

FISCAL NOTE
Requested by Legislative Council
02/16/2015

Amendment to: SB 2336

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill establishes the procedures necessary to approve expansion of specific features of the Western Area Water Supply project.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Delays in making direct industrial water sales could impact the debt service payments to the Bank of North Dakota on the outstanding \$176,000,000 in state loans, however we are unable to quantify these amounts.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 02/17/2015

FISCAL NOTE
Requested by Legislative Council
01/26/2015

Bill/Resolution No.: SB 2336

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$40,000		\$40,000
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill establishes the procedures necessary to approve additional water hook ups from the Western Area Water Supply project for industrial sales for the oil and gas industry.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill requires the State Water Commission to send out notices to all permit holders providing water for industrial sales and hold hearings before approving additional connections to the Western Area Water Supply project.

Delays in making direct industrial water sales could impact the debt service payments to the Bank of North Dakota on the outstanding \$176,000,000 in state loans. We are unable to quantify these amounts.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Commission estimates there could be approximately 40 new requests throughout the biennium. There are currently 800 permit holders statewide. We estimate that providing notice to 800 permit holders and holding a hearing could cost approximately \$1000 per application. This would result in a \$40,000 fiscal impact.

The cost of delaying access to users is unknown.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 01/30/2015

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2336

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Roosevelt Park Room, State Capitol

SB 2336

2/4/2015

Job Number 23216

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to approval of the state water commission for expansion of the western water supply project

Minutes:

Attachments

Chairman Klein: Opened the hearing.

Senator Hogue: Introduced the bill. Written Testimony Attached (1). (:15-9:35)

Senator Sinner: Would this apply to any other water authorities in the state or just the western area?

Senator Hogue: I don't think it would, I don't think you will have that level of friction. It is not there with the other authorities. (9:45-10:45)

Senator Murphy: Asked if he was saying that he is offering this because the project has matured to the point where we don't need the current structure anymore.

Senator Hogue: I don't know the answer to that question. I don't have sufficient knowledge about their finances. (11:00-12:10)

Senator Murphy: We certainly have all sorts of different levels of elasticity of demand and inelastic demand as we can see with what is happening now in the oil patch. They are continuing to build out and have not reached half of what they expect their demand to be domestically. Do you see this as hobbling the ability if 2336 was enacted, of breaking that monopoly? Do you understand that this will slow down the ability for WAWS to build out and lose customers?

Senator Hogue: I don't understand that at all. This is a kin to the territory integrity act, you want to expand let's talk about it in a public hearing and let's have the water commission as the adjudicator, decide what's in the best interest. All this bill is asking for is a public hearing which would require WAWS to substantiate that. Is it in the public interest for them to expand to the detriment of the private sector? (13:07-13:56)

Senator Campbell: This does not promote capitalism. The true market system that built are country wasn't heard. Is there any other third party, other than something that didn't really work in protecting capitalism and the free market, that could come in and do this instead of the water commission which is kind of a third cousin to WAWS? (14:05-15:57)

Senator Hogue: That is a great question. I haven't given that a lot of thought. What I have given thought to, is for the state to sell WAWS to the private sector. There are some issues with that but I don't think that is an implausible or wild proposal. (16:00-17:43)

Chairman Klein: We did make a lot of attempts in 2011 to keep both sides involved but yet not impede their ability to make money and not stop the progress that we currently have seen now. The concern was to get the project going and now the concern is the horses are running real hard and we should bring them back a little. (17:45-18:54)

Senator Hogue: I see 2336 as sort of an intermediate fix which will moderate this tension that exists between the two factions the private and the WAWS but the long term solution is to ask the users of that area, after they have achieved there critical mass and the economy to scale and is to say it is time for you to stand on your own two feet.

Robert Harms, Lobbyist for the Independent Water Providers: Written Testimony Attached (2). (20:00-29:43)

Chairman Klein: If the law or what we assumed we passed last time would have been followed, I think the word "shall approve" has caused us some angst because I thought "shall approve" would mean that they were going to look over it and then they will approve it, if all the criteria are met than, they "shall approve". Is it a legal issue that we find the words "shall approve" does not mean what we thought it meant?

Robert Harms: I would agree with the last assertion that had it meant what we thought it meant we wouldn't be here. (30:30-31:50)

Chairman Klein: This section is carved out just for the western area water system?

Robert Harms: That is exactly right.

Senator Murphy: Asked if the projection was for 2033.

Robert Harms: Said that was his understanding. That the population projections they are looking at are decades into the future.

Senator Murphy: I think 2033 is not really decades away. It is twenty years ahead. (32:37-34:09)

Robert Harms: You and I would agree on the planning for the interstate system and the idea of planning ahead for a decade or two and doing the build out. We also need to be looking at how we spend twenty years in advance. (34:11-35:17)

Chairman Klein: You're not looking at to curtail the system you are looking to have an open discussion with the state water commission as to these expansions and having everybody at the table. (35:20-35:58)

Robert Harms: That's exactly right. (36:00-36:41)

Senator Miller: When we talk about planning and building out twenty some years, what is the life span of some of this equipment?

Robert Harms: I have no idea but the system itself that I am on in Williams County is probably thirty years old and the system that delivers water to me is ten to fifteen years old.

Chairman Klein: Senator Miller makes the point that wouldn't the water commissioner and all of the scientific knowledge that comes from that department brings to the table whether or not it is the right thing to do, pipe issues, the longevity.

Steve Mortenson, Chairman of the Independent Water Providers: In support of the bill. Written Testimony Attached (3). (38:35-41:14)

Senator Murphy: Now we have an eighty twenty split essentially going on percentage wise correct? You guys are selling eighty and WAWS is selling twenty to twenty one percent right now, maybe heading to twenty- five?

Steve Mortenson: At that number you are looking at the whole industrial sales of North Dakota. If you were to restrict that to McKenzie County or to Williams County WAWS might be at fifty percent and the independents at fifty percent. (41:30-42:19)

Senator Murphy: Would you like to see a percentage that would always fluctuate with the demand is that what you are after here?

Steve Mortenson: That would be maybe one way of working out a compromise. (42:28-43:11)

Senator Sinner: What percentage of the water that is delivered by the independents is delivered by pipeline versus trucks?

Steve Mortenson: The percentage, I don't really know that. (43:30-44:25)

Chairman Klein: You don't necessarily believe this bill is going to improve your sales; you would be able to be more of a participant in the continued construction? (44:26-45:09)

Steve Mortenson: It would be a lot more negotiating than what we have now.

Duane Sand, Independent Water Provider: If WAWS was doing everything the right way using North Dakota nice mentality would we be having these problems? (45:55-53:32)

Terry Jones, Independent Water Provider: In support of the bill. We need to figure out a mechanism to self-govern without having you to pick sides. (54:30-56:47)

Senator Murphy: That brings up that problem that Mr. Harms and I were talking about are they going to get to 160,000 is that really going to be the number and how would you ever really know?

Terry Jones: The independent water providers do not threaten WAWS. What threatens WAWS is over building and over designing. (57:20-59:30)

Jaret Wirtz, Executive Director, WAWSA: In opposition to the bill. Written Testimony Attached (4). (1:00:07-1:11:04)

Senator Miller: You mentioned that the oil companies hook up to you and build their own depots, do you know how many of those have been constructed?

Jaret Wirtz: I don't have that number off hand. I'd say we have about six permanent connections that have been built by oil companies to us: (1:11-1:12:26)

Senator Miller: It seems that the state water commission is only considering if there is enough water, they don't seem to consider if there is another provider. They don't seem to consider the economics of anything.

Jaret Wirtz: Yes they look at the availability of the water through our project. (1:13:05-1:13:50)

Senator Murphy: I would like Mr. Sand's story to be addressed here. If your process is so good how did he get blindsided like he said he did?

Jaret Wirtz: He wouldn't give the company name or where it was at so I have no idea what we are talking about here.

Senator Campbell: The biggest issue here is when we go forward I want to make sure we don't step on toes of private versus public sector and that is my main objective here. From what I have gathered here, what harm does this bill do?

Jaret Wirtz: I explained the process that is in place today. The process that they are proposing through the bill would allow for a longer extension for review process, comment period, notification of land owners we are talking about a process that maybe can be done in a week now we are talking months. Therefore affecting the sales, viability of where it is at and increasing truck traffic and additional cost to the operators. (1:14:19-1:15:30)

Senator Bekkedahl: In opposition to the bill. Essentially what you have here before you is another attempt to place significant financial burdens on the operations of the system which will in my estimation restrict the growth and the service to the domestic water users of rural northwest North Dakota. (1:15:40-1:18:22)

Alexius Baxley, North Dakota Petroleum Council: In opposition to the bill. (1:18:40-1:19:12)

Karlene Fine, Executive Director for the Industrial Commission: Last session you placed the responsibility of the industrial sales to be handled by the industrial commission so the industrial commission looked at the debt and they charged WAWS to go forward and to make those industrial sales. (1:19:11-1:20:20)

Bob Humann, Chief Lending Officer for the Bank of North Dakota: Worksheet Attached (5). He said he was going to take a few minutes to go through the numbers so they would understand the debt obligations of the WAWS system. (1:20:45-1:28:24)

Chairman Klein: So you are opposed to the bill because of the concerns of how it may affect this bottom line?

Bob Humann: That's correct.

Dave Laschkewitsch, Director of Administrative Services for the North Dakota State Water Commission: Written Testimony Attached (6). (1:29:15-1:31:15)

Chairman Klein: Just for clarification in the last month or two that word "shall" has come up in any number of conversations I have had with some folks. Do you want to explain how you as a commission read it?

Dave Laschkewitsch: I will make an attempt. On the back page of my testimony is an application. That is actually a copy of one of the applications we approved. We are looking at the capacities. He went over the application attached to his testimony. (1:32:14-1:33:34)

Chairman Klein: Closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee

Roosevelt Park Room, State Capitol

SB 2336

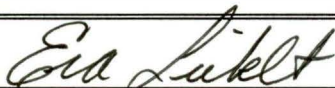
2/11/2015

Job Number 23670

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to approval of the state water commission for expansion of the western water supply project

Minutes:

Attachment

Chairman Klein: Opened the meeting. This is to create some sort of public notice. I was going to have the "chief engineer shall consider" that was the language I had given them. That was the language I had worked through with the water commission. I have to find out why they decided that was not good language. We will come back at ten o'clock. Amendment Attached (1). (0-1:58)

Chairman Klein: Let's go back to the eminent domain. We handed out the new amendment. My concern was; what does the commission mean because I don't want the commission to meet to have to make this decision. My language had suggested that the engineer would make the decision. I wanted it to be clear that we weren't going to hold this process up because we are waiting for a commission meeting and that some lawyer would suggest that the commission shall approve and that they would want a formal hearing. We want to move this along. (2:06-4:00)

Senator Campbell: There is a little bit of a misinterpretation on public notice.

Chairman Klein: We will come back at three o'clock.

Chairman Klein: Committee we will come back to order. We are working on 2336. (6:07-6:12)

Senator Campbell: You can see if front of you we made a few changes in the amendment proposal that both parties I think were in agreement to. Amendment Attached (2). (6:14-7:03)

Senator Murphy: What do you mean you think it's okay with both parties?

Senator Campbell: We had input from both of them and they both agreed they could live with it. When you left here we worked on this for an hour and a half.

Chairman Klein: I did run it past the folks that were helping me upstairs. We haven't adopted any amendment yet, I just threw that one out there this morning correct? What we would be looking at is the amendment that has just been handed out by Senator Campbell.

Senator Murphy: I don't see how this favors anybody but the independent water providers. I don't understand if they are both drawing on a state resource why they both don't have to go and give notification and get permission.

Chairman Klein: The independents have had to provide the equipment and the manpower. They are not supported by the state or any government entity that is providing them dollars. My argument would be that puts them in a different category.

Senator Miller: They have to get permits in order to extract water from the ground from the water commission correct and if they get it from Lake Sakakawea they get it from the Corp of Engineers.

Chairman Klein: They know who the permit holders are, you would have to ask the state water commission for that water you just don't drill a hole and start selling water.

Senator Sinner: Regarding the language it says the commission shall give electronic notice, it does not say who they give the electronic notice to in that statement.

Chairman Klein: It would be to my understanding in the next sentence where it says within the county relating to the application.

Senator Sinner: We could assume but I would like to have it at least laid out clearly in the law.

Senator Campbell: I guess we could have put it right after give electronic notice to permit holders, would that suffice?

Chairman Klein: That is language that legislative council adopted. It wasn't anything that we drafted.

Senator Sinner: There will be entities here that have an interest in the process here that will not be permit holders. (14:30-15:10)

Senator Campbell: Said that it could slow up the process and he would be opposed to that.

Chairman Klein: Said he thought the concern was that they don't want to hold the process up.

Senator Murphy: Said it seems to him that is exactly what they are doing and the IWP understand full well that oil companies are going to go to the water when they need it and

that is why this will hurt WAWS. The independents already get eighty percent. (16:23-17:35)

Senator Poolman: Moved to adopt the amendment.

Senator Miller: Seconded the amendment.

Roll Call Vote: Yes-6 No-1 Absent-0

Senator Poolman: Moved a do pass as amended.

Senator Burckhard: Seconded the motion.

Roll Call Vote: Yes-5 No-2 Absent-0

Senator Klein will carry the bill.

February 11, 2015

TD
2/11/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2336

Page 1, line 10, remove "Before the approval by the state water commission, the"

Page 1, remove lines 11 through 23

Page 2, replace lines 1 through 4 with "The authority shall file an application for approval with the commission. The commission shall give electronic notice, allow a comment period of seven days, and make a decision within ten days after receipt of the application. The commission shall consider any public comments from permit holders within the county relating to the application before making a determination to approve or disapprove the application. If delegated by the state water commission, an approval or disapproval under this section may be made by the chief engineer."

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2336**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: 15.0981.01002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Poolman Seconded By Senator Miller

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy		x
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

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

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2336**

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Poolman Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy		x
Vice Chairman Campbell	x		Senator Sinner		x
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Senator Klein

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

REPORT OF STANDING COMMITTEE

SB 2336: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2336 was placed on the Sixth order on the calendar.

Page 1, line 10, remove "Before the approval by the state water commission, the"

Page 1, remove lines 11 through 23

Page 2, replace lines 1 through 4 with "The authority shall file an application for approval with the commission. The commission shall give electronic notice, allow a comment period of seven days, and make a decision within ten days after receipt of the application. The commission shall consider any public comments from permit holders within the county relating to the application before making a determination to approve or disapprove the application. If delegated by the state water commission, an approval or disapproval under this section may be made by the chief engineer."

