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2022

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10/15/03
Date

2003 SENATE APPROPRIATIONS

SB 2022

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10/15/03

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2022

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 1-21-03

Tape Number	Side A	Side B	Meter #
1	X		122-end
		X	0-2325
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: Chairman Ray Holmberg opened the hearing on SB 2022. Attendance was called, quorum honored. Chairman Holmberg reminded committee and public about subcommittees appointed. (Meter #122) Senator Traynor: See written testimony Exhibit 1, letter from the Major of Devils Lake, Fred Bott, and letter from Michael Grafsgaard, City Engineer of Devils Lake. Senator Traynor was testified representing Devils Lake, explaining the problems with the water lines rising and the easements. (Meter #366) Dale Frink, ND State Engineer and Chief Engineer-Secretary to the State Water Commission: See written testimony Exhibit 2. & Exhibit 2A and Exhibit 3. (Meter #3229) Chairman Holmberg: In the long view, what is the impact on the flexibility of the 2005 legislature by this budget where we bond 60 million dollars out of the trust fund that we spend 11 million dollars on deficiency issues and put that in light of the tobacco revenue, which in the past 3 years the projections have dropped 40 million dollars than what was anticipated in 1999. What will this do if we spend all of this money this year to what

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Senate Appropriations Committee
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the next legislature will say in its ability to be flexible on its water issues? (Meter # 3348) Dale

Frink: If we continue to take the agency operations out of the water development trust fund, what we've done, is essentially bonded out the water development trust fund. We have payments of about 5 million dollars a year that is coming out of bond payments, and our agency operations run about 10 million. So that only leaves 5 million left. We have taken that 5 million and bonded it out to the max and that is 60 million. So in 2005 and will not be any money available for water projects out of the water development trust fund. Unless that 10 million for agency operations would be reduced. What would happen in 2005 then, if we continue to take the agency operations out of the water development trust fund, then the only money we would have left would be the resources trust fund. (Meter #3497) Chairman Holmberg: you are not the person who does the projections on the tobacco settlement money, that is a unsettling issue that is in the back of legislators minds, if we lost 40 million in three years, 2-3 years from now are we going to be in a position in order to fund what is needed in water projects. Are we going to be taking money from the common school trust fund? How are we going to do this? How are we going to position ourselves so we as legislators have some flexibility? On comment, last session, we did some innovated work with transferring money from the trust fund into the general fund, financing the operations of the water commission by general fund money which reduced the payments that had to be made for some of the services you received by being a special fund agency and a general fund agency. I recall one big one was attorney's fees that had to be made. Was that discussed as the budget went forward to do that to reduce some of the draw on the water resource trust fund or was an issue that was not on the table when this budget was put together?

(Meter #3652) Dale Frink: Two years ago, the executive budget recommendation was an

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oversight that took us off of the general fund and put us on the special fund that we would have to pay all of those fees. And therefore, the 257 thousand for rent was not budgeted in someone else's budget. So it was easier to access those moneys. Right now you have the 257 thousand money, facilities management is relying on those funds. Two years ago that was not the case. It was not built into the budget. People felt if you switched us back to the general fund it would put us in a better position to be a general fund agency this biennium. That did not turn out to be the case. The last biennium was the year that they switched us from general funds to special funds agency but they did not include initially the rent and the audit and the attorney's fees., Those agencies were not expecting those dollars as they are this time. (Meter #3900) Senator Andrist: The water development trust fund is that the tobacco one? (Meter #3934) Dale Frink: The water development trust fund is the tobacco money, the resource trust fund is oil extraction money plus some other things. (Meter #3959) Senator Andrist: Tell us a little about Section 404 you talk about. (Meter #3970) Dale Frink: Last biennium a bill was introduced that directed the water commission to pursue the Corp of section 404. Right now the 404 program is administered by the Corp of Engineers and is a EPA function. Two states have actually taken on the programs themselves, so they do the work that the Corp of Engineers would do, New Jersey and Michigan. We have had several situations in ND where some of the projects have had a very difficult time getting Section 404 permits. Some of the projects sponsors thought the water commission might be a more appropriate place to do it. If the state takes over the program, we have to fund it. Currently it is funded by the Corp, the Federal government. We thought we could take it over 2 years ago but EPA are going to require us to run a parallel program for a few years. So the permits would be looked at by both the state water commission and the Corp of Engineers. And

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as a few years of operation if the EPA was comfortable with the state doing the work, then they would turn it over at that point. (Meter #4212) Senator Andrist: The price tag if we take it over is 1 million dollars per biennium. (Meter #4261) Dale Frink: That is correct. (Meter #4269) Chairman Holmberg reminded the committee members that if they wanted a brief primer on sources of the money, refer to the book that was handed, pointed out page 10 of Exhibit 3. It talks about the general fund, the MR&I, and the resources trust fund and the water development trust fund, it gets you a little back ground. (Meter #4312) Senator Krauter: Going back to the general fund appropriation of last biennium and the loop we created there, now by not doing that we are over one-half million dollars in additional costs when I add up the rent, the audit fees and the attorney fees. Because we are using special funds not general fund - correct? (Meter #4389) Dale Frink: Correct, general fund agencies don't pay rent and those type of things. If you are on special fund or you rely on federal funds, then you are asked to contribute for those three items. (Meter #4420) Senator Krauter: what was the audit fees for? (Meter #4437) Dale Frink: The state auditors comes in and audits our books, twice or once a year. If you are a general fund agency, they assume the cost, if you a special funds agency, then they charge you for their costs of doing the audit. (Meter #4487) Senator Krauter: These revenues are then anticipated in this current budget then. Joe Morrisette from OMB gave summary of the general fund agency and the special fund agency. Concern of the OMB was agency was essentially funded for special funds in the current biennium and rather than funneling it through the general funds, it was budgetary a clean way to do it. (Meter # 4674) Senator Grindberg: Can you describe in detail the Devils Lake project? I'm not sure if the federal was going to step in. How do you receive the measure of your purpose of the water commission? (Meter #4735) Dale Frink: Devils Lake, we have been

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working with the Army Corp of Engineers since 1993, signed a contract for Environmental Impact Statement, we were hoping that the corp would come out and build a federal outlet. For a federal outlet we would have to pay 35% of the costs. Now that cost would be one hundred million dollars so our costs would be 35 million dollars. The size of their outlet is about 300 cfs, over the years the Corp has struggled with that project and last summer Senator Conrad had a talk up in Devils Lake and gave the Corp zero (0) chance of building that outlet. He recommended we build a state outlet. We have actively pursued a state outlet thinking that the Corp may never built it, we have a huge problem out there and we do believe an outlet is necessary there. Decision must be made whether the Corp intends to build it or not. Distributed Exhibit 4. (Meter #5140) Senator Thane: Requested Mr. Frink's opinion on the Vital Water Project since day one, what part have they played in saving ND? (Meter #5175) Dale Frink: I think water is play a crucial role all across the state, Southwest Pipeline is a project that I am very familiar with that not only provides water to 23 communities out there and we are looking at providing water to some of the industrial type of plants in the area. Other activities throughout the state and over the years, provide funding and water for the Hillsboro sugar beet plant, the Wahpeton sugar beet plant, dairy up by Parshall, etc. He gave several other examples of projects by the water commission. (Meter #5511) Senator Christmann: Your testimony mentioned 12 thousand dollars for weed control '01-'03, and substantially more in next coming biennium - how much more? How do you respond to the people opposing the Devils Lake outlet- a lake that will drop 3" for 25 million dollars? (Meter #5649) Dale Frink: Devils Lake project is mostly federal money, over 400 million dollars has been spent at Devils Lake. Most of it has gone for raising roads and building dikes. There is opposition to the outlet. We are taking water out of the

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west end of the lake, the water is higher in terms cfs than under natural conditions. We believe we can take it out of the west end of the lake and meet the water quality standards we need to make. There is concern about flooding, I'm not as concerned about the flooding as I am the water quality. (Meter #5845) Senator Mathern: Is there any money in this budget that would include transfer of water from the Missouri River to the Red River. (Meter # 5899) Dale Frink: Yes, 150 thousand dollars is for part of the staff time to work on the Red River Valley water supply project. That study is headed by the Garrison Diversion Project but we are going to be very involved in it. NAWS is not going into the Red River but it is going into the Hudson Bay drainage. We have considerable funds in the NAWS fund. (Meter #6151) Senator Christmann: Repeating his questions again: How much to you intent to spend this biennium on weed control? (Meter #6228) Dale Frink: Unsure of how much this coming biennium, spent about \$12,000 this biennium.

Tape 1 side B

(Meter #32) Senator Christmann: The Devils Lake system that costs roughly two million dollars is only going to lower the lake approximately 2 - 3 inches? (Meter #64) Dale Frink: Todd Sando is here and works with the Devils Lake project. (Meter #115) Senator with the serious drought this year, is there any indication that the drought is putting a lot of pressure on aqua for irrigation areas? In some parts of the country they have experienced that. (Meter #167) Dale Frink: Milt Linvig with our staff the one most familiar with that and he is saying there is not significant indications. (Meter #194) Senator Robinson: In reference to a decision coming from the Corp in late January regarding the Devils Lake situation. This January or next? (Meter #213) Dale Frink: This coming January 30, 2003, the Corp has indicated that by the end of January they are going

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to make a decision on Devils Lake outlet. (Meter 259) Senator Andrist: What is the price tag for state outlet - 25 million or 60 million? (Meter 282) Dale Frink: For the state outlet it is 25 million. (Meter 299) Senator Andrist: And it is questionable if this really solves the problem for Devils Lake or not, does it become beneficial to the needs of the Fargo area - Red River area? (Meter 321) Dale Frink: Potentially, but the quality of the water of the west end is not as high as we would like it. It could be used for irrigation and other things like industrial usage. (Meter 392) Vice chairman Bowman: In the lawsuit up there (Devils Lake), and the cost of this, is there any direct link to the lawsuit as to what the Corp of Engineer fails to do? Does the Corp have a responsibility if, indeed, they are the reason there are delays, for the cost to the farmers who are bringing the lawsuit forward? (Meter 452) Dale Frink: Clearly that lawsuit is related to the frustration on part of the land owners. The home owners who have had their homes moved were federal assisted, the landowners themselves have just lost the land. Some ranchers have been wiped out, is that the Corps responsibility - questionable. (Meter 529) Vice Chairman Bowman: We have been waiting for 8 years for the Corp to do something and we are still waiting. How long does it take to make a decision from the Corp? (Meter 542) Dale Frink: I agree, it takes the Corp forever to make any decision as far as I can tell. That is why the state water commission is starting to pursue state outlet project. The water commission is not just the outlet we are working on, also infrastructure, the state has put considerable money into the dikes, raising the roads, and working with the boards in Devils Lake, restoring some of the wetlands, and a potential irrigation project. (Meter 658) Senator Grindberg: With the tobacco settlement money, in the next two years, can the water commission live within your means of the executive recommendation without general fund money? Is that discussion taking place? (Meter 760) Dale Frink: That

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discussion has certainly taken place on a staff basis. We have long term the water needs and next biennium, we will be here asking for a significant amount of money for those needs as we are today. (Meter 829) Senator Krauter: In looking at the revenues projected by OMB, for the 45% that is going into that, we are anticipating 20.6 million the next 10 years out, when I look at the '03-'05 biennium of operation and maintenance of 9 million and water development of 15.7 million and the bond payments, it far exceeds that 45%. In your testimony where can I find a projected schedule for bond payments on that 8 million and then a projected schedule of the 15 million for all the water projects? (Meter 911) Dale Frink: I can get you that information, The current bond issue is 5.4 million for the biennium, we have had our bond underwriter come up with those exact numbers for the additional 60 million. The bond for the 60 million is terrible. Refer to Exhibit 3 page 11. (Meter 1049) Senator Andrist: With zero general funds for the long term, how would you change this budget or how would your priorities change? (Meter 1119) Dale Frink: For the existing budget, I would not change it. The executive budget recommendation for this biennium will meet our needs. Long term needs are something we have to work with but if we are not able to work them out in the future where our agency operations come out of the water development trust fund, then the only amount that would be left for water projects would be the resources trust fund. We have many critical projects out there and don't want to stop at this point - Grand Forks flood control is expecting 18 million dollars. All of these projects are critical needs projects. (Meter 1249) Members of the ND Water Coalition testified individually - see written testimony Exhibit 5a. (Meter 1326) Dennis Hill, ND Rural Electric Cooperatives Association and ND Water Coalition. See written testimony Exhibit 5. (Meter 1430) Chairman Holmberg: Would you or Mike be able to address what does this budget, if we

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pass it as it is, do to our flexibility two years or four years from now? (Meter 1454) Dennis Hill:

We spend two hours yesterday at the Water Coalition trying to come to grips with that answer. I

think it is fair to say the Water Coalition members would prefer that there is general funds

support for water funding in the state of ND because their needs are so great. And on the other

hand, we are understandable that we are in a tight budget situation at this point and if this is the

only route we can go, I think there is some understanding that this route such be supported. The

deepest concern is, is it a precedence sitting agreement or a one time crisis? These are serious

project that Dale mentioned that we need to keep moving forward. Long term the water coalition

would rather have this legislature look for ways to continue to have general fund appropriations

in this budget, as our first choice. (Meter 1534) Mike Dwyer, ND Water Coalition: Handed out

Exhibits 6 and Exhibit 6a. Asked member to review the Water Budget numbers and explained

the numbers on these sheets. (Meter 2262) Vice Chairman Bowman: The different bonding

mechanism, is it revenue bonds that they sell? Or a user pay? State pay? (Meter 2328) Mike

Dwyer: The SB 2188, legislation that you created in 1999, provided that there would be

authorization of 90 million dollars worth of bonds, those bonds would be paid by the water

development trust fund, and so the water commission has bonded about 27 million, the 60

million I showed you on the first sheet (Exhibit 6), those bonds would be paid by the water

development trust fund that is why the 18 million dollar payment is showing. It is a water

development trust fund obligation. (Meter 2377) Vice Chairman Bowman: And that money

comes from? Why do some projects are paid for by the users? And others are paid for by the

tobacco settlement? The users of all of these projects should be paying for them if they want the

projects. (Meter 2380) Mike Dwyer: Tobacco settlement dollars. (Meter 2444) Mike Dwyer:

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There are some projects that produce their own revenue and some projects do not produce revenue. He gave several examples some with local state and federal obligations. (Meter 2697)

Pat Zavoral, Eastern ND Water Supply: (No written testimony.) City administrator for the City of Fargo, in asking for additional support. Spoke on the Fargo dike projects. (Meter 3024) Senator Robinson: On the ring diking, we looked at maps of property that needs protection, how do we handle future development? We finish our ring dikes and we have more development down the road, do we have zoning regulation in place? Do we know that we have more coming? Is there regulation against future developments from these areas? (Meter 3105) Pat Zavoral: While all of this is going on, there is also the effort being done by FEMA and the Corp of Engineering to remap the entire area. That is always the issue, if you don't have the dike with the city of Fargo, the flood plan elevation could be increased anywhere from a foot (1) to two and a half (2 1/2) feet. If it goes up that high then it almost comes impossible to develop in those areas because it gets that expensive. If we put the dike in then that line of flood plane is moved further south and again the flood plane development and the mapping will take over where it can be mapped. We have zoning that goes on 4 miles beyond the city limits. (Meter 325) Senator Thane: Are all the concerns of the upstream interested, all the river, have they been addressed in the protection from Fargo, which will back water farther to the south if you have a 100 year flood, such as in 1999. I am concerned about what could happen up stream. (Meter 3339) Pat Zavoral: I am not an engineer, in terms if they have been addressed, they have been heard loud and clear, there is a debate on what a dike would do. (Meter 3399) Bob Frantsvog, Finance Director for the City of Minot: See written testimony Exhibit 7. (Meter 3585) Senator Tallackson: What is the concern of the Canadian people? (Meter 3630) Bob Frantsvog: Referred to the state engineers, referred

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Senator to talk to Dale. (Meter 3675) Senator Grindberg: what is the total cost and time frame for the NAWS project? (Meter 3686) Bob Frantsvog: The total cost is 145 million dollars that is the latest estimate, referred to Dale Frink's exhibit 3 on page 16 (NAWS), local share is 35% . We did our first construction last season, and I think we are looking at a 5-6 year project at that so about 2007. (Meter 3877) Pat Lynch, Mayor of Beach ND: See written testimony Exhibit 8. (Meter 4243) Justin Kohanes, farmer/rancher from Beach ND: See written testimony Exhibit 9. (Meter 4582) Doug Neibauer, Burleigh County Water Users Cooperative: See written testimony Exhibit 10. (Meter 5058) Rocky Thomas, North Central Rural Water Consortium Board: See written testimony Exhibit 11 & 12. (Meter 5546) Senator Mathern: Why are these areas not served with water projects? (Meter 5613) Rocky Thomas: The areas we are attempting to serve at this point are areas that were found less than feasible in the initial projects. By utilizing our combined resources, we are able to go back and pick these people up. (Meter 5787) Joe Belford, Devils Lake: See written testimony Exhibit 13.

Tape 2 Side B

(Meter 120) Al Grasser, city of Grand Forks Engineer: See written testimony Exhibit 14. (Meter 495) Vice Chairman Bowman: With all the diking around your city would a 7" rain cause flooding within the city because it is diked? Would you have another problem there or are there ways to pump that water out before it would flood? (Meter 556) Al Grasser: Yes, it does cause problems, internal street flooding. (Meter 638) Jeff Volk, Cass County Joint Board, Maple River Dam Engineer: See written testimony Exhibit 15. (Meter 1033) Senator Grindberg: Asked Jeff about the dollars involved. (Meter 1115) Jeff Volk explained his projects and the funding for them. (Meter 1257) Maynard Helgaas, ND Irrigation Caucus: See written testimony Exhibit 16.

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(Meter 1770) Ben Varnson, ND Water Resource Districts Association & Nelson County Water Resource District: See written testimony Exhibit 17. (Meter 2006) Jay Sandstrom, ND Weather Modification: See written testimony Exhibit 18. (Meter 2395) Loren Zimmer, ND Water Users Association: See written testimony Exhibit 19. (Meter 2570) Robert Thompson, State Water Commission: Supported Section 404 and explained his views on the Maple River Dam project. (Meter #2747) Senator Joel Heitkamp: Support the water commission budget. The water budget puts us on hold, and the commitment we have to this state and set priorities of what was set up - all of the state. Water is essential to every parts of this state. Believes in putting those funds back in that water resource trust fund and don't allow that to be taken out. Take a good hard look at the future.

Closed the hearing on 2022.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2022 vote

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 2-14-03

Tape Number	Side A	Side B	Meter #
1		X	4910 - end
2	X		0-100
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: Chairman Holmberg opened the hearing to vote on SB 2022. (Meter 4962) Senator Grindberg explained the amendment (38045.0103) he proposed. 1. It removes the salary and benefits recommended by the executive branch. 2. It transfers the administrative expenses of the water commission from the water development trust fund back to the general fund. 3. With that transfer, we also remove from the water development trust fund the rent, the audit fees, and the attorney general fees to the state water commission. 4. Removes last sessions legislation directing the commission to establish its own 404 program for projects including the four FTEs. The subcommittee had discussions with the water commissioner and gave additional detailed information about the changes. Don Wolf helped explain where the money were being switching around to and the authority that would be put in place. (Meter 6244) Senator Grindberg made a motion to pass the amendment with Senator Schobinger seconded. A voice vote passed the amendment. A motion was made of a Do PASS AS AMENDED by Senator Grindberg and

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Senate Appropriations Committee

Bill/Resolution Number 2022 vote

Hearing Date 2-14-02

seconded by Senator Robinson. A roll call vote of 14 yeas, 0 nays and 0 absent passed the bill.

