

2013 HOUSE ENERGY AND NATURAL RESOURCES

HCR 3010

2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HB 3010
Jan 25, 2013
17762

☐ Conference Committee

Imineth

To return to the state of N.D. the land controlled by the U.S. Army corps of Engineers which is not necessary to flood control.

Minutes:

5 testimony

Rep. Porter: We will open the hearing on HCR 3010.

Vicky Steiner: HCR 3010 is the first step to bring sound management of the shoreline and greater economic benefits to the state, along with communities in and around Lake Sakakawea. (See Testimony1, 2) The amendment I brought is to strike on page 2, lines 7, 8, and 9. I don't think the state should have word like the funding of any law suit necessary. I ask that you amendment that out because it leaves us open.

Rep. Heller: This is not the first time the committee has heard this resolution it won't be the last time. Two years changed the high water mark.

Rep. Heller: I think this is a very well written resolution and I am very much in favor of it. The fixed public hearing I think is a good section to have in there.

Rep. Brandenburg: This is getting more support this will be an ongoing process.

Rep. Porter: Has there been any discussion that you are aware of that would allow the state to buy that property back that we discussed for the last 2 sessions?

Rep. Brandenburg: I have heard discussions that one way for this country to out of debt is sell back some of this land that they have in holding.

Ladd Erickson: McLean County States Attorney; I am here to oppose the measure on a number of technical grounds. I ask the committee not to pass the resolution that say that land that not necessary for flood control on line 3 and 4 as you are well aware we have had to make an effort to make the Corp aware that North Dakota's interest are far beyond flood control and we have used the legislative history of that act in the court system which the federal courts established in 2003.

Rep. Froseth: Who owns the minerals between the shoreline and the high water mark?

Ladd Erickson: I don't know.

Rep. Schmidt: Could you please tell me your concerns on line 3 and 4 for me?

Ladd Erickson: When there is a contest over the amount of water in the system, Missouri thinks it is all theirs. They think that any diversion of water out of our reservoirs diverts what they could be using for navigation. Things that have come up recently are like converting the Garrison Diversion Project for fresh water in Fargo. Missouri early made claims in the papers that are beyond the project that water should not be diverted out of the system.

Rep. Schmidt: I represent the people from south of Mandan to South Dakota. A lot of that land was purchased in 1963-1966 from the families because it was going flood. A lot of those families would have settled for flow easements. The only time that was all flooded was in 2011. I disagree with you so do the people that lost that land. Also when they purchased the land from the people south of Mandan for the Oahe they took the mineral rights. If the land was to come back to the state those families could not get those mineral rights back.

Ladd Erickson: You not want the Corp. to go into the budget process for weed control, recreation or anything in the northern basin saying that the North Dakota Legislature doesn't think you need to worry about anything but flood control. That is my concern with the language that you are putting in here. (See testimony 3)

Rep. Schmidt: I understand your point but I think there is a separation between the taking of the land for flood control versus the issues in the Missouri.

Gary Bren: I am we have a new development that was just talked about. We have the wildlife management in front of our property. We have met with the corp. of Engineers and the Game and Fish a couple of times and talked about to the water. The Corp. told us that the Game and Fish leases the land and that they have the say so and that they would discuss it and they would decide what they will do. The Game and Fish gave us a few opening where we can cross but they are walk accesses only. After we got into this a little bit Game and Fish was working with us we had a sketch drawn up Then the Corp told us that it is wildlife management and that we can't be on there. What we would like to see is an irrigation pump, and docks. We would like to see the Corp work with us on this.

Gary Praus: If we don't get it we are going to have 80 tenants with children and visitors with boats all over. (See testimony 3) We are in support of this resolution.

Herb Grenz: I live 25 miles south of Bismarck along Lake Oahe. Emmons County's contribution of thirty-three thousand plus acres involving "Oahe Dam Taking" has approximately twelve thousand acres of land that is in excess above elevation 1620. (See testimony 4)

Rep. Porter: Could you provide a copy of your testimony?

Herb Grenz: I can do that.

Glen McCrory: I am from Linton and live out on Oahe. I support this HCR 3010 we have 100 acres or so of land that belongs to the Corp. that we lease back and there is no fence and we have to deal with rules. And that has gotten ruff over the years they have raised the rates of the lease which it seems like a lot.

Michael McEnroe: I represent the North Dakota Chapter of the Wildlife Society; I am here to oppose HCR 3010. The chapter and supports Mr. Erickson's legal concerns, this resolution could have the unintended consequences of limiting of reducing North Dakota's right to the Missouri River water that is convened by downstream users. (See testimony 5)

Rep. Porter: We will close the hearing on HCR 3010.

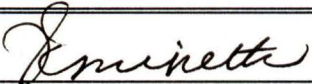
2013 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources

Pioneer Room, State Capital

HCR 3010
February 14, 2013
18948

☐ Conference Committee



To return to the State of ND the land controlled by the US Army Corp. of Engineers which is not necessary to flood control

Minutes:

Rep. Porter: We will open HCR 3010.

Rep. Schmidt: The issue with HCR 3010 had to do with the impact if this resolution on the state verses the corp. with respect to paying for restored water. The chairman asked that I take it to the AG's office and I did. My first visit there they said they reviewed it and they thought it was ok and then the AG said let's take another look at it so Tom looked at it and then wrote the proposed amendment. You can see where they scratched off the original HCR and deleted all of those sections.

It appears to be a hog house amendment with respect to this I did review this with Rep. Steiner and her concern was as looked at this she went to the last "whereas" where it says Dock for dock and she was happy.

The issue of flood control is gone and so according to the AGS office this amendment does not purpose any type conflict with our efforts with the corp. it also satisfies Rep. Steiner. I can live with this so I move that we accept those amendments.

Rep. Porter: We have a motion Rep. Schmidt and a second from Rep. Nathe for the proposed amendments. Voice Vote carries. We have a motion from Rep. Schmidt and a second from Rep. Anderson for a do pass to the amended version HCR 3010 and to be placed on the consent calendar. Voice Vote motion carries.

Yes 12 No 0 Absent 1 Carrier Rep. Schmidt

February 14, 2013

2/15/13
C

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3010

Page 1, remove lines 2 through 23

Page 2, replace lines 1 through 9 with "ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe.