Renumber accordingly

2015 HOUSE ENERGY AND NATURAL RESOURCES

SB 2336

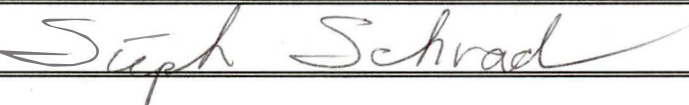
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2336
3/12/2015
Job # 24749

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to approval of the state water commission for expansion of the western area water supply project.

Minutes:

Attachments 5

Chairman Porter opens hearing.

David Hogue, District 38; written testimony #1, explains the bill.

Chairman Porter: In lines 15 and 16 is it your understanding that the delegating authority is to do the hearing and solely make the decision by the chief engineer or can the chief engineer disapprove prior to the hearing?

Hogue: Under the bill as amended, I'm not aware that there is a hearing required anymore, it's a comment period. The last line was added to make this clear.

Robert Harms, Lobbyist for Independent Water Providers -The Harms Group; written testimony #1A, B, C. Explains amendments he proposed; **written testimony #2A.**

Rep. George Keiser: On the amendment I think you need a comma after the first one.

Harms: Yes.

Steve Mortenson, Chairman-Independent Water Providers and Farmer/Rancher in western North Dakota; written testimony #3

Woodrow Sveen, Independent Water Providers and 4th generation Landowner south of Tioga: When my great grandparents settled on the family farmstead 130 years ago, we had crystal clear water, comparable to spring water. In 1964 my parents built a brand new home on the existing headquarters of their farming and ranching operation. Within about a year we started having problems with copper tubing being eaten out of the hot water system. The following spring we planted the garden three times, we couldn't get the garden to grow. We couldn't get trees to grow. My father became suspicious and sent a water

sample to the state health department. We found out it wasn't fit for human consumption, it had been polluted by Amerada-Hess. Since then we've haven't had decent water on my farmstead; we don't have a decent lawn or garden. You don't realize how valuable the water is until the well runs dry. Thanks to Ames Water Solutions I now have good potable water on my property. I'm able to pipe water to different areas of my ranch land to bring water to my cattle. I feel there is no need for redundancy in my area for another pipeline.

Joe Lewis, Farm Owner, north of Ray, ND: We need water, I can't use my well water for my animals. From my front yard I can see where the main trunk runs north on 17 to Wild Rose. I have to haul water for my family, for my animals. We really need water. When we first signed up for water, I was under the impression that the entire project was based on getting us water. Apparently that wasn't the case. I'd like to ask you to prompt and push to get us water. Thank you.

Chairman Porter: Which rural water system are you a part of?

Louis: I'm not part of a rural water system. We gave money to the WAWSA people, yes.

Chairman Porter: Each of those rural water systems are separate, so you're part of Ray-Tioga Rural Water system?

Louis: I don't know what to tell you, we're one mile east of County 17, on County Road 10. The closest water line is the one that runs to Wild Rose, I believe those are the WAWSA people, those are the people I gave our money to.

John Wolla, Tioga: In 2012 we build a home west of Tioga. In 2012 we signed up for water, made our payment, we were told we would have water one to two years. I am the furthest away of three homes and one business waiting for water. My brother in law and I offered 20,000 dollars extra to help run the half mile because we figured we'd have that into wells and treatment systems. We've had nothing but trouble since and have not heard another word on anything to do with rural water. It would be nice to not have the water treatment guy at our house giving us water. In a three year old home we have replaced the water heater twice, the ice maker in refrigerator, the dishwasher flooded over. This wouldn't have happened if we had good water. Thank you.

Mike Dragseth, Farmer/Rancher, Water Depot Owner-Alamo/Zahl area. My wife, Donna, and I both have full time jobs; we've developed our water into irrigation then we made a water depot. It's been slow going, there are about 10 others of us trying to sell water. As a tax payer I don't think that we should have to compete with state funded entities as our competition. In addition to that we also have a farm north of Zahl, where we signed up for WAWSA water about three years ago and haven't heard anything about that either. Thank You.

Pat Wheeler, west of Minot, Brother operates family farm near Ray, ND:

Several years ago, before WAWSA was in existence, my wife and I invested quite a bit of money into a water depot just south of Williston, McKenzie County. Several years later WAWSA came out, they sent letters out threatening 1926B, a federal statute that eliminates competition. We thought they were going to shut us down, but thanks to the legislature two

sessions ago, you enacted SB 2233, that took them away from us. Thank you very much for doing that, we appreciate it a lot.

Being from the Ray area we have a lot of friends that have had dealings with WAWSA. It hasn't been a good situation, especially with not getting rural water and with eminent domain, and the bullying tactics. Some have mentioned that the oil companies have been much easier to deal with than the WAWSA people. We know that their priority is industrial water sales. My brother, Mom, and myself have rural water and we really appreciate it. I believe the driving force behind this is the engineering company for WAWSA, 25 million dollars is a lot of money. They are down here lobbying you guys a lot. We can't afford to come here to lobby a lot. Right now WAWSA has about 41% of the industrial water in McKenzie and Williams Counties. When I go into the business, they didn't have any. It was 80%, like Bob said, but it was 20% municipal, providing industrial water at that time. They came in the new guys on the block and want to take it all. Thank you for the time I appreciate being able to voice my opinion.

Mike Ames, Ray ND, Ames Water Solutions: I really appreciate the opportunity to be here. I would like to call attention to the individuals who have traveled here to support this bill, please stand up; a large group of people stand. It's quite an effort to get a group of people here that are passionate about a cause. That are willing to travel down here and testify on behalf of something they feel dearly important to them. It's not an easy thing for us to do. This really strikes home with us. Your support and your actions here in the legislature really drives the state of North Dakota and we recognize that and we appreciate your efforts. Through this whole process we feel we've been hit by a Mac truck and been run over. We are here to testify to you that WAWSA is out of control, they tell you one thing and do another thing. I would like to call your attention to you a letter (written testimony 2C, page 3) Mr. Ames reads the bottom two paragraphs. I think their feelings are as such because they have seen WAWSA build pipelines past their farmsteads to supply maintenance water to oil sites. They use eminent domain to lay pipeline across your land to bring water to an oil site and they don't hook you up to water. This bill will make them accountable if they are going to hook up rural water to industrial customers. They are the largest industrial supplier in NW North Dakota. Isn't it time for them to focus to bring water to the people they said they were going to four years ago? Half of their production from the Williston water treatment plant goes for industrial water sales. This bill will make it a public notice if they are going to hook up and supply industrial service. No one is better suited to supply the oil field through the pipelines than WAWSA is.

I can't tell you how many times we've gone to their board meetings and we've been escorted out of a WAWSA board meeting because they're going into executive session, for what?

I appreciate your time and would answer any questions.

Rep. Dick Anderson: You mentioned eminent domain, do you know how many times it's been used?

Ames: I don't know how many times it's been used but it's threatened on a regular basis.

Rep. George Keiser: There have been a lot of folks today, including yourself, that have mentioned that "They've come through my land but don't hook us up". Do you have a

count of how many times a pipe has been put through someone's land and they haven't hooked up verses how many times they've put it through their land and have hooked up?

Ames: I don't have that data.

Rep. Bob Hunskor: Could you tell me a case where eminent domain is used for a pipeline that comes within 300 feet of a farmstead, in the case mentioned, the length of time from when the pipeline was put in to when customer was hooked up to it.

Ames: Some have been a year.

Opposition:

John Olson, Western Area Water Supply Authority.

I would like to commend the legislature for its foresight in creating infrastructure and serve the water needs with a way to pay it back. We get the fact that there is natural tension between independent water producers and WAWSA. You need to know that SB2336 and SB236 in their original form would shut down industrial sales for this system. Those bills were heavily amended, even though the barriers have decreased, the barriers are still there. I haven't seen Mr. Harms' amendments, we'd like to look at them. By what I heard, the intent of those amendments is to increase those barriers again. I would also like to point out that the fiscal note has an interesting statement, it states that there may be a delay in industrial sales, which may impact the outstanding balance due in loans to the Bank of ND.

Jeret Wirtz, Executive Director-WAWSA; written testimony #4A, 4B

I'd like to clear up some of the matters that were brought up earlier. Concerning pipelines going through people's yards or lands, you need to remember that a lot of those are transmission lines. We have one contractor that will put that transmission line in and another that hook up the private individuals to the water. We don't serve people off of a transmission line because those line are carrying large volumes of water that are usually on pump pressures. When we build those systems those large diameter lines aren't convenient or feasible to hook rural connections to. What we do is use the nearest reservoir which might be ten miles away. We might have to come all the way back to that land owner with a line to make sure he has water at all times of the day, not just when those pumps are running. There's a lot of hydraulics that go into that that doesn't get explained, for the person out there it's hard to explain sometimes, they don't understand that. A lot of times when we can come off of a transmission line there is another contractor that has to come behind them, that's a separate contract. We wish we could get water to everybody in NW North Dakota. Some areas there might only be five hook ups, it's not feasible to do right now, we want those areas to fill in. There are other areas we haven't gotten to because the easements aren't filled in. Yes there are some rural residents that have been a little bit delayed because we had to get the transmission lines out to the people, into the cities, out into the areas. Now we can start branching off those. It was a little slower than we thought because of the amount of influx of people we've seen going into the communities there was infrastructure that had to be put in there before we could get to some of those rural residents.

Rep. Mike Nathe: You stated that if this bill would pass you lose opportunity and flexibility, could you run us through a scenario as to how that would happen.

Wirtz: When they come to us with that request, in the oil field there is so much day to day changing, we don't have the months and months to go forward with a lot of these temporary jobs that are using temporary pipelines. A lot of those jobs change weekly and daily. If the request has to wait another 7 days and then go to everybody else we feel that there is going to be a lot of undercutting, a lot of skepticism by the industrial users to not use us because it's more headache and it delays how fast we can respond. We like the process we have now, it's working. Everyone in the industry knows were the water's at. They're going to find the best deal, the easiest, most conscientious decision.

Rep. Dick Anderson: Do you have a time line to get rural water to these people?

Wirtz: Yes, we do have some kind of time frame, as you know the WAWSA system is a huge area that covers five counties. We have taken a significant amount of money into the WAWSA project but it's been a lot for transmission. We have put in about 400 miles of rural lines. We have a lot left to do and a lot on the books right now that's getting put in this spring, summer, and some getting awarded to contract. There will a large majority of rural water infrastructure put in, hoping that we get additional funding this biennium. A large majority of the WAWSA funding of the 120 that was requested 50 to 60 million of that was for rural water work. We have really put the emphasis on rural water work this session. We have been doing public meetings, notices on the web site and mail outs to let people know where they stand with hook up.

Rep. Curt Hofstad: There was a reference earlier to the meetings being closed to the public, can you expound upon that a bit and if you have used that.

Wirtz: The WAWSA meetings are open to the public, during the session a lot of times in previous months and when we started this project there were some executive sessions where we force everybody in the room to leave other than the engineers, WAWSA staff, and board members. A lot of the stuff talked about is legislative strategy, which we'd like to keep some of that in house. Some is with contracts and some is with eminent domain, sometimes negotiating with land owners. We don't really want that out in public session if we are going to be paying or doing something that is kind of irregular. No motions can be made in an executive session and all those minutes are in the WAWSA system and on the web site for the view of anybody that wants to look.

Vice Chairman Damschen: When you are signing customers up and they're making their payment, do you explain to them that there may be a delay; are they fully aware of that before they sign up?

Wirtz: Yes, and in some cases its gone longer than we thought. There are people we were hoping to have water to last fall or this year and maybe it got bumped a year. A lot of that happened when some of the bids came in a little higher. That bidding climate in western North Dakota is unlike no other across the state. The bids came in higher than expected and we had to cut somewhere, instead of serving a 50 person rural expansion maybe it got cut down to 25. There had to be cuts somewhere.

Rep. Dick Anderson: What percent goes towards engineering on an average project?

Wirtz: It varies, I think the general rule of thumb is about 10%, which would be pretty close to where we're at.

Rep. George Keiser: We started this session with a lot of money and now we don't have as much money and certainly the WAWSA project has been impacted, at least tentatively, what difference is that reduction in funding going to have for accomplishing the goals that were set up for the next biennium.

Wirtz: It has a huge effect. We had scheduled a 120 million because that's what we think we can spend in a biennium. There are several rural water projects that are either going to get delayed or cut down for now.

Rep. Bob Hunsakor: Testimony earlier about pipeline going across a farm yard that is several hundred feet from a residence the residence doesn't get service but the oil industry a mile or two down the road is serviced. What efforts are you folks making to get into that farmyard? It seems like if those efforts were there to service them at least those that are close by that would defuse a lot of the issues we are dealing with. How on top of it are you and what efforts have you made?

Wirtz: That is not the case. We had to put the transmission lines in first. We hear a lot of talk that we just went to the industry. No, we went to the communities, the industry came to us. We do have depots that were placed in with the first money. There is a misconception that there are all these lines out there and we ran them to industry. We didn't run them to industry, industry came to us. In all the contracts that have been approved the capital cost for this approval for the water commission; every one of them has a zero behind it because there's never been a dime spent to get to an oil company through those requests. They build the infrastructure to us and set up the meter. There are people out there that have been given the opportunity to connect that are a half mile from the line, if they want to build on their own dollar.

Rep. Bob Hunsakor: If the project is completed, are these folks that close to the lines still have to wait a year?

Wirtz: If we have already done a project they have to go back to the local entity to get hooked up. Or they have to wait for a separate project that comes through. We can't just add people after the fact because it keeps driving the cost of the project up. In other cases we may have built the transmission line nearby, as a first phase. Phase two would be to get the rural stuff out there. It's coming but there's always something that could affect it.

Rep. Mike Nathe: Originally, there were plans for 27 depots and it was scaled down to nine; are there any plans to expand that nine?

Wirtz: There are two that have been in the plans for a long time, but other than those two, no.

Vice Chairman Damschen: Talking about the reduction and unavailability of funding, you said some places won't get funding, that's temporary?

Wirtz: Yes, we will have to delay those to future sessions.

Chairman Porter: How does the comment period of seven days play into the amendment that's in the budget, about every 10 million dollars that you'd have to go back in front of the state engineer to keep the project moving forward?

Wirtz: These are not related to that.

Chairman Porter: It would be a piggy back delay?

Wirtz: The 10 million dollar request would be a delay; it would be an additional approval process that we'd like eliminated.

Rep. Roger Brabandt: What is your total debt?

Wirtz: About 175 million.

Rep. Roger Brabandt: Do you make annual payments?

Wirtz: We make monthly principle and interest payments, some payments haven't started yet.

Karlene Fine, Executive Director-Industrial Commission: Last session in SB2233 you set up a mechanism for how the money was to flow from industrial sales. That's the process you charged us to be monitoring, we've been doing that.