Senator Grindberg will carry the bill to the Senate floor.

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Prepared by the Legislative Council staff for
Senator Grindberg
February 14, 2003

Je3
2-14-03
1 of 3

PROPOSED AMENDMENTS TO SENATE BILL NO. 2022

Page 1, line 2, remove the second "and"

Page 1, line 4, after "projects" insert "; to amend and reenact section 54-27-25 of the North Dakota Century Code, relating to allocation of the tobacco settlement trust fund; and to repeal chapter 61-38 of the North Dakota Century Code, relating to assumption of the section 404 program"

Page 1, line 12, replace "2,639,225" with "2,077,370"

Page 1, line 13, replace "147,746,765" with "147,367,303"

Page 1, line 14, replace "special funds appropriation" with "all funds" and replace "150,385,990" with "149,444,673"

Page 1, after line 14, insert:

"Less estimated income	<u>140,004,556</u>
Total general fund appropriation	\$9,440,117"

Page 4, line 29, replace "\$60,000,000" with "\$49,523,771"

Page 4, after line 31, insert:

"SECTION 10. RESOURCES TRUST FUND APPROPRIATION - ADJUSTMENT. If the resources trust fund 2003-05 revenues are in excess of \$13,650,000, any excess is appropriated, subject to emergency commission approval, from the resources trust fund to the state water commission for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 11. AMENDMENT. Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

54-27-25. Tobacco settlement trust fund - Interest on fund - Uses. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778]. All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:

1. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund.

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2. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
 3. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.

Notwithstanding the provisions of this section, during each biennium transfers that would be made to the common schools trust fund under subsection 2 must instead be transferred to the water development trust fund until the state water commission certifies to the state treasurer that deposits in the water development trust fund during that biennium are sufficient to pay the principal and interest for that biennium on bonds authorized under section 61-02.1-01. When that certification is received, the state treasurer shall determine the amount deposited in the water development trust fund during that biennium and transfers that would be made to the water development trust fund under subsection 3 must instead be transferred to the common schools trust fund until deposits in the common schools trust fund during that biennium are equal to the amount deposited in the water development trust fund during that biennium or until the end of the biennium, whichever occurs first.

Transfers to the funds under this section must be made within thirty days of receipt by the tobacco settlement trust fund.

SECTION 12. REPEAL. Chapter 61-38 of the North Dakota Century Code is repealed."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2022 - Water Commission - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Administrative and support services	\$2,639,225	(\$581,855)	\$2,077,370
Water and atmospheric resources	147,748,765	(379,482)	147,369,283
Total all funds	\$150,388,990	(\$941,317)	\$149,447,673
Less estimated income	<u>150,388,990</u>	<u>(10,381,434)</u>	<u>140,006,239</u>
General fund	\$0	\$9,440,117	\$9,440,117
FTE	85.00	(3.00)	82.00

Dept. 770 - State Water Commission - Detail of Senate Changes

	REMOVES RECOMMENDED SALARY INCREASE 1	CHANGES FUNDING FOR ADMINISTRATIVE EXPENSES 2	REMOVES FUNDING FOR RENT, AUDIT, AND LEGAL FEES 3	REMOVES FUNDING FOR SECTION 404 PROGRAM 4	ADDS FUNDING FOR 1 FTE POSITION 5	TOTAL SENATE CHANGES
Administrative and support services	(\$13,881)		(\$547,974)			(\$561,855)
Water and atmospheric resources	(85,748)			(\$393,714)	\$100,000	(379,462)
Total all funds	(\$99,629)	\$0	(\$547,974)	(\$393,714)	\$100,000	(\$941,317)
Less estimated income	<u>(17,347)</u>	<u>(9,522,399)</u>	<u>(547,974)</u>	<u>(393,714)</u>	<u>100,000</u>	<u>(10,381,434)</u>
General fund	(\$82,282)	\$9,522,399	\$0	\$0	\$0	\$9,440,117
FTE	0.00	0.00	0.00	(4.00)	1.00	(3.00)

1 This amendment removes the Governor's recommendation for state employee salary increases and retains the recommended state payment for health insurance premiums.

- 3 of 3
- 2 This amendment transfers funding for administrative expenses of the State Water Commission from the water development trust fund to the general fund.
 - 3 This amendment removes funding from the water development trust fund for rent (\$257,974), audit fees (\$25,000), and Attorney General fees (\$285,000). These are additional costs the State Water Commission would have incurred as a special fund agency.
 - 4 This amendment removes funding for the Section 404 program, including four FTE positions.
 - 5 This amendment adds one FTE floodplain mapping coordinator position under the community assistance program from Federal Emergency Management Agency funding.

The total authorized in Section 9 for bonding is reduced from \$60,000,000 to \$49,523,771.

A section is added providing that revenues in excess of the \$13,650,000 from the resources trust fund are appropriated to the State Water Commission subject to Emergency Commission approval.

North Dakota Century Code (NDCC) Chapter 61-38 relating to the assumption of the Section 404 program of the Clean Water Act by the State Water Commission is repealed.

A section is added amending NDCC Section 54-27-25, relating to the uses of the tobacco settlement collections. This change removes the tobacco settlement collection funding priority provided to the water development trust fund based on need for interest and principal on bond payments. Previously the statute provided that distributions were to be made based on the water development trust fund's needs before funding is made available to the common schools trust fund.

Amendments
Grind Schobinger
vote 2022

Date:
Roll Call Vote #:

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do PASS As

Motion Made By Grindberg Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 13 14 No _____

Absent 0

Floor Assignment Grindberg

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

REPORT OF STANDING COMMITTEE (410)
February 17, 2003 9:06 a.m.

Module No: SR-17-2865
Carrier: Grindberg
Insert LC: 38045.0103 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2022: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2022 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the second "and"

Page 1, line 4, after "projects" insert "; to amend and reenact section 54-27-25 of the North Dakota Century Code, relating to allocation of the tobacco settlement trust fund; and to repeal chapter 61-38 of the North Dakota Century Code, relating to assumption of the section 404 program"

Page 1, line 12, replace "2,639,225" with "2,077,370"

Page 1, line 13, replace "147,746,765" with "147,367,303"

Page 1, line 14, replace "special funds appropriation" with "all funds" and replace "150,385,990" with "149,444,673"

Page 1, after line 14, insert:

"Less estimated income	140,004,556
Total general fund appropriation	\$9,440,117"

Page 4, line 29, replace "\$60,000,000" with "\$49,523,771"

Page 4, after line 31, insert:

"SECTION 10. RESOURCES TRUST FUND APPROPRIATION - ADJUSTMENT. If the resources trust fund 2003-05 revenues are in excess of \$13,650,000, any excess is appropriated, subject to emergency commission approval, from the resources trust fund to the state water commission for the biennium beginning July 1, 2003, and ending June 30, 2005.

SECTION 11. AMENDMENT. Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

54-27-25. Tobacco settlement trust fund - Interest on fund - Uses. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under sections IX (payments) and XI (calculation and disbursement of payments) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778]. All moneys received by the state pursuant to the judgment and all moneys received by the state for enforcement of the judgment must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:

1. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund.

2. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
3. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.

~~Notwithstanding the provisions of this section, during each biennium transfers that would be made to the common schools trust fund under subsection 2 must instead be transferred to the water development trust fund until the state water commission certifies to the state treasurer that deposits in the water development trust fund during that biennium are sufficient to pay the principal and interest for that biennium on bonds authorized under section 61-02.1-01. When that certification is received, the state treasurer shall determine the amount deposited in the water development trust fund during that biennium and transfers that would be made to the water development trust fund under subsection 3 must instead be transferred to the common schools trust fund until deposits in the common schools trust fund during that biennium are equal to the amount deposited in the water development trust fund during that biennium or until the end of the biennium, whichever occurs first.~~

Transfers to the funds under this section must be made within thirty days of receipt by the tobacco settlement trust fund.

SECTION 12. REPEAL. Chapter 61-38 of the North Dakota Century Code is repealed."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2022 - Water Commission - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Administrative and support services	\$2,639,225	(\$561,855)	\$2,077,370
Water and atmospheric resources	147,746,765	(379,462)	147,367,303
Total all funds	\$150,385,990	(\$941,317)	\$149,444,673
Less estimated income	150,385,990	(10,381,434)	140,004,556
General fund	\$0	\$9,440,117	\$9,440,117
FTE	85.00	(3.00)	82.00

Dept. 770 - State Water Commission - Detail of Senate Changes

	REMOVES RECOMMENDED SALARY INCREASE 1	CHANGES FUNDING FOR ADMINISTRATIVE EXPENSES 2	REMOVES FUNDING FOR RENT, AUDIT, AND LEGAL FEES 3	REMOVES FUND'NG FOR SECTION 404 PROGRAM 4	ADDS FUNDING FOR 1 FTE POSITION 5	TOTAL SENATE CHANGES
Administrative and support services	(\$13,881)		(\$547,974)			(\$561,855)
Water and	(85,748)			(\$393,714)	\$100,000	(379,462)

(2) DESK, (3) COMM

Page No. 2

SR-17-2865

REPORT OF STANDING COMMITTEE (410)
February 17, 2003 9:06 a.m.

Module No: SR-17-2865
Carrier: Grindberg
Insert LC: 38045.0103 Title: .0200

atmospheric resources						
Total all funds	(\$99,829)	\$0	(\$547,974)	(\$393,714)	\$100,000	(\$941,317)
Less estimated income	(17,347)	(9,522,399)	(547,974)	(393,714)	100,000	(10,381,434)
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2003 HOUSE APPROPRIATIONS

SB 2022

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Operator's Signature

10/15/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2022

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date March 6, 2003

Tape Number	Side A	Side B	Meter #
1	X	X	
Committee Clerk Signature			

Minutes:

Chairman Martinson opened the hearing on SB 2022, State Water Commission. All members of the committee were present.

Dale Frink, North Dakota State Engineer and Chief Engineer-Secretary to the State Water Commission, testified in favor of SB 2022. See attached testimony.

Rep. Brusegaard Back on page 9 where it talks about the Grand Forks flood protection project, was that originally a three page program and was it expanded to four pages after they started it?

Frink I am not sure of that. We do have several of the project proponents here today and that would be a good question. Al Grasser is here for the City of Grand Forks and can answer that.

Rep. Brusegaard Is the total project a hard number on it or is there potential for cost overruns?

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Erink There is certainly a potential for cost overruns on the total. State law right now locks us into the \$52 million and we've told the City of Grand Forks that that's their limit so anything else they will have to come up with.

Rep. Brusegaard On page 10, the efforts with cloud seeding, do the residents in the counties involved in that project have final say on whether or not the project continues in their county?

Erink Yes, we have contracts with all of the counties involved. If they want in we sign an agreement and if they want out they can get out.

Rep. Brusegaard How much state general fund dollars go into cloud seeding?

Erink About \$400,000 this biennium.

Rep. Wald On page 9, following up on Rep. Brusegaard's question, when you say the State Water Commission pay Grand Forks \$31.5 million of the \$52 million total contribution, should contribution be request?

Erink I guess you could say request. SB 2188 locks us into that number. The Water Commission does approve the number and SB 2188 does mention the \$52 million. They do make a request to us but it is a little different than most projects where they are not actually in code.

Rep. Wald So the \$52 million is a goal, the money hasn't been appropriated?

Erink I believe the money has been appropriated.

Unidentified Man The full amount was appropriated in 1999. It was going to be bonded and then that project didn't go as quickly as they wanted it so they did not need all the money. After that point we have included an amount that Grand Forks has estimated they will need to draw in our budget each time.

LaCosta Rickford
Operator's Signature

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Rep. Wald Is the \$52 million in the amount that has been bonded for the difference which was alluded to earlier?

Frink In 1999 the legislature did approve \$52 million of bonding authority. The City of Grand Forks spent \$14 million that biennium and we did bond for that \$14 million. This biennium I believe we included \$21 million in our budget because that was the amount that the City of Grand Forks told us that they thought they would actually spend, so that is all we included in our current budget. We expect that they will spend about \$19.5 million this biennium. Next biennium we are hoping that the project can get wrapped up and that we will spend the remaining amounts next biennium. The total of the \$14 million, the \$19 million and the amount for next biennium will total \$52 million.

Rep. Aarsvold The digitized map you showed earlier and the water well overlay, does that include all the recorded water wells in the state at this point or are we not that far along?

Unidentified Man It includes all of the observation test holes that we have in our system and anything the water commission used to monitor the state water resources.

Rep. Aarsvold Will the other wells eventually be added to that map?

Unidentified Man With money and grants.

Frink goes on to address Engrossed SB 2022.

Chairman Martinson Are you asking us to make any changes to restore anything that the Senate took?

Frink Not at this time.

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Chairman Martinson I got an amendment from Senator Fischer that you may be aware of.

Apparently they deleted something in the Senate that wasn't supposed to be. Are you familiar with that?

Frink I am familiar with this. I guess there were several reasons on the section 404 program. They provided \$800,000 of funding to the water commission last biennium and five full time employees, but it was conditioned that we make some progress and be in a position to assume the 404 program. Since that time we've done a lot of work with EPA. We've developed draft rules to assume that program but there have been a couple of things that have surfaced that I thought the Senate should know about. Before we take it over we would run a parallel program with the Corps of Engineers. You would submit your 404 permit to both us and Corps. We would both review it individually and you would get a permit. After a few years, if they were comfortable with what you were doing they might turn it over to you. There is a lot of controversy at the EPA level and some opposition to us taking it over. The 404 program doesn't include as many areas that we thought it might. The Missouri River is covered by both 404 and section 10. The Corps of Engineers would still maintain jurisdiction over the Missouri, so even with us taking over 404 we would not have jurisdiction on the Missouri. They would still maintain jurisdiction on Devils Lake. Even though we would try and take over the section 404 program we would have authority over most of the watersheds but not the major rivers.

Chairman Martinson When you have a chance to look at these, I would like to know whether you do or don't support them. It was a mistake that they did this and he thought it should be put back in.

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Rep. Guleson With regards to the projects that the water commission puts forward for funding, what is the process by which they get to this point in terms of public input and hearings at the local and state level?

Frink Water projects can get to us under several methods. Last April and May we sent out letters to all of the water resource districts in the state asking them for a list of projects that they want included in our report. That provides us with a long list of projects. We go through those projects and we scrutinize them. Again, even though we take out some of the projects that we don't think will move forward, their list is still very long. At that point we work with other groups like the North Dakota Water Coalition and try and come up with a priority list of projects. All necessary state and federal permits need to be obtained. The federal permits have delayed many of these projects like Maple River Dam. There are an extensive list of permits and most of them have to be obtained. There could be everything from a dam construction permit or a water use permit from my office. There are 404 permits and a 402 discharge permit. All of these have to be done and in many cases the federal agency determines if they have to do either an environmental assessment or environmental impact statement. These all take time. There is a substantial list of the things that they do have to clear before they get ready for construction.

Rep. Guleson Does that include a public comment time or a public hearing on most of these?

Frink It depends on the particular project. The Fargo flood control project requires a permit from us and in this case we have to hold a hearing. We do hold hearings or we advertise in the local paper for our water permits and people can request a hearing. It used to be that we would hold a hearing for every single one of them, now we only hold hearings where people request

one. For the most part there is a specific procedure and process that they have to follow and hearings are usually and often involved.

Rep. Gulleason What is the status of the Maple River Dam?

Frink The Maple River Dam is still stalled and trying to get a section 404 permit from the Corps of Engineers. Primary problems are some cultural resource issues that are involved. The local sponsor applied for this permit in 1995 and the Corps has a tendency to not say no and let it sit if there are any problems. It has taken an incredible amount of time to go through that process.

Rep. Wald Sheila, the original executive recommendation had no general fund money in the budget and was all funded with state water revenues from the trust funds and bonding. The Senate version now shows \$9.4 million general fund money. Was that money transferred to the general fund and then taken out, what was the process the Senate used?

Sheila from OMB In the current biennium, that was the process used. Water development trust fund money was transferred to the general fund and then the general fund was appropriated to the water commission. The actions of the Senate were really only the last step. They have funded the operations from the general fund but no transfer has been made to the general fund in the engrossed bill.

Rep. Aarsvold Who makes the request for a hearing on a requested project?

Frink It can be anybody that has a stake in the project. For a water permit, we require that after the application is complete, we advertise in the newspaper and we also notify everybody within a one mile radius. The public assistance is currently within the county and we are trying to get that changed to 12 miles so there is a city within that 12 mile radius. We contact them all by certified mail. Any one of them that would request a hearing could just write us a letter and request it.

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Rep. Aarsvold Would the site of that hearing be at the local community or in Bismarck?

Unidentified Man Two public entities could request that it be held on site, otherwise it would be held in Bismarck.

Dennis Hill, Executive Vice President of the North Dakota Rural Electric Cooperatives

Association and Chairman of the North Dakota Water Coalition, testified in favor of SB 2022.

See attached testimony.

Mike Dwyer, North Dakota Water Users Association, testified in favor of SB 2022. See attached testimony, refer to the back page of "Meeting the Challenge" which lays out the budget scenario North Dakota is facing.

Rep. Wald When I look at the resources trust which is the oil money, you are using \$25.4 million the current biennium as a revenue estimate and only \$10.5 million for the coming 2003-2005 biennium. The daily number of barrels hasn't changed that much, the price has fluctuated, but today it's \$38-\$40 dollars.

Dwyer If you look both at the resources trust fund and the water development trust fund, it is significantly higher in the left hand column than in the second and third columns because there is carryover from the 1999-2001 biennium. Those numbers in 1999-2001 include the carryover.

Rep. Wald So that is an inflated number, not the actual revenue from this source?

Dwyer That doesn't show the revenue for those two years, it shows the total amount that was in those funds.

Rep. Wald The carryover from the 1999-2001 biennium?

Dwyer Plus the revenue.

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Dwyer Continued on to comment that a lot of the projects take some time to move because of all the permits and things you have to get in place. All of the projects, with the exception of Devils Lake, the sponsors believe will be completed or will be started and major steps towards completion taken in this next biennium.

Jerry Blomeke, General Manager of Cass Rural Water District, representing the rural water systems and municipalities in the eastern 1/3 of the state, testified in favor of SB 2022. See attached testimony.

Bob Frantsvog, Finance Director for the City of Minot, testified in favor of SB 2022 regarding the NAWS project. See attached testimony.

Rep. Guleson Is the situation with Canada holding up projects?

Frantsvog The state engineer mentioned in his testimony the issue with the lawsuit. I believe we still are awarding bids on a second phase. Our opening bid is on March 20th of this year. As we know it now, we will continue to proceed until something changes.

Rep. Wald You're using the Minot water treatment plants exclusively for all of the NAWS water today and eventually?

Frantsvog That is correct.

Rep. Wald I'm guessing you signed a long term lease with the state water commission? I know the treatment plant in Dickinson treats all of the water for the entire Southwest water system. I'm assuming Minot would be a carbon copy of that.

Frantsvog We've had some very preliminary discussions but there will be a long term agreement.

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Justin Kohanes, of rural Beach, North Dakota, testified in favor of SB 2022 with regards to his family's experiences dealing with poor quality water and asked for support to continue funding the Southwest Pipeline Project into the next phase of construction. See attached testimony.

Dean Dels, 3rd generation farmer/rancher in the Linton area, testified in favor of SB 2022 regarding the need for funding to start construction on rural water from the South Central Regional Water System. See attached testimony.