WHEREAS, North Dakota has sacrificed hundreds of thousands of acres of production farm and ranch land for the development of the Lake Sakakawea and Lake Oahe project areas; and

WHEREAS, Congress and the United States Army Corps of Engineers have legal and historical obligations to the state of North Dakota under the Flood Control Act of 1944 [Pub. L. 78-534; 58 Stat. 887; 16 U.S.C. 460d et seq.; 33 U.S.C. 701 et seq.] to ensure proper funding is provided for all project purposes, and public access to the project areas of Lake Sakakawea and Lake Oahe; and

WHEREAS, the United States Army Corps of Engineers has a federal legal obligation to adequately budget noxious weed control on all project lands pursuant to the Carlson-Foley Act of 1968 [Pub. L. 90-583; 82 Stat. 1146; 43 U.S.C. 1241 et seq.] and the Federal Noxious Weed Act of 1974 [Pub. L. 93-629; 88 Stat. 2148; 7 U.S.C. 2801 et seq.], and adequate funding to fulfill these duties has not been budgeted for by the United States Army Corps of Engineers nor provided by Congress; and

WHEREAS, the North Dakota Legislative Assembly requests that the United States Army Corps of Engineers include as agenda items the topics of lake, dock, and shoreline access as well as weed control when it holds public hearings in North Dakota to discuss lake management issues;"

Page 2, line 13, remove "address access issues on Lake Sakakawea and Lake Oahe or to return"

Page 2, remove line 14

Page 2, line 15, replace "which is not necessary to flood control" with "ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe"

Renumber accordingly

Date: 2-14-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3010

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Schmidt Seconded By Rep Nathe

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter			Rep. Bob Hunsakor		
Vice Chairman Chuck Damschen			Rep. Scot Kelsh		
Rep. Jim Schmidt			Rep. Corey Mock		
Rep. Glen Froseth					
Rep. Curt Hofstad					
Rep. Dick Anderson					
Rep. Peter Silbernagel					
Rep. Mike Nathe					
Rep. Roger Brabandt					
Rep. George Keiser					

Total (Yes) 12 No 0

Absent 1

Floor Assignment _____

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

to move the amendment

Vote Carried

Date: 2-14-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR

House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Schmidt Seconded By Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Todd Porter	✓		Rep. Bob Hunsakor	✓	
Vice Chairman Chuck Damschen	✓		Rep. Scot Kelsh	✓	
Rep. Jim Schmidt	✓		Rep. Corey Mock	✓	
Rep. Glen Froseth	✓				
Rep. Curt Hofstad	✓				
Rep. Dick Anderson	✓				
Rep. Peter Silbernagel	✓				
Rep. Mike Nathe	✓				
Rep. Roger Brabandt	✓				
Rep. George Keiser					

Total (Yes) 12 No 0

Absent 1

Floor Assignment Schmidt

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

Voice carry

for a do pass to the amended version to the Consent Calendar

REPORT OF STANDING COMMITTEE

HCR 3010: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HCR 3010 was placed on the Sixth order on the calendar.

Page 1, remove lines 2 through 23

Page 2, replace lines 1 through 9 with "ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe.

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WHEREAS, the North Dakota Legislative Assembly requests that the United States Army Corps of Engineers include as agenda items the topics of lake, dock, and shoreline access as well as weed control when it holds public hearings in North Dakota to discuss lake management issues;"

Page 2, line 13, remove "address access issues on Lake Sakakawea and Lake Oahe or to return"

Page 2, remove line 14

Page 2, line 15, replace "which is not necessary to flood control" with "ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe"

Renumber accordingly

2013 SENATE NATURAL RESOURCES

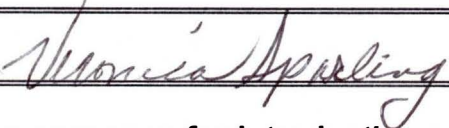
HCR 3010

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HCR 3010
March 21, 2013
Job Number 20305

☐ Conference Committee



Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress and the United States Army Corps of Engineers to ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe

Minutes:

attachments

Chairman Lyson opened the hearing for HCR 3010.

Representative Vicki Steiner, District 37, presented written testimony to introduce the resolution. See attachment #1. She also offered an amendment to HCR 3010. See attachment #2. She also offered a history of why the resolution is being brought. (Ends at 10:00)

Senator Triplett mentioned that the Army Corps of Engineers has 8 different functions that they are required to balance. Recreation is not their number one priority or the reason that the dams were built. They cannot allow people to build too close to the lake and then during wet years have to offer flood protection. The Corps is not going to ever make recreation their number one priority.

There was discussion about the actions of the Corps of Engineers making access to recreation areas very difficult.

Herb Grenz, a citizen who lives 45 miles south of Bismarck on Oahe Reservoir, spoke of their problem with controlling noxious weeds in Emmons County. They have had problems with the Army Corps of Engineers not staying on top of the weed control on their lands. See attachment #3. (Ends at 18:04)

Glenn McCrory, a citizen from west of Linton, expressed concern over the Army Corps of Engineers having water storage permits. They want to charge money per acre foot to take water out of there. The Corps will not give a permit to cross unless you sign what they want. He would like to see the Corps have a smaller footprint along the lakes. (Ends at 20:50)

Merlin Leithold, ND Weed Control Association and County Weed Officer of Grant County, stood in support of the resolution. He agreed that weed control is a problem. He spoke about how Lake Sakakawea and Lake Oahe each deal with their weed control issues. He mentioned that the Corps has major problems with budget already and are worried they are going to have further budget cuts. (Ends at 23:22)

Jeff Magrum, Emmons County Commissioner, also stood in support of the resolution. He mentioned that the Corps places fence lines without leaving room for easements for roads. He would like to see that added to the resolution because they are breaking a federal law by doing so.

Opposition: None

Neutral: None

Chairman Lyson closed the hearing for HCR 3010.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HCR 3010
April 4, 2013
Job Number 20889

☐ Conference Committee

Veronica Spurling

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress and the United States Army Corps of Engineers to ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe

Minutes:

attachment

Chairman Lyson opened the discussion for HCR 3010.

Chairman Lyson mentioned that there is a bill like this every two years and feels it is like pouring water down a badger hole.

Senator Unruh made a motion to adopt Representative Steiner's amendments. 13.3028.03001. See attachment #1.

Senator Burckhard: Second

Senator Triplett asked that the word "insists" be changed to back the word "requests". She stated that even Congress doesn't know who the Corps of Engineers answers to. We lose our credibility when we use the word "insists" on such relatively small issues. (Ends at 03:35)

Senator Unruh made a motion to amend the amendment by changing the word "insists" back to the word "requests".

Senator Burckhard: Second

Motion to amend the amendment by changing the word "insists" to the word "requests" carried by voice vote.

Motion to adopt the amended amendment also carried by voice vote.

Senator Triplett: Do Not Pass as Amended.