Rep. George Keiser: I have a different memory then some of the previous testimony of the hearing and discussion of two years ago. I recall that it was clearly stated to the Water Commission and to you folks that we now own this debt, the state of North Dakota. We are absorbing it, we're going to roll those revenues over and they are to pay that debt, that is a top priority as a state. If they can expedite it they can do that and we are not going to transfer these expenses to the citizens of the state of North Dakota. They are behaving as you and the bank have expected them to behave based on legislative intent, is that correct?

Fine: That is correct.

Bob Humann, Bank of North Dakota, explains written testimony #5

Rep. George Keiser: What happens with the commercial revenue when the debt's paid?

Humann: I don't recall.

Rep. Mike Lefor: The fiscal note shows a debt of 175 million and your spread sheet is 242 million. Why the difference?

Humann: I think the 242 is blending all the debt together.

Chairman Porter: Because the individual loans that the members had and the city of Williston had wouldn't be on a state fiscal note.

Rep. Roger Brabandt: It states on your handout that annual break even sales are based on a 79% profit margin that is pretty good.

Humann: Yes it is.

Alexis Baxley: ND Petroleum Board: Our members are users of both WAWSA water and private producer water, we hope to continue to do so. It seems that this bill is of most detriment to us. An average well is drilled and completed somewhere between 17 to 30 days; an additional 7 to 10 days in that process is fairly significant to us.

Chairman Porter: Does the Water Commission want to add anything to the testimony?

Michelle Klose, Assistant State Engineer-State Water Commission: We have a little bit of a concern the way the current legislation is written. Typically when we start a comment period, if we put a notice on our website on Monday, we would not consider the public comment period starting until Tuesday. We would count the seven days from that Tuesday so it would run to the following Tuesday. The comment period could close before the State Engineer or commission was required to make a decision. If there could be a change instead of ten days after notice, maybe two working days after the public comment period ends or something along that line.

Chairman Porter: We are going to hold over this hearing until tomorrow morning. Mr. Sand requested to testify on this bill; he is deployed with the US Navy and will not return until tonight.

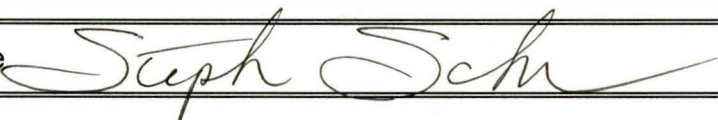
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

SB 2336
3/13/2015
Job # 24825

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to approval of the state water commission for expansion of the western area water supply project.

Minutes:

Attachments 1

Chairman Porter reopens hearing.

Duane Sand, Bismarck-Vice Chairman-Independent Water Producers and CEO-North Star Water, Director of ND Hero's Foundation; attachment 1, picture.

I am here in support of SB 2336. I think it's very important that we convey to you that our full message of what's really going on in the Bakken. All of us are very supportive of WAWSA, what you created to bring water to people in North Dakota is a great goal and a great concept. The mission is to bring water to people by WAWSA's own testimony and to bring a little history, to build some water depots to offset the cost to help make sure the tax payers get a good investment for their money. Having a reliable source of water is very important. However, how often in government, do we have to say, "We gave you an inch and you took a mile." My first exposure to WAWSA was 1926B, you can't sell water within a 10 mile radius around water depots. You can't sell a drop within our truck depots. I'll give you one word that summarizes the relationship between WAWSA and the independents, "hostile". On the Senate side yesterday, Mr. Wirtz said Williams and McKenzie Counties are only 40% since the down turn in oil prices. Those numbers, 40%, are from 14 months ago. Well before the down turn in oil, it's much greater now. They said they'd never take more than 20% of the market share. They testified yesterday and last month that they're going to grow more, with no consideration or communication to the independents. Yesterday they testified that they don't let anyone sit in on executive committee because they need to go through contract negotiations and go through legislative strategy. That's in violation of open meetings. They say they like the way the process works now, of course it works really well because the State Water Commission has never said no to any requests that they've put in.

Last summer I was asked to submit a bid and I know what the price of water was in that market. It's an expensive process to sell industrial water in the Bakken, especially now. But when you're competing against government subsidized water you'd like to know they're a player. I lost the contract to WAWSA because the oil company said they could get water

cheaper from a pipeline that is miles and miles away from the nearest truck depot. The WAWSA attorney said they consider every piece of pipe in the ground to have a component of industrial water in it. When did that happen, I thought we were competing against central delivery points? Now we have hundreds of miles of pipe in the ground that they've reclassified as industrial water that's in competition with private water and are opposed to being on the same playing field that we have to be on. We pay 10 times what they pay to put pipe in the ground.

You empowered WAWSA to bring water to the people, they have in turned used AE2S for whatever they do. For a specific project 10-20% should go to engineering purposes. Putting PVC and poly pipe in the dirt is not a technically difficult thing to do. Once you have a set of pump curves and a head loss algorithm it's pretty easy. Yet, 10% of what you've given WAWSA has gone to AE2S, 25 million dollars. The tail is AE2S the dog is WAWSA, Sand refers to attachment 1, picture of a WAWSA public water tank with AE2S painted on the side.

While putting in water line I had to trench under several other utilities. We informed the unities what we were doing. None of them had a problem with it except WAWSA. They told us we would have to pay them money and wait 21 days, this was on land I owned. No one else charges money but WAWSA. When we did bore, we couldn't find their pipe, this is a main trunk line, a 20 inch pipe, and they have no tracer wire on their line.

Why do they oppose eminent domain when they say they don't use it? Mr. Wirtz testified yesterday that they don't build to the industry, the industry comes to them. Why shouldn't they have to give notice when they are doing something, like we have to give notice when we do a state water permit?

OPPOSITION: None.

Chairman Porter closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

SB 2336

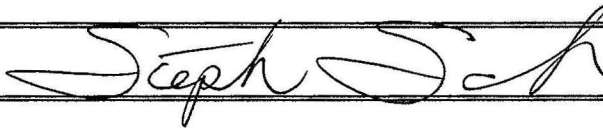
3/20/2015

Job # 25180

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to approval of the state water commission for expansion of the western area water supply project.

Minutes:

Attachments 0

Chairman Porter opens discussion, gives brief review of bill.

Rep. George Keiser: I move a Do Not Pass.

Rep. Curt Hofstad: Second.

Vote: Yes 13, No 0, Absent 0.

Rep. George Keiser: Carrier.

Chairman Porter closes discussion.

Date: 3/20/15
Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 2336**

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Keiser Seconded By Rep Hofstad

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	<input checked="" type="checkbox"/>		Rep Hunskor	<input checked="" type="checkbox"/>	
Vice Chairman Damschen	<input checked="" type="checkbox"/>		Rep Mock	<input checked="" type="checkbox"/>	
Rep D Anderson	<input checked="" type="checkbox"/>		Rep Muscha	<input checked="" type="checkbox"/>	
Rep Brabandt	<input checked="" type="checkbox"/>				
Rep Devlin	<input checked="" type="checkbox"/>				
Rep Froseth	<input checked="" type="checkbox"/>				
Rep Hofstad	<input checked="" type="checkbox"/>				
Rep Keiser	<input checked="" type="checkbox"/>				
Rep Lefor	<input checked="" type="checkbox"/>				
Rep Nathe	<input checked="" type="checkbox"/>				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Keiser

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

REPORT OF STANDING COMMITTEE

SB 2336, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends DO NOT PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2336 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2336

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2336**

2 **Senate Industry, Business, and Labor**

3 **February 4, 2015 10:00 am**

4
5
6 Good morning Chairman Klein and members of the committee. My

7 name is David Hogue. I am a North Dakota state senator representing District 38.

8 I am before your committee to testify in support of Senate Bill 2336.

9 SB 2336 relates to the Western Area Water Supply project "WAWS". I

10 know everyone on this committee is familiar with WAWS. WAWS supplies

11 residential and commercial water to northwest North Dakota.

12 The legislative history of the WAWS project is important to review as the

13 64th Legislative Assembly considers SB 2336. I did take the opportunity to review

14 HB 1206 from the 2011 session, the supporting testimony. It's very instructive.

15 The project started out as a \$150 million project to provide rural residents with a

16 reliable, safe source of residential water and, at the same time, leverage the

17 project's proximity to the Bakken to sell industrial water, to operators who

18 require large quantities of industrial water for fracking Bakken wells. The major

debate in 2011 was not whether it's a worthy project, but how the project would

1 be funded. Was the WAWS going to issue bonds, borrow, receive a grant, or
2 some combination thereof.

3 In the 2013 legislative session, we authorized another \$120 million for the WAWS
4 project, with a \$40 million grant and \$80 million in debt. WAWS is proposing
5 further expansion in 2015.

6 I think we all realize WAWS is in competition with private industrial water
7 sellers. We accepted and adopted WAWS role as a competitor with the private
8 sector when we authorized it in 2011. Competition between state government
9 entities and the private sector is not new to North Dakota. We have the Bank of
10 North Dakota that is in the business of issuing loans.

11 When the Bank of North Dakota wanted to increase its participation in the
12 student loan sector, BND came to the state legislature for that authorization. The
13 legislature reviewed the competing policy issues of authorizing BND and made a
14 decision, after public hearings and public input, to expand BND's loan portfolio.

15 We've done the same countless times. This past interim session, we
16 considered whether private parties may offer sobriety monitoring services for DUI
17 defendants who require 24/7 monitoring. We make a deliberate decision related

1 to the IT department of Higher Education. Higher Education has the capability to
2 compete with internet providers. We regulate that aspect of Higher Education.

3 SB 2336 is substantially similar to the Territorial Integrity Act. That Act
4 recognizes the value of avoiding duplication of infrastructure between competing
5 electrical distribution companies. It has served North Dakota well and holds
6 down the cost of provisioning electricity by preventing duplication of electrical
7 infrastructure. The ND Public Service Commission approves any departure from
8 the Territorial Integrity Act after a hearing in which the electrical distribution
9 company explains why it's necessary.

10 SB 2336 puts a mechanism in place to deliberately regulate the expansion
11 of WAWS into the private sector by requiring WAWS to participate in a public
12 hearing and explain its decision to expand. SB 2336 does not hamper the State
13 Water Commission; it merely requires the Commission to evaluate whether an
14 expansion of WAWS is warranted in light of private sector capabilities.

15 Mr. Chairman and Committee members, I urge your support of SB 2336 and
16 welcome your questions.

THE HARMS GROUP

SB 2336

February 4, 2015

Senate IBL Committee

Mr. Chairman, Members of the Committee:

My name is Robert Harms. I'm the lobbyist for the Independent Water Providers. We support SB 2336.

The bill implements the provisions of SB 2233 from 2013, which provided;

Section 19:

3. The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act.

Section 22:**61-40-09. Default.**

..... The industrial commission may review the ability of water depot and lateral sales to meet expenses in subdivisions a through d of subsection 1 of section 19 of this Act, and if the industrial commission is uncertain of that ability, the industrial commission shall provide written notification to the state water commission and direct the Bank of North Dakota to consider revision of the terms of the loan repayments

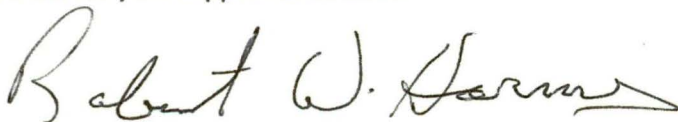
What does SB2336 do?

Establishes a process by which to measure future industrial expansions, if any by WAWS, and includes criteria by which to evaluate that request.

Why is it necessary?

SB 2233 was never implemented. The Water Commission delegated the responsibility to the State Engineer and SB 2233 has been interpreted to mandate approval, resulting in 500,000,000 gallons of new industrial water capacity being approved since the law became effective—not including a 35 million @ month contract in Williams County.

We ask for your support of SB 2336.



Robert W. Harms

Applications Western Area Water Supply Project Industrial Sales
11/24/2014

Number	Approval By	Date	Request Gallons	WAWS Capital Cost	
				\$	
1	Todd Sando	08/06/13	10,500,000	\$	0
2	No Application				
3	Todd Sando	09/18/13	8,400,000	\$	0
4	Todd Sando	08/20/13	46,200,000	\$	0
5	Todd Sando	09/30/13	5,040,000	\$	0
6	Todd Sando	10/08/13	5,040,000	\$	0
7	Todd Sando	10/30/13	10,500,000	\$	0
8	Todd Sando	10/30/13	9,240,000	\$	0
9	Todd Sando	01/08/14	11,760,000	\$	0
10	Todd Sando	01/15/14	42,000,000	\$	0
11	Todd Sando	02/05/14	11,760,000	\$	0
12	Todd Sando	02/05/14	60,225,000	\$	0
13	Todd Sando	03/03/14	39,636,445	\$	0
14	Todd Sando	03/05/14	13,440,000	\$	0
15	Todd Sando	04/08/14	25,200,000	\$	0
16	Todd Sando	04/08/14	16,800,000	\$	0
17	Todd Sando	04/15/14	80,640,000	\$	0
18	Todd Sando	04/25/14	14,700,000	\$	0
19	Todd Sando	04/25/14	10,080,000	\$	0
20	Todd Sando	05/14/14	26,880,000	\$	0
21	Todd Sando	07/31/14	7,980,000	\$	0
22	Todd Sando	07/31/14	28,560,000	\$	0
23	Todd Sando	10/02/14	10,080,000	\$	0
24	Todd Sando	10/22/14	30,240,000	\$	0
25	Todd Sando	10/24/14	8,400,000	\$	0
26	Todd Sando	10/23/14	10,500,000	\$	0

Robert Harms

From: Sheila Wolla <jswolla@hotmail.com>
Sent: Tuesday, February 03, 2015 8:02 PM
To: robert@harmsgroup.net
Subject: Jon and Sheila Wolla Rural water issues

Robert, My name is Jon Wolla, In regards to the rural water issues, my wife and I started planning a new home in the country in early 2012 less than a mile west of Tioga High School. We were told about the rural water project that would be in the area and upon further calls and info, we decided to participate in the project because it would be great to have rural water and not have to deal with the issues of a well for too long because we were told we would have the rural water by late 2013 or maybe early 2014. We had a well drilled and since it was a new home with all new fixtures and appliances and the well water was hard and after days of pumping still had silt, we had to call a water treatment company and install a filtration system and a softner for several thousand dollars. Even after all we did, our new dishwasher valve failed because of the crud in the water and leaked water all throughout the new kitchen. Not long after, both bathroom toilet valves and all of the sinks, including the kitchen, had to be repaired by a plumber because even with a 25 micron outer filter and a 1 micron inner filter, enough debris from the water caused damage. Next our on demand water heater had to be repaired. This was all within the first year. At one point our filter system plugged every 3 or 4 days and we had to replace a \$30.00 filter each time. At that point, we had to get a 1500 gallon tank in the garage and pay to have water hauled and plumb it into the house and have the well worked on again to try to help that issue. It got a little better so it was plumbed back to the well but with the water quality, we still had problems. We are not able to use the ice from the ice maker because of the water and have always had to buy drinking water. Then the second water heater went out and I had to replace parts in it also. I have several health issues and medical bills so these water issues have not helped our financial situation to say the least!!! I could go on with issues from the water. This is very frustrating since we were told we would have "good" water in a year or shortly after. I signed our notarized agreement and sent in our check on 2-21-12 and have not heard a word since. We even had a water line dug in to the road ditch during initial construction since our well is in the back yard so when we got the rural water we wouldn't have to dig up the front yard again and that also was not cheap. My sister and brother in law Kristi and Duane Knudson had a new home done about the same time as ours just a few hundred feet east of us and signed up and sent money in for rural water and have had similar problems and have also heard nothing. Thank You for your time, Jon and Sheila Wolla

Sheila Wolla

Administrative Assist.