Gene Goven, farmer/rancher from north of Turtle Lake, testified in favor of SB 2022 regarding the water quality at his farm. He urged support of SB 2022 to provide bonding for rural water projects and also asked for support of Senate Concurrent Resolution 4037 supporting the North Central Rural Water Consortium and South Central Regional Water District Projects. See attached testimony.

Joe Belford, Ramsey County Commissioner, testified in favor of SB 2022 regarding the flooding crisis still facing Devils Lake and asked for support for funding included for Devils Lake flood control in SB 2022. See attached testimony.

Rep. Aarsvold I can think of four to five major rain events in east central North Dakota in the last two or three years upwards of a foot of water in 24 hours. Has anyone ever projected what would happen should that fall into the Devils Lake basin?

Belford The state water commission felt that the major rainfall in Grand Forks County two years ago had about 600,000 acre feet of water in that storm and had that fallen over the lake it would have raised it 4 to 5 feet.

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Rep. Gulleason With regards to the Corps feasibility study and the cost on it, from your perspective and your areas perspective, do you see any hope of the Corps getting funding at that level?

Belford Very questionable. I had a long visit with Senator Conrad a couple days ago and we talked about this issue. He feels it would be very tough for the federal money to become available and we know here in North Dakota that \$70 plus million dollars is a lot of money in spite of what we are going through. To answer your question I think it would be very difficult.

Al Grasser, City Engineer for the City of Grand Forks, testified in favor of SB 2022 regarding the continued funding for the Grand Forks Flood Protection Project. See attached testimony.

Rep. Brusegaard The Grand Forks share of the cost of the project, is that all going to be funded with local property tax money?

Grasser The local share right now is made up of a component of special assessments. There is a use tax that was added on to that and some city general revenue that was provided to that. I believe the property taxes put towards the project was \$15 million. There is a component of all of those things working together for the local Grand Forks cost share.

Rep. Brusegaard With regards to the talk in the last couple of weeks about the increase in local sales tax, is part of that dedicated to flood protection and what is the property tax relief component of that?

Grasser I think you are referring to the mayor's proposed sales tax increase. There are many components of where that money will go to or what it will pay for. Right now the plan is to have three different actual special assessment components of our local assessment to pay for it as the

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project proceeds. We are hoping with the sales tax that we would be able to forego the last special assessment which would come in about 2004-2005.

Rep. Aarsvold What are the components of that use tax revenue?

Grasser You are going to catch me at a disadvantage. I am the engineer, not our finance man. As I understand it, the use tax is a tax on components that are bought perhaps outside and used within the City of Grand Forks. I am not sure of the mechanics of how they collect that.

Bruce Furness, Mayor of Fargo, testified in favor of SB 2022 regarding the flood control project. See attached testimony.

Mark Bittner, Fargo City Engineer, testified in favor of SB 2022 regarding the flood control project. See attached testimony.

Rep. Guleson I had received an e-mail from some folks in South Fargo who are concerned about the lack of a public hearing on this particular dike. Are you prepared to present your plan at a public hearing?

Bittner In the last couple of years we have been meeting with the jurisdictions and agencies which have responsibilities associated with this project. We are getting input from the small cities and counties, as well as on the Minnesota side. Following receipt of that input from those agencies and jurisdictions, we do intend to have a formal public hearing to receive input on the alternatives. We have not actually formally presented in a public setting the additional analysis that has been done since we last went to them. This has gone before them in different forms in the past while it was under the auspices of Cass County. Since the city has taken it over and based on the last legislation, there has been additional work and analysis done that has not been

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formally taken to the general public but it has been taken to the local jurisdiction. We do intend to do that.

Rep. Wald I have a question for the mayor. As you assess your long term water needs, is there a water supply for the foreseeable future to take care of Fargo's needs and is there anything going east that would be closer that you could access?

Furness None that has been identified so far. We have retained a consulting engineer to help us do that. We are looking at all possibilities. Maybe it's aquifers, maybe it's water in Minnesota, maybe it's some other source that we haven't even thought about. When you look at the possibilities and the probabilities, 96% of the surface water in North Dakota is in the Missouri River. If you are looking for water, that is the place to look. We are still pushing hard for Garrison diversion and recognize that there are some hurdles to overcome there, but we still think that is the best solution to our long term problem. We do believe that is a long term challenge. People ask me how long we can continue to go without water, and I wish I knew the answer. We do know that long term, we are probably going to need an additional water supply and we are looking wherever we can to find that.

Jeff Volk, Project Engineer for the Maple River Dam Project, testified in favor of SB 2022. See attached testimony.

Loren Zimmer, President of the North Dakota Water Users Association, testified in favor of SB 2022 regarding the completion of North Dakota's water infrastructure for economic growth and quality of life. See attached testimony.

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Vernon Muscha, Representing the Citizens for Responsible Flood Control, testified against SB 2022 only with regards to the Fargo Dike Project. He asked the committee to consider the removal of the current funding for the dike project until a later time. **See attached testimony.**

Rep. Wald This question is for Ray Christenson. I see in the Senate version there is \$6.8 million for Southwest Pipeline. That will take you to Beach and that is about it for the coming biennium, is that correct?

Ray Christenson That is correct.

Rep. Wald Was there any talk about Wibaux, Montana asking for water from the pipeline?

Christenson Not that I am aware of. We had a handful of property owners on the Montana side that had signed up for water and we spoke to those individuals on that side of the border and told them we couldn't go beyond the border. If they had property in the state of North Dakota, and some do, we could deliver water to them, but I am unaware of anything concerning Wibaux, Montana.

Rep. Wald You've had some USDA money, is there anything forthcoming from that source that you know of at this point?

Christenson Not at this point. We do possibly plan to approach USDA again as we have in the past, but we haven't at this point.

Rep. Wald The 6.8 is the area shaded in green on the map, in terms of time, how far does that set you back in completing what we envisioned to be the entire Southwest scenario?

Christenson In our phase development plan, we hope to be able to do the first phase in the 2003-2005 time frame and then do the second phase of the Medora/Beach project in the 2005-2007 time frame. Along with that, included in our phase development plan is to begin work

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Education and Environment Division
Bill/Resolution Number 2022
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in Oliver, Mercer, and Dunn counties which is the final phase of the project. That is where we are to date.

Mike Dwyer. He added that the Water Resource District's Association would like the committee to consider removing the amendment that was added in the Senate that repeals the enabling legislation to take over Section 404. The Water Resource District's Association is not quarreling with the fact that the funding was removed. They would like to keep the enabling legislation which has been on the books since 1993.

Chairman Martinson closed the hearing on SB 2022 and recessed until 3:00 p.m.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2022

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date March 25, 2003

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature			

Minutes:

Chairman Martinson opened the hearing on SB 2022, Water Commission. All members of the committee were present.

Rep. Wald presented SB 2022 and discussed the proposed amendments. He moved the amendments .0202 and Rep. Brusegaard seconded.

Chairman Martinson Senator Fischer brought in those amendments, the 404 is in here?

Rep. Wald Yes.

Rep. Brusegaard It is in the statement of purpose but I don't see it anyplace on the amendments.

Rep. Wald That middle paragraph on the bottom under statement of purpose, the House amendment removed the repeal of North Dakota Century Code (NDCC) Chapter 61-38 relating

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Operator's Signature

Date

Page 2
Education and Environment Division
Bill/Resolution Number 2022
Hearing Date March 25, 2003

to assumption of the Section 404 program of the Clean Water Act by the State Water Commission.

Roxanne Woeste, LC. I did not draft these particular amendments, but maybe I can offer some help to the committee. According to that paragraph it said it removed the repealer of NDCC. If you look at the engrossed bill on page 6, section 12, it repeals that chapter of the century code. On page 1 one of the amendments towards the bottom it says page 6, replace line 16 with. That's a new section so the repealer was removed from the bill.

Rep. Martinson Is the funding source still the same?

Rep. Wald The funding source did not change from the Senate. As of now the bill before you, other than the amendments we just discussed, is the way it came from the Senate.

Rep. Monson There was some testimony when they gave us their overview on snagging and clearing. I know some of the people in our area are rather upset about the snagging and clearing going way beyond the scope of the original intent on the Tongue River. You didn't get into any of that did you?

Rep. Wald No.

Rep. Monson I think there might have even been a separate bill that went through here.

Rep. Wald There was a HB 1148 that deals with the water commission. It talks about easements for dam construction, I don't know if that could have been it.

Rep. Monson I think we're probably going to have to trust the water commission.

Rep. Aarsvold There is another bill dealing with that specifically. I believe it changes language from watershed to benefited area and also changes the procedure for seeking support from the land owners in the affected area. We did pass that out of the house last week some time.

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Education and Environment Division
Bill/Resolution Number 2022
Hearing Date March 25, 2003

Chairman Martinson took a voice vote on the adoption of the amendments and the motion carried.

Rep. Wald moved a do pass as amended and Rep. Brusegaard seconded.

ROLL CALL VOTES ON A MOTION FOR A DO PASS AS AMENDED

7 YES 0 NO 0 NO

Rep. Wald will carry the bill.

Chairman Martinson closed the hearing on SB 2022.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2022

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date April 1, 2003

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature			

Minutes:

Chairman Martinson opened the hearing on SB 2022, State Water Commission. All members of the committee were present.

Rep. Wald moved a motion to reconsider SB 2022 and Rep. Brusegaard seconded.

Chairman Martinson took a voice vote and the motion carried.

Rep. Wald moved to reconsider action by which SB 2022 was amended and Rep. Brusegaard seconded.

Chairman Martinson took a voice vote and the motion carried.

Rep. Wald The reason we are reconsidering the bill is we are going to reverse what the Senate did. They had a special fund agency and they were paying for \$9,440,117 of administrative expenses out of the general fund. I would ask Mr. Wolf from council to explain the changes.

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Education and Environment Division
Bill/Resolution Number 2022
Hearing Date April 1, 2003

Chairman Martinson We have passed everything except the change back to using trust fund money to fund the water commission and I think that amendment is being proposed to free up general fund money.

Rep. Wald That's correct. We are talking about section 15 and the narrative on the bottom of page 3.

Rep. Aarsvold Are we working off a first engrossment?

Chairman Martinson Right, as it came from the Senate.

Don Wolf, Legislative Council The executive recommendation funded the administrative costs of the water commission directly from the water development trust fund. The Senate switched that funding to preserve the water development trust fund and funded it with general fund money. Amendments .0203 maintain the administrative costs from the general fund, but funds will be transferred from the water development trust fund to the general fund in the amount that was included in the executive recommendation for administrative costs to the water development trust fund. This is how it was approved by the legislative assembly two years ago. So the amount that is being transferred from the water development trust fund to the general fund is \$10,070,373. In addition, the recommended health insurance adjustment will be reduced from the \$493 per month to the to \$488.70 per month and the information technology costs will be reduced from the general fund by 20%.

Rep. Wald Mr. Wolf, would you explain the difference between the \$9,440,117 and the \$10,070,373?

Wolf The difference consists of audit fees, legal fees to the attorney general's office, and rent as paid to OMB, which is approximately \$548,000. An additional \$82,282 was the recommended

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Education and Environment Division
Bill/Resolution Number 2022
Hearing Date April 1, 2003

salary increase that was removed in the Senate. The total equals \$630,256 which is the difference between the \$10,070,373 and the \$9,440,117.

Rep. Wald moved amendments .0203 and Rep. Monson seconded.

Rep. Aarsvold I am going to oppose the amendments primarily because I think we are tapping grant dollars that should be going to projects that are much needed in various parts of the state.

Rep. Brusegaard I don't think any of us would prefer to do it this way, but when it comes down to it, we are trying to focus general fund resources in K-12 education and human services. The true intent of the idea of passing this out like we did last time is that this should be a general fund agency and in better times it will be. Unfortunately we just don't have the resources to make that possible this time.

Rep. Monson I feel the same. We've worked these budgets and there is just not \$9 million in there. We are down to crunch time and as much as I really hate to do this I see that we are up against the wall.

Rep. Wald It is not an easy decision for me to make either, but I don't think we have any other alternative.

ROLL CALL VOTES ON ADOPTING AMENDMENTS .0203

5 YES 2 NO 0 ABSENT

Rep. Wald moved a do pass as amended and Rep. Monson seconded.

Rep. Aarsvold We have subdivisions out there who have real problems and I am close to those problems. I can understand the concerns of a lot of folks in Fargo and Grand Forks and lots of other places. I think that it is disappointing for our citizens who are looking forward to these much needed projects to have them postponed for who knows.

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Education and Environment Division
Bill/Resolution Number 2022
Hearing Date April 1, 2003

Chairman Martinson This really isn't going to postpone them is it?

Rep. Aarsvold I can't answer that specifically, but it is going to dollars from what had been grant money to fund those projects. I would think it would postpone some of them.

ROLL CALL VOTE ON A DO PASS AS AMENDED

5 NO 2 NO 0 ABSENT

Rep. Wald will carry SB 2022.

Chairman Martinson closed the hearing on SB 2022.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2022

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date April 2, 2003

Tape Number	Side A	Side B	Meter #
1	X		0.3
Committee Clerk Signature <i>Christe Keller</i>			

Minutes:

Chairman Martinson opened the hearing on SB 2022, Water Commission. All members of the committee were present.

Rep. Wald handed out a comparison sheet that would move the bonding authority from the Senate version of \$49.5 million up to \$60 million. The bond payment on the \$49.5 million is \$10,200,000 and the bond payment under \$60 million would be \$10,600,000, a difference of \$400,000.

Rep. Wald I would move that we reconsider our action whereby we passed out of this section SB 2022. Rep. Brusegaard seconded.

Rep. Martinson took a voice vote on the motion to reconsider SB 2022 and the motion carried.

Rep. Wald I asked council to draft the amendments which would reflect the bonding authority moved up to \$60 million from the \$49.5 million as it came from the Senate. It was Dale Frink's

Page 2
Education and Environment Division
Bill/Resolution Number 2022
Hearing Date April 2, 2003

suggestion that they probably wouldn't get to the projects on the list. It is doubtful that they will need that, but if all the cards fall into place, they would like to have that authority and that is what we are trying to accomplish. I would move that we further amend SB 2022 to increase the bonding authority to \$60 million. Rep. Brusegaard seconded.

Rep. Aarsvold This does not impact the use of those water development funds for administration does it?

Rep. Wald No it does not.

Rep. Aarsvold It just expands the bonding capacity?

Rep. Wald That's correct.

Rep. Monson Just an update with what's happening on that dam in Cavalier County. It is an eight year old dam and it wasn't a lot of runoff that caused it, but the dam failed. They were able to stabilize it and they figured it will cost upwards of \$2 million to fix that. It will have to come out of the water commission's money somewhere. There is no federal money available right now because it did not become a disaster. They shut it down and saved roads and saved the cities that were in the path of this had the whole dam totally breached. We are looking at a lot of state money going into that. The dam was bonded in some state and county money and they are still paying that off. There are three dams built about the same time that are mirror images of this one and if they have to redo all of those dams because of a structural design flaw, this could be a big hit to the water commission.

Rep. Brusegaard If it is a structural problem with the construction of it, shouldn't there be some insurance or something?

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Education and Environment Division
Bill/Resolution Number 2022
Hearing Date April 2, 2003

Rep. Monson I asked that yesterday and they don't think there is much that they can do. They are going to pursue that avenue, but they feel that it was their own design and their own state engineer, so it is kind of our state problem. I don't know all of the details, but they said they don't think there is going to be any insurance or FEMA money or warranties, although they are checking on it.

Rep. Brusegaard Because we stabilized it, there is not going to be any FEMA money?

Rep. Monson Exactly. Had it been a true disaster, maybe there would have been enough damage. With just the dam itself, there was no damage.

Rep. Aarsvold A parallel situation and a personal one, in 1996 my house was flooded and 1997 was potentially an even greater concern. I invested about \$2,000 to \$3,000 of personal expense and I found those items were not deductible, but had I let my house flood I probably would have been eligible for some assistance through FEMA or other disaster aid. So it seems there are some inconsistencies and flaws in our system.

Rep. Wald Listening to Rep. Monson on this dam situation, I think this supports what we are trying to do in this amendment. The commission needs that flexibility and if these unforeseen things pop up, they have to address them. I think what we are doing is the right thing to do.

Chairman Martinson Took a voice vote to adopt the proposed amendments to SB 2022 to increase the bonding authority to \$60 million and the motion carried.

Roxanne Woeste, Legislative Council Mr. Wolf already completed the amendments.

Chairman Martinson requested copies of the proposed amendments be given to the two minority members.

Chairman Martinson closed the hearing on SB 2022.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2022

House Appropriations Committee

☐ Conference Committee

Hearing Date 04-03-03

Tape Number	Side A	Side B	Meter #
1	X		22.0 - 25.0
Committee Clerk Signature <i>Chris J. Nyhus</i>			

Minutes:

Chairman Svedjan Opened SB 2022 for discussion. A quorum was present.

Rep. Wald I move amendment .0204 to SB 2022. 2nd by **Rep. Brusegaard**.

Rep. Wald 79 million dollars is the department's total bonding debt.

Rep. Carlisle What will they do with their property by Broadway?

Rep. Wald They'll probably build on this land.

Rep. Carlson Why did they remove the Fargo flood control projects money?

Rep. Wald We added the amendment that Senator Fischer brought to us.

Joe Morrisette, LC This only removes the cap of that.

Motion Carries

Rep. Wald I move a Do Pass As Amended. 2nd by **Rep. Martinson**. Motion Carries

19-2-2. Rep. Wald will carry this bill to the floor.

38045.0202
Title.
Fiscal No. 1

Prepared by the Legislative Council staff for
Representative Wald
March 24, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2022

Page 1, line 4, after "projects" insert "; to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to construction of the Devils Lake outlet", replace "section" with "sections", and after "54-27-25" insert "and 61-02.1-02.1"

Page 1, line 5, after "fund" insert "and to funding statewide water development projects" and replace "repeal chapter 61-38 of" with "provide a continuing appropriation."

Page 1, remove line 6

Page 2, line 18, after the quotation mark insert "and may build a new shop on new land or one or more of the existing parcels"

Page 3, line 24, after "facility" insert "on new or the existing water commission property"

Page 4, line 3, after "building" insert "on new or the existing water commission property"

Page 4, line 6, after "building" insert "on new or the existing water commission property"

Page 4, line 8, after the comma insert "on new or the existing water commission property,"

Page 4, line 12, after "building" insert "on new or the existing water commission property"

Page 4, line 16, after "appurtenances" insert "on new or the existing water commission property"

Page 6, replace line 16 with:

"SECTION 12. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Construction of the Devils Lake outlet - Authorization - Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors.

SECTION 13. CONTINUING APPROPRIATION - DEVILS LAKE OUTLET.

There is hereby appropriated to the state water commission on a continuing basis from the water development trust fund or the resources trust fund in the state treasury, or from bond proceeds from bonds issued by the state water commission, as determined by the state water commission, the amount of funds required by the agreement between the state and the federal government to construct an outlet from Devils Lake to meet its

Page No. 1

38045.0202

SECTION 14. AMENDMENT. Section 61-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The priorities for the statewide water development program for the 2001-03 biennium include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources trust fund, the water development trust fund, or by issuing bonds in an amount not to exceed twenty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. ~~The commission may utilize up to five million five hundred thousand dollars from the water development trust fund, the resources trust fund, or from bond proceeds to provide cost share for a flood control channel and levy project designed to provide protection from overland flooding to a city with a population in excess of eighty thousand as of the 2000 federal decennial census. The amount provided may not exceed fifty percent of the city's share of the cost to construct the project. Bonds may be issued utilizing the procedures set forth in chapter 61-02.~~ The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this section.