Senator Murphy: Second

Senator Triplett said she feels she is starting to understand the level of frustration out there between the Corps of Engineers and everyone else: tribal governments, land owners due to noxious weed issues, recreationists' lack of access, etc. But she feels ND has much bigger issues in dealing with the Corps of Engineers. We need to keep perspective and prioritize. (Ends at 08:14)

Senator Lyson said "maybe we can wear them down".

Roll Call Vote: 3, 4, 0

Motion failed.

Senator Unruh: Do Pass as Amended

Senator Laffen: Second

Roll Call Vote: 6, 1, 0

Carrier: Senator Unruh

13.3028.03002
Title.04000

Prepared by the Legislative Council staff for
Representative Steiner
March 7, 2013

4/4/13
TV

PROPOSED AMENDMENTS TO ENGROSSED HOUSE
CONCURRENT RESOLUTION NO. 3010

Page 1, line 20, replace "when it holds" with "in a"

Page 1, line 20, replace "hearings" with "hearing held"

Page 1, line 20, after "Dakota" insert "in 2013"

Renumber accordingly

Date: 4-4-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3010

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Unruh Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

carried by voice vote
remove "insists"
replace with "requests"

Date: 4-4-13
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3010

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☒ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider -03001

Motion Made By Unruh Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Senator Lyson			Senator Triplett		
Senator Burckhard			Senator Murphy		
Senator Hogue					
Senator Laffen					
Senator Unruh					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*carried by
voice vote*

*Rep. Steiner's amendment
as amended*

Date: 4-4-13
Roll Call Vote #: 3

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3010

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ^{as} ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Triplett Seconded By Murphy

Senators	Yes	No	Senators	Yes	No
Senator Lyson		✓	Senator Triplett	✓	
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue		✓			
Senator Laffen		✓			
Senator Unruh		✓			

Total (Yes) 3 No 4

Absent 0

Floor Assignment _____

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

motion failed

Date: 4-4-13
Roll Call Vote #: 4

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES *eng.*
BILL/RESOLUTION NO. 3010

Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ ^{as} Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Unruh Seconded By Laffen

Senators	Yes	No	Senators	Yes	No
Senator Lyson	✓		Senator Triplett		✓
Senator Burckhard	✓		Senator Murphy	✓	
Senator Hogue	✓				
Senator Laffen	✓				
Senator Unruh	✓				

Total (Yes) 6 No 1

Absent 0

Floor Assignment Unruh

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

REPORT OF STANDING COMMITTEE

HCR 3010, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3010
was placed on the Sixth order on the calendar.

Page 1, line 20, replace "when it holds" with "in a"

Page 1, line 20, replace "hearings" with "hearing held"

Page 1, line 20, after "Dakota" insert "in 2013"

Renumber accordingly

2013 TESTIMONY

HCR 3010

Thank you Mr. Chairman Todd Porter and members of the House Energy and Natural Resources committee...

For the record, Representative Vicky Steiner, District 37, Dickinson.

House Concurrent Resolution 3010 is a first step to bring sound management of the shoreline and greater economic benefit to the state, along with communities in and around Lake Sakakawea.

Lake Sakakawea provides year round recreation for thousands of North Dakotans year round.

Frankly, many of us who live and enjoy summers at the lake are frustrated with the Army Corps of Engineers. They own the shore, they bought the shore from in 1947 and have set in place a multitude of regulations but they discourage business development on the shore.

The Corps was established in 1775 when the first Congress established the Continental Army. According to their official website, the Corps built coastal fortifications, canals, dams etc. It also says:

The Army Corps of Engineers is the Nation's number one federal provider of outdoor recreation. That's at the top of the list of the things that they do. They could do it much better in North Dakota and that's the heart of this resolution.

Last year, my husband and I invested in a property at a new development Blue Water Ridge, about 16 miles northwest of Beulah, just east of Beaver Bay. Gary Bren and Gary Praus from Dickinson have developed that site over the past couple years.

The Army Corps of Engineers makes it very difficult for lake developments to get the basic lake amenities like dock permits and water lines for shore irrigation. Just the basics are impossible to negotiate.

My mother in law, Betty, is 87 years old. She is unable to get off the boat without a dock and we need to use a four wheeler to give her a ride up the hill to our cabin. They will not allow either, a community dock or a path for a vehicle. When I asked the Corps staff about handicap accessibility, the response was the Corps doesn't have to comply with handicap issues on Lake Sakakawea. It's ridiculous that the Corps can ignore handicap access issues for North Dakotans at Lake Sakakawea.

Looking at the bill, starting at line 21, I'd like to discuss changing one or more state parks to state land status, whether we buy it back or it's transferred but that might allow some motels to be places on shores.

Page 2, our state asks Congress to request 6 hearings around the lake to discuss these access issues. We also ask our leaders in Congress to work on legislation to relieve some of our problems with the Corps. The most obvious solution is to allow North Dakota to own some of the shore for its own economic development.

Please delete lines 7-9. "Any lawsuit" language is unacceptable. I've included the amendment. Thank you.

2

13.3028.02001
Title.

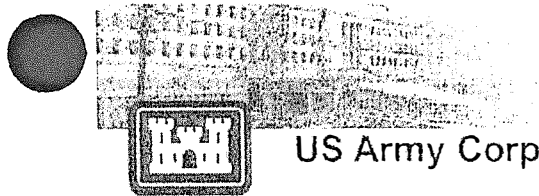
Prepared by the Legislative Council staff for
Representative Steiner
January 24, 2013

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3010

Page 2, line 6, remove the second "and"

Page 2, remove lines 7 through 9

Renumber accordingly



US Army Corps of Engineers

HEADQUARTERS

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Mission Overview

The Corps story began more than 200 years ago when Congress established the Continental Army with a provision for a chief engineer on June 16, 1775. The Army established the Corps of Engineers as a separate, permanent branch on March 16, 1802, and gave the engineers responsibility for founding and operating the U.S. Military Academy at West Point.

Since then, the U.S. Army Corps of Engineers has responded to changing defense requirements and played an integral part in the development of the country. Throughout the 19th century, the Corps built coastal fortifications, surveyed roads and canals, eliminated navigational hazards, explored and mapped the Western frontier, and constructed buildings and monuments in the Nation's capital. While the mission and tasks have evolved with the needs and priorities of the Nation, the dedication and commitment of the workforce has remained constant.