WAW's line w/ing
1 mile of home.

Sundhagen Sand & Gravel, Inc.
 10428 67th St NW
 Tioga ND 58852
 Ph: 701-664-3886 Fax: 701-664-3887
jswolla@hotmail.com

From: jnclewis [mailto:jnclewis@nccray.net]
Sent: Tuesday, February 03, 2015 10:01 PM
To: robert@harmsgroup.net
Cc: Roger Baker
Subject: water

Members of the Legislation,

I would like to express my utmost disappointment in the handling of the matter of rural water. We have been promised Rural Water for over 3 years. I was told if I didn't pay a deposit before 12/31/2012 the amount would grow, the next notice would grow by \$500, supposed to be arriving by spring of 2013, it would cost me more so I paid, all this while remodeling the farmstead, using money we didn't have. After a year, I insisted my wife contact these people again. They said by fall of 2014.

Here we are in early 2015. Still no water. The majority of my frustration comes from broken promises. The water authority has been using my money, both in hand written check and taxpayer dollars to sell water to the oil industry. This makes me very upset.

As a Landowner, Taxpayer, and Citizen of our great state, I can't imagine why you would use MY hard earned dollars to get into competition with free enterprise businesses and leave me hang out to dry.

My well water sucks. sorry but there is no polite way to put it. I haul water in a small tank, I takes me about 6 hours a week. doesn't sound like much but it's a hoot when its -20 with the wind chill of a 25 mph wind.

I'm not originally from ND, my 12 year old daughter is, wife and I moved here in 2001. Wow have things changed. I can see how people could lose their focus.

I have held most, if not all members of the legislation, in high esteem (for politicians) from the time we got here because it seemed like they cared us regular people, both sides of the isle . You have continued to move in the right direction, your mentality seems to be in the best interest of betterment of our children and our society as a whole. It makes me proud to live in ND. We have built a life here. I never thought in a million years you (the legislators) would not be men and women of your word. That's been my experience with every Norski I've met since day one. People whose word were their bond.

I'm not sure whose running the show here, but they have got some serious explaining too do. My contact information is below, I'll be waiting. My Name is Joe Lewis my wife is Cindy Lewis. I live 3.5 miles north of Ray. Less than one mile from a main trunk headed north on county 17. Thank you ,
Joe and Cindy Lewis P.S We would love to hear from someone in charge. Our Number is 568-4799 our email is jnclewis@nccray.net

Robert Harms

From: Steven Mortenson <56smort@gmail.com>
Sent: Wednesday, February 04, 2015 6:21 AM
To: 'Robert Harms'
Subject: FW: rural water

From: Rodney Ledahl [mailto:rodneysfarm@hotmail.com]
Sent: Tuesday, February 03, 2015 11:07 PM
To: jklein@nd.gov; tomcampbell@nd.gov; raburckhard@nd.gov; joetmiller@nd.gov; npoolman@nd.gov; pmmurphy@nd.gov; georgesinner@nd.gov
Subject: rural water

Dear Mr Chairman and members of the IBL Committee-

I am a landowner in Williams County. I farm 7 miles W of Williston along Hwy 2 and have put up 2 new homes this last summer. Both are within 1 mile S of the Williams rural water line that runs along Hwy 2. We attempted to drill our own water wells but were unsuccessful. We discussed having rural water run to our homes as we were told there was a water project developed to aid rural areas to supply their people with water. We had to pay \$2500/house (\$5000 total) to hook up the meters.

But was then told we would be solely responsible to drill the line to the houses before they could hookup the meters (at our own expense) and that there would be no reimbursement down the road when rural water gets funding. I do not feel this is fair, as:

1. They charge a monthly fee for the water.
2. They may get monies in the future and will not reimburse us for our costs of \$38000 to have all of this installed.
3. If other people were to come off our line-they do not incur the costs that we had to pay from Hwy 2 to our house...only the distance to their houses.

I was under the impression this project was to bring water to the rural people, and it appears to be pocketed by the state, instead. Meanwhile they are selling water to the oil companies at a subsidized cost. I do not feel the state needs more money from selling water to the oil companies...we have a surplus slush fund that they already don't know what to do with. Help the farmers out. Ag was here before oil and will probably be here long after.

Also, as an aside...there was a leak in their line for 2-3 weeks...I notified them to tell them our dam was filling up because their line was leaking, nothing was done for 3 weeks, until they finally did fix it. That is a lot of money wasted that could have certainly been utilized much more wisely than that...

Thank you ,
 Very frustrated (and broke) in Williams County-

Rodney Ledahl

Letter to the editor

WAWSA needs to provide the services it promised years ago

I read with interest the "WAWSA continues to expand" story in the Dec. 28, 2014 edition of the Williston Herald, in which the Western Area Water Supply Area executive director Bret Wirtz fabricated the impression that WAWSA did no wrong and the organization was here to supply water to all western North Dakota residents.

Although they have brought rural water to many cities and towns, they have grossly neglected to mention the extortion tactics they used to extract money from some residents as much as six years ago and have yet to bring rural water to those areas. I was one of several residents of the Tobacco Garden area

that paid money in 2008 to the McKenzie County Rural Water District which is now part of WAWSA. The promise was that we would have rural water by December 2009. If we waited until the rural water came to our area, the cost would grossly increase.

Repeatedly, and as recently as April of 2014, we have been lied to by WAWSA with promises of bids being let for the project in the very near future. There have been no bids let and no progress except for WAWSA's uncontrollable spending to build water depots for the oil industry with North Dakota taxpayer money. Meanwhile some residents continue to struggle with poor quality water.

While WAWSA may seem like they are doing us all a great favor by having the oil industry pay for rural water, they are actually selling us out to make themselves look good. Unfortunately, the good times may be shifting. With a daily drop in area oil drilling rigs because of low oil prices, there will be less demand for "fracking water". After spending millions on water depots one wonders where the money will come from to pay back state loans. If there is no money to pay back loans, there surely won't be enough money to deliver rural water to those of us who were promised the service years ago.

*Donald Mrachek
Watford City*

1-16-2015
Williston Herald

Independent Water Providers
Mortenson farms
Steve and Lois Mortenson

14018 49 St NW
Williston, ND 58801
Home Phone (701) 572-5873
Cell Phone (701) 770-0942
56smort@gmail.com

To the Senate IBL Committee:

SB 2336

My name is Steven Mortenson, a local farmer and rancher from western North Dakota and chairman of the Independent Water Providers. The key thing I would like you to know about this bill, is that it implements what was supposed to happen after the 2013 Legislative Session in SB 2233. The agreement in SB 2233 was that WAWS was to go to the Water Commission to have any further industrial expansions evaluated before more industrial water capacity, contracts, laterals, or other expansions were approved. THAT part of our agreement was never implemented. Instead, the Water Commission has incorrectly interpreted SB 2233, as requiring it to approve expansions. That was never the intent of the Legislature.

I'd like to remind the Committee members and the entire Legislature—that this project was initially supposed to be 12 depots along the highways of western North Dakota, and was only to cost \$150 million. But, it continues to change with the excuse of trying to meet “unanticipated growth” so they need more money—triple the initial cost. What is happening is most of the new money and new water is being sold as industrial water to the oil industry, and people in our area wait. They don't have water, and have been promised water time after time—that was the objective, and WAWS has lost sight of it, in the name of selling industrial water. The LEGISLATURE MUST take control of this project, and FORCE them to deliver on the promise of water to the people in our area. The minutes of WAWS indicate that 70% of the new water going into McKenzie County is going to industrial water supply. The records of the State Water Commission show that nearly 70% of all NEW WAWS capacity through 2013, is going to industrial water sales as well. Yet, people don't have water. SB 2336 includes a process that will help focus WAWS attention on getting water to people, rather than selling water to the oil industry. We ask for your support.

Steve Mortenson

/



Testimony of Jaret Wirtz, Executive Director, WAWSA
Opposition to Senate Bill 2336 – Related to Additional SWC Processes
Senate Industry, Business, and Labor Committee, Sen. Jerry Klein, Chairman
Bismarck, North Dakota – February 4, 2015

Good morning Chairman Klein and members of the Committee. My name is Jaret Wirtz and I serve as Executive Director of the Western Area Water Supply Authority (WAWSA). I am here today to discuss the additional North Dakota State Water Commission (ND SWC) oversight as proposed in SB2336 and to explain our opposition to the bill.

ND SWC Approval Processes Already in Place

Some people may not be aware, but oversight processes as they relate to WAWSA were discussed heavily in the last legislative session in 2013. Following lengthy debates and negotiations, SB2233 established ND SWC oversight and approval processes.

Section 18.3 of SB2233 states - *The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act.*

Since the passage of that bill, WAWSA has worked closely with the ND SWC (as well as the North Dakota Industrial Commission or NDIC) to address industrial infrastructure additions. The process includes WAWSA submitting a project request to the State Engineer and ND SWC staff. The project request must include a project summary, map, and spreadsheets indicating expected volumes, domestic allocations, and previous contracts, among other things. The ND SWC staff then commences a review process, question and answer period where additional clarification materials may be requested, and then gives a recommendation of approval or denial.

With the passage of SB2233 last session, WAWSA gave up many rights and autonomy. Along with the additional ND SWC oversight and approval process, SB2233 brought about the “sweeping of industrial revenue”, NDIC rate setting process and approval, loan payback process, and negotiated a settlement to franchise protection afforded to public water systems to ensure an open market for WAWSA and independent water providers.

All in all, there were numerous processes and checks/balances set in place last session at the request of legislators and private water industry to ensure that WAWSA does not move forward with industrial projects without State oversight. WAWSA has complied with all of these concessions.

Don't Fix What is Not Broken

Over the past two years, WAWSA has worked closely with the ND SWC and NDIC to ensure smart industrial infrastructure development. WAWSA currently owes approximately \$150M in State guaranteed loans. Due to sensible placement of industrial infrastructure along the WAWSA pipeline route, WAWSA has been able to pay back approximately \$13M in principal payments as of December 2014.

Currently, WAWSA operates eleven depots with no plans for significant growth beyond this. Rather, we have worked with operators and service companies on places to utilize existing pipelines to provide tap locations to generate a more stable revenue source to pay back loans and reduce truck traffic. **To date, WAWSA sales through pipelines have taken over 220,000 truckloads of water off the roads of northwest North Dakota.**

In fact, in 2014, 40 percent of WAWSA industrial revenue was attributed to industrial water sold through pipeline taps – meaning permanent pipelines and temporary pipelines. Temporary pipelines, by nature, need a logical streamlined water allocation approval process in order to capture the revenue from potential industrial sales. Requests change daily, so some flexibility is essential. This bill seeks to lengthen and complicate the approval process further in order to stall industrial infrastructure and sales.

The WAWSA Business Plan and oversight of the project have already been thoroughly vetted and debated through past bills. What has been established by previous legislation is elegantly simple; a public water system with strategically located infrastructure to sell water to the oil industry and generate

the revenue necessary to repay its loans. The previously passed legislation and the overall project concept have proven to be effective over the past two years with a major side benefit of reducing truck traffic.

Balancing Oversight and Financial Obligations

As stated earlier, WAWSA has complied with the additional oversight and approval processes since the last session. Working together, WAWSA, the ND SWC, and the NDIC have managed to balance the act of selling industrial water in order to payback State loan obligations.

Unfortunately, SB2336 seeks to add redundant layers to an already proven approval process. This bill serves no other purpose but to cause WAWSA to lose temporary pipeline opportunities and create delays by eliminating flexibility and reducing logistically prudent connections. Lost revenues threaten loan payback and indirectly add to potential truck traffic, dust control issues, etc.

We ask that you consider the flawed and redundant nature of SB2336. Do not place additional burdens on the State and WAWSA by creating yet more processes and additional layers of beauracracy. We strongly urge a do not pass on SB2336.