Renumber accordingly

Dept. 770 - State Water Commission

The House amendment removed the repeal of North Dakota Century Code (NDCC) Chapter 61-38 relating to assumption of the Section 404 program of the Clean Water Act by the State Water Commission.

38045.0202

The House added a section which removed from NDCC Section 61-02.1-02.1 the reference of funding to be provided to Fargo for flood control projects.

Date: March 25, 2003

Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2022

House Appropriations Education/Environment Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC # .0202

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Wald Seconded By Rep. Brusegaard

Representatives	Yes	No	Representatives	Yes	No
Representative Martinson	X				
Representative Brusegaard	X				
Representative Monson	X				
Representative Rennerfeldt	X				
Representative Wald	X				
Representative Aarsvold	X				
Representative Gulleason	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Rep. Wald

If the vote is on an amendment, briefly indicate intent: See proposed amendments.

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Y. Herson
Operator's Signature

3-22-04
Date

38045.0203
Title.
Fiscal No. 2

Prepared by the Legislative Council staff for
House Appropriations
March 31, 2003

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2022

Page 1, line 4, after "projects" insert "; to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to construction of the Devils Lake outlet", replace "section" with "sections", and after "54-27-25" insert "and 61-02.1-02.1"

Page 1, line 5, after "fund" insert "and to funding statewide water development projects; to transfer funds from the water development trust fund to the general fund" and replace "repeal chapter 61-38 of" with "provide a continuing appropriation."

Page 1, remove line 6

Page 1, line 14, replace "2,077,370" with "2,058,795"

Page 1, line 15, replace "147,367,303" with "147,349,754"

Page 1, line 16, replace "149,444,673" with "149,408,549"

Page 1, line 17, replace "140,004,556" with "139,997,229"

Page 1, line 18, replace "9,440,117" with "9,411,320"

Page 2, line 18, after the quotation mark insert "and may build a new shop on new land or one or more of the existing parcels"

Page 3, line 24, after "facility" insert "on new or the existing water commission property"

Page 4, line 3, after "building" insert "on new or the existing water commission property"

Page 4, line 6, after "building" insert "on new or the existing water commission property"

Page 4, line 8, after the comma insert "on new or the existing water commission property,"

Page 4, line 12, after "building" insert "on new or the existing water commission property"

Page 4, line 16, after "appurtenances" insert "on new or the existing water commission property"

Page 6, replace line 16 with:

"SECTION 12. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Construction of the Devils Lake outlet - Authorization - Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government

Page No. 1

38045.0203

wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors.

SECTION 13. CONTINUING APPROPRIATION - DEVILS LAKE OUTLET.

There is hereby appropriated to the state water commission on a continuing basis from the water development trust fund or the resources trust fund in the state treasury, or from bond proceeds from bonds issued by the state water commission, as determined by the state water commission, the amount of funds required by the agreement between the state and the federal government to construct an outlet from Devils Lake to meet its cost-share obligations under the agreement and from any legally available funds to meet its indemnification obligations under the agreement.

SECTION 14. AMENDMENT. Section 61-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**61-02.1-02.1. Funding - Statewide water development projects - Bond
issuance amount.**

1. The priorities for the statewide water development program for the 2001-03 biennium include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources trust fund, the water development trust fund, or by issuing bonds in an amount not to exceed twenty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. ~~The commission may utilize up to five million five hundred thousand dollars from the water development trust fund, the resources trust fund, or from bond proceeds to provide cost share for a flood control channel and levy project designed to provide protection from overland flooding to a city with a population in excess of eighty thousand as of the 2000 federal decennial census. The amount provided may not exceed fifty percent of the city's share of the cost to construct the project. Bonds may be issued utilizing the procedures set forth in chapter 61-02. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this section.~~
2. If the state water commission determines it is appropriate to do so, it may, in lieu of issuing or in combination with the issuance of bonds pursuant to sections 61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects set forth in those provisions, use funds appropriated to it from the resources trust fund or the water development trust fund. ~~Regardless of the source, the amount of funds used may not exceed the limits set forth in section 61-02.1-02.~~

SECTION 15. TRANSFER. Notwithstanding section 54-27-25, during the biennium beginning July 1, 2003, and ending June 30, 2005, the director of the office of management and budget shall transfer \$10,070,373 from the water development trust fund to the general fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:**Senate Bill No. 2022 - Water Commission - House Action**

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Administrative and support services	\$2,639,225	\$2,077,370	(\$18,575)	\$2,088,795
Water and atmospheric resources	147,746,765	147,367,303	(17,549)	147,349,754
Total all funds	\$150,385,990	\$149,444,673	(\$36,124)	\$149,408,549
Less estimated income	<u>150,385,990</u>	<u>140,004,558</u>	<u>(7,327)</u>	<u>138,997,229</u>
General fund	\$0	\$9,440,117	(\$28,797)	\$9,411,320
FTE	85.00	82.00	0.00	82.00

Dept. 770 - Water Commission - Detail of House Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	REDUCES FUNDING FOR INFORMATION TECHNOLOGY COSTS 2	TOTAL HOUSE CHANGES
Administrative and support services	(\$1,135)	(\$17,440)	(\$18,575)
Water and atmospheric resources	(7,637)	(9,912)	(17,549)
Total all funds	(\$8,772)	(\$27,352)	(\$36,124)
Less estimated income	<u>(7,327)</u>		<u>(7,327)</u>
General fund	(\$1,445)	(\$27,352)	(\$28,797)
FTE	0.00	0.00	0.00

1 This amendment reduces funding for state employee health insurance premiums from \$493 per month to \$483.70 per month.

2 This amendment reduces funding for information technology by \$27,352 from the general fund, which represents a reduction in information technology from the general fund of approximately 20 percent.

The House amendment provides that the State Water Commission may either sell all of its land and the existing shop building located at 2603 East Broadway in Bismarck and use the proceeds to purchase replacement land and build a new shop building or sell a portion of the land adjacent to the existing shop and use the proceeds to build a new shop on the remaining property.

The House amendment removed the section which would have repealed North Dakota Century Code (NDCC) Chapter 61-38 relating to assumption of the Section 404 program of the Clean Water Act by the State Water Commission.

The House added a section providing for the State Water Commission to do all things reasonably necessary to construct an outlet from Devils Lake and provides the necessary funding to complete the project from a continuing appropriation from the water development trust fund, or the resources trust fund, or from bond proceeds.

The House added a section which removes from NDCC Section 61-02.1-02.1 the reference of funding to be provided to Fargo for flood control projects.

The House added a section providing for a transfer of funds in the amount of State Water Commission's administrative expenses included in the executive budget recommendation of \$10,070,373 from the water development trust fund to the general fund.

Date: April 1, 2003
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2022

House Appropriations Education and Environment Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC # 38045.0203

Action Taken Motion to Adopt Amendments .0203

Motion Made By Rep. Wald Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Representative Martinson	X				
Representative Brusegaard	X				
Representative Monson	X				
Representative Rennerfeldt	X				
Representative Wald	X				
Representative Aarsvold		X			
Representative Gulleason		X			

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: See proposed amendments.

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Y. J. J. J. J. J.
Operator's Signature

3-22-04
Date

Date: April 1, 2003
Roll Call Vote #: 2

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2022

House Appropriations Education and Environment Division Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number LC # 38045.0203

Action Taken DO PASS AS AMENDED

Motion Made By Rep. Wald Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Representative Martinson	X				
Representative Brusegaard	X				
Representative Monson	X				
Representative Rennerfeldt	X				
Representative Wald	X				
Representative Aarsvold		X			
Representative Gulleon		X			

Total (Yes) 5 No 2

Absent 0

Floor Assignment Rep. Wald

If the vote is on an amendment, briefly indicate intent: See proposed amendments.

REPORT OF STANDING COMMITTEE (410)
April 3, 2003 2:41 p.m.

Module No: HR-60-6687
Carrier: Wald
Insert LC: 38045.0204 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2022, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2022 was placed on the Sixth order on the calendar.

Page 1, line 4, after "projects" insert "; to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to construction of the Devils Lake outlet", replace "section" with "sections", and after "54-27-25" insert "and 61-02.1-02.1"

Page 1, line 5, after "fund" insert "and funding statewide water development projects; to transfer funds from the water development trust fund to the general fund" and replace "repeal chapter 61-38 of" with "provide a continuing appropriation."

Page 1, remove line 6

Page 1, line 14, replace "2,077,370" with "2,058,795"

Page 1, line 15, replace "147,367,303" with "157,825,983"

Page 1, line 16, replace "149,444,673" with "159,884,778"

Page 1, line 17, replace "140,004,556" with "150,473,458"

Page 1, line 18, replace "9,440,117" with "9,411,320"

Page 3, line 24, after "facility" insert "on new or the existing water commission property"

Page 4, line 3, after "building" insert "on new or the existing water commission property"

Page 4, line 6, after "building" insert "on new or the existing water commission property"

Page 4, line 8, after the comma insert "on new or the existing water commission property,"

Page 4, line 12, after "building" insert "on new or the existing water commission property"

Page 4, line 16, after "appurtenances" insert "on new or existing water commission property"

Page 5, line 3, replace "\$49,523,771" with "\$60,000,000"

Page 6, replace line 16 with:

"SECTION 12. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Construction of the Devils Lake outlet - Authorization - Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors.

SECTION 13. AMENDMENT. Section 61-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-02.1-02.1. Funding - Statewide water development projects - Bond issuance amount.

(2) DESK, (3) COMM

Page No. 1

HR-60-6687

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Operator's Signature

Date

1. The priorities for the statewide water development program for the 2001-03 biennium include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources trust fund, the water development trust fund, or by issuing bonds in an amount not to exceed twenty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. ~~The commission may utilize up to five million five hundred thousand dollars from the water development trust fund, the resources trust fund, or from bond proceeds to provide cost share for a flood control channel and levy project designed to provide protection from overland flooding to a city with a population in excess of eighty thousand as of the 2000 federal decennial census. The amount provided may not exceed fifty percent of the city's share of the cost to construct the project. Bonds may be issued utilizing the procedures set forth in chapter 61-02. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this section.~~
2. If the state water commission determines it is appropriate to do so, it may, in lieu of issuing or in combination with the issuance of bonds pursuant to sections 61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects set forth in those provisions, use funds appropriated to it from the resources trust fund or the water development trust fund. ~~Regardless of the source, the amount of funds used may not exceed the limits set forth in section 61-02.1-02.~~

SECTION 14. CONTINUING APPROPRIATION - DEVILS LAKE OUTLET.

There is appropriated to the state water commission on a continuing basis from the water development trust fund or the resources trust fund in the state treasury, or from bond proceeds from bonds issued by the state water commission, as determined by the state water commission, the amount of funds required by the agreement between the state and the federal government to construct an outlet from Devils Lake to meet its cost-share obligations under the agreement and from any legally available funds to meet its indemnification obligations under the agreement.

SECTION 15. TRANSFER. Notwithstanding section 54-27-25, during the biennium beginning July 1, 2003, and ending June 30, 2005, the director of the office of management and budget shall transfer \$10,070,373 from the water development trust fund to the general fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2022 - Water Commission - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Administrative and support services	\$2,639,225	\$2,077,370	(\$18,675)	\$2,058,795
Water and atmospheric resources	<u>147,746,765</u>	<u>147,367,303</u>	<u>10,458,680</u>	<u>157,825,983</u>
Total all funds	\$150,385,990	\$149,444,673	\$10,440,105	\$159,884,778

(2) DESK, (3) COMM

Page No. 2

HR-60-6687

REPORT OF STANDING COMMITTEE (410)
April 3, 2003 2:41 p.m.

Module No: HR-60-6687
Carrier: Wald
Insert LC: 38045.0204 Title: .0300

Less estimated income	<u>150,385,990</u>	<u>140,004,556</u>	<u>10,468,902</u>	<u>150,473,458</u>
General fund	\$0	\$9,440,117	(\$28,797)	\$9,411,320
FTE	85.00	82.00	0.00	82.00

Dept. 770 - Water Commission - Detail of House Changes

	REDUCES THE RECOMMENDED FUNDING FOR HEALTH INSURANCE ¹	REDUCES FUNDING FOR INFORMATION TECHNOLOGY COSTS ²	INCREASES BONDING AUTHORITY ³	TOTAL HOUSE CHANGES
Administrative and support services	(\$1,135)	(\$17,440)		(\$18,575)
Water and atmospheric resources	<u>(7,837)</u>	<u>(9,912)</u>	<u>\$10,476,229</u>	<u>10,458,680</u>
Total all funds	(\$8,772)	(\$27,352)	\$10,476,229	\$10,440,105
Less estimated income	<u>(7,327)</u>		<u>10,476,229</u>	<u>10,468,902</u>
General fund	(\$1,445)	(\$27,352)	\$0	(\$28,797)
FTE	0.00	0.00	0.00	0.00

¹ This amendment reduces funding for state employee health insurance premiums from \$493 per month to \$448.70 per month.

² This amendment reduces funding for information technology by \$27,352 from the general fund, which represents a reduction in information technology from the general fund of approximately 20 percent.

³ This amendment increases the bonding authority for water projects from \$49,523,771 to \$60 million.

The house amendment provides that the State Water Commission may either sell all of its land and the existing shop building located at 2603 East Broadway in Bismarck and use the proceeds to purchase replacement land and build a new shop building or sell a portion of the land adjacent to the existing shop and use the proceeds to build a new shop on the remaining property.

The House amendment removed the section which would have repealed North Dakota Century Code (NDCC) Chapter 61-38 relating to assumption of the Section 404 program of the Clean Water Act by the State Water Commission.

The House added a section providing for the State Water Commission to do all things reasonably necessary to construct an outlet from Devils Lake and provides the necessary funding to complete the project from a continuing appropriation from the water development trust fund, or the resources trust fund, or from bond proceeds.

The House added a section which removes from NDCC Section 61-02.1-02.1 the reference of funding to be provided to Fargo for flood control projects.

The House added a section providing for a transfer of funds in the amount of State Water Commission's administrative expenses included in the executive budget recommendation of \$10,070,373 from the water development trust fund to the general fund.

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Yuherson d. Lee
Operator's Signature

3-22-04
Date

CONFERENCE COMMITTEE

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Date _____

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2022 conference committee

Senate Appropriations Committee

☒ Conference Committee

Hearing Date 4-10-03

Tape Number	Side A	Side B	Meter #
1		x	800 - 1431
Committee Clerk Signature <i>Sandra Davis</i>			

Minutes:

SENATOR GRINDBERG called the conference committee to order. Present were SENATOR GRINDBERG, SENATOR ROBINSON, REPRESENTATIVE WALD, REPRESENTATIVE RENNERFELDT and REPRESENTATIVE GULLESON.

REPRESENTATIVE WALD said the House's position was they didn't have \$9.4 or \$10 million to come out of the general fund so they decided to go back to the initial executive recommendation and take the money out of the trust fund. If there is going to be an ending fund balance when we get out of here, that was the House strategy. He realizes it could short some water projects but in discussion with the leadership at the Water Commission, not all those projects on the drawing board can be finalized and bid and the money extended so there is some cushion there. He thought they were quite firm in their position on the general fund impact.

Page 2
Senate Appropriations Committee
Bill/Resolution Number SENATOR BOWMAN 2022
Hearing Date 04/10/03

SENATOR GRINDBERG said there are many in the Senate with philosophical differences on funding operations and there is also some information coming from the Attorney General's office. He is not sure counsel is ready to comment on that. If not, we will adjourn.

SENATOR ROBINSON said he concurred with SENATOR GRINDBERG's comments. The money is tight. Water is absolutely critical if we are going to move our state forward, if we want to look at impacting the bottom line in a positive sense. There are some of these efforts we have to bite the bullet on. If we don't we are going to come back in two years and deal with a budget more difficult than the one we have in front of us. The greater risk is this precedent we have established and getting away from it is very difficult.

REPRESENTATIVE WALD asked the thrust in information from the Attorney General's office?

SENATOR GRINDBERG said there are \$100,000 differences in wages on attorneys that relate somehow to the Water Commission budget, shifting the responsibility back and forth, whose responsibility is it?

JOE MORRISSETTE, OMB, explained in the executive budget, because funding for the water commission has been totally as a special fund agency, they were billed for rent and legal fees and the attorney general's office indirectly received funds through the water commission appropriation and they had it built into the Attorney General's budget for employee equity increases.

REPRESENTATIVE WALD said that was part of the \$600,000, the rent, the legal fees and the audit fees (meter 1164), page 2, footnote 3 of the handout.

REPRESENTATIVE GULLESON referenced the section of the engrossed bill with house amendments, page 7 section 1 regarding bond issuance for water development projects, that

Operator's Signature

Date _____

Page 3

Senate Appropriations Committee

Bill/Resolution Number SENATOR BOWMAN 2022

Hearing Date 04/10/03

language with regards to the \$5 million for the flood control project for Fargo, there is a group from Fargo very interested in keeping that language out and they have presented her with 400+ signatures of people that want to keep this project off the docket for this session.

SENATOR GRINDBERG asked if she was saying those House actions changed this?

REPRESENTATIVE GULLESON said she believes the language was taken out that uses authority to utilize that \$5 million.

JOE MORRISSETTE said it was section 14 of the bill. The language taken out says up to \$5.5 million could be used for that project. It removes the cap, not the project.

REPRESENTATIVE GULLESON said the purpose of the letter is to oppose the project and she submitted the letter (Exhibit 1.)

REPRESENTATIVE WALD asked if this was the gentleman at the end of the hearing representing people from the south side of Fargo that talked about the dike?

REPRESENTATIVE GULLESON said yes.

SENATOR GRINDBERG adjourned the meeting of the conference committee.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2022

Senate Appropriations Committee

☒ Conference Committee

Hearing Date April 14, 2003

Tape Number	Side A	Side B	Meter #
1	X		0 -344
Committee Clerk Signature <i>Sandra Dawson</i>			

Minutes:

Senator Grindberg called the conference committee on SB 2022 to order. All committee members present.

Senator Grindberg reminded the committee members that at the last meeting one of the things that we left with was the notion of some additional information and requests coming from the attorney generals office. Some recommendations from their side on the shifting back and forth on the responsibilities and attorney costs. It is my understanding in talking to Sandi Tabor this morning that the conference committee on the attorney generals budget is working on that. Any thoughts or questions?

Senator Robinson that is important information and we should wait and see what happens with that process.

Senator Grindberg good point. We should take a little more time for that to be worked through and resolved.

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Yuberson A. Ace
Operator's Signature

3-22-04
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2022

Hearing Date April 14, 2003

Further discussion: Tape 1, Side A, Meter # 200

Senator Grindberg said the committee would not be acting on the bill today and would wait and see what happens.

Senator Grindberg adjourned the meeting on SB 2022.

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Y. Horowitz
Operator's Signature

3-22-04
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2022 CC + vote

Senate Appropriations Committee

☒ Conference Committee

Hearing Date April 21, 2003

Tape Number	Side A	Side B	Meter #
#2	X		2514- 2737

Committee Clerk Signature

Jan Hendricks

Minutes:

Senator Grindberg opened the conference committee on SB 2022, which is the State Water Commission.

Roll call was called. All members present. Senators: **Grindberg, Holmberg, Robinson** and Representatives: **Wald, Rennerfeldt and Guleson**.

(It was discovered at this point that the main mic's were not on and the beginning of the meeting was not on the tape.)

Senator Holmberg moved that the Senate recede and the bill be amended to reflect the IT changes. Seconded by Rep. Wald

Discussion:

Rep. Wald wanted to know how much is the IT adjustment? **Don Wolf** responded that it was \$53,276.