The U.S. Army Corps of Engineers:

- Is the Nation's number one federal provider of outdoor recreation.
- Is the Nation's environmental engineer.
- Owns and operates more than 600 dams.
- Operates and maintains 12,000 miles of commercial inland navigation channels.
- Dredges more than 200 million cubic yards of construction and maintenance dredge material annually.
- Maintains 926 coastal, Great Lakes and inland harbors.
- Restores, creates, enhances or preserves tens of thousands of acres of wetlands annually under the Corps' Regulatory Program.
- Provides a total water supply storage capacity of 329.2 million acre-feet in major Corps lakes.
- Owns and operates 24 percent of the U.S. hydropower capacity or 3 percent of the total U.S. electric capacity.
- Supports Army and Air Force installations.
- Provides technical and construction support to more than 100 countries.
- Manages an Army military construction program between 2006 and 2013 totaling approximately \$44.6 billion — the largest construction effort since World War II.
- Researches and develops technologies to protect the nation's environment and enhance quality of life.



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Sakakawea State Park offers a wide range of water based recreational activities and facilities. The park has a full service marina, including convenience store, fishing guide services and boat and camper storage. For information on marina services contact [Captain Kit's Marina](tel:701.487.3600) at 701.487.3600. Two large boat ramps serve the park for access to the best salmon fishing on the lake. The park hosts numerous fishing derbies throughout the summer.



The lake itself is one of the three largest man-made reservoirs in the nation. It has a surface area of about 368,000 acres and is 178 miles long, reaching to Williston ND. As part of the Missouri River system, the reservoir was created in the 1950s with the completion of Garrison Dam, one of six main-stem dams built and managed by the U.S. Army Corps of Engineers for flood control, hydroelectric power, navigation and irrigation.

Location

1 mile north of Pick City, North Dakota. ([Maps](#))

Nearby attractions

[Garrison Dam and Fish Hatchery](#) • [Audubon National Wildlife Refuge](#) • [Knife River Indian Villages National Historic Site](#) • [Pick City](#) • [North Country Trail](#) • Coal Mine and Power Plant tours • Golfing • Lewis and Clark Visitor Center • Sakakawea Scenic Byway

Trail types



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- [employment](#)



Blue Water Ridge⁴

We met with the COE and G&F on two different occasions. Both times we were told G&F Leases the property and the COE would back G&F. G&F was on board and asked us to have the county engineer sketch a design that fits our needs. We submitted a design and waited, we were told what we were asking was too small and needed to be revised. They wanted a larger area in the sketch. We submitted and waited. After a few contacts by the county engineer the COE submitted an email telling us this is not possible overriding G&F. We have time and money invested in this project.

This property generates property taxes in excess of \$10,000 currently. Before rezoning the property it generated \$76.00 in property taxes a year. More fishing and hunting licenses are purchased, Beulah and Hazen are reaping benefits of sales tax, fuel groceries and shopping.

We need access, docks and an Irrigation pump to help grow North Dakota's economy and keep people in the state. We have clients that will not commit to us until we get access, docks and an Irrigation pump.

Handicapped and Elderly are not able to get to the water or in and out of a boat with their families. We have clients that would retire here but will not without these amenities.

We have a client that owns property in AZ and At Blue Water Ridge. He said he would sell his property in AZ and retire at BWR if we had access, and docks.

Custom Design

From: "Newman, Ryan L NWO" <Ryan.L.Newman@usace.army.mil>
Date: Monday, September 24, 2012 1:55 PM
To: "Steve Mamer" <Steve.Mamer@interstateeng.com>; <Garth.A.Zimbleman@usace.army.mil>; "Kolke, Timothy D NWO" <Timothy.D.Kolke@usace.army.mil>; <dkhalstead@nd.gov>
Cc: <cdesign@ndsupernet.com>; "Newman, Ryan L NWO" <Ryan.L.Newman@usace.army.mil>
Subject: RE: Blue Water Ridge Access to Lake Sakakawea (UNCLASSIFIED)
Classification: UNCLASSIFIED
Caveats: NONE

Mr. Mamer,

I am writing in regards to your request for vehicular access to Lake Sakakawea adjacent to Blue Water Ridge cabin site. As I am sure you are well aware, lands managed by the US Army, Corps of Engineers adjacent to Blue Water Ridge cabin area are part of a Wildlife Management Area managed by ND Game and Fish. The purpose of these lands is to provide usable habitat for wildlife resources. As such, development is not permitted. All access is foot-traffic only. Renner Bay, located approximately one mile east, provides public access to Lake Sakakawea.

Ryan Newman
Lake Manager

-----Original Message-----

From: Steve Mamer [mailto:Steve.Mamer@interstateeng.com]
Sent: Thursday, September 20, 2012 3:44 PM
To: Garth Zimbleman (Garth.A.Zimbleman@usace.army.mil); Kolke, Timothy D NWO; Newman, Ryan L NWO; Halstead, Daniel K. (dkhalstead@nd.gov)
Cc: Gary Bren (cdesign@ndsupernet.com)
Subject: RE: Blue Water Ridge Access to Lake Sakakawea

Hi All...

It has been some time since this has been discussed and the owners are looking for some direction or decision. Currently the Game & Fish have a lease through the USACE, to which, the G & F has no decision making input on this. The guys have stated they would like to see this proceed whether they have to pay for the fencing materials themselves or whatever it takes. They have had solid commitments this past year (and next) from the public renting the spots and it would greatly assist in providing access for the handicap that frequent the site.

BLUE WATER RIDGE ACCESS PLAN

Controlled access
gate (zig zag design)