Existing

Western Area Water Supply Authority Debt Service													
Loans	Original Amount	Closing Date	Current Balance	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022	CY 2023
Public Finance Authority SRF Loans - Existing Debt - Note this reflects Annual Average Debt Service													
City of Williston 3%	\$3,901,331	11/28/2001	\$1,595,000	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$0	\$0
City of Williston 3%	\$3,693,345	12/30/2003	\$1,890,000	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362
City of Williston 3%	\$17,593,143	10/24/2005	\$11,620,000	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069
R&T Supply 3%	\$1,452,760	12/22/2008	\$415,000	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738
R&T Supply 2.5%	\$10,000,000	4/16/2012	\$7,559,789	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756
McKenzie County Water RD 3%	\$7,778,566	11/29/2011	\$5,155,825	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979
Subtotal	\$44,419,145		\$28,235,614	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,420,904	\$2,420,904
Participating Members Other Debt													
McKenzie County Water Resource District (MCWRD)													
System II Distribution - USDA - 3.5%	\$3,490,000	6/1/2013	\$3,490,000	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239
System II Distribution/Regional Transmission - McKenzie Co. - 2.5%	\$4,500,000	6/1/2013	\$4,500,000	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500
Subtotal	\$7,990,000		\$7,990,000	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739
Baseline 2010 Industrial Water Sales Revenue Requirement													
McKenzie County Water Resource District - Watford City		1/1/2012		\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000
City of Williston		1/1/2012		\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059
R & T Supply		1/1/2012		\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563
City of Ray		1/1/2012		\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952
City of Tioga		1/1/2012		\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038
City of Stanley		1/1/2012		\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717
BDW Water Supply Association - Crosby		1/1/2012		\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451
Subtotal				\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780
State Guaranteed Loans													
In order of repayment:													
BND - Loan #1 - variable 2%	\$50,000,000	05/01/2012	\$36,503,557	\$4,948,328	\$7,771,562	\$7,771,562	\$7,771,562	\$7,771,562	\$7,771,562	\$7,771,562	\$3,885,781	\$0	\$0
BND - Loan #2 - 1.75% - Variable	\$40,000,000	11/01/2013	\$40,000,000	\$0	\$2,565,583	\$3,462,196	\$3,462,196	\$3,442,415	\$3,462,196	\$3,442,415	\$3,462,196	\$3,462,196	\$3,462,196
General Fund - 5% fixed	\$25,000,000	12/19/2012	\$25,000,000	\$0	\$3,791,095	\$1,253,424	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$2,535,506	\$3,831,287	\$3,831,287
Resources Trust Fund - 5% fixed	\$10,000,000	05/23/2013	\$10,000,000	\$0	\$1,335,616	\$501,370	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Resources Trust Fund - 0%	\$25,000,000	09/30/2011	\$25,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal	\$150,000,000		\$136,503,557	\$4,948,328	\$15,463,856	\$12,988,552	\$12,983,758	\$12,963,977	\$12,983,758	\$12,963,977	\$10,383,483	\$7,793,483	\$7,793,483
				\$0	\$0								
SWC - Resources Trust Fund - 2.5%	\$20,000,000	07/15/14	\$13,022,192	\$0	\$751,829	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,097,298	\$1,694,597
SWC - Resources Trust Fund - 2015	\$20,000,000	Not yet funded	\$0		\$250,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,097,298	\$1,694,597
Total Debt	\$242,409,145		\$185,751,363										
Total Annual Payments				\$12,855,268	\$24,372,625	\$21,895,492	\$21,890,698	\$21,870,917	\$21,890,698	\$21,870,917	\$19,290,423	\$17,659,502	\$18,854,100
Annual Breakeven Sales - based on 79% Profit Margin				\$16,272,491	\$30,851,424	\$27,715,813	\$27,709,744	\$27,684,705	\$27,709,744	\$27,684,705	\$24,418,257	\$22,353,800	\$23,865,949
Monthly Breakeven Sales				\$1,356,041	\$2,570,952	\$2,309,651	\$2,309,145	\$2,307,059	\$2,309,145	\$2,307,059	\$2,034,855	\$1,862,817	\$1,988,829
Those balances in italics are currently not fully drawn down but this worksheet anticipates the entire amounts will be drawn down													
The payment amounts for the SWC - Resources Trust Fund - 2015 are for illustrative purposes. The loan has not been funded.													

SIB 2336 2/4/15 #5

CY 2024	CY 2025	CY 2026	CY 2027	CY 2028	CY 2029	CY 2030	CY 2031	CY 2032	CY 2033	CY 2034	CY 2035	CY 2036	CY 2037-2053	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,884,136	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,373,620	
\$1,118,069	\$1,118,069	\$1,118,069	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$14,534,897	
\$34,738	\$34,738	\$0	\$34,738	\$34,738	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$486,332	
\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$0	\$0	\$0	\$0	\$12,212,364	
\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$0	\$0	\$0	\$0	\$0	\$6,983,622	
\$2,183,542	\$2,183,542	\$2,148,804	\$1,065,473	\$1,065,473	\$1,030,735	\$1,030,735	\$1,030,735	\$642,756	\$0	\$0	\$0	\$0	\$38,474,971	
\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$2,663,434	\$6,394,931
\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$0	\$0	\$0	\$5,770,000	
\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$162,239	\$162,239	\$162,239	\$2,663,434	\$12,164,931
\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$18,768,000	
\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$32,201,357	
\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$10,316,949	
\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$1,792,896	
\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$22,954,874	
\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$18,416,491	
\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$5,944,373	
\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$110,394,940	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$55,463,481	
\$3,462,196	\$3,462,196	\$3,462,196	\$3,462,196	\$1,731,098	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$45,803,471	
\$3,831,287	\$3,831,287	\$3,831,287	\$3,831,287	\$3,831,287	\$1,596,369	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$40,995,403	
\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$2,880,484	\$5,265,078	\$2,632,539	\$0	\$0	\$0	\$0	\$0	\$18,615,087	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,500,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$2,500,000	\$25,000,000	
\$7,793,483	\$7,793,483	\$7,793,483	\$7,793,483	\$6,062,385	\$4,476,853	\$5,265,078	\$2,632,539	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$2,500,000	\$183,377,442	
\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$847,298		
\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$847,298		
\$18,616,738	\$18,616,738	\$18,582,000	\$17,498,669	\$15,767,571	\$14,147,301	\$14,935,526	\$12,302,987	\$14,282,469	\$13,639,713	\$13,351,213	\$13,351,213	\$9,156,615	\$2,663,434	\$399,362,827
\$23,565,491	\$23,565,491	\$23,521,519	\$22,150,214	\$19,958,951	\$17,907,976	\$18,905,729	\$15,573,401	\$18,079,075	\$17,265,459	\$16,900,270	\$16,900,270	\$11,590,652	\$3,371,435	
\$1,963,791	\$1,963,791	\$1,960,127	\$1,845,851	\$1,663,246	\$1,492,331	\$1,575,477	\$1,297,783	\$1,506,590	\$1,438,788	\$1,408,356	\$1,408,356	\$965,888	\$280,953	

New

Western Area Water Supply Authority Debt Service													
Loans	Original Amount	Closing Date	Current Balance	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022	CY 2023
Public Finance Authority SRF Loans - Existing Debt - Note this reflects Annual Average Debt Service													
City of Williston 3%	\$3,901,331	11/28/2001	\$1,595,000	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$0	\$0
City of Williston 3%	\$3,693,345	12/30/2003	\$1,890,000	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362
City of Williston 3%	\$17,593,143	10/24/2005	\$11,620,000	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069
R&T Supply 3%	\$1,452,760	12/22/2008	\$415,000	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738
R&T Supply 2.5%	\$10,000,000	4/16/2012	\$7,559,789	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756
McKenzie County Water RD 3%	\$7,778,566	11/29/2011	\$5,155,825	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979
Subtotal	\$44,419,145		\$28,235,614	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,420,904	\$2,420,904
Participating Members Other Debt													
McKenzie County Water Resource District (MCWRD)													
System II Distribution - USDA - 3.5%	\$3,490,000	6/1/2013	\$3,490,000	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239
System II Distribution/Regional													
Transmission - McKenzie Co. - 2.5%	\$4,500,000	6/1/2013	\$4,323,858	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500
Subtotal	\$7,990,000		\$7,813,858	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739
Baseline 2010 Industrial Water Sales Revenue Requirement													
McKenzie County Water Resource District - Watford City	1/1/2012			\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000
City of Williston	1/1/2012			\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059
R & T Supply	1/1/2012			\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563
City of Ray	1/1/2012			\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952
City of Tioga	1/1/2012			\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038
City of Stanley	1/1/2012			\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717
BDW Water Supply Association - Crosby	1/1/2012			\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451
Subtotal				\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780
State Guaranteed Loans													
In order of repayment:													
BND - Loan #1 - variable 2%	\$50,000,000	05/01/2012	\$36,503,556	\$15,067,092	\$7,746,444	\$7,746,444	\$7,746,444	\$7,746,444	\$6,808,854	\$0	\$0	\$0	\$0
BND - Loan #2 - 1.75% - Variable	\$40,000,000	11/01/2013	\$40,000,000	\$0	\$2,565,583	\$3,462,196	\$3,462,196	\$3,442,415	\$3,462,196	\$3,442,415	\$3,462,196	\$3,462,196	\$3,462,196
General Fund - 5% fixed	\$25,000,000	12/19/2012	\$25,000,000	\$0	\$3,791,095	\$1,253,424	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$2,535,506	\$3,831,287	\$3,831,287
Resources Trust Fund - 5% fixed	\$10,000,000	05/23/2013	\$10,000,000	\$0	\$1,335,616	\$501,370	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Resources Trust Fund - 0%	\$25,000,000	09/30/2011	\$25,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal	\$150,000,000		\$136,503,556	\$15,067,092	\$15,438,738	\$12,963,434	\$12,958,640	\$12,938,859	\$12,021,050	\$5,192,415	\$6,497,702	\$7,793,483	\$7,793,483
Pre-Payments to Date:				\$0	\$0	\$0							
SWC - Resources Trust Fund - 2.5%	\$20,000,000	07/15/14	\$20,000,000	\$0	\$751,829	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,097,298	\$1,694,597
SWC - Resources Trust Fund - 2015	\$20,000,000	Not yet funded	\$0		\$250,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,097,298	\$1,694,597
Total Debt	\$222,409,145		\$192,553,028										
Total Annual Payments				\$22,974,032	\$24,347,507	\$21,870,374	\$21,865,580	\$21,845,799	\$20,927,990	\$14,099,355	\$15,404,642	\$17,659,502	\$18,854,100
Annual Breakeven Sales - based on 79% Profit Margin				\$29,081,053	\$30,819,629	\$27,684,018	\$27,677,949	\$27,652,910	\$26,491,127	\$17,847,285	\$19,499,547	\$22,353,800	\$23,865,949
Monthly Breakeven Sales				\$2,423,421	\$2,568,302	\$2,307,001	\$2,306,496	\$2,304,409	\$2,207,594	\$1,487,274	\$1,624,962	\$1,862,817	\$1,988,829
<i>Those balances in italics are currently not fully drawn down but this worksheet anticipates the entire amounts will be drawn down</i>													

CY 2024	CY 2025	CY 2026	CY 2027	CY 2028	CY 2029	CY 2030	CY 2031	CY 2032	CY 2033	CY 2034	CY 2035	CY 2036	CY 2037-2053	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,884,136	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,373,620	
\$1,118,069	\$1,118,069	\$1,118,069	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$14,534,897	
\$34,738	\$34,738	\$0	\$34,738	\$34,738	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$486,332	
\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$0	\$0	\$0	\$12,212,364	
\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$0	\$0	\$0	\$0	\$0	\$6,983,622	
\$2,183,542	\$2,183,542	\$2,148,804	\$1,065,473	\$1,065,473	\$1,030,735	\$1,030,735	\$1,030,735	\$642,756	\$0	\$0	\$0	\$0	\$38,474,971	
\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$2,663,434	\$6,394,931
\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$0	\$0	\$0	\$5,770,000	
\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$162,239	\$162,239	\$162,239	\$2,663,434	\$12,164,931
\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$18,768,000	
\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$32,201,357	
\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$10,316,949	
\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$1,792,896	
\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$22,954,874	
\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$18,416,491	
\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$5,944,373	
\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$110,394,940	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$52,861,722	
\$3,462,196	\$3,462,196	\$3,462,196	\$3,462,196	\$1,731,098	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$45,803,471	
\$3,831,287	\$3,831,287	\$3,831,287	\$3,831,287	\$3,831,287	\$1,596,369	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$40,995,403	
\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$2,880,484	\$5,265,078	\$2,632,539	\$0	\$0	\$0	\$0	\$0	\$18,615,087	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,500,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$2,500,000	\$25,000,000	
\$7,793,483	\$7,793,483	\$7,793,483	\$7,793,483	\$6,062,385	\$4,476,853	\$5,265,078	\$5,132,539	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$2,500,000	\$183,275,683	
\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$847,298		
\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$847,298		
\$18,616,738	\$18,616,738	\$18,582,000	\$17,498,669	\$15,767,571	\$14,147,301	\$14,935,526	\$14,802,987	\$14,282,469	\$13,639,713	\$13,351,213	\$13,351,213	\$9,156,615	\$2,663,434	\$399,261,068
\$23,565,491	\$23,565,491	\$23,521,519	\$22,150,214	\$19,958,951	\$17,907,976	\$18,905,729	\$18,737,958	\$18,079,075	\$17,265,459	\$16,900,270	\$16,900,270	\$11,590,652	\$3,371,435	
\$1,963,791	\$1,963,791	\$1,960,127	\$1,845,851	\$1,663,246	\$1,492,331	\$1,575,477	\$1,561,497	\$1,506,590	\$1,438,788	\$1,408,356	\$1,408,356	\$965,888	\$280,953	

North Dakota State Water Commission Testimony

Relative to Senate Bill 2336

Presented to Senate Industry, Business and Labor Committee

February 4, 2015

Good morning Chairman Klein, and members of the Senate Industry, Business and Labor Committee. I am Dave Laschkewitsch, Director of Administrative Services for the North Dakota State Water Commission.

Our agency is seeking clarification on Senate Bill 2336. During last session, legislation was enacted that created a new role for the State Water Commission relating to the Western Area Water Supply Project in the review and approval of planning, location, and water supply contracts for industrial water sales. Senate Bill 2336 changes the process our agency uses for this review and approval. In our testimony today we request that you consider a technical correction, and we also seek clarification to the intent of some of the factors to be used in the review.

As a technical correction within line 13 the Office of the State Engineer issues water permits, so we suggest "all state water commission permittees" be changed to "all water permittees." We also note there are approximately 800 water permits for industrial sales that would be notified with this language. A new location could be 100 miles from an existing permittee and this language does not distinguish those that are a great distance from those within a closer range.

Attached to our testimony is a copy of the Application For Western Area Water Supply Project Industrial Sales. This is the form our agency uses for the review and approval of these industrial water connections. At the top of the application is reference to the requirement for approval. Currently all WAWS industrial connections are approved with the conditions at the bottom of the form that, "In the event of a water shortage, the Authority will satisfy all of the needs of all customers for domestic purposes before supplying any water for any other purpose." The

Water Commission does not currently approve any industrial use that would impact domestic customers. The form also provides the length of time for the water service. The current application process does cover items (d), (e), and (g) in the proposed legislation.

The proposed legislation adds new criteria for the Water Commission to consider in the review of these applications. We are asking if you want to provide direction on use of these criteria. It could be viewed that criteria (a thru g) would be used to deny WAWS from providing water service to new lateral connections and the last criteria (h) would be used to approve WAWS in providing water service to new laterals, however it is not clear.

Does an objection need to meet any criteria? It is expected there could be an objection received on every application. Is the objection to be based on location or availability of water supply from others? If private capacity in the area can meet the requested demand, do you want the water use from WAWS denied?

It is not clear what depot plan was approved by the legislative assembly. Discussion of lateral connections was included in the hearings last session. If the Water Commission needs to use a specific plan as a basis for review, what plan does this legislation intend that we use?

Is the last criteria mentioned, the status of loan payments, the only reason that the legislature would want the Water Commission to approve a new water connection? What happens if repayment is behind schedule, and how does this impact the other factors?

Mr. Chairman and members of the committee, this concludes my testimony regarding Senate Bill 2336. I thank you for your consideration of our comments, and I will be happy to answer any questions that you or other members of the committee might have.