Roll call was taken. 4 y 2 n Motion carries.

With no other business, this conference committee was ended by **Senator Grindberg**, chair (#2737)

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Cherone d. Lee
Operator's Signature

3-22-04
Date

Date 4-21
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2022

Senate APPROPRIATIONS Committee

☒ Check here for Conference Committee

Legislative Council Amendment Number None

Action Taken House ~~passed~~ Senate recede &

Motion Made By Holmberg Seconded By Wald

Senators	Yes	No	Representatives	Yes	No
Senator Grindberg	✓		Representative Wald	✓	
Senator Holmberg	✓		Representative Rennerfeldt	✓	
Senator Robinson	✓	✓	Representative Guleson		✓

Total (Yes) 4 No 2

Absent _____

Floor Assignment motion carried Grindberg

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

REPORT OF CONFERENCE COMMITTEE (420)
April 23, 2003 7:45 a.m.

Module No: SR-74-8162

Insert LC: 38045.0206

REPORT OF CONFERENCE COMMITTEE

SB 2022, as engrossed: Your conference committee (Sens. Grindberg, Holmberg, Robinson and Reps. Wald, Rennerfeldt, Gulleon) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1140-1142, adopt amendments as follows, and place SB 2022 on the Seventh order:

That the House recede from its amendments as printed on pages 1140-1142 of the Senate Journal and pages 1251-1253 of the House Journal and that Engrossed Senate Bill No. 2022 be amended as follows:

Page 1, line 4, after "projects" insert "; to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to construction of the Devils Lake outlet", replace "section" with "sections", and after "54-27-25" insert "and 61-02.1-02.1"

Page 1, line 5, after "fund" insert "and funding statewide water development projects; to transfer funds from the water development trust fund to the general fund" and replace "repeal chapter 61-38 of" with "provide a continuing appropriation."

Page 1, remove line 6

Page 1, line 14, replace "2,077,370" with "2,076,235"

Page 1, line 15, replace "147,367,303" with "157,782,619"

Page 1, line 16, replace "149,444,673" with "159,858,854"

Page 1, line 17, replace "140,004,556" with "150,473,458"

Page 1, line 18, replace "9,440,117" with "9,385,396"

Page 3, line 24, after "facility" insert "on new or the existing water commission property"

Page 4, line 3, after "building" insert "on new or the existing water commission property"

Page 4, line 6, after "building" insert "on new or the existing water commission property"

Page 4, line 8, after "appurtenances" insert "on new or the existing water commission property"

Page 4, line 12, after "building" insert "on new or the existing water commission property"

Page 4, line 16, after "appurtenances" insert "on new or the existing water commission property"

Page 5, line 3, replace "\$49,523,771" with "\$60,000,000"

Page 6, replace line 16 with:

"SECTION 12. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Construction of the Devils Lake outlet - Authorization - Agreement. The state water commission may do all things reasonably necessary to construct an outlet from Devils Lake, including executing an agreement with the federal government wherein the state water commission agrees to hold the United States harmless and free from damages, except for damages due to the fault or negligence of the United States or its contractors.

REPORT OF CONFERENCE COMMITTEE (420)
April 23, 2003 7:45 a.m.

Module No: SR-74-8162

Insert LC: 38045.0206

SECTION 13. AMENDMENT. Section 61-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

61-02.1-02.1. Funding - Statewide water development projects - Bond issuance amount.

1. The priorities for the statewide water development program for the 2001-03 biennium include municipal, rural, and industrial projects; irrigation projects; general water management projects, including rural flood control, snagging and clearing, channel improvement, recreation, and planning studies; flood control projects; and weather modification projects. The state water commission may provide the funds necessary to construct these projects from money appropriated to the state water commission from the resources trust fund, the water development trust fund, or by issuing bonds in an amount not to exceed twenty million dollars plus the costs of issuance of the bonds, capitalized interest, and reasonably required reserves. ~~The commission may utilize up to five million five hundred thousand dollars from the water development trust fund, the resources trust fund, or from bond proceeds to provide cost share for a flood control channel and levy project designed to provide protection from overland flooding to a city with a population in excess of eighty thousand as of the 2000 federal decennial census. The amount provided may not exceed fifty percent of the city's share of the cost to construct the project. Bonds may be issued utilizing the procedures set forth in chapter 61-02. The proceeds of any bonds issued under the authority provided in this section are appropriated to the state water commission for the purposes set forth in this section.~~
2. If the state water commission determines it is appropriate to do so, it may, in lieu of issuing or in combination with the issuance of bonds pursuant to sections 61-02.1-01 and 61-02.1-02, for all or part of the state's cost share for the projects set forth in those provisions, use funds appropriated to it from the resources trust fund or the water development trust fund. ~~Regardless of the source, the amount of funds used may not exceed the limits set forth in section 61-02.1-02.~~

SECTION 14. CONTINUING APPROPRIATION - DEVILS LAKE OUTLET.

There is appropriated to the state water commission on a continuing basis from the water development trust fund or the resources trust fund in the state treasury, or from bond proceeds from bonds issued by the state water commission, as determined by the state water commission, the amount of funds required by the agreement between the state and the federal government to construct an outlet from Devils Lake to meet its cost-share obligations under the agreement and from any legally available funds to meet its indemnification obligations under the agreement.

SECTION 15. TRANSFER. Notwithstanding section 54-27-25, during the biennium beginning July 1, 2003, and ending June 30, 2005, the director of the office of management and budget shall transfer \$10,070,373 from the water development trust fund to the general fund."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2022 - Water Commission - Conference Committee Action

(2) DESK, (2) COMM

Page No. 2

SR-74-8162

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REPORT OF CONFERENCE COMMITTEE (420)
April 23, 2003 7:45 a.m.

Module No: SR-74-8162

Insert LC: 38045.0206

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Administrative and support services	\$2,639,225	\$2,077,370	(\$1,135)	\$2,076,235	\$2,068,795	\$17,440
Water and atmospheric resources	<u>147,749,765</u>	<u>147,367,303</u>	<u>10,415,316</u>	<u>157,782,619</u>	<u>157,825,983</u>	<u>(43,364)</u>
Total all funds	\$150,385,990	\$149,444,673	\$10,414,181	\$159,858,854	\$159,884,778	(\$25,924)
Less estimated income	<u>150,385,990</u>	<u>140,004,558</u>	<u>10,408,902</u>	<u>150,473,458</u>	<u>150,473,458</u>	-----
General fund	\$0	\$9,440,117	(\$54,721)	\$9,385,396	\$9,411,320	(\$25,924)
FTE	85.00	82.00	0.00	82.00	82.00	0.00

Dept. 770 - Water Commission - Detail of Conference Committee Changes

	REDUCES RECOMMENDED FUNDING FOR HEALTH INSURANCE 1	REDUCES FUNDING FOR INFORMATION TECHNOLOGY COSTS 2	INCREASES BONDING AUTHORITY 3	TOTAL CONFERENCE COMMITTEE CHANGES
Administrative and support services	(\$1,135)			(\$1,135)
Water and atmospheric resources	<u>(7,637)</u>	<u>(\$53,276)</u>	<u>\$10,476,229</u>	<u>10,415,316</u>
Total all funds	(\$8,772)	(\$53,276)	\$10,476,229	\$10,414,181
Less estimated income	<u>(7,327)</u>	-----	<u>10,476,229</u>	<u>10,468,902</u>
General fund	(\$1,445)	(\$53,276)	\$0	(\$54,721)
FTE	0.00	0.00	0.00	0.00

1 This amendment reduces funding for state employee health insurance premiums from \$493 to \$448.70 per month.

2 This amendment reduces funding for information technology by \$53,276 from the general fund, which represents a reduction in information technology from the general fund of approximately 5 percent.

3 This amendment increases the bonding authority for water projects from \$49,523,771 to \$60,000,000.

The Conference Committee amendment provides that the State Water Commission may either sell all of its land and the existing shop building located at 2603 East Broadway in Bismarck and use the proceeds to purchase replacement land and build a new shop building or sell a portion of the land adjacent to the existing shop and use the proceeds to build a new shop on the remaining property.

The Conference Committee amendment removed the section which would have repealed North Dakota Century Code (NDCC) Chapter 61-38 relating to assumption of the Section 404 program of the Clean Water Act by the State Water Commission.

The House added a section providing for the State Water Commission to do all things reasonably necessary to construct an outlet from Devils Lake and provides the necessary funding to complete the project from a continuing appropriation from the water development trust fund, the resources trust fund, or from bond proceeds. The Conference Committee did not change this amendment.

The House added a section which removed from NDCC Section 61-02.1-02.1 the reference of funding to be provided to Fargo for flood control projects. The Conference Committee did not change this amendment.

The House added a section providing for a transfer of funds in the amount of State Water Commission's administrative expenses included in the executive budget recommendation of

REPORT OF CONFERENCE COMMITTEE (420)
April 23, 2003 7:45 a.m.

Module No: SR-74-8162

Insert LC: 38045.0206

\$10,070,373 from the water development trust fund to the general fund. The Conference Committee did not change this amendment.

Engrossed SB 2022 was placed on the Seventh order of business on the calendar.

(2) DESK, (2) COMM

Page No. 4

SR-74-8162

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Operator's Signature Y. Herson et al.

3-22-04
Date

SB 2022

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Operator's Signature

3-22-04
Date

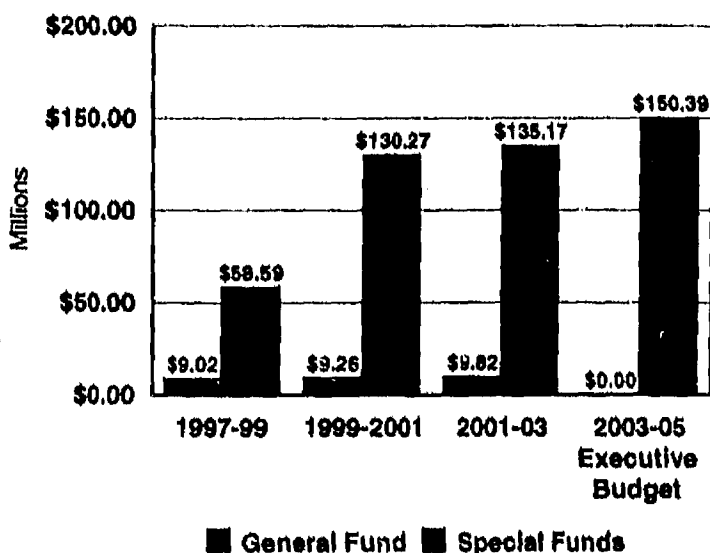
Department 770 - State Water Commission
Senate Bill No. 2022

	FTE Positions	General Fund	Other Funds	Total
2003-05 Executive Budget	89.00	\$0	\$150,385,990	\$150,385,990
2001-03 Legislative Appropriations	82.00	9,815,151 ¹	135,173,009	144,988,160 ²
Increase (Decrease)	7.00	(\$9,815,151)	\$15,212,981	\$5,397,830

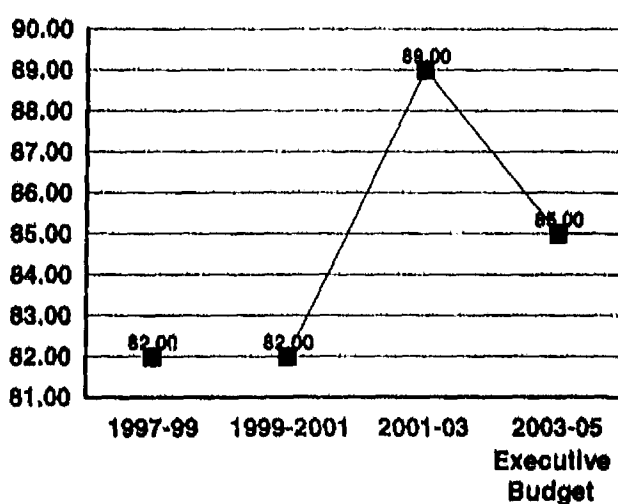
¹ The 2001-03 general fund appropriation is the amount appropriated by the 2001 Legislative Assembly and does not include a reduction of \$103,059 relating to the 1.05 percent budget allotment ordered by Governor Hoeven in July 2002.

² The 2001-03 appropriation amounts include \$82,152, \$81,331 of which is from the general fund, for the agency's share of the \$5 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees. In addition, the appropriation amounts do not include \$4 million of other funds carried over from the 1999-2001 biennium for Grand Forks flood control projects.

Agency Funding



FTE Positions



Executive Budget Highlights

	General Fund	Other Funds	Total
1. Consolidates the State Water Commission's reporting levels into two new levels: administration and support services and water and atmospheric resources			
2. Replaces the State Water Commission general fund authority with special funds from the water development trust fund	(\$9,236,683)	\$9,236,683	
3. Increases fees for rent (\$257,974), audit fees (\$25,000), and legal fees (\$265,000) due to the agency no longer receiving a general fund appropriation		\$547,974	\$547,974
4. Removes two FTE water testing positions due to the State Department of Health assuming the water testing duties currently performed by two State Water Commission FTEs at the state laboratory. One of the two positions will be transferred to the State Department of Health.		(\$211,834)	(\$211,834)
5. Increases funding for contract water testing to be conducted by the State Department of Health based on the amount to fund the one FTE laboratory technician position transferred		\$77,000	\$77,000

6. Provides a continuing appropriation for the sale of land and the existing shop building at the corner of 26th Street and Broadway Avenue in Bismarck and use the proceeds to build a maintenance facility at a new location. The total appropriation for the purchase of land and construction of the new building is not to exceed \$977,100, the same appropriation as the 2001-03 biennium.
7. Provides authorization for water projects from the following sources:
 - Bond issuances up to \$60 million
 - \$23,709,542 (\$32,946,225 less \$9,236,683 for operations) from the water development trust fund
 - \$13,650,000 from the resources trust fund
8. The major water projects budgeted for in the 2003-05 biennium by the State Water Commission include:

Devils Lake outlet, basin development, and dike	\$26,500,000
Grand Forks flood control	\$18,007,000
Fargo flood control	\$10,500,000
Maple River Dam	\$3,500,000
Municipal, rural, and industrial water supply	\$10,000,000
9. Deletes 1 FTE assistant state engineer. The person who currently fills this position also serves as the director of the Water Development Division and is funded from that division's budget. (\$105,959) (\$105,959)
10. Deletes 1 FTE water resource engineer (\$97,446) (\$97,446)
11. Total 2001-03 biennium funding of \$150.4 million for the State Water Commission includes:
 - Total funding for water projects, bonding, grants, Southwest Pipeline Project, and Northwest Area Water Supply Project of \$131 million. This includes funding from bonding pursuant to Section 9 (\$60 million), resources trust fund (\$13.65 million), water development trust fund, local funds, and federal funds.
 - Total federal and special funding for salaries and wages of \$9.4 million
 - Total federal and special funding for other operating costs of \$10 million

Major Related Legislation

Section 2 of Senate Bill No. 2022 provides total funding of \$13,650,000 from the resources trust fund for statewide water projects.

Section 3 of Senate Bill No. 2022 provides total funding of \$32,946,225 from the water development trust fund for operations, bond payments, and water projects. Funding for operations is \$9,236,683, and bond payments are estimated to be \$8 million during the 2003-05 biennium. An additional \$10,931,361 is appropriated from the water development trust fund for water disasters, including the University of North Dakota (\$1,193,146), North Dakota State University (\$262,928), Division of Emergency Management (\$8.9 million), and Parks and Recreation Department (\$575,287).

Section 5 of Senate Bill No. 2022 provides a continuing appropriation for the sale of land and the existing shop building at the corner of 26th Street and Broadway Avenue in Bismarck.

Section 6 of Senate Bill No. 2022 authorizes the State Water Commission to use the land and building sale proceeds to purchase land and build a new maintenance shop. The total appropriation for the purchase of land and construction of the new building is not to exceed \$977,100, the same appropriation as the 2001-03 biennium.

Section 7 of Senate Bill No. 2022 authorizes a Bank of North Dakota line of credit of up to \$25 million for the purpose of interim financing during the process of issuing bonds.

Section 8 of Senate Bill No. 2022 provides a contingent appropriation from the water development trust fund or from bond proceeds for repaying the line of credit.

Section 9 of Senate Bill No. 2022 authorizes bond issuances for statewide water projects up to \$60 million, plus the costs of issuance, capitalized interest, and required reserves for the 2003-05 biennium. The limitation does not apply to authority for the Southwest Pipeline Project (North Dakota Century Code Chapter 61-24.3) and the Northwest Area Water Supply Project (North Dakota Century Code Chapter 61-24.6).

House Bill No. 1148 - This bill authorizes the State Water Commission to assign easements for dam construction if it is determined the assignment would be in the best interest of the state.

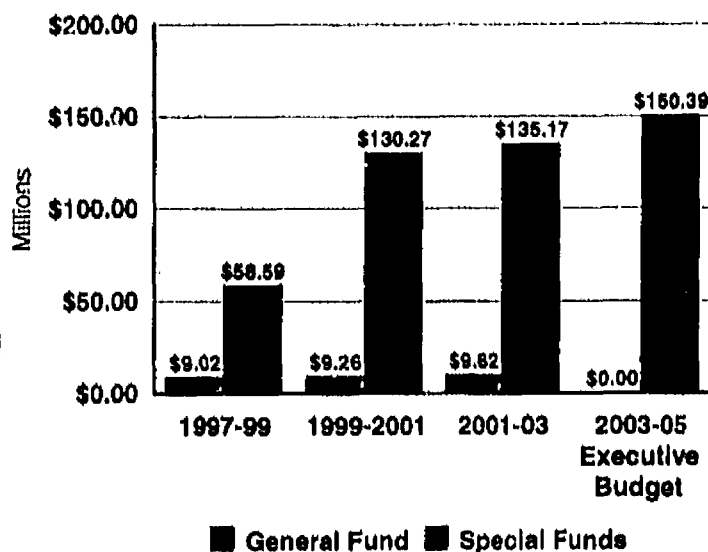
**Department 770 - State Water Commission
Senate Bill No. 2022**

	FTE Positions	General Fund	Other Funds	Total
2003-05 Executive Budget	85.00	\$0	\$150,385,990	\$150,385,990
2001-03 Legislative Appropriations	89.00	9,815,151 ¹	135,173,009	144,988,160 ²
Increase (Decrease)	(4.00)	(\$9,815,151)	\$15,212,981	\$5,397,830

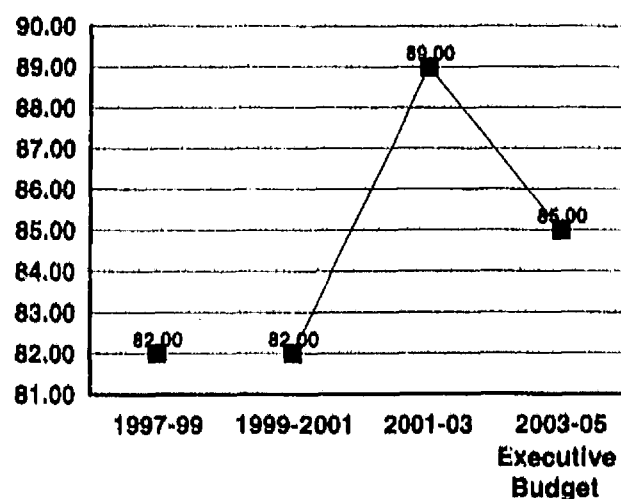
¹ The 2001-03 general fund appropriation is the amount appropriated by the 2001 Legislative Assembly and does not include a reduction of \$103,059 relating to the 1.05 percent budget allotment ordered by Governor Hoeven in July 2002.