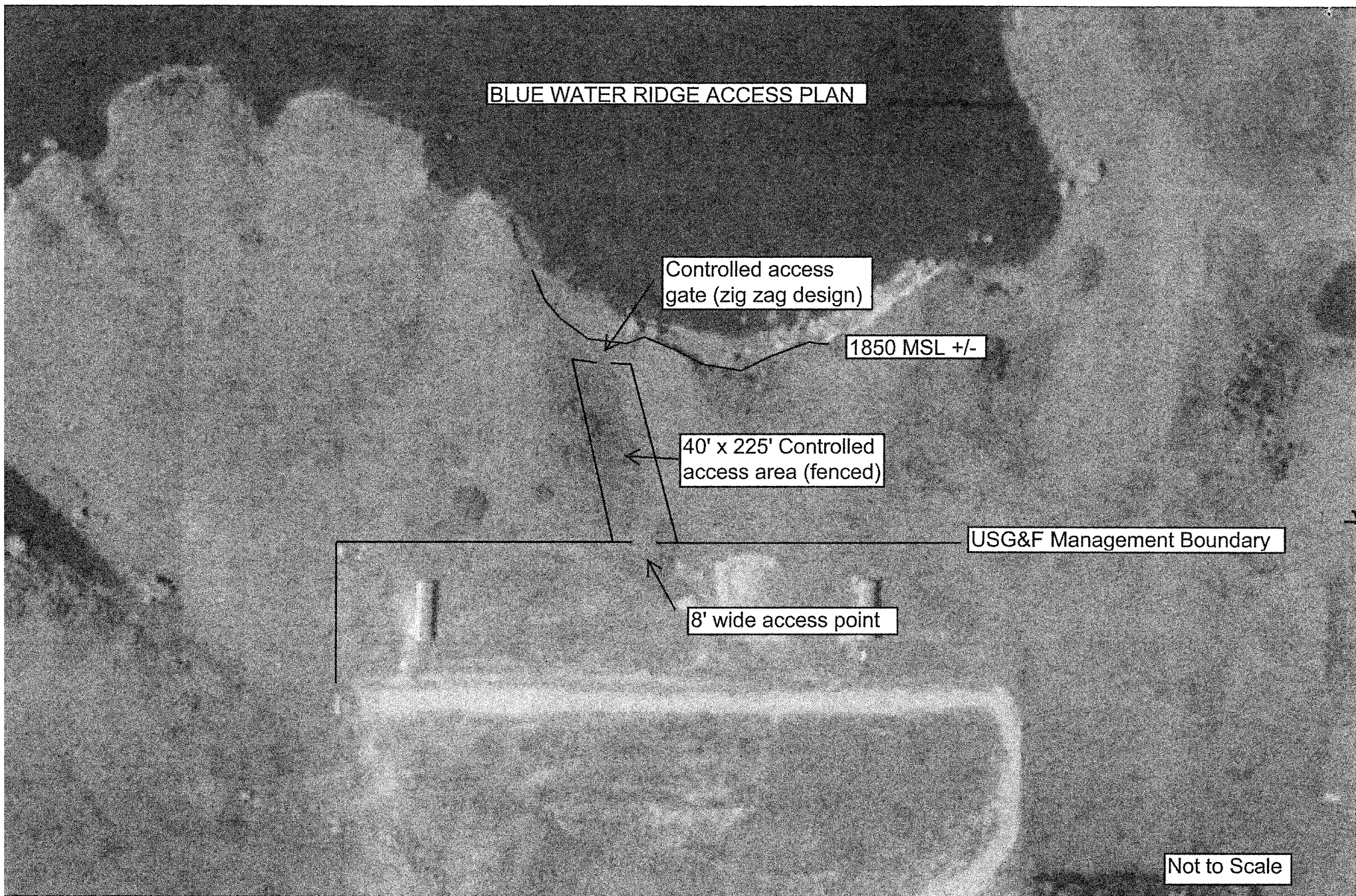
1850 MSL +/-

40' x 225' Controlled
access area (fenced)

USG&F Management Boundary

8' wide access point

Not to Scale



GOOD morning: my name is HERBERT GILLES. I LIVE 15 MILES south of Bismarck bordering Lake Oahe Reservoir in Emmons County. Our family lost over 2,000 acres to the reservoir. I was involved with negotiations with the Corps Real-estate Division for over 8 years in court and out of court. I was Secretary for the Oahe Landowners Association which was organized in 1960 including Sioux, Emmons, Morton and Burleigh County land owners losing land to Lake Oahe. The purpose-- to gather information and educate landowners rights' for negotiation procedures with the Army Corps Real-estate Division.

5
H. Gilles
7-10-60

We thank the [REDACTED] Committee for providing adjacent landowners the opportunity to express our views and concerns regarding Oahe management of excess lands bordering Emmons County with the enactment of the Flood Act of 1944. Emmons County's contribution of thirty-three thousand plus acres involving "Oahe Dam Taking" has approximately twelve thousand acres of land that is in excess above elevation 1620. The Oahe Project boundaries were established by blocking out the "guide acquisition" lines, generally with a maximum of 10-acre subdivisions; however, this acquisition was subject to changes to eliminate excessive severance damages and uneconomic remnants.

Corps land appraisers began the process of "land taking" in Emmons County. The "Take Line" and "Excess Acres" were questions of concern. I negotiated with the Corps' real estate appraisers for nearly eight years. Corps appraisers told us that excess lands would be leased back to adjacent landowners up to the water's edge for a nominal fee. In other words, ownership will be changing, but management would remain the same. This did occur for some years, and then changes began as more regulations were introduced. Adjacent landowners had to bid on lease property, and later grazing dates were moved from May 1st to July 15th. The noxious weeds on the bottoms continued to become more adverse year after year.

Unknown to landowners, "under the Fish and Wildlife Coordination Act of 1958," federal water projects less than 60% complete by August of 1958 are required to acquire additional land to mitigate for habitat loss as a result of inundation. Lake Oahe is covered under the F.W.C.A. since it was 31% complete in August 1958. The F.W.C.A. also required a general plan, a collective plan signed by the Corps, U.S. Fish and Wildlife Services, and the State Wildlife Agency identifying the strategies and acreages for wildlife purposes. All signatories agreed that lands would be used for wildlife purposes, or made available to another agency to be leased for wildlife purposes. The general plan for

5

The renewal of land leases over the years reflects these policies which help bring broad changes of grazing dates into later summer periods—May 1 to July 15; therefore, contributing to the uncontrolled noxious weed problems. By these date changes, the Corps now controls adjacent landowners operational policies, especially grazing. There is no fence to mandate these policies.

Also, "any Corps land can be withdrawn from grazing if it is to be put to an authorized project use." Agriculture use accounts for the majority of the land in the counties bordering Lake Oahe.

Agriculture is only recognized as Interim Status in the Oahe Master Plan.

When Lake Oahe pool levels are reduced from elevation 1618 down to 1590 all counties in ND on Lake Oahe are reduced back to the Missouri River waterway, and land in this river is now state sovereign land. The tail end of this reservoir becomes one gigantic slough.

Emmons County has 60 miles (more or less) of take line bordering the lake reservoir. Years 2005-2008 had approximately 30,000 acres that became a noxious weed nursery on the lake bed. This has become a normal occurrence over the last 45⁴⁶ years of lake operation, and this lake bed will continue to become more notorious with noxious weeds every time land becomes exposed to low water level.

Salt cedar, Canada thistle, worm wood, and foxtail barley now dominate the lake bottoms and are spreading onto adjacent lands. The noxious weed trend has been uncompromised by Corps Policies by making wild life habitat their priority.

Property owners are having grave concerns of the influx of noxious seeds being spread over vast areas in Emmons County, be it wood draws, shelter belts, wet lands, grazing land, dry land farming, hay land, irrigation lands, high value crops; **noxious weeds can and does bring about restrictions and contamination to agriculture production grown in Emmons County.** There is over 8,000 acres of irrigated land bordering Lake Oahe in Emmons County when there is water.

Yes, the corps ushers in money for the county weed board, but most of money resource has spent controlling salt cedar and not enough funds to control other noxious weeds especially Canada thistle and worm wood.