RECEIVED

OCT 23 2011



**APPLICATION FOR WESTERN AREA WATER
SUPPLY PROJECT INDUSTRIAL SALES**
NORTH DAKOTA STATE WATER COMMISSION
SFN 60438 (08/2013)

STATE WATER
COMMISSIONOffice Use Only
No. 25

I, the undersigned, submit the following information to the Chief Engineer of the North Dakota State Water Commission for use in approving the planning, location, and water supply contracts for western area water supply authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production in accordance with North Dakota Century Code § 61-40-10.

GENERAL INFORMATION			
This Application must include a map from an actual survey, aerial photo, or topographic map. The size of the map shall be 8½ by 11 inches. The map shall have a north arrow and approximate scale. If, in the opinion of the Chief Engineer, the map does not contain information to properly evaluate the project, it will be returned.			
Proposed Type: <input type="checkbox"/> Depot <input checked="" type="checkbox"/> Lateral <input type="checkbox"/> Tap <input type="checkbox"/> Turnout <input type="checkbox"/> Riser <input checked="" type="checkbox"/> Temporary <input type="checkbox"/> Permanent			
Is this Application for modification of a prior approval? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, Date of Prior Approval			
Name of Customer: Triangle USA Petroleum Corp.			
Customer Address: 1200 17th St Suite 2600		City: Denver	State: CO ZIP Code: 80202
Legal Description: ¼ SE	¼ SE	Section: 6	Township: 151 Range: 101
Start Date: 10-31-14		End Date: 12-31-14	
Water Requested (Gallons): 7,400,000 gallons		Flow Rate (Gallons per Minute): 600	
System Capacity at Location (Gallons per Minute): 9500	Current Contracts at Location (Gallons per Minute): 1838	Current Use at Location (Gallons per Minute): 1038	
WAWSA Capital Cost for this contract: \$0			
ADDITIONAL INFORMATION AND SIGNATURE			
Additional Information and Comments:			
Filing this Application does not relieve the applicant or customer from any responsibility or liability resulting from the construction or operation of the project.			
WAWSA Personnel (print): Janet Wirtz			
Address: PO Box 2343		City: Williston	State: ND ZIP Code: 58142
Telephone Number: 701-774-6055			
Signature: [Signature]		Date: 10-23-14	
CHIEF ENGINEER CONSIDERATION			
Approval: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Signature: [Signature]		Date: 10/24/14	
This application was considered and approved based on Authority assurances of continued supply for domestic use, sufficient system capacity existing at the location, and the cost of granting the connection having no impact on the finances of the Authority.			
In the event of a water shortage, the Authority will satisfy all of the needs of all customers for domestic purposes before supplying any water for any other purpose.			
Notification of any change that affects the continued supply for domestic use, system capacity at the location, or impacts the finances of the Authority requires prior approval by the Chief Engineer.			

2/11/15 #1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2336

Page 1, line 10, remove "Before the approval by the state water commission, the"

Page 1, remove lines 11 through 23

Page 2, replace lines 1 through 4 with "The authority shall file an application for approval with the commission. After receipt of the application, the commission shall give public notice and allow a comment period of seven days. The commission shall consider any public comments from within the county relating to the application before making a determination to approve or disapprove the application. If delegated by the state water commission, an approval or disapproval under this section may be made by the chief engineer."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2336

Page 1, line 10, remove "Before the approval by the state water commission, the"

Page 1, remove lines 11 through 23

Page 2, replace lines 1 through 4 with "The authority shall file an application for approval with the commission. After receipt of the application, the~~public~~electronic notice and, allow a comment period of seven days, and make a decision within ten days after receipt of the application. The commission shall consider any public comments from permit holders within the county relating to the application before making a determination to approve or disapprove the application. If delegated by the state water commission, an approval or disapproval under this section may be made by the chief engineer."

Renumber accordingly →

The authority shall file an application for approval with the commission. The commission shall give electronic notice, allow a comment period of seven days, and make a decision within ten days after receipt of the application. The commission shall consider any public comments from permit holders within the county relating to the application before making a determination to approve or disapprove the application. If delegated by the state water commission, an approval or disapproval under this section may be made by the chief engineer.

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2336**

2 **House Energy and Natural Resources Committee**

3 **March 12, 2015 9:00 am**

4

5

6 Good morning Chairman Porter and members of the committee. My

7 name is David Hogue. I am a North Dakota state senator representing District 38.

8 I am before your committee to testify in support of Senate Bill 2336.

9 SB 2336 relates to the Western Area Water Supply project "WAWS". I

10 know everyone on this committee is familiar with WAWS. WAWS supplies

11 residential and commercial water to northwest North Dakota.

12 The legislative history of the WAWS project is important to review as the

13 64th Legislative Assembly considers SB 2336. I did take the opportunity to review

14 HB 1206 from the 2011 session, the supporting testimony. It's very instructive.

15 The project started out as a \$150 million project to provide rural residents with a

16 reliable, safe source of residential water and, at the same time, leverage the

17 project's proximity to the Bakken to sell industrial water, to operators who

18 require large quantities of industrial water for fracking Bakken wells. The major

19 debate in 2011 was not whether it's a worthy project, but how the project would

1 be funded. Was the WAWS going to issue bonds, borrow, receive a grant, or
2 some combination thereof.

3 In the 2013 legislative session, we authorized another \$120 million for the WAWS
4 project, with a \$40 million grant and \$80 million in debt. WAWS is proposing
5 further expansion in 2015.

6 I think we all realize WAWS is in competition with private industrial water
7 sellers. We accepted and adopted WAWS role as a competitor with the private
8 sector when we authorized it in 2011. Competition between state government
9 entities and the private sector is not new to North Dakota. We have the Bank of
10 North Dakota that is in the business of issuing loans.

11 When the Bank of North Dakota wanted to increase its participation in the
12 student loan sector, BND came to the state legislature for that authorization. The
13 legislature reviewed the competing policy issues of authorizing BND and made a
14 decision, after public hearings and public input, to expand BND's loan portfolio.

15 We've done the same countless times. This past interim session, we
16 considered whether private parties may offer sobriety monitoring services for DUI
17 defendants who require 24/7 monitoring. We make a deliberate decision related

1 to the IT department of Higher Education. Higher Education has the capability to
2 compete with internet providers. We regulate that aspect of Higher Education.

3 SB 2336 is substantially similar to the Territorial Integrity Act. That Act
4 recognizes the value of avoiding duplication of infrastructure between competing
5 electrical distribution companies. It has served North Dakota well and holds
6 down the cost of provisioning electricity by preventing duplication of electrical
7 infrastructure. The ND Public Service Commission approves any departure from
8 the Territorial Integrity Act after a hearing in which the electrical distribution
9 company explains why it's necessary.

10 SB 2336 puts a mechanism in place to deliberately regulate the expansion
11 of WAWS into the private sector by requiring WAWS to seek and obtain Water
12 Commission or State Engineer approval before it expands its pipeline footprint.
13 SB 2336 does not unduly hamper WAWS ability to expand; it merely requires the
14 Commission to evaluate whether an expansion of WAWS is warranted in light of
15 private sector capabilities. The evaluation occurs after a seven day comment
16 period from affected independent water producers.

17 Mr. Chairman and Committee members, I urge your support of SB 2336 and
18 welcome your questions.

#2A



March 12, 2015

Proposed Amendments to Engrossed SB 2336 (SWC approval of WAWS industrial expansion)

P. 1, line 11 insert after notice, "to permit holders within the county of application"

P. 1, line 13 insert after consider, "the status of domestic and industrial water supply and demand and"

Mar. 12, 2015

#2B

WAWS at a glance:

January, 2015

REVISED: IWP: 2/09/2015

2011: Cost: \$150 million

Authorized by HB 1206 to construct water system for NW ND, paid in part by sales of industrial water to the oil industry for fracking. \$110 million loan from ND; \$40 million likely in 2013.

After the debt is paid, WAWS members retain profits less 5% to ND.

Intent was to build 12-15 water depots along major highways; not the spider web system seen in 2013.

IWP objected and warned: oil industry would find ways to reduce water needs; market was mature; needs being met; 80% of water from private sector; balance by local communities. Competition was vigorous and growing.

In 2011, ND used 9400 ac.ft. of water; 20,000 ac.ft. of new permits were pending. Today ND has 116,000+ ac.ft of permitted water available to the oil industry. (325,851 gal. = 1 acre foot)

Legislature mandated WAWS to "minimize impacts" upon private sector as it located water depots.

2013: Cost \$230 million (\$120 million new funds; \$80 million debt; \$40 million grants)

WAWS had shifted strategy from water depots along highways to a broad network of lateral pipelines to provide industrial water throughout the oil industry, and failing to meet domestic water demands.

The Compromise—a new model--SB 2233:

Controversy continued into 2013 and produced SB 2233—a compromise designed for resolution. IWP supported SB 2233 as a compromise to resolve the conflict. SB 2233 provided:

- ND took responsibility for \$190 million of debt (absolving locals, in case of default)
- ND retained all profits once debts were paid—to be paid to Resources Trust Fund
- WAWS was to concentrate on domestic water supply
- No future industrial water expansion was to occur, unless approved by State Water Commission (SB 2233 Section 19(3))

The Compromise failed; controversy remains; WAWS continues expansion to industrial water supply. SWC has regularly approved expansion of industrial water supply, in spite of the intent of SB 2233.

WAWS now has 41% of the industrial water market in McKenzie and Williams County (SWC presentation of 11/18/2013), including a contract signed with Continental Resources, in May, 2013—before effective date of SB 2233-- for up to 35 MILLION gallons @ month (about 25% of the water in Williams County).

2015: Cost \$350 million (WAWS indicates they are headed to \$460 million)

WAWS wants \$120 million (\$30 million of debt) for further expansion, purportedly to meet population demands projected to **2035**. The apparent goal is the expansion of industrial water supply—via a spider web system never contemplated, nor approved by ND Legislature, rather than getting water to people.

2015 Legislative objectives:

1. Direct WAWS to deliver water to people in NW ND, as its primary objective.
2. Implement SWC oversight of any further expansion of industrial water as intended by SB 2233.
3. Suspend additional debt in view of decline in oil prices and drilling rigs in 2015-2017 biennium.
4. Condition future funding for domestic build out, upon independent verification of domestic demand.

State Engineer approved WAWS expansions since passage of SB 2233 in 2013:

2013: 7 expansions 9,500,000 gallons
2014: 18 expansions 448,700,000 gallons

Engineers: AE2S did the study, lobbied for HB 1206, wrote the RFP after passage, was the only firm to bid on RFP; awarded 4 year contract, and then imposed 4-8% fee increase. Fees paid:

2012: \$10.8 million
2013/14: \$15,572,351.11+
AE2S CONSTRUCTION \$118,091.29; AE2S division provides water to oil industry; AE2S website.

Lawyers/lobbyists:

\$500,000 on lawyers (Vogel law firm-2011-2012) + \$340,000 (2013 and 2014)
\$50,000 annually for a lobbyist + \$63,000 (2013 and 2014)

Costs: Has grown from \$150 million to \$350 million and headed to \$460 million

Change in the Market: 2011 and today

In 2011, WAWS proponents argued they would have little impact on the private sector and that there would be enough water sales for everyone:

- 2011 ND used 9,400 ac.ft.; WAWS (members) provided 579 ac.ft. 6% of market*
- 2012 ND used 16,362 ac.ft.; WAWS provided 1332 ac.ft. 8% of market *
- 2013 ND used 15,600 ac.ft.; WAWS provided 3607 ac.ft. 18% of market*
- *SWC Report: July 2014
- 2014 ND used 25-28,000 ac.ft.;** WAWS provided 5905. ac.ft. 21% of market***
- ** estimate from 2014 NDIC frac water report in consultation with SWC; excludes SWP
- *** final figures for 2014 industrial water are pending and will be provided

WAWS industrial sales revenues:

2012 \$11,678,000
2013 \$24,044,000
2014 \$35,700,000 (WAWS 2014 P & L)

Eminent domain: Threats to landowners; WAWS policy is to NOT provide water if landowner refuses to provide an easement (even if pipe is for the oil industry). Threat gives advantage over private sector—contrary to spirit of ND Constitution prohibition. (See Art I, Section16)

Federal monopoly—1926(b): WAWS asserted that it had a monopoly to sell water, under federal law (7 USC 1926(b)); controversy followed, threatening access to Lake Sakakawea and private water development. WAWS knew of but did not disclose the issue in the 2011 Session. (Invoices Vogel Law Firm). SB 2233 resolved the issue.

Debt service status: BND reports WAWS is 18 months and \$13,496,000 ahead of schedule. (1/31/2015)

Most new capacity for industrial water: Records through 2013, reveal 65-70% of new expansion of WAWS is dedicated to— and utilized for industrial water supply! (See SWC website; WAWS minutes)



SB 2336

March 12, 2015

House Energy and Natural Resources Committee

Mr. Chairman, Members of the Committee:

My name is Robert Harms. I'm the lobbyist for the Independent Water Providers. We support Engrossed SB 2336.

The bill helps to implements the provisions of SB 2233 from the 2013 Session, which provided;

Section 19:

3. The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act.

Section 22:**61-40-09. Default.**

..... The industrial commission may review the ability of water depot and lateral sales to meet expenses in subdivisions a through d of subsection 1 of section 19 of this Act, and if the industrial commission is uncertain of that ability, the industrial commission shall provide written notification to the state water commission and direct the Bank of North Dakota to consider revision of the terms of the loan repayments

What does SB2336 do?

Establishes a process that provides notice, comment and a decision-time frame by which to evaluate future industrial expansions, if any by WAWS. We believe it should include consideration of domestic and industrial water supply and demand to evaluate the request. Our amendment makes that change.

Why is it necessary?

SB 2233 was never implemented. The Water Commission delegated the responsibility to the State Engineer and SB 2233 has been interpreted to mandate approval, resulting in 500,000,000 gallons of new industrial water capacity being approved since the law became effective—not including a 35 million @ month contract to an oil company in Williams County.

We ask for your support and amendment of Engrossed SB 2336.