² The 2001-03 appropriation amounts include \$82,152, \$81,331 of which is from the general fund, for the agency's share of the \$5 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees. In addition, the appropriation amounts do not include \$4 million of other funds carried over from the 1999-2001 biennium for Grand Forks flood control projects.

Agency Funding



FTE Positions



Executive Budget Highlights

	General Fund	Other Funds	Total
1. Consolidates the State Water Commission's reporting levels into two new levels: administration and support services and water and atmospheric resources			
2. Replaces the State Water Commission general fund authority with special funds from the water development trust fund	(\$9,236,683)	\$9,236,683	
3. Increases fees for rent (\$257,974), audit fees (\$25,000), and legal fees (\$265,000) due to the agency no longer receiving a general fund appropriation		\$547,974	\$547,974
4. Removes two FTE water testing positions due to the State Department of Health assuming the water testing duties currently performed by two State Water Commission FTEs at the state laboratory. One of the two positions will be transferred to the State Department of Health.		(\$211,834)	(\$211,834)
5. Increases funding for contract water testing to be conducted by the State Department of Health based on the amount to fund the one FTE laboratory technician position transferred		\$77,000	\$77,000

6. Provides a continuing appropriation for the sale of land and the existing shop building at the corner of 26th Street and Broadway Avenue in Bismarck and use the proceeds to build a maintenance facility at a new location. The total appropriation for the purchase of land and construction of the new building is not to exceed \$977,100, the same appropriation as the 2001-03 biennium.
7. Provides authorization for water projects from the following sources:
- Bond issuances up to \$60 million
 - \$23,709,542 (\$32,946,225 less \$9,236,683 for operations) from the water development trust fund
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8. The major water projects budgeted for in the 2003-05 biennium by the State Water Commission include:
- | | |
|---|--------------|
| Devils Lake outlet, basin development, and dike | \$26,500,000 |
| Grand Forks flood control | \$18,007,000 |
| Fargo flood control | \$10,500,000 |
| Maple River Dam | \$3,500,000 |
| Municipal, rural, and industrial water supply | \$10,000,000 |
9. Deletes 1 FTE assistant state engineer. The person who currently fills this position also serves as the director of the Water Development Division and is funded from that division's budget. (\$105,959) (\$105,959)
10. Deletes 1 FTE water resource engineer (\$97,446) (\$97,446)
11. Total 2001-03 biennium funding of \$150.4 million for the State Water Commission includes:
- Total funding for water projects, bonding, grants, Southwest Pipeline Project, and Northwest Area Water Supply Project of \$131 million. This includes funding from bonding pursuant to Section 9 (\$60 million), resources trust fund (\$13.65 million), water development trust fund, local funds, and federal funds.
 - Total federal and special funding for salaries and wages of \$9.4 million
 - Total federal and special funding for other operating costs of \$10 million

Major Related Legislation

Section 2 of Senate Bill No. 2022 provides total funding of \$13,650,000 from the resources trust fund for statewide water projects.

Section 3 of Senate Bill No. 2022 provides total funding of \$32,946,225 from the water development trust fund for operations, bond payments, and water projects. Funding for operations is \$9,236,683, and bond payments are estimated to be \$8 million during the 2003-05 biennium. An additional \$10,931,361 is appropriated from the water development trust fund for water disasters, including the University of North Dakota (\$1,193,146), North Dakota State University (\$262,928), Division of Emergency Management (\$8.9 million), and Parks and Recreation Department (\$575,287).

Section 5 of Senate Bill No. 2022 provides a continuing appropriation for the sale of land and the existing shop building at the corner of 26th Street and Broadway Avenue in Bismarck.

Section 6 of Senate Bill No. 2022 authorizes the State Water Commission to use the land and building sale proceeds to purchase land and build a new maintenance shop. The total appropriation for the purchase of land and construction of the new building is not to exceed \$977,100, the same appropriation as the 2001-03 biennium.

Section 7 of Senate Bill No. 2022 authorizes a Bank of North Dakota line of credit of up to \$25 million for the purpose of interim financing during the process of issuing bonds.

Section 8 of Senate Bill No. 2022 provides a contingent appropriation from the water development trust fund or from bond proceeds for repaying the line of credit.

Section 9 of Senate Bill No. 2022 authorizes bond issuances for statewide water projects up to \$60 million, plus the costs of issuance, capitalized interest, and required reserves for the 2003-05 biennium. The limitation does not apply to authority for the Southwest Pipeline Project (North Dakota Century Code Chapter 61-24.3) and the Northwest Area Water Supply Project (North Dakota Century Code Chapter 61-24.6).

House Bill No. 1148 - This bill authorizes the State Water Commission to assign easements for dam construction if it is determined the assignment would be in the best interest of the state.

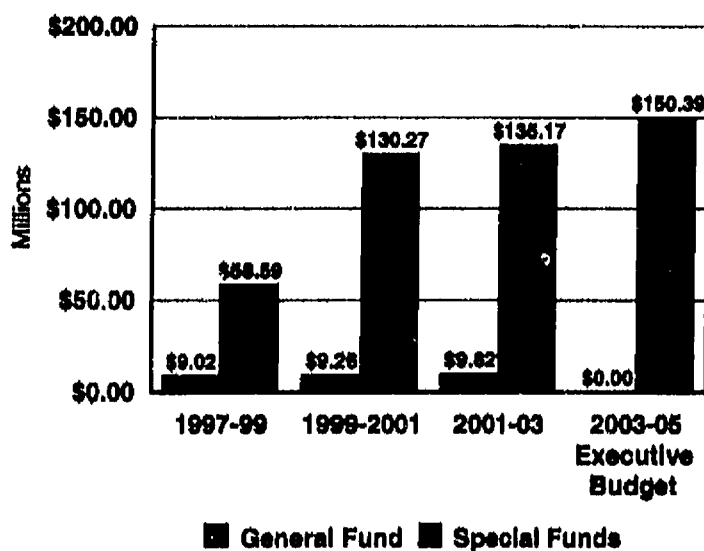
**Department 770 - State Water Commission
Senate Bill No. 2022**

	FTE Positions	General Fund	Other Funds	Total
2003-05 Executive Budget	85.00	\$0	\$150,385,990	\$150,385,990
2001-03 Legislative Appropriations	89.00	9,815,151 ¹	135,173,009	144,988,160 ²
Increase (Decrease)	(4.00)	(\$9,815,151)	\$15,212,981	\$5,397,830

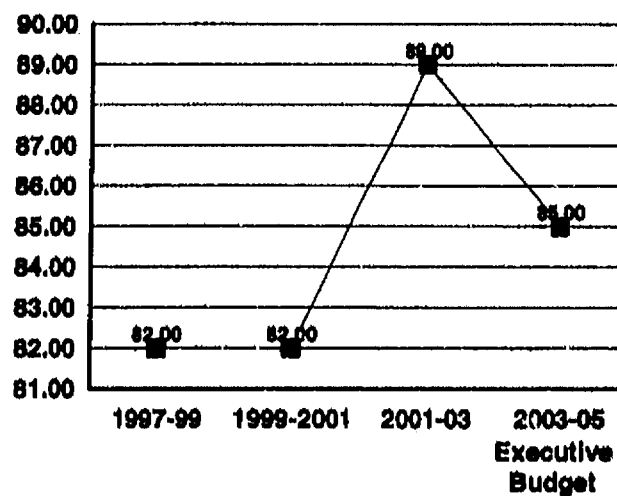
¹ The 2001-03 general fund appropriation is the amount appropriated by the 2001 Legislative Assembly and does not include a reduction of \$103,059 relating to the 1.05 percent budget allotment ordered by Governor Hoeven in July 2002.

² The 2001-03 appropriation amounts include \$82,152, \$81,331 of which is from the general fund, for the agency's share of the \$5 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees. In addition, the appropriation amounts do not include \$4 million of other funds carried over from the 1999-2001 biennium for Grand Forks flood control projects.

Agency Funding



FTE Positions



First House Action

Attached is a summary of the first house changes.

**Executive Budget Highlights
(With First House Changes Noted)**

	General Fund	Other Funds	Total
1. Consolidates the State Water Commission's reporting levels into two new levels: administration and support services and water and atmospheric resources			
2. Replaces the State Water Commission general fund authority with special funds from the water development trust fund. The Senate transferred funding for operations of the State Water Commission to the general fund in the amount of \$9,440,117.	(\$9,236,883)	\$9,236,883	
3. Increases fees for rent (\$257,974), audit fees (\$25,000), and legal fees (\$265,000) due to the agency no longer receiving a general fund appropriation. The Senate removed this funding.		\$547,974	\$547,974
4. Removes two FTE water testing positions due to the State Department of Health assuming the water testing duties currently performed by two		(\$211,834)	(\$211,834)

State Water Commission FTEs at the state laboratory. One of the two positions will be transferred to the State Department of Health.

5. Increases funding for contract water testing to be conducted by the State Department of Health based on the amount to fund the one FTE laboratory technician position transferred \$77,000 \$77,000
6. Provides a continuing appropriation for the sale of land and the existing shop building at the corner of 26th Street and Broadway Avenue in Bismarck and use the proceeds to build a maintenance facility at a new location. The total appropriation for the purchase of land and construction of the new building is not to exceed \$977,100, the same appropriation as the 2001-03 biennium.
7. Provides authorization for water projects from the following sources:
- Bond issuances up to \$60 million. The Senate reduced this amount to \$49,523,771.
 - \$23,709,542 (\$32,946,225 less \$9,236,683 for operations) from the water development trust fund. The Senate replaced the \$9,236,683 for operations with general fund money and maintained \$32,946,225 for water projects.
 - \$13,650,000 from the resources trust fund
8. The major water projects budgeted for in the 2003-05 biennium by the State Water Commission include:
- | | |
|---|--------------|
| Devils Lake outlet, basin development, and dike | \$26,500,000 |
| Grand Forks flood control | \$18,007,000 |
| Fargo flood control | \$10,500,000 |
| Maple River Dam | \$3,500,000 |
| Municipal, rural, and industrial water supply | \$10,000,000 |
9. Deletes 1 FTE assistant state engineer. The person who currently fills this position also serves as the director of the Water Development Division and is funded from that division's budget. (\$105,959) (\$105,959)
10. Deletes 1 FTE water resource engineer (\$97,446) (\$97,446)
11. Total 2001-03 biennium funding of \$150.4 million for the State Water Commission includes:
- Total funding for water projects, bonding, grants, Southwest Pipeline Project, and Northwest Area Water Supply Project of \$131 million. This includes funding from bonding pursuant to Section 9, resources trust fund, water development trust fund, local funds, and federal funds.
 - Total federal and special funding for salaries and wages of \$9.4 million
 - Total federal and special funding for other operating costs of \$10 million. The Senate reduced the total appropriation to the State Water Commission to \$149,444,673, which includes a \$9,440,117 general fund appropriation for operations.

Major Related Legislation

Section 2 of Engrossed Senate Bill No. 2022 provides total funding of \$13,650,000 from the resources trust fund for statewide water projects.

Section 3 of Engrossed Senate Bill No. 2022 provides total funding of \$32,946,225 from the water development trust fund for operations, bond payments, and water projects. Funding for operations is \$9,236,683, and bond payments are estimated to be \$8 million during the 2003-05 biennium. An additional \$10,931,361 is appropriated from the water development trust fund for water disasters, including the University of North Dakota (\$1,193,146), North Dakota State University (\$262,928), Division of Emergency Management (\$8.9 million), and Parks and Recreation Department (\$575,287). The Senate replaced the \$9,236,683 for operations with general fund money. The Senate replaced the \$8.9 million Division of Emergency Management appropriation with a general fund appropriation.

Section 5 of Engrossed Senate Bill No. 2022 provides a continuing appropriation for the sale of land and the existing shop building at the corner of 26th Street and Broadway Avenue in Bismarck.

Section 6 of Engrossed Senate Bill No. 2022 authorizes the State Water Commission to use the land and building sale proceeds to purchase land and build a new maintenance shop. The total appropriation for the purchase of land and construction of the new building is not to exceed \$977,100, the same appropriation as the 2001-03 biennium.

Section 7 of Engrossed Senate Bill No. 2022 authorizes a Bank of North Dakota line of credit of up to \$25 million for the purpose of interim financing during the process of issuing bonds.

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Section 8 of Engrossed Senate Bill No. 2022 provides a contingent appropriation from the water development trust fund or from bond proceeds for repaying the line of credit.

Section 9 of Engrossed Senate Bill No. 2022 authorizes bond issuances for statewide water projects up to \$60 million, plus the costs of issuance, capitalized interest, and required reserves for the 2003-05 biennium. The limitation does not apply to authority for the Southwest Pipeline Project (North Dakota Century Code Chapter 61-24.3) and the Northwest Area Water Supply Project (North Dakota Century Code Chapter 61-24.6). The Senate reduced the bonding limit to \$49,523,771.

Section 11 of Engrossed House Bill No. 2022 changes the tobacco settlement funding priority by removing language that distributions are to be made to the water development trust fund based on money needed for interest and principal on bond payments before distributions can be made to the common schools trust fund.

Section 12 of Engrossed House Bill No. 2022 repeals North Dakota Century Code Chapter 61-38, relating to assumption of the Section 404 program of the Clean Water Act by the State Water Commission.

House Bill No. 1148 - This bill authorizes the State Water Commission to assign easements for dam construction if it is determined the assignment would be in the best interest of the state.

Senate Bill No. 2193 - This bill requires \$20 million of bonding authority for the State Water Commission be restricted for a Devils Lake outlet.

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Y. Haroon A. Hce
Operator's Signature

3-22-04
Date

02/21/03

STATEMENT OF PURPOSE OF AMENDMENT:**Senate Bill No. 2022 - Funding Summary**

	Executive Budget	Senate Changes	Senate Version
Water Commission			
Administrative and support services	\$2,639,225	(\$561,855)	\$2,077,370
Water and atmospheric resources	147,746,765	(379,462)	147,367,303
Total all funds	\$150,385,990	(\$941,317)	\$149,444,673
Less estimated income	150,385,990	(10,381,434)	140,004,556
General fund	\$0	\$9,440,117	\$9,440,117
FTE	85.00	(3.00)	82.00
Bill Total			
Total all funds	\$150,385,990	(\$941,317)	\$149,444,673
Less estimated income	150,385,990	(10,381,434)	140,004,556
General fund	\$0	\$9,440,117	\$9,440,117
FTE	85.00	(3.00)	82.00

Senate Bill No. 2022 - Water Commission - Senate Action

	Executive Budget	Senate Changes	Senate Version
Administrative and support services	\$2,639,225	(\$561,855)	\$2,077,370
Water and atmospheric resources	147,746,765	(379,462)	147,367,303
Total all funds	\$150,385,990	(\$941,317)	\$149,444,673
Less estimated income	150,385,990	(10,381,434)	140,004,556
General fund	\$0	\$9,440,117	\$9,440,117
FTE	85.00	(3.00)	82.00

Department No. 770 - Water Commission - Detail of Senate Changes

	Removes Recommended Salary Increase ¹	Changes Funding For Administrative Expenses ¹	Removes Funding For Rent, Audit, and Legal Fees ²	Removes Funding For Section 404 Program ¹	Adds Funding For 1 FTE Position ¹	Total Senate Changes
Administrative and support services	(\$13,881)		(\$547,974)			(\$561,855)
Water and atmospheric resources	(85,748)			(393,714)	100,000	(379,462)
Total all funds	(\$99,629)	\$0	(\$547,974)	(393,714)	\$100,000	(\$941,317)
Less estimated income	(17,347)	(9,522,399)	(547,974)	(393,714)	100,000	(10,381,434)
General fund	(\$82,282)	\$9,522,399	\$0	\$0	\$0	\$9,440,117
FTE	0.00	0.00	0.00	(4.00)	1.00	(3.00)

¹ This amendment removes the Governor's recommendation for state employee salary increases and retains the recommended state payment for health insurance premiums.

02/21/03

² This amendment transfers funding for administrative expenses of the State Water Commission from the water development trust fund to the general fund.

³ This amendment removes funding from the water development trust fund for rent (\$257,974), audit fees (\$25,000), and Attorney General fees (\$265,000). These are additional costs the State Water Commission would have incurred as a special fund agency.

⁴ This amendment removes funding for the Section 404 program, including four FTE positions.

⁵ This amendment adds one FTE floodplain mapping coordinator position under the community assistance program from Federal Emergency Management Agency funding.

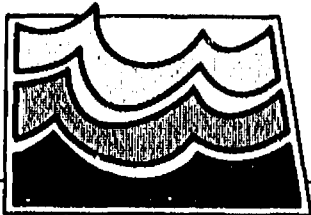
The total authorized in Section 9 for bonding is reduced from \$60,000,000 to \$49,523,771.

A section is added providing that revenues in excess of the \$13,650,000 from the resources trust fund are appropriated to the State Water Commission subject to Emergency Commission approval.

North Dakota Century Code (NDCC) Chapter 61-38 relating to the assumption of the Section 404 program of the Clean Water Act by the State Water Commission is repealed.

A section is added amending NDCC Section 54-27-25, relating to the uses of the tobacco settlement collections. This change removes the tobacco settlement collection funding priority provided to the water development trust fund based on need for interest and principal on bond payments. Previously the statute provided that distributions were to be made based on the water development trust fund's needs before funding is made available to the common schools trust fund.

Exhibit 4



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850 • 701-328-2750
TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://www.swc.state.nd.us/>

MEMORANDUM

TO: Representative Rick Berg, House Majority Leader; and
Senator Bob Stenehjem, Senate Majority Leader
FROM: Dale Frink, State Engineer and Secretary
SUBJECT: Response to January 8, 2003 information request
DATE: January 20, 2003

This memorandum serves as the North Dakota State Water Commission's, State Engineer's, and Atmospheric Resources Board's response to questions posed in your January 8, 2003 letter. It is a combined response on behalf of the "agency."

1) What is the main purpose of your agency?

The agency mission statement is to enhance the quality of life and strengthen the economy of North Dakota by managing the water resources of the State for the benefit of its people. Statutes regarding the agency's development and regulatory powers and responsibilities are found in Title 61 of the North Dakota Century Code accessible via <http://www.swc.state.nd.us/waterlaws.html>.

2) How do you measure the achievement of your purpose?

The agency has developed goals and management objectives to guide our efforts. Goals and objectives are attached. Progress is monitored through weekly and monthly staff meetings and through feedback received from constituents.

3) What can the Legislature do, financially and otherwise, to help you achieve your purpose?

SB 2022, as submitted, includes sufficient resources to meet our agency's 2003-2005 biennial objectives. It is imperative that the agency and Legislature, through Legislative Council and interim committees, continue close communication to achieve North Dakota's long-term water management needs.

4) How can you report your results so the public can easily understand your purpose and evaluate your effectiveness?

State Water Commission (SWC) actions direct most agency activities. These actions are considered in public meetings and recorded in published minutes. Further, many activities are highlighted in *North Dakota Water* – a magazine with statewide distribution. I report agency progress on objectives monthly to the Governor's Office. Though not required, the SWC publishes an agency biennial report. The State Water Management Plan Update published each biennium tracks progress on specific projects and policies that impact our constituents in all parts of the state. Substantial information about agency plans and activities are available on our web site, <http://www.swc.state.nd.us>.

I welcome any questions regarding the above responses.