Under the past and present Master Plan—adjacent landowners do not have the opportunity to necessitate their livelihood with little consideration by mandates related to reservoir policies that many times are not adaptable and practical. This plan has taken the value of agriculture and downgraded its importance to interim status. What surrounds the reservoir? Agriculture dominates land use around the reservoir, but little acknowledgement is indicated for that use. Laws will force the recovery of wildlife that was destroyed by laws? Wildlife will never flourish and abound in what was the bottomland deleted by the reservoirs. Instead policies mandate wildlife be on narrow strips of upland that must spill onto private properties for their survival, as do noxious weeds and many mandated regulations. The Master Plan includes at least fifty-seven pertinent public laws. How does law change the geography, topography, geology, and soils of the landscape? Lands outside elevation 1620 have been here longer than any dams built. These excess lands (not including parks) have adapted to withstand the conflicts of Mother Nature over the years, and now policy mandates are going to change the few acres of federal properties, and control adjacent lands!

In here lies the contravention, which must be addressed. Agriculture should have just as much, if not more, status of importance as wildlife, and recreation relating to the reservoir in the Master Plan. Adjacent land owners are concerned stewards of wildlife, and many donate resources of assistance for wildlife when needed. Yes, there is vegetation on the bottoms -- we have tall cottonwood trees, tall weeds, wild sweet clover and in some areas on the bottoms vegetation is a struggle to walk through, and all these seeds from this vegetation becomes a major problem for decades. When the reservoir pool returns to normal levels, many noxious weed seeds will lift off the bottomland, flow to the shore lines: now all abundant weeds and wildlife become adjacent landowners habitat.

⁵⁰
The 40 plus years that I have been involved with this foreign government's policies, adjacent landowners have taken the brunt of transgressions from all parties involved. Be it noxious weeds, wildlife, recreation, environment, egress- ingress, adjacent land owners are indirectly responsible for taking care of excess lands.

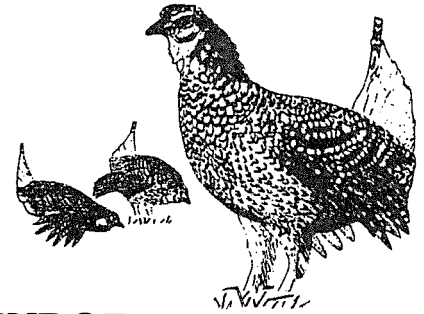
When landowners are being taken advantage by government restrictions and neglect, effecting the individuals and local economy by gradually making it untenable we need to stand up for our principles. *State neglect*



North Dakota Chapter

THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MICHAEL R. McENROE
NORTH DAKOTA CHAPTER, THE WILDLIFE SOCIETY
HOUSE CONCURRENT RESOLUTION 3010
HOUSE NATURAL RESOURCES COMMITTEE
JANUARY 25, 2013**

Chairman Porter and members of Committee:

For the record, Mike McEnroe, representing the North Dakota Chapter of The Wildlife Society. I am here today to oppose HCR 3010.

The Chapter appreciates and supports Mr. Erickson's legal concerns. This resolution could very well have the unintended consequences of limiting or reducing North Dakota's right to Missouri River water that is coveted by downstream states.

I would like to provide a brief history of the transfer of 91,000 acres of Corps lands in South Dakota to the Department of Game, Fish and Parks and 121,000 acres to two Indian tribes. The Corps was responsible for fulfilling the fish and wildlife and recreation purposes on the lands purchased for the mainstem dams on the Missouri River created after the 1958 Fish and Wildlife Coordination Act. The Corps' costs for those fish, wildlife and recreation purposes were calculated for a 40 year period, and because the Corps had done nothing to achieve those purposes for 30 years, they agreed to fund a trust for Game, Fish and Parks and the two tribes over a 10 year period. Over the last 10 years, GFPD and the tribes received \$ 108 million and \$ 110 million, respectively. GFPD and the tribes may spend the interest on the trust to meet the authorized fish, wildlife and recreation purposes. The Corps still manages the water.

The Corps went through an EIS process and public hearings on the transfers. Lands were transferred to the GFPD and tribes in fee title, to be managed to meet only the authorized purposes for which they were acquired. All federal laws still pertain to the transferred lands; NEPA, the Endangered Species Act, the Clean Water Act, Historic Preservation Act, and the Native American Graves and Repatriation Act, to name a few. Only the GFPD and tribes were deemed appropriate to carry out the federal purposes on transferred lands. The tribes received all transferred lands within their exterior boundaries. GFPD received the other transferred lands. In essence, GFPD and the tribes became the surrogate federal agencies for managing these lands as federal lands. Other conditions were included in the transfer. For example, the tribes did not receive fishing rights for the water area; GFPD received the fishery management responsibility for the reservoirs.

The transfer occurred when Senator Daschle was Senate Majority leader; South Dakota had clout to push this through Congress. The federal government had money, about \$ 220,000,000 to give to the State and the tribes. Things are different now.

The Chapter believes HCR 3010 could threaten North Dakota's rights to Missouri River water and not be financially feasible.

Thank you, and I will try answer any questions from the Committee.

#1

Thank you Mr. Chairman Sen. Lyson and members of the Senate Natural Resources committee...

For the record, Representative Vicky Steiner, District 37, Dickinson.

I have an amendment to add "a" or one hearing and I'd like to see this considered. The original bill had 6 public hearings that were removed by the Attorney General's office amendment in the House.

House Concurrent Resolution 3010 is a first step to bring sound management of the shoreline and greater economic benefit to the state, along with communities in and around Lake Sakakawea.

By way of background, this bill originally contained the language for 6 public hearings around Lake Sakakawea. As you know, the lake provides many resources including year round recreation for thousands of North Dakotans year round.

Frankly, many of us who live and enjoy summers at the lake are frustrated with the Army Corps of Engineers. They own the shore, they bought the shore from in 1947 and have set in place a multitude of regulations but they discourage business development on the shore.

The Corps was established in 1775 when the first Congress established the Continental Army. According to their official website, the Corps built coastal fortifications, canals, dams etc. It also says:

The Army Corps of Engineers is the Nation's number one federal provider of outdoor recreation. That's at the top of the list of the things that they do. They could do it much better in North Dakota and that's the heart of this resolution.