Robert W. Harms

Applications Western Area Water Supply Project Industrial Sales
11/24/2014

Number	Approval		Request Gallons	WAWS Capital Cost	
	By	Date		\$	
1	Todd Sando	08/06/13	10,500,000	\$	0
2	No Application				
3	Todd Sando	09/18/13	8,400,000	\$	0
4	Todd Sando	08/20/13	46,200,000	\$	0
5	Todd Sando	09/30/13	5,040,000	\$	0
6	Todd Sando	10/08/13	5,040,000	\$	0
7	Todd Sando	10/30/13	10,500,000	\$	0
8	Todd Sando	10/30/13	9,240,000	\$	0
9	Todd Sando	01/08/14	11,760,000	\$	0
10	Todd Sando	01/15/14	42,000,000	\$	0
11	Todd Sando	02/05/14	11,760,000	\$	0
12	Todd Sando	02/05/14	60,225,000	\$	0
13	Todd Sando	03/03/14	39,636,445	\$	0
14	Todd Sando	03/05/14	13,440,000	\$	0
15	Todd Sando	04/08/14	25,200,000	\$	0
16	Todd Sando	04/08/14	16,800,000	\$	0
17	Todd Sando	04/15/14	80,640,000	\$	0
18	Todd Sando	04/25/14	14,700,000	\$	0
19	Todd Sando	04/25/14	10,080,000	\$	0
20	Todd Sando	05/14/14	26,880,000	\$	0
21	Todd Sando	07/31/14	7,980,000	\$	0
22	Todd Sando	07/31/14	28,560,000	\$	0
23	Todd Sando	10/02/14	10,080,000	\$	0
24	Todd Sando	10/22/14	30,240,000	\$	0
25	Todd Sando	10/24/14	8,400,000	\$	0
26	Todd Sando	10/23/14	10,500,000	\$	0

#2c pz

*The Honorable Todd Porter
District 34
North Dakota House of Representatives*

Dear Representative Porter

Although I will be unable to attend the March 12 hearing on Senate Bills 2336 and 2361, I am writing to express my concern over the way the Western Area Water Supply Area conducts business and their lack of honesty and public transparency.

As a resident of Williams and McKenzie Counties for more than 50 years I have endeavored to trust local organizations and boards with decisions that are intended for the betterment of the public welfare. I believe that is the American way.

Unfortunately, my experience with the Western Area Water Service Area has not been honesty and transparency and in my opinion they have been less than forthright in their business practices.

Although WAWSA has brought water to many cities and towns in western North Dakota, they used extortion tactics in to extract money from residents as much as six years ago and have yet to bring rural water to those areas. I was one of several residents of the Tobacco Garden area near Watford City that paid money in 2008 to the McKenzie County Rural Water District which is now part of WAWSA. The promise was that we would have rural water by December 2009. If we waited to sign up until the rural water came to our area, the cost would grossly increase.

Because I trusted a local board of directors, I paid my fee and that was my last communication with WAWSA except when I initiated contact. Repeatedly, and as recently as April of 2014, I was told by WAWSA that bids were being let in July of 2014 for the project to expand to my area. To my knowledge there were no bids let and no progress on a water line. They did, however, build a water line from Watford City to the Keene area to service the oil industry and perhaps others. Meanwhile some of us continue to struggle with poor quality water.

While WAWSA may seem like they are doing western North Dakota a great favor by having the oil industry pay for rural water, they are neglecting their obligation to North Dakota rural residents. Unfortunately, the good times may be shifting. With a daily drop in area oil drilling rigs because of low oil prices, there will be less demand for "fracking water". After spending millions on water depots one wonders where the money will come from to pay back state loans. If there is no money to pay back loans, there surly won't be enough money to deliver rural water to those of us who were promised the service years ago.

As a property owner and taxpayer, I submit these facts and my opinion to you. Although I am just "a small cog in a big gear" in western North Dakota, I feel WAWSA needs to be held accountable and to fulfill promises they have made.

Respectfully yours,

*Donald J. Mrachek
108 Crestview Drive
Watford City, ND 58854
701-842-3342*

#2C p3

Robert Harms

From: Sheila Wolla <jswolla@hotmail.com>
Sent: Tuesday, February 03, 2015 8:02 PM
To: robert@harmsgroup.net
Subject: Jon and Sheila Wolla Rural water issues

Robert, My name is Jon Wolla, In regards to the rural water issues, my wife and I started planning a new home in the country in early 2012 less than a mile west of Tioga High School. We were told about the rural water project that would be in the area and upon further calls and info, we decided to participate in the project because it would be great to have rural water and not have to deal with the issues of a well for too long because we were told we would have the rural water by late 2013 or maybe early 2014. We had a well drilled and since it was a new home with all new fixtures and appliances and the well water was hard and after days of pumping still had silt, we had to call a water treatment company and install a filtration system and a softner for several thousand dollars. Even after all we did, our new dishwasher valve failed because of the crud in the water and leaked water all throughout the new kitchen. Not long after, both bathroom toilet valves and all of the sinks, including the kitchen, had to be repaired by a plumber because even with a 25 micron outer filter and a 1 micron inner filter, enough debris from the water caused damage. Next our on demand water heater had to be repaired. This was all within the first year. At one point our filter system plugged every 3 or 4 days and we had to replace a \$30.00 filter each time. At that point, we had to get a 1500 gallon tank in the garage and pay to have water hauled and plumb it into the house and have the well worked on again to try to help that issue. It got a little better so it was plumbed back to the well but with the water quality, we still had problems. We are not able to use the ice from the ice maker because of the water and have always had to buy drinking water. Then the second water heater went out and I had to replace parts in it also. I have several health issues and medical bills so these water issues have not helped our financial situation to say the least!!! I could go on with issues from the water. This is very frustrating since we were told we would have "good" water in a year or shortly after. I signed our notarized agreement and sent in our check on 2-21-12 and have not heard a word since. We even had a water line dug in to the road ditch during initial construction since our well is in the back yard so when we got the rural water we wouldn't have to dig up the front yard again and that also was not cheap. My sister and brother in law Kristi and Duane Knudson had a new home done about the same time as ours just a few hundred feet east of us and signed up and sent money in for rural water and have had similar problems and have also heard nothing. Thank You for your time, Jon and Sheila Wolla

Sheila Wolla
Administrative Assist.

Sundhagen Sand & Gravel, Inc.
10428 67th St NW
Tioga ND 58852
Ph: 701-664-3886 Fax: 701-664-3887
jswolla@hotmail.com

WAWS line w/in
1 mile of home.

From: jnclewis [mailto:jnclewis@nccray.net]
Sent: Tuesday, February 03, 2015 10:01 PM
To: robert@harmsgroup.net
Cc: Roger Baker
Subject: water

Members of the Legislation,

I would like to express my utmost disappointment in the handling of the matter of rural water. We have been promised Rural Water for over 3 years. I was told if I didn't pay a deposit before 12/31/2012 the amount would grow, the next notice would grow by \$500, supposed to be arriving by spring of 2013, it would cost me more so I paid, all this while remodeling the farmstead, using money we didn't have. After a year, I insisted my wife contact these people again. They said by fall of 2014.

Here we are in early 2015. Still no water. The majority of my frustration comes from broken promises. The water authority has been using my money, both in hand written check and taxpayer dollars to sell water to the oil industry. This makes me very upset.

As a Landowner, Taxpayer, and Citizen of our great state, I can't imagine why you would use MY hard earned dollars to get into competition with free enterprise businesses and leave me hang out to dry.

My well water sucks. sorry but there is no polite way to put it. I haul water in a small tank, I takes me about 6 hours a week. doesn't sound like much but it's a hoot when its -20 with the wind chill of a 25 mph wind.

I'm not originally from ND, my 12 year old daughter is, wife and I moved here in 2001. Wow have things changed. I can see how people could lose their focus.

I have held most, if not all members of the legislation, in high esteem (for politicians) from the time we got here because it seemed like they cared us regular people, both sides of the isle . You have continued to move in the right direction, your mentality seems to be in the best interest of betterment of our children and our society as a whole. It makes me proud to live in ND. We have built a life here. I never thought in a million years you (the legislators) would not be men and women of your word. That's been my experience with every Norski I've met since day one. People whose word were their bond.

I'm not sure whose running the show here, but they have got some serious explaining too do. My contact information is below, I'll be waiting. My Name is Joe Lewis my wife is Cindy Lewis. I live 3.5 miles north of Ray. Less than one mile from a main trunk headed north on county 17. Thank you ,
Joe and Cindy Lewis P.S We would love to hear from someone in charge. Our Number is 568-4799 our email is jnclewis@nccray.net

#2C P5

Robert Harms

From: Steven Mortenson <56smort@gmail.com>
Sent: Wednesday, February 04, 2015 6:21 AM
To: 'Robert Harms'
Subject: FW: rural water

From: Rodney Ledahl [mailto:rodneysfarm@hotmail.com]
Sent: Tuesday, February 03, 2015 11:07 PM
To: jklein@nd.gov; tomcampbell@nd.gov; raburckhard@nd.gov; joetmiller@nd.gov; npoolman@nd.gov; pmmurphy@nd.gov; georgesinner@nd.gov
Subject: rural water

Dear Mr Chairman and members of the IBL Committee-

I am a landowner in Williams County. I farm 7 miles W of Williston along Hwy 2 and have put up 2 new homes this last summer. Both are within 1 mile S of the Williams rural water line that runs along Hwy 2. We attempted to drill our own water wells but were unsuccessful. We discussed having rural water run to our homes as we were told there was a water project developed to aid rural areas to supply their people with water. We had to pay \$2500/house (\$5000 total) to hook up the meters.

But was then told we would be solely responsible to drill the line to the houses before they could hookup the meters(at our own expense) and that there would be no reimbursement down the road when rural water gets funding. I do not feel this is fair, as:

1. They charge a monthly fee for the water.
2. They may get monies in the future and will not reimburse us for our costs of \$38000 to have all of this installed.
3. If other people were to come off our line-they do not incur the costs that we had to pay from Hwy 2 to our house...only the distance to their houses.

I was under the impression this project was to bring water to the rural people, and it appears to be pocketed by the state,instead. Meanwhile they are selling water to the oil companies at a subsidized cost. I do not feel the state needs more money from selling water to the oil companies...we have a surplus slush fund that they already don't know what to do with. Help the farmers out. Ag was here before oil and will probably will be here long after.

Also, as an aside...there was a leak in their line for 2-3 weeks...I notified them to tell them our dam was filling up because their line was leaking, nothing was done for 3 weeks, until they finally did fix it. That is a lot of money wasted that could have certainly been utilized much more wisely than that...

Thank you ,
Very frustrated (and broke) in Williams County-

Rodney Ledahl

#3 Mar 12, 2015
INDEPENDENT WATER PROVIDERS
MORTENSON FARMS
STEVE AND LOIS MORTENSON

14018 49 St NW
Williston, ND 58801
Home Phone (701) 572-5873
Cell Phone (701) 770-0942
56smort@gmail.com

To the House Natural Resources Committee:

SB 2336

My name is Steven Mortenson. I am a local farmer and rancher from western North Dakota and chairman of the Independent Water Providers. The key thing I would like you to know about this bill, is that it implements what was supposed to happen after the 2013 Legislative Session in SB 2233. The agreement in SB 2233 was that WAWS was to go to the Water Commission to have any further industrial expansions evaluated before more industrial water capacity, contracts, laterals, or other expansions were approved. THAT part of our agreement was never implemented. Instead, the Water Commission has incorrectly interpreted SB 2233, as requiring it to approve expansions. That was never the intent of the Legislature.

I'd like to remind the Committee members and the entire Legislature—that this project was initially supposed to be 12 depots along the highways of western North Dakota, and was only to cost \$150 million. But, it continues to change with the excuse of trying to meet “unanticipated growth” so they need more money—triple the initial cost. What is happening is most of the new money and new water is being sold as industrial water to the oil industry, and people in our area wait. They don't have water, and have been promised water time after time—which was the objective. WAWS has lost sight of that, in the name of selling industrial water. The LEGISLATURE MUST take control of this project, and FORCE them to deliver on the promise of water to the people in our area. The minutes of WAWS indicate that 70% of the new water going into McKenzie County is going to industrial water supply. The records of the State Water Commission show that nearly 65% of all NEW WAWS capacity through 2013, is going to industrial water sales as well. Yet, people don't have water.

Recent news reports and declarations by WAWS say they have "17,600 new sign ups"---suggesting they have requests for water from 17,600 residents in our area. But, yet when asked to produce the records—their lawyers have told us "they moved twice and don't have the records"—but sent two years of minutes so we could find them ourselves!! (See attached email from Vogel law firm to Robert Harms) I've asked for documentation myself of these sign-ups and am still waiting for a reply.

We want to accomplish two things in this Legislative Session----to fulfill the unmet promise of getting water to people and to allow WAWS sufficient industrial sales to pay their debts on the schedule they proposed.

SB 2336 includes a process that will help focus WAWS on meeting those two goals. We ask for your support.

Steve Mortenson

Chairman, IWP

From: Tami L Norgard [<mailto:tnorgard@vogellaw.com>]

Sent: Friday, February 13, 2015 12:31 PM

To: robert@harmsgroup.net

Cc: Jeff Shaffer; Denton Zubke (dentonz@dakotawestcu.org); Gene Veeder

Subject: Meeting Minutes for MCWRD - response to Open Records Request

Hi Bob.

The MCWRD office has moved twice recently, and MCWRD advises me that they may not have all of the actual hookup request documents. That said, the hookup requests would be documented in the meeting minutes, which are being provided as responsive to your document request in order to substantiate the request for hookups as well as payments on the various projects.

Tami Norgard



Tami Norgard

Vogel Law Firm
Attorney

(701) 237-6983 Work
tnorgard@vogellaw.com
218 NP Avenue
P. O. Box 1389
Fargo, ND 58107-1389
www.vogellaw.com



#4A

Testimony of Jaret Wirtz, Executive Director, WAWSA
Opposition to Senate Bill 2336 – Related to Additional SWC Processes
House Energy and Natural Resources Committee, Rep. Todd Porter, Chairman
Bismarck, North Dakota – March 12, 2015

Good morning Chairman Porter and members of the Committee. My name is Jaret Wirtz and I serve as Executive Director of the Western Area Water Supply Authority (WAWSA). I am here today to discuss the additional North Dakota State Water Commission (ND SWC) oversight as proposed in SB2336 and to explain WAWSA's opposition to the bill.

ND SWC Approval Processes Already in Place

Oversight processes that relate to WAWSA were approved during the last legislative session, in 2013. Following lengthy debates and negotiations, SB2233 established ND SWC oversight and approval processes. Section 18.3 of SB2233 states - ***The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act.***

Since the passage of SB2233, WAWSA has worked closely with the ND SWC as well as the North Dakota Industrial Commission (NDIC) to address industrial infrastructure additions. The process begins with WAWSA submitting a project request to the State Engineer and ND SWC staff along with a form that was developed by the SWC. The project request must include a project summary, map, and spreadsheets indicating expected volumes, domestic allocations, and previous contracts, among other things. The ND SWC staff then commences a review process, question and answer period where additional clarification materials may be requested, and then gives a recommendation of approval or denial.

In agreeing to SB2233 passage last session, WAWSA gave up many rights and autonomy. Along with the additional ND SWC oversight and approval process, SB2233 brought about the "sweeping of industrial revenue," NDIC rate setting process and approval, loan payback process, and removal of 1926B protection (franchise protection) afforded to public water systems.

The bottom line is, there were numerous processes and checks/balances set in place last session at the request of legislators and private water industry to ensure that WAWSA does not move forward with industrial projects without State oversight. WAWSA has complied with all of these concessions.