JOHN HOEVEN, GOVERNOR
CHAIRMAN

DALE L. FRINK
SECRETARY AND STATE ENGINEER

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Agency Goals and Objectives

Agency goals are: 1) To regulate the use and management of water resources for the welfare and prosperity of the people of North Dakota; 2) To promote the development and wise use of water resources for the welfare and prosperity of the people of North Dakota; and 3) To provide information to inform the public regarding the nature and occurrence of North Dakota's water resources.

These goals are achieved through the following objectives:

- Develop Missouri River water to secure North Dakota's equitable share for current and future needs, as reflected in state water management plans and the Pick-Sloan Plan.
- Continue construction of critical Missouri River water distribution systems including the Dickinson to Beach reach of the Southwest Pipeline Project and additional phases of the Northwest Area Water Supply project.
- Complete required Eastern Dakota Water Supply studies.
- Manage and develop North Dakota's water resources to enhance economic development opportunities especially the expansion and diversification of North Dakota's agricultural industry.
- Complete necessary plans and implement all aspects of the Dakota Water Resources Act of 2000 to provide a reliable source of good-quality water throughout North Dakota.
- Complete studies and research that more precisely define the nature and occurrence of water to optimize its conservation and development statewide.
- Maintain a publicly accessible water project inventory and management plan to promote efficiency in meeting North Dakota's future water development and funding needs.
- Refine legislation and policies for administering the Water Development Trust Fund and Resources Trust Fund through which critical water facilities can be constructed.
- Coordinate with the federal government and others to implement the state's three-pronged approach to solving the Devils Lake area's flooding problems.
- Develop policies/initiatives that advance flood control measures along the Sheyenne, Pembina, and Red Rivers, and Devils Lake.
- Continue cooperative efforts with neighboring states and provinces through organizations such as the Red River Basin Commission, to facilitate management of shared water resources.
- Coordinate with agencies that have authority related to North Dakota's waters to protect and enhance water quality and aquatic ecosystems.
- Enforce weather modification standards, conduct research, and supervise operational cloud seeding programs for hail suppression and rain enhancement.
- Provide water education for North Dakota's teachers, youth, and general public.
- Help facilitate further development of North Dakota's water-based recreation resources - especially the Missouri River, Lake Oahe, Lake Sakakawea, and Devils Lake.
- Collect, store and generally disseminate water resource data to help identify the location, condition, and temporal changes of North Dakota's water resources.

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**NORTH DAKOTA STATE WATER COMMISSION TESTIMONY
RELATIVE TO SENATE BILL 2022**

PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE

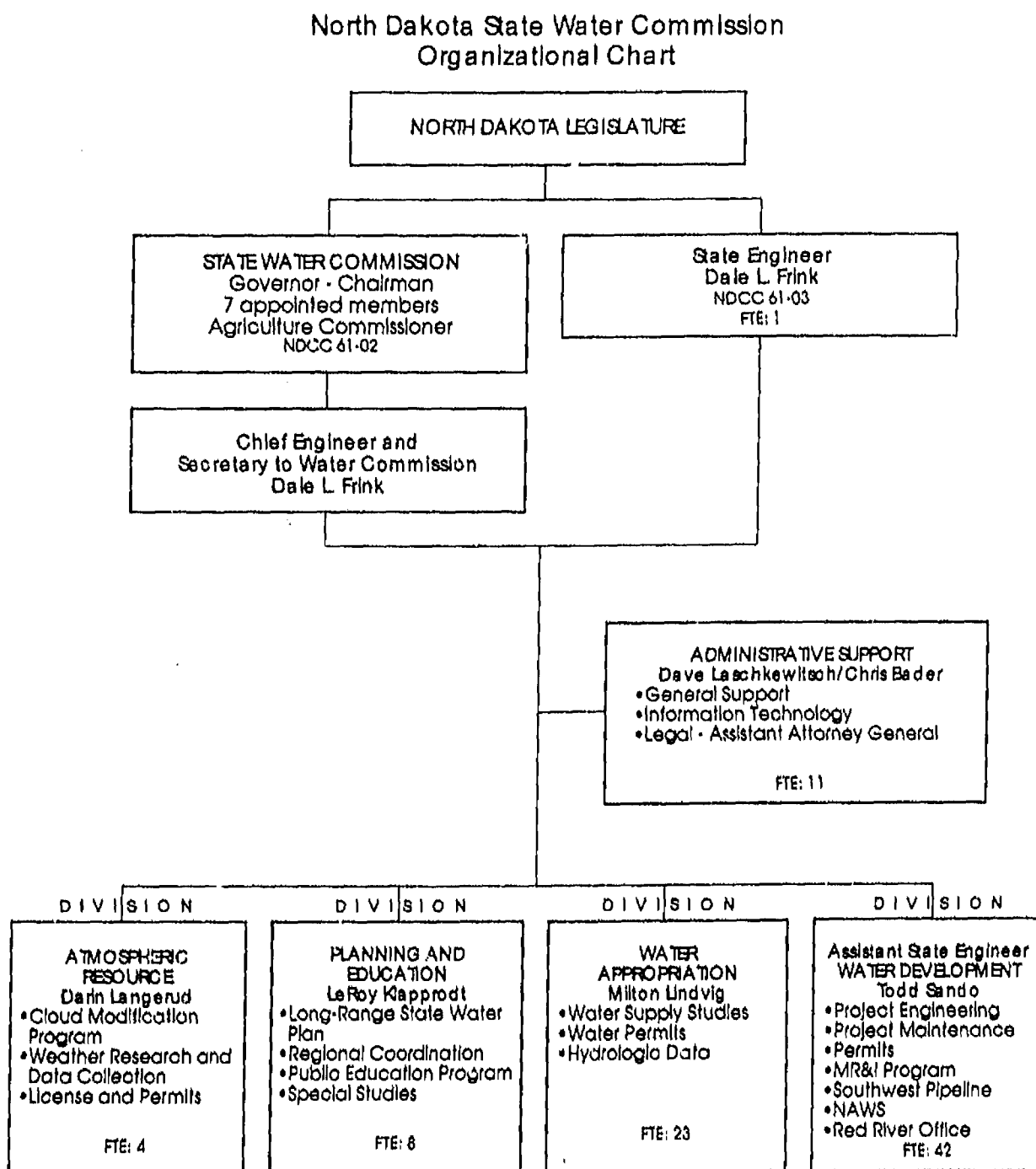
JANUARY 21, 2003

Mr. Chairman, Members of the Senate Appropriations Committee, I am Dale Frink,
North Dakota State Engineer and Chief Engineer-Secretary to the North Dakota State
Water Commission.

It is my pleasure to appear before you today regarding Senate Bill 2022. My testimony
will be presented in three main parts: first, I will provide a brief organizational overview;
second, a recap of our progress during the current biennium; and finally, a discussion of
major projects, programs, and issues for the upcoming biennium.

ORGANIZATIONAL OVERVIEW

As illustrated by the following organizational chart, the State Water Commission is separated into five divisions, with 89 Full Time Employees (FTEs).



January 2003

The Administrative and Support Services Section, directed by Dave Laschkewitsch, provides support services for the agency, including office administration, and information technology.

The Planning and Education Division, directed by Lee Klapprodt, develops and maintains the State Water Management Plan, and manages the agency's information and education programs.

The Water Appropriations Division, directed by Milton Lindvig, is responsible for the processing of water permit applications, collection of hydrologic data, water supply investigations, and supporting state and local economic development activities.

The Water Development Division, directed by Todd Sando, is responsible for project engineering and maintenance; Municipal Rural & Industrial (MR&I) program administration; Southwest Pipeline and Northwest Area Water Supply project management; floodplain management; and the processing of dam, dike, and drainage permits.

And finally, the Atmospheric Resources Division, directed by Darin Langerud, is responsible for the administration of cloud seeding activities in the state, and weather-related data collection.

As you can see, the State Water Commission is the lead agency entrusted with the vitally important role of managing North Dakota's surface, ground, and atmospheric water resources. With constant variations from dry to wet conditions from year to year, and sometimes at the same time in different locations, it is most certainly a challenging responsibility that all of our divisions take pride in fulfilling.

A BIENNIUM OF PROGRESS

In looking at our progress during the 2001-2003 biennium, we experienced a number of successes in all parts of the state.

One of the most significant occurrences during the 2001-2003 biennium, was the start of construction on the long-awaited Northwest Area Water Supply (NAWS) Project. A ceremonial groundbreaking took place April 5, 2002, followed almost immediately by the start of construction on Contract 2-1A.

The first contract began at the Minot Water Treatment Plant, and when completed, will extend 9.5 miles south. An additional 10-mile pipeline contract is anticipated this year. Our construction timetable for the estimated \$66 million pipeline from the Missouri River to Minot is five years, although staying on schedule will depend on available funding.

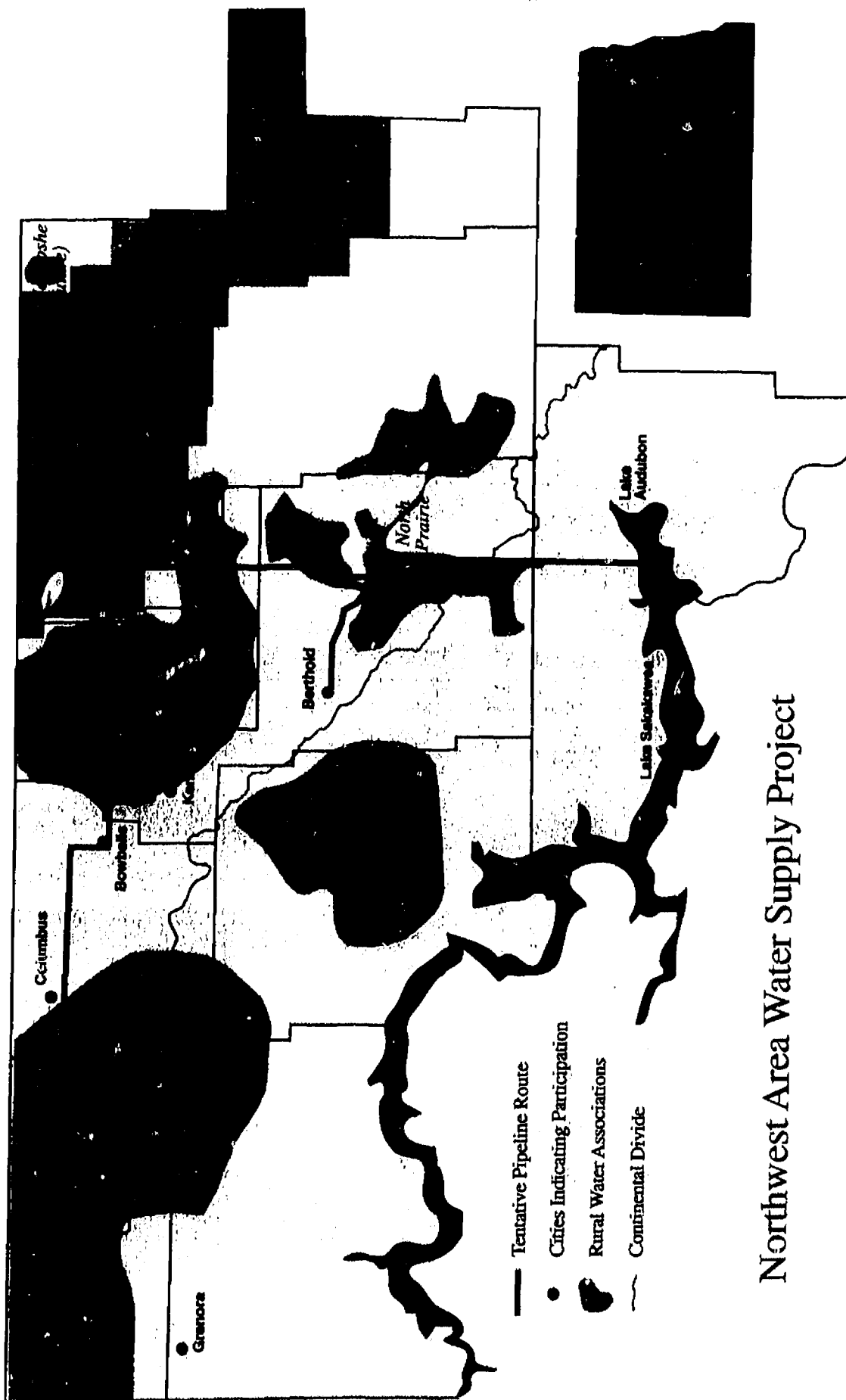
The NAWS Project will provide up to 26 million gallons of Missouri River water per day to approximately 63,000 citizens in northwest and north central North Dakota (see

attached map, Page 6). Including rural water contracts, the total number of North Dakotans served by NAWS could be as many as 81,000, or roughly 13 percent of North Dakota's population.

Construction on the Southwest Pipeline Project continued during the 2001-2003 biennium. Thus far during the current biennium, 312 rural users have been added, and the City of Scranton was connected to the system July 29, 2002.

The Southwest Pipeline is now providing over 1 billion gallons of treated Missouri River water annually to 31,000 citizens. This includes 23 communities and over 2,300 rural hookups, all served by almost 2,400 miles of pipeline. (see attached map, Page 7).

Also of great importance were advances with the Municipal Rural and Industrial (MR&I) water supply program with funds from the Water Development Trust Fund. Currently, there are three MR&I projects under construction, including the Langdon Rural Water Expansion, Ramsey Rural Water Expansion, and Tri-County Rural Water Expansion. McKenzie Rural Water is scheduled to begin construction in 2003.



Northwest Area Water Supply Project

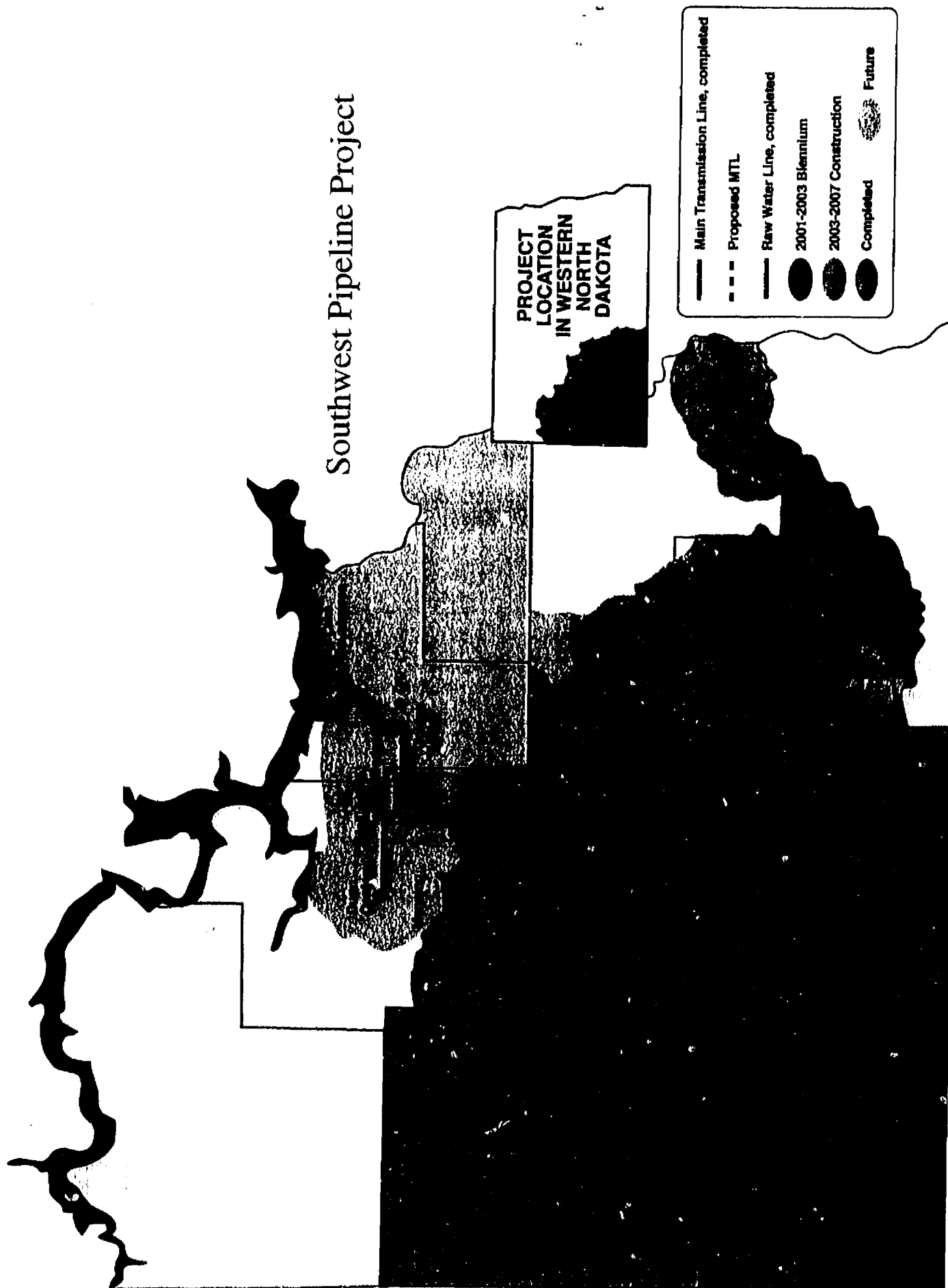
6

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4420000121
Operator's Signature

3-22-04
Date

Southwest Pipeline Project



7

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W. J. [Signature]
Operator's Signature

3-22-04
Date

Changing gears a bit and moving on to our flood control efforts, I am happy to report that there have been substantial advances statewide since the devastating floods of the 1990s.

In the Devils Lake basin, we are pursuing a comprehensive three-pronged approach to the area's flood-related problems, including upper basin water management, infrastructure protection, and an outlet to the Sheyenne River.

Most notable were our efforts on an outlet from Devils Lake to the Sheyenne River. On August 12, 2002, the U.S. Army Corps of Engineers announced that a recommendation on a federal outlet would not be released until January, 2003 – unfortunately, we are still uncertain of the status of the Corps' efforts. Due to a great need for early action, the State Water Commission voted unanimously to start construction on a state-sponsored temporary emergency outlet at the August 15, 2002, meeting, and construction began in October on site preparation for the Round Lake pump station. Under Governor Hoeven's direction, it is our intention to continue pursuing an outlet for Devils Lake.

With regard to upper basin management, State Water Commission staff assisted with the completion of an update to the 1995 Devils Lake Basin Water Management Plan. In addition, we are looking into the possibility of utilizing stored water in the upper reaches of the basin in a beneficial manner, such as irrigation, to reduce flooding. Infrastructure protection and relocation efforts are also being completed throughout the Devils Lake basin.

In response to North Dakota's struggling rural economy, especially in the agricultural sector, we also made progress in our efforts to provide better opportunities for irrigators throughout the state by enhancing the Bank of North Dakota's AgPACE Program. The AgPACE program provides low-interest financing to on-farm businesses. The funds are used to buy down the interest rate on loans that have been approved by a local lender and the Bank of North Dakota. The enhanced program increases the interest buy-down for new irrigation development, and conversions from gravity flow to more efficient sprinkler systems.