Last year, my husband and I invested in a property at a new development Blue Water Ridge, about 16 miles northwest of Beulah, just east of Beaver Bay. Two of my constituents, Gary Bren and Gary Praus from Dickinson, have developed that site over the past three years. They are unable to attend today but in the House they testified that they took a tangled overgrown weed filled pasture land, invested in infrastructure to it, and it went from a \$70 a year property tax assessment to over \$7,000 in one year. They mowed, developed the plat, have approval from the county to permit mobile homes there, arranged for southwest water, put in major electric trunks up the sites and set up a business to develop that pasture as a recreation spot. Currently, there are 29 summer camper spots and about 23 permanent home sites being built on this year. Originally the Corps said they should spend money on engineering to get a path built but later, after the money was spent, they changed their minds.

The Army's Corps of Engineers makes it very difficult for lake developments to get the basic lake amenities like dock permits and water lines for shore irrigation. Just the basics are impossible to negotiate. Congressman Kevin Cramer said resolutions like this are important so that at the federal level they have a paper trail about the issue and that the state wants action.

I will give you on personal example. My mother in law, Betty, is 87 years old. She is unable to get off a boat without a dock and to get to any of the developments near Renner Bay, the family needs to use a four wheeler to get to and from the shore. The Corps will not allow either, a public dock or a path for a vehicle at Blue Water Ridge. When I asked the Corps staff about handicap accessibility, the response

was the Corps doesn't have to comply with handicap issues on Lake Sakakawea. It's ridiculous that the Corps can ignore handicap access issues for North Dakotans at Lake Sakakawea.

The Attorney General's office brought the amendment that removed the 6 meetings and added the weeds issue. As residents, we should be able to ask Congress to request a meeting with the Corps to discuss these access issues. We also notify our leaders in Congress to work on legislation to relieve some of our problems with the Corps. The most obvious solution is to allow North Dakota to own some of the shore for its own economic development.

Thank you.

13.3028.03001
Title.

#2
Prepared by the Legislative Council staff for
Representative Steiner
March 7, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE
CONCURRENT RESOLUTION NO. 3010

Page 1, line 18, replace "requests" with "insists"

Page 1, line 20, replace "when it holds" with "in a"

Page 1, line 20, replace "hearings" with "hearing held"

Page 1, line 20, after "Dakota" insert "in 2013"

Renumber accordingly

#3

Gov. John Hoeven, U.S. Army Corps of Engineers officials, the North Dakota Stockmen's Association and Emmons County land owners and officials testified Tuesday at a hearing called by North Dakota Agriculture Commissioner Roger Johnson on the noxious weed problem along the Missouri River.

Commissioner Johnson opened the hearing, which was held in the North Dakota Heritage Center, and then turned the meeting over to Ken Junkert, the Department's Program Manager.

Testifying on behalf of Emmons County interests were David Kalberer of Hazelton, Emmons County Weed Board; land owners Herb Grenz and Glenn McCrory, both of Linton; Sam Renschler of Linton, who heads up the county's weed spraying team, and Doug Bichler of Linton, Emmons County NDSU Extension Agent.

Testifying for the U.S. Army Corps of Engineers were Oahe Project Manager John Bartell and, both of Pierre.

Gov. Hoeven said he felt there had to be a workable compromise, and he called on all parties to work together to find a common sense solution.

He expressed support for Emmons County and land owners, citing the cost burden and spread of noxious weeds from Corps land.

Commissioner Johnson called for action on the problem and increased funding by the Corps, noting the costs of dealing with noxious weeds on his own farm which is near Lake Sakakawea.

He said it was his hope that the hearing could provide a forum for discussion of the problems that would lead to solutions.

Kalberer explained how the Emmons County Weed Board started out 20 years ago in an effort to control Leafy Spurge, then the prime noxious weed. He said the county had an old pickup, a sprayer and a crew of one or two. Now, the county can't keep up with the problem, because of weeds spreading from the Corps land, with a spray truck, water truck, three four-wheelers and three employees.

He called for increased funding from the Corps and pointed out the county does not know in advance how much funding it will receive from the Corps, thus eliminating the possibility of planning. He said the county sprays until the money is gone.

Kalberer said the growth of vegetation on the bottom land, which has been exposed since the late 1990s because of the regional drought, is so dense that sprayers cannot get to the noxious weeds. He said allowing ranchers to graze cattle on the Corps land before July 15 would greatly improve access.

He said Canada Thistle is the most problematic noxious weed, and he cited the fire danger of the dense vegetation.

Renschler said it is hard to tell a farmer he has to spray noxious weeds when the Corps is not controlling them on its land.

He said noxious weed seeds are being blown onto private land. Like Kalberer, he said the lack of early grazing allows the vegetation to get too dense even to walk through it, let alone drive a four-wheeler.

Rep. Mike Brandenburg, himself a farmer, testified to the importance of controlling Canada Thistle early in its growing cycle.

He noted House Bill 1459, which has been passed by the House and is now awaiting consideration by the Senate. The bill, as amended, describes the noxious weed problem and the Corps' failure "to control weeds and manage this land properly."

The bill urges the U.S. Congress to transfer the Corps-controlled land (except land on the Standing Rock Reservation) to the State of North Dakota.

District 28 Reps. Brandenburg and Bill Kretschmar were joined in sponsoring the bill by District 31 Reps. Rod Froelich (D) of Selfridge and James Kerzman (D) of Mott. Senate sponsors are District 28 Sen. Robert Erbele (R) of Lehr and District 31 Sen. Aaron Krauter (D) of Regent.

Rep. Brandenburg thanked the Emmons County Weed Board, the Emmons County Commissioners and land owners in the county for "taking ahold of the issue" and helping get the message to the House.

Land owners Grenz and McCrory reiterated what they said when they testified in the House in February.

They explained that the weed problem, which was already a major problem for inland fields and pastures along the 65 miles of Lake Oahe shoreline, was worsened when the Corps moved the grazing date from May 1 to July 15.

The ranchers argued that the late grazing, in effect, prevents them from using their pastures which are ad-

adjacent to Corps land.

Land above the 1617 level is leased to land owners (five in Emmons County), and that has worked well in the past. However, when the lake is down and bottom land is above water, cattle are not allowed on the river bottom land until July 15, long after the traditional time (around May 1) when grass-fed cattle are put into pastures to graze throughout cattle country.

When Lake Oahe is at a normal level, weeds are not a significant problem on Corps land since the bottom land is under water. The water is an obvious natural barrier, so cattle are confined to the land owners' pastures and the land leased from the Corps.

Grenz and McCrory said it is not feasible to fence pastures because of the rugged terrain along the river and the irregular and largely undefined boundaries of the Corps "take" land—land above 1617 between the lake and private land.

The Corps and the U.S. Fish & Wildlife Service have, in the past, cited wildlife and endangered species interests in the management of Corps land. Of prime concern are the endangered Least Terns and Piping Plovers that nest near the shoreline.

