services	\$86,252	(\$39,152)	\$805,065	\$852,165
Water and atmospheric resources	492,622	(223,614)		269,008
Accrued leave payments				
Total all funds	\$578,874	(\$262,766)	\$805,065	\$1,121,173
Less estimated income	578,874	(262,766)	805,065	1,121,173
General fund	\$0	\$0	\$0	\$0
FTE	0.00	0.00	0.00	0.00

<sup>&</sup>lt;sup>1</sup> Changes made by the House to the executive compensation package are removed.

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

- Audit fees (\$53,000) State Auditor.
- Attorney's fees (\$321,276) Attorney General.
- Rent (\$430,789) Office of Management and Budget.

## This amendment removes:

- Sections added by the House to amend 2011 Session Laws and 2009 Session Laws, previously amended in 2011, related to legislative guidelines for Fargo flood control project expenditures, the same as the Senate.
- A section added by the House to provide that total Fargo flood control project funding to be provided by the state not exceed \$325 million, the same as the Senate.

<sup>&</sup>lt;sup>2</sup> This amendment adjusts the state employee compensation and benefits package as follows:

<sup>&</sup>lt;sup>3</sup> The Senate did not remove the House funding source change for the administration of the State Water Commission from the general fund to the resources trust fund. Funding for the following operating expenses is increased to pay fees to other agencies due to the change in funding source for the State Water Commission from the general fund to special funds, the same as the Senate version:

- Sections added by the House directing the State Water Commission to study the use of ring
  dikes as part of a flood protection plan for the city of Fargo and water supply needs in the Red
  River Valley, the same as the Senate.
- A section added by the House to require the State Water Commission to adopt policies regarding project development and financing, the same as the Senate.
- A section added by the House to require the State Water Commission to move information technology hardware to the Information Technology Department secure data center, the same as the Senate.

# In addition, this amendment:

- Restores the requirement that the State Water Commission receive Budget Section approval
  prior to spending any additional funds that may become available in the resources trust fund or
  water development trust fund during the 2013-15 biennium, the same as the House. The Senate
  removed this requirement.
- Adds a section to provide for a \$40 million loan from the Bank of North Dakota to the Western Area Water Supply Authority for construction of the project, which is declared an emergency measure, the same as the Senate.
- Adds a section to provide that funds designated by the Legislative Assembly for Fargo flood control are available only for levee and dike protection until the project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for construction, and the budget for the Fargo flood control project is approved by the State Water Commission, the same as the Senate.
- Adds a section to require the State Water Commission enter a cost-sharing agreement with the
  Fargo flood control sponsor prior to expending any state funds for the Fargo flood control project.
  The section also provides that state funds may not be used for recreational components of the
  project or to cost-share with nonfederal entities outside the state. An advance funding
  agreement between the United States Army Corps of Engineers and the local Fargo flood control
  sponsor must precede any state funding used to advance construction work considered to be a
  federal responsibility. This section was not included in the House or Senate version of the bill.
- Adds a section of legislative intent that the state provide one-half of the local cost-share of
  constructing a federally authorized Fargo flood control project and that total Fargo flood control
  project funding not exceed \$450 million, the same as the Senate. In addition, the Conference
  Committee provided further intent that the \$275 million yet to be designated for Fargo flood
  control is to be made available in equal installments over the next four bienniums.
- Adds a section which limits Fargo flood control project construction south of the city of Fargo to levees until after July 1, 2014. This section was not included in the House or Senate version of the bill
- Adds a section requiring the Fargo-Moorhead Area Diversion Authority and the MNDak
  Upstream Coalition report to the Budget Section, the Senate required only the diversion authority
  to report.
- Amends guidelines for Fargo flood control project expenditures included in a section added by the House to designate \$100 million for Fargo flood control projects. The guidelines are amended to match the guidelines approved by the 62nd and 61st Legislative Assemblies and to include levees and dikes, the same as the Senate.
- Allows the State Water Commission to use funding in the resources trust fund to pay off or defease outstanding bond issues when the balance in the resources trust fund exceeds \$287 million rather than \$515 million, as provided in the executive recommendation, the same as the Senate.
- Amends a section added by the House to require the State Water Commission to report to the Budget Section within 90 days of any changes made to the water project priority list presented to the Legislative Assembly in 2013 to provide the State Water Commission report every six months. The Senate removed this section.
- Replaces a section added by the House, but removed by the Senate, which increases the
  membership of the Water-Related Topics Overview Committee and directs the committee to
  prepare a water project priority schedule to be included in the committee's final report to the
  Legislative Management. The new section amends Section 54-35-02.7 related to the
  Water-Related Topics Overview Committee, as amended by Senate Bill No. 2233, to provide the
  committee study policies regarding the development and financing of municipal projects. In

addition, the amendments require the State Water Commission and the State Engineer assist the committee in developing a schedule of priorities with respect to water projects.