Benefits of the Current System

Over the past two years, WAWSA has worked closely with the ND SWC and NDIC to ensure smart industrial infrastructure development. Currently, WAWSA is generating revenue by operating ten industrial depots and has limited its construction of new depots. Instead, operators and private water service companies have come to WAWSA to direct connect their pipelines (temporary and permanent). This in turn, provides WAWSA with a more stable revenue source to repay loans.

Temporary pipelines need a logical, streamlined process in order to capture the revenue from potential industrial sales. Requests change daily, so some flexibility is essential. If passed, SB2336 would lengthen and complicate the approval process which would result in delays to industrial infrastructure development. The bill could also compromise WAWSA's ability to repay its loans from the State in a timely manner.

One of the benefits to WAWSA's direct connects and strategically located depots is reduced wear and tear on county and township roads. To date 250,000 truckloads of water have been taken off of the roads in northwestern North Dakota. In 2014 alone, 145,000 truckloads of water were off the roads because of WAWSA. If passed, SB2336 would put some of those trucks back on the road.

The current approval process under SB2233 is a win-win as WAWSA is able to operate its strategically located infrastructure to deliver drinking water to five counties that support the growing population made up of the area's workforce. The current system also allows WAWSA to pay back State loans and as an additional benefit, reduce truck traffic.

SB2336 May Block or Delay WAWSA Loan Repayments

As of December 2014, WAWSA has repaid approximately \$13M in principal payments. In 2014, 40 percent of WAWSA's industrial revenue (\$14.5 million) was attributed to industrial water sold through pipelines. In 2013, 29 percent (\$7 million) of WAWSA's industrial revenue came from direct connections. This clearly demonstrates a trend by the industry to move more water through pipelines.

This bill adds an unnecessary notice and review process for industrial water requests that could delay our ability to make loan payments to the State. SB2336 is clearly an attempt by the IWP to limit WAWSA's industrial market share and revenue. If passed, this legislation could significantly limit WAWSA's opportunity to sell water to industry through private direct pipeline connections to existing WAWSA infrastructure. That would ultimately reduce WAWSA revenues from industrial water sales that are needed in order to repay State loans.

In 2013, SB2233 negotiated an open water market in northwest North Dakota, as requested by the IWP, to provide an oversight process for the State Water Commission. If approved, SB2336 would force an unnecessary notice and additional review process upon WAWSA after private industry has already made its free choice on the most desirable water supply for their application. We feel it's

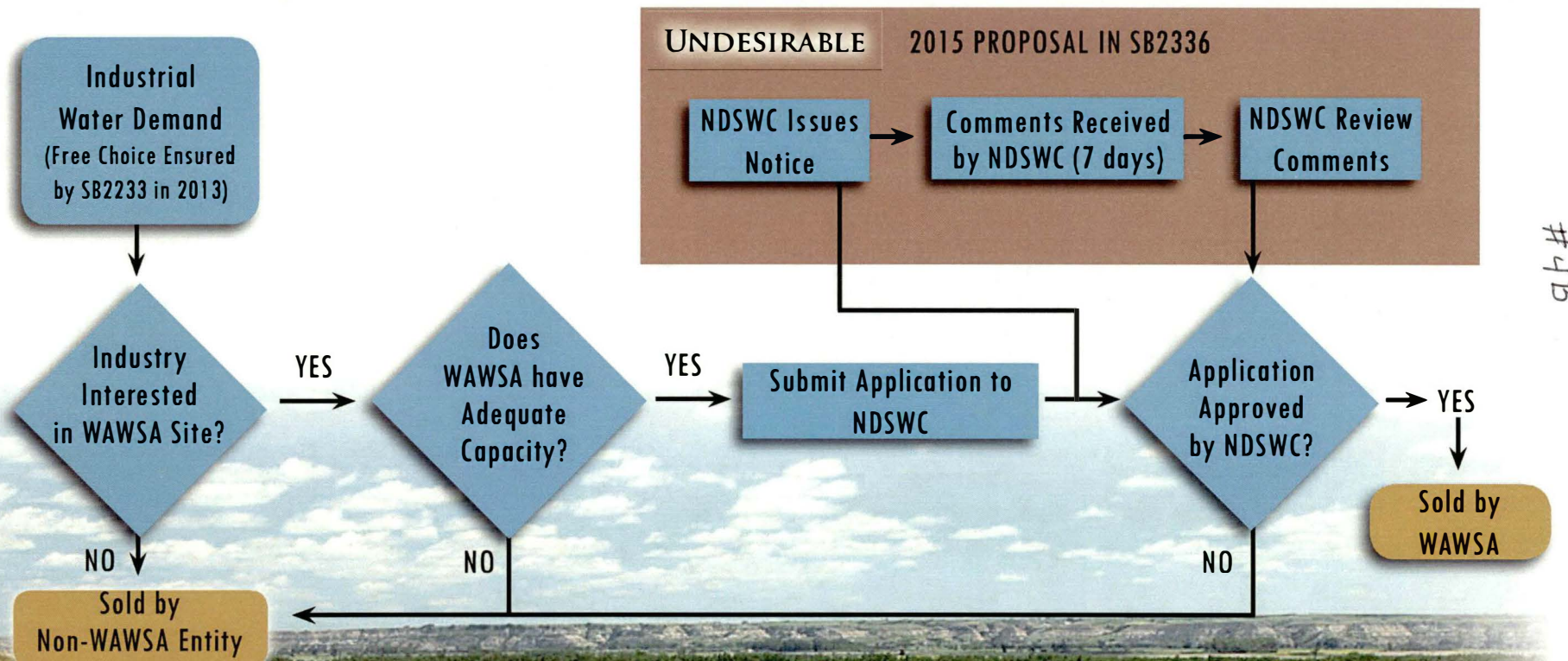
important to remind the committee that WAWSA and its member entities have not invoked the franchise protections afforded public water systems, which honors SB2233.

Conclusion: Do Not Pass SB2336

As stated earlier, WAWSA has complied with the additional oversight and approval processes instituted during the last legislative session. Working together, WAWSA, the ND SWC, and the NDIC have managed to balance the act of selling industrial water in order to pay back State loan obligations. Unfortunately, SB2336 seeks to add redundant layers of bureaucracy to a process that already works. This bill serves no other purposes but to cause WAWSA to lose temporary pipeline connection opportunities, create delays by eliminating flexibility, and reduce logistically prudent connections. The result of SB2336 approval would be lost revenue for WAWSA which threatens loan payback, as well as additional truck traffic and dust control issues, etc.

We ask that you consider the flawed and redundant nature of SB2336. Do not place additional burdens on the State and WAWSA by creating yet more processes and additional layers of bureaucracy. We strongly urge a Do Not Pass on SB2336.

INDUSTRIAL SERVICE APPROVAL FLOW CHART



WAWSA 2011 Infrastructure Concept:

- Routes Limited to Municipal/Rural Service Points
- Capacity Limited to Peak Day Domestic Demands
- 10 Industrial Approved Depots on Pipeline Route
- Private Industrial Pipelines Must Build to WAWSA

Western Area Water Supply Authority Debt Service													
Loans	Original Amount	Closing Date	Current Balance	CY 2014	CY 2015	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022	CY 2023
Public Finance Authority SRF Loans - Existing Debt - Note this reflects Annual Average Debt Service													
City of Williston 3%	\$3,901,331	11/28/2001	\$1,595,000	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$235,517	\$0	\$0
City of Williston 3%	\$3,693,345	12/30/2003	\$1,890,000	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362	\$237,362
City of Williston 3%	\$17,593,143	10/24/2005	\$11,620,000	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069	\$1,118,069
R&T Supply 3%	\$1,452,760	12/22/2008	\$415,000	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738	\$34,738
R&T Supply 2.5%	\$10,000,000	4/16/2012	\$7,559,789	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756
McKenzie County Water RD 3%	\$7,778,566	11/29/2011	\$5,155,825	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979
Subtotal	\$44,419,145		\$28,235,614	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,656,421	\$2,420,904	\$2,420,904
Participating Members Other Debt													
McKenzie County Water Resource District (MCWRD)													
System II Distribution - USDA - 3.5%	\$3,490,000	6/1/2013	\$3,490,000	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239
System II Distribution/Regional													
Transmission - McKenzie Co. - 2.5%	\$4,500,000	6/1/2013	\$4,500,000	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500
Subtotal	\$7,990,000		\$7,990,000	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739
Baseline 2010 Industrial Water Sales Revenue Requirement													
McKenzie County Water Resource District - Watford City		1/1/2012		\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000
City of Williston		1/1/2012		\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059
R & T Supply		1/1/2012		\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563
City of Ray		1/1/2012		\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952
City of Tioga		1/1/2012		\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038
City of Stanley		1/1/2012		\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717
BDW Water Supply Association - Crosby		1/1/2012		\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451
Subtotal				\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780
State Guaranteed Loans													
In order of repayment:													
BND - Loan #1 - variable 2%	\$50,000,000	05/01/2012	\$34,618,684	\$4,948,328	\$7,771,562	\$7,771,562	\$7,771,562	\$7,771,562	\$7,771,562	\$7,771,562	\$3,885,781	\$0	\$0
BND - Loan #2 - 1.75% - Variable	\$40,000,000	11/01/2013	\$40,000,000	\$0	\$2,565,583	\$3,462,196	\$3,462,196	\$3,442,415	\$3,462,196	\$3,442,415	\$3,462,196	\$3,462,196	\$3,462,196
General Fund - 5% fixed	\$25,000,000	12/19/2012	\$25,000,000	\$0	\$3,791,095	\$1,253,424	\$1,250,000	\$1,250,000	\$1,250,000	\$1,250,000	\$2,535,506	\$3,831,287	\$3,831,287
Resources Trust Fund - 5% fixed	\$10,000,000	05/23/2013	\$10,000,000	\$0	\$1,335,616	\$501,370	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
Resources Trust Fund - 0%	\$25,000,000	09/30/2011	\$25,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal	\$150,000,000		\$134,618,684	\$4,948,328	\$15,463,856	\$12,988,552	\$12,983,758	\$12,963,977	\$12,983,758	\$12,963,977	\$10,383,483	\$7,793,483	\$7,793,483
				\$0	\$0								
SWC - Resources Trust Fund - 2.5%	\$20,000,000	07/15/14	\$18,392,624	\$0	\$751,829	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,097,298	\$1,694,597
SWC - Resources Trust Fund - 2015	\$20,000,000	Not yet funded	\$0	\$0	\$250,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$1,097,298	\$1,694,597
Total Debt	\$242,409,145		\$189,236,922										
Total Annual Payments				\$12,855,268	\$24,372,625	\$21,895,492	\$21,890,698	\$21,870,917	\$21,890,698	\$21,870,917	\$19,290,423	\$17,659,502	\$18,854,100
Annual Breakeven Sales - based on 79% Profit Margin				\$16,272,491	\$30,851,424	\$27,715,813	\$27,709,744	\$27,684,705	\$27,709,744	\$27,684,705	\$24,418,257	\$22,353,800	\$23,865,949
Monthly Breakeven Sales				\$1,356,041	\$2,570,952	\$2,309,651	\$2,309,145	\$2,307,059	\$2,309,145	\$2,307,059	\$2,034,855	\$1,862,817	\$1,988,829
<i>Those balances in italics are currently not fully drawn down but this worksheet anticipates the entire amounts will be drawn down</i>													
<i>The payment amounts for the SWC - Resources Trust Fund - 2015 are for illustrative purposes. The loan has not been funded.</i>													

Bob L. Homan
 B of ND
 SR 2336 #5
 Mar. 12, 2015

CY 2024	CY 2025	CY 2026	CY 2027	CY 2028	CY 2029	CY 2030	CY 2031	CY 2032	CY 2033	CY 2034	CY 2035	CY 2036	CY 2037-2053	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$1,884,136	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,373,620	
\$1,118,069	\$1,118,069	\$1,118,069	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$14,534,897	
\$34,738	\$34,738	\$0	\$34,738	\$34,738	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$486,332	
\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$642,756	\$0	\$0	\$0	\$0	\$12,212,364	
\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$387,979	\$0	\$0	\$0	\$0	\$0	\$6,983,622	
\$2,183,542	\$2,183,542	\$2,148,804	\$1,065,473	\$1,065,473	\$1,030,735	\$1,030,735	\$1,030,735	\$642,756	\$0	\$0	\$0	\$0	\$38,474,971	
\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$162,239	\$2,663,434	\$6,394,931
\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$288,500	\$0	\$0	\$0	\$5,770,000	
\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$450,739	\$162,239	\$162,239	\$162,239	\$2,663,434	\$12,164,931
\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$816,000	\$18,768,000	
\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$1,400,059	\$32,201,357	
\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$448,563	\$10,316,949	
\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$77,952	\$1,792,896	
\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$998,038	\$22,954,874	
\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$800,717	\$18,416,491	
\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$258,451	\$5,944,373	
\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$4,799,780	\$110,394,940	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$55,463,481	
\$3,462,196	\$3,462,196	\$3,462,196	\$3,462,196	\$1,731,098	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$45,803,471	
\$3,831,287	\$3,831,287	\$3,831,287	\$3,831,287	\$3,831,287	\$1,596,369	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$40,995,403	
\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$2,880,484	\$5,265,078	\$2,632,539	\$0	\$0	\$0	\$0	\$0	\$18,615,087	
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$2,500,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$2,500,000	\$25,000,000	
\$7,793,483	\$7,793,483	\$7,793,483	\$7,793,483	\$6,062,385	\$4,476,853	\$5,265,078	\$2,632,539	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$2,500,000	\$183,377,442	
\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$847,298		
\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$1,694,597	\$847,298		
\$18,616,738	\$18,616,738	\$18,582,000	\$17,498,669	\$15,767,571	\$14,147,301	\$14,935,526	\$12,302,987	\$14,282,469	\$13,639,713	\$13,351,213	\$13,351,213	\$9,156,615	\$2,663,434	\$399,362,827
\$23,565,491	\$23,565,491	\$23,521,519	\$22,150,214	\$19,958,951	\$17,907,976	\$18,905,729	\$15,573,401	\$18,079,075	\$17,265,459	\$16,900,270	\$16,900,270	\$11,590,652	\$3,371,435	
\$1,963,791	\$1,963,791	\$1,960,127	\$1,845,851	\$1,663,246	\$1,492,331	\$1,575,477	\$1,297,783	\$1,506,590	\$1,438,788	\$1,408,356	\$1,408,356	\$965,888	\$280,953	

Bob Humann, BfND #5 p2

#1 P.1 SB 2336 Mar. 13, 2015

Dune Sand

R & T WATER SUPPLY
ASSOCIATION