Grenz and McCrory said cattle (and buffalo before them) have co-existed with wildlife for generations, and they argued that grazing cattle are not a threat to any of the wildlife along the river.

Kerry Severson, who ranches with his father along the river, said the Corps regulations will literally put them out of business since a strip of Corps land divides their land.

Emmons County Commissioner Alvin Tschosik, who attended the hearing along with Commissioners Francis Lawler, Gary Keller and Jeff Magnum, testified about the county's concerns about the noxious weed problem on Corps land and urged more funding and moving the grazing date back to help the situation.

Scott Ressler of Linton, Environmental Services Director for the Stockmen's Association, presented written testimony in support of moving the grazing date back to May 1.

He asked that the Corps work with land owners "to establish reasonable turnout dates to maximize range quality, to assist producers with their grazing systems and to save taxpayer dollars spent toward weed control."

In his testimony, Bartell expressed concern that nests of the birds can be destroyed by cattle, and the federal Endangered Species Act affects how the Corps manages its land as well as the Missouri River reservoirs.

He illustrated his comments with a power-point presentation that listed the laws under which the Corps operates. He noted that the law, as defined in the Lake Oahe Master Plan, does not have grazing as a land classification but it does have wildlife management.

Bartell said the Corps recommends that livestock producers who use Corps land consult with the Natural Resource Conservation Service (NRCS) to establish a rotational grazing program on the Corps managed lands they lease.

Severson, McCrory and Grenz pointed out that it would be impossible to set up a rotational grazing program on the narrow, irregular strips of land they lease from the Corps and would make no sense on the bottom land.

McCrory emphasized that weeds would get out of control on the rotational land when it was not being grazed, thus defeating any benefit of weed control via grazing cattle.

The ranchers said they felt grazing was much more environmentally friendly than spraying the noxious weeds.

A Corps letter to land owners stated, "Unless you have a rotational grazing plan which is approved by the Corps of Engineers and NRCS or other specific grazing dates as stated in the lease, grazing is allowed after July 14 each lease year."

Bichler testified about the noxious weed problem and cited research in South Dakota that shows that cattle are not a threat to nesting birds and that humans disturb to destroy more nests than the minimal number affected by livestock.

Bartell said the Corps plans to set up a GPS marking system so that the boundaries of its "take" land can be clearly determined.

He said his office will continue to push for more funding for weed control, but he said Congress sets the budget and often it is well into the year before the actual amount is known.

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Junkert yielded the floor to Governor John Hoeven as he entered the hearing room. Governor Hoeven thanked the Corps for being at the hearing and urged them to listen to the local landowners and act on what they have to say. Hoeven stated that local farmers and ranchers, such as those present at the hearing, are the foundation of our economy and that the Corps needs to help with weed control, not hinder it. Hoeven continued by referencing the great fisheries Lake Oahe and the Missouri River system offer and the adjacent wildlife populations. Hoeven urged cooperation between local, state, and federal agencies to come up with a common sense solution and recommended that all sides recognize each other's problems in the process.

John Bartel (Corps Project Operations Manager out of Pierre, SD) showed a PowerPoint presentation explaining the weed control project areas that the Corps manages. The various lake elevations and how those elevations affect their management decisions were presented, such as acres exposed at specific lake levels. Bartel pointed out that, according to the Master Plan (1961), which is currently being revised, grazing is considered an "interim use" of the land and is not an "authorized project purpose", a reason he gave for the July 15th grazing restriction. The grazing restriction was implemented in 1998 as a result of drought conditions to allow cattle to graze Corps land, according to Bartel. Also, it was mentioned that the Fish and Wildlife Coordination Act of 1958 has a big impact on their operations as it gives them guidelines to land management. Moreover, Bartel said that the focus of their weed control efforts shifted in 2007 from saltcedar to Canada thistle, at which time they released 700+ Canada thistle stem mining weevils along with several hundred Canada thistle gall flies, which are used for biological control. In 2008, Bartel pointed out that the Corps invited public comments regarding bottom land grazing, at which time the ND Game and Fish Department urged them to stick with the July 15th grazing restriction and continue to look to biocontrol as the weed control method of choice.

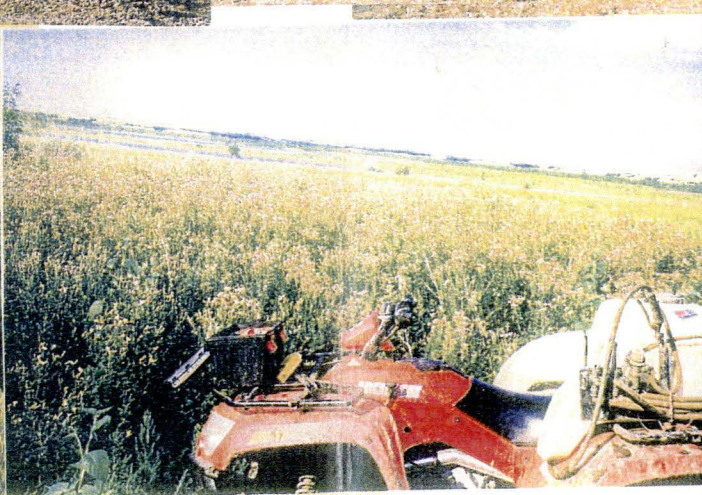
Bartel stated that they also face budgeting constraints, which may lead to invasions of noxious weed and mentioned that weed control is 4th on their list of priorities, hence its lack of attention and funds.

In FY07, the Corps spent \$399,677 on weed control, of which 79 percent was spent via contracts with Emmons County. In FY09, \$400,000 is going to be sought for noxious weed control.

Problems the Corps faces regarding weed control include difficult terrain, winding land boundaries, the fact that it is not an authorized project, and the fact that their fiscal year starts on October 1st (doesn't allow them to write contracts with the Board as they must first receive the funds). Bartel explained that higher authorities in their agency have more power, thus only allowing them to do certain things and/or bend certain rules. Bartel reminded people that there are also those concerned with wildlife habitats who urge the Corps to keep their grazing restriction in place. Bartel said that managing land to satisfy all land users is very difficult.

Bartel concluded his presentation by stating that if landowners contact Corps field staff with grazing plans, they will work together to come up with an acceptable plan.

Bud Kuhn (Corps) declared that each year they lease land for cropping, haying and grazing using a bidding process. The Corps uses the U.S. Department of Agriculture-North Dakota Agriculture Statistics Service (Fargo, ND) land appraisal values to determine rent fees. The Corps subtracts 25 percent from



13.3028.03001
Title.

Prepared by the Legislative Council staff for
Representative Steiner
March 7, 2013

#1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE
CONCURRENT RESOLUTION NO. 3010

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