9

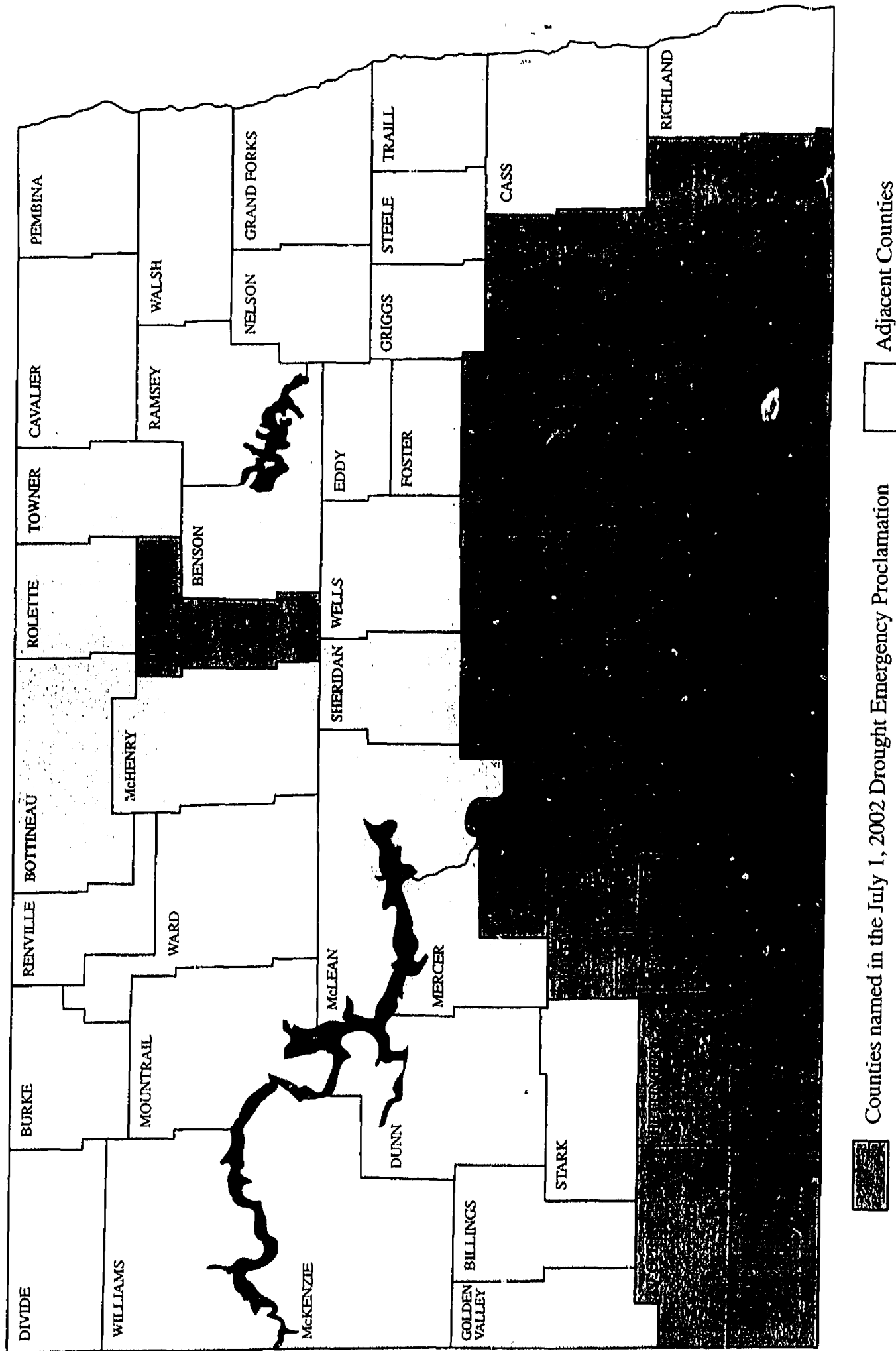
"drought emergency areas." In the first four months, 80 producers applied to the State Water Commission for cost-share assistance through that program.

Assisting cities to develop or expand alternative water supplies continues to be an important part of our work. Water supply studies have recently been completed for the cities of Rugby, Bottineau, and Park River. Studies are currently underway for the cities of Devils Lake and Medina, and additional cities have expressed interest regarding potential studies.

Technologically, we made tremendous progress through partnerships with several other agencies, resulting in the development of a new statewide Geographic Information Systems HUB. When fully operational, the HUB will serve agencies and the general public as a clearinghouse for countless forms of GIS-related data. Without question, the HUB will be a tremendous asset to all state agencies and private entities currently using GIS technology for land and water management or planning purposes.

With regard to atmospheric resources efforts, cloud seeding services continued in Bowman, McKenzie, Mountrail, Slope, Williams, and Ward Counties – with the dual purpose of reducing hail and enhancing rainfall. Long-term evaluations indicate that the cloud seeding program reduces crop hail losses by 45 percent, increases rainfall by 10 percent, and increases wheat yields by 6 percent.

North Dakota Counties Eligible for Drought Disaster Livestock Water Assistance Program



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Michael J. Hice
Operator's Signature

3-22-04
Date

Significant progress was also made on statewide general water management projects. Those efforts included irrigation development, rural ring dike program developments, snagging and clearing efforts, bank stabilizations, dam repairs, and new or reconstructed rural flood control projects to numerous to mention.

As you can see, we have made tremendous progress, but much remains to be done. Unfortunately, many projects are slowed by obstacles such as permit requirements, lawsuits, and environmental regulations. A perfect example is the Maple River Dam, whose sponsors have been waiting impatiently for a Section 404 permit from the U.S. Army Corps for almost a decade.

Another important hindrance that is worthy of mention has been the biota transfer issue. As the following illustrations indicate, many of North Dakota's water development efforts such as NAWs, Garrison Diversion, and the Devils Lake outlet, have been wrongfully singled out by various project opponents. North Dakota's aforementioned diversion projects are not only substantially smaller than those operated by our neighbors and/or opposition, but our project designs include unprecedented precautionary measures to address concerns related to biota transfer.

In spite of these obstacles, I believe North Dakota is well positioned to proceed with future water development efforts -- all of which are critical to the people and communities they benefit.

To cap off our discussion of activities in the current biennium, I would like to provide a brief summary of 2001-2003 expenditures to date. The State Water Commission has expended \$40.5 million on water projects through December 2002. It is anticipated that that an additional \$16.2 million will be spent through June 2003. About \$46.4 million of the \$56.7 million will come from the Contract Fund, a combination of Resources Trust Fund, Water Development Trust Fund, and previously issued bond proceeds.

The State Water Commission currently has eight bond issues outstanding on the Southwest Pipeline Project. These have provided the project with \$13,738,200. Payments on these bonds are made from revenues generated by the pipeline.

One bond issue remains outstanding on the Northwest Area Water Supply Project. This issue provided the project with \$1,220,000. Payments on this bond are made from revenues generated from the project.

The State Water Commission also has a \$32,095,000 bond issue for statewide water development projects. This issue uses the Water Development Trust Fund to make payments that total \$5.4 million per biennium.

SENATE BILL 2022

Senate Bill 2022 contains the Executive budget recommendation for the State Water Commission. The recommendation totals \$150,385,990.

Administrative and Support Services	\$ 2,639,225
Water and Atmospheric Resources	<u>147,746,765</u>
Total	\$150,385,990
General Funds	\$ 0
Federal Funds	29,829,443
Other Funds	120,556,547

The agency's authorized FTE's have been reduced from 89 to 85.

Our agency budget contains only two special line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriation, Water Development, and Atmospheric Resources Divisions, as well as all project funding.

The Executive budget recommendation funds the agency with revenues from the Resources Trust Fund, the Water Development Trust Fund, bond proceeds, cost-shares from project sponsors, and federal funds. The 2003-2005 budget recommendation does not contain any general fund dollars for the agency.

The Resources Trust Fund is projected to bring in \$10,552,897 in new revenue this biennium. This is an anticipated reduction of \$265,103 from the 2001-2003 projected

revenue and is based on projections provided by the Office of Management and Budget (OMB).

The Water Development Trust Fund is projected to bring in \$20,674,860 in new revenue this biennium. This is an anticipated reduction of \$3,207,940 from the 2001-2003 projected revenue and is based on projections provided by OMB.

Senate Bill 2022 also provides \$60 million of bonding authority to be supported from 45 percent of the tobacco settlement proceeds. Preliminary calculations prepared by our bond underwriter indicate that the agency's uncommitted share of future tobacco receipts could support an issue of that size.

These amounts, plus the beginning balances in the funds and cost-shares from project sponsors, will provide the agency's funding.

Exhibit 5 - The 2003-2005 Water Development Report is provided for your reference. The purpose of the 2003-2005 Water Development Report is: to serve as a supplement to the 1999 State Water Management Plan; to provide up-to-date information regarding North Dakota's current and future water development project needs; to provide current information regarding North Dakota's ability to fund those water development needs; and to serve as a formal request for funding from the Resources Trust Fund.

As indicated in the Water Development Report, the total estimated project and program funding needs submitted by project sponsors total over \$406 million for the upcoming biennium. Based on current agency cost-share considerations, the state's share of that amount would be about \$100 million. Obviously, we do not have \$100 million of state funds for new projects, and therefore, it is necessary to prioritize project needs. The priority process includes very close coordination with the Governor's Office, State Water Commission members, and the North Dakota Water Coalition.

The following table represents potential priority projects, including estimated expenditures for the current biennium, and potential allocations in the 2003-2005 biennium.

Potential Priority Projects	Estimated Expenditures 01-03	Potential Allocations 03-05
Devils Lake		
Outlet	\$1,500,000	\$22,500,000
Basin Dev. & Misc.	\$1,000,000	\$2,000,000
Infrastructure	\$2,200,000	\$2,000,000*
Flood Control		
Grand Forks	\$19,500,000	\$18,507,000
Wahpeton	\$600,000	\$2,298,000
Grafton	\$250,000	\$500,000
Fargo	\$500,000	\$10,500,000
Maple River Dam	\$500,000	\$3,500,000
General Water Management	\$4,500,000	\$6,500,000*
Irrigation	\$500,000	\$5,300,000*
Missouri River Management	-	\$100,000
Eastern Dakota Water Supply	\$150,000	\$150,000
MR&I	\$5,000,000	\$10,000,000*
NAWS	\$400,000	\$2,400,000
SWPP	\$8,444,000	\$5,000,000
Baldhill Dam	\$1,000,000	\$307,000*
Weather Modification	\$350,000	\$350,000
Project Totals	\$46,044,000	\$91,562,000
Bond Payments	\$4,500,000	\$9,900,000
Section 404 Program	-	\$650,000
SWC Operations	\$9,734,000	\$10,070,000
Flood Emergency Deficiency	\$11,000,000	-
Combined Total	\$71,628,000	\$112,812,000
Estimated Cash Balance	\$10,761,000	(\$ 10,671,000)

*\$18 million of these allocations are currently obligated and under contract but will not be expended until after July 1, 2003.

The column identified as "Potential Allocations 03-05" contains allocations exceeding the agency's ability to fund them by approximately \$10.67 million. As mentioned previously, history has shown that water projects are very difficult and time consuming to complete. As a result, the agency has always carried over unexpended balances in our trust funds. By identifying more projects than we can fund and anticipating that some of these projects will be delayed, we expect that we will be able to utilize available funding for projects that are ready to proceed. However, we cannot sign contracts exceeding our appropriated funds.

The Executive budget recommendation also includes \$11 million for Flood Emergency Deficiency loan repayments as a part of the state's matching share of federal disaster relief funding. Funding for the deficiency payments will be drawn from the Water Development Trust Fund by the Division of Emergency Management, the University of North Dakota, North Dakota State University, and the Parks and Recreation Department. The appropriation authority will be contained in each individual agency's appropriation bills.

AGENCY SPECIFICS AND ISSUES

The Executive budget recommendation includes the elimination of four positions. The previous Assistant State Engineer's position was not funded in order to meet the 95 percent budget submittal. Todd Sando now serves as both the Assistant State Engineer, and Director of the Water Development Division. One Section 404 Program position was

also not funded, and two positions relate to the elimination of our water quality laboratory co-located within the State Department of Health Laboratory.

The State Water Commission laboratory provides the services necessary to carry out a water quality program in support of the water management and water supply development responsibilities of the State Water Commission. A footnote in the Executive budget states that the Department of Health has indicated a willingness to assume the water-testing services. To support this service, \$77,000 was added to the Commission's budget. However, the amount added does not match the Department of Health's rate schedule to perform the necessary analyses. If the testing is provided for this cost, a savings will result for the Water Commission.

Another change that was made necessary to reach our budget goal was the elimination of funding for the intern pilot program for our cloud seeding operations. Although the interns did not previously receive a salary, we did pay a stipend to defray living expenses. The value of the flight hours and project experience should allow us to continue the intern program, but we will not be able to offer any financial assistance to the interns.

One increase in our budget is a result of the agency not having any general fund appropriation. With no general fund dollars, it was necessary to include increases of \$257,974 for rent, \$25,000 for audit fees, and \$265,000 for attorney fees. Rent and audit fees are reasonably fixed, however, the \$265,000 in attorney fees is dependent on hourly usage. The State Water Commission is currently involved in several lawsuits, including

NAWS, a Devils Lake landowner case, and at least one Missouri River lawsuit. Since the \$265,000 is based on current activities, these three cases could result in significantly higher legal fees. These three lawsuits will also demand a tremendous amount of staff time during the next biennium.

The adequacy of the NAWS project environmental assessment was challenged by Manitoba in October 2002, when they brought a lawsuit against the U.S. Department of Interior. Manitoba contends that the project constitutes a major federal action significantly affecting the quality of the human environment and that a more detailed Environmental Impact Statement must be completed.

Approximately 90 landowners in the Devils Lake area brought a lawsuit in May of 1999 claiming damages from the high lake level. Devils Lake's rise of about 24 1/2 feet since 1993 has inundated 80,000 acres of land. The landowners assert that the state and local water resource districts are responsible for the lake's increase. The state successfully resisted the plaintiffs' efforts to certify the case as a class action, and the case is currently in the discovery phase.

In May 2002, the State of North Dakota and Governor Hoeven successfully obtained injunctive relief against the U.S. Army Corps of Engineers prohibiting the Corps from lowering Lake Sakakawea in the spring of 2002, and thereby, protected the lake's forage fish spawn, which is crucial to the lake's sport fishery. The suit also challenges the way in which the Corps fails to meet contemporary water needs in its management of the

Missouri River system reservoirs.

Unfortunately, the outlook for Missouri River water levels is even more severe in 2003 than it was in 2002. The runoff from the basin above Sioux City was 65 percent of normal in 2000; 89 percent of normal in 2001; and 63 percent of normal in 2002. As a result, only 42.7 million acre-feet of water was stored in the 6 mainstem reservoirs at the end of 2002, compared to the average end of year system storage of 55 million acre-feet. It appears that the drought will continue. The snow pack above Fort Peck Dam is only 58 percent of normal, while the Fort Peck to Garrison reach, including the Yellowstone, is at 74 percent of normal. The U.S. Army Corps of Engineers is forecasting 20 million acre-feet of runoff in 2003, which is only 79 percent of normal. At stake are North Dakota's nationally renowned recreational fishing industry and several community and private water supply intakes along the mainstem system.

Another new issue for us is noxious weed control on sovereign lands. North Dakota Century Code Chapter 61-33 provides that the State Engineer is responsible for management of state sovereign lands, defined as the beds of navigable lakes and streams up to the ordinary high water mark. With a growing list of invasive species, we have seen the cost of controlling noxious weeds on sovereign lands grow. We only expect to spend \$12,000 during the 2001-2003 biennium for weed control in these areas, but this amount will increase substantially in the future.

I would also like to address the construction of a new shop building for the Water Commission. The 2001-2003 budget included \$977,100 for the construction of a new maintenance shop. Since then, Water Commission staff have tried to locate affordable land for the new building. Unfortunately, available land in the Bismarck area is too costly to build a facility with the funds provided.

One possible solution is to enter into a long-term lease. Burleigh County may be willing to enter into such a lease with land it owns near the county fairgrounds. Senate Bill 2022 provides for this option. Another possibility is to build a new shop immediately north of our existing shop on land that is owned by the State Water Commission. I would like to offer an amendment that would allow us to build on our existing land.

And finally, the 2001 Legislature directed the State Water Commission to pursue state assumption of Section 404 permits. We are working to adopt administrative rules for this program, and once adopted, we could implement a state program.

We have had several discussions and meetings with EPA officials. It has become evident that full assumption of the program will take several years and will likely require running a parallel program in conjunction with the U.S. Army Corps of Engineers for a number of years. The Executive budget recommendation includes \$625,656 for the Section 404 program and four full time employees for the 2003-2005 biennium. Long term, we believe state assumption will require at least \$1 million per biennium and at least 5

FTE's. In view of this information, Legislative guidance is requested as to whether state assumption of Section 404 is still a priority program.

Attachment to Dale Frink's Testimony

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2022

Page 2, line 18, after the quotation mark insert "and may build a new shop on new land or one or more of the existing parcels"

Page 3, line 24, after "facility" insert "on new or the existing water commission property"

Page 4, line 3, after "building" insert "on new or the existing water commission property"

Page 4, line 6, after "building" insert "on new or the existing water commission property"

Page 4, line 8 after the comma insert "on new or the existing water commission property,"

Page 4, line 12, after "building" insert "on new or the existing water commission property"

Page 4, line 16, after "appurtenances" insert "on new or the existing water commission property"

Renumber accordingly

**State Water Commission
Special Fund Projections
July 2003 - June 2005**

Estimated Beginning Balance	22,161,000
Resources Trust Fund Revenues	10,500,000
Water Development Trust Fund Revenues	20,600,000
Bond Proceeds	49,523,771
Total Revenues	102,784,771
 Devils Lake	
Outlet	20,000,000
Basin Dev & Misc	2,000,000
Dike	2,000,000
 Flood Control	
Grand Forks	18,507,000
Wahpeton	2,298,000
Grafton	500,000
Fargo	10,500,000
Maple River Dam	3,500,000
 General Water Management	6,500,000
Irrigation	5,300,000
Missouri River Management	100,000
Eastern Dakota Water Supply	150,000
MR&I	10,000,000
NAWS	2,400,000
SWPP	6,149,000
Baldhill Dam	307,000
Weather Modification	350,000
 Project Totals	90,561,000
 Bond Payments	10,200,000
SWC Operations	10,070,373
Flood Emergency Deficiency	2,000,000
 Total Costs	112,831,373
 Estimated Cash Balance	(10,046,602)

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LaCosta Rickford
Operator's Signature

10/15/03
Date

**State Water Commission
Special Fund Projections
July 2003 - June 2005**

Estimated Beginning Balance	22,161,000
Resources Trust Fund Revenues	10,500,000
Water Development Trust Fund Revenues	20,600,000
Bond Proceeds	60,000,000
Total Revenues	113,261,000
 Devils Lake	
Outlet	20,000,000
Basin Dev & Misc	2,000,000
Dike	2,000,000
 Flood Control	
Grand Forks	18,507,000
Wahpeton	2,298,000
Grafton	500,000
Fargo	10,500,000
Maple River Dam	3,500,000
 General Water Management	6,500,000
Irrigation	5,300,000
Missouri River Management	100,000
Eastern Dakota Water Supply	150,000
MR&I	10,000,000
NAWS	2,400,000
SWPP	6,149,000
Baldhill Dam	307,000
Weather Modification	350,000
 Project Totals	90,561,000
 Bond Payments	10,600,000
SWC Operations	10,070,373
Flood Emergency Deficiency	2,000,000
 Total Costs	113,231,373
 Estimated Cash Balance	29,627

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Lacosta Rickford
Operator's Signature

10/15/03
Date



*With the
exception
of the
following
some
testimony
given
to House
as
Senate*

North Dakota State Water Commission Testimony Relative to Engrossed Senate Bill 2022

**Presented to the
House Appropriations Committee
Education and Environmental Division**

Fifty-Eighth Legislative Assembly

March 6, 2003

**By Dale L. Frink
North Dakota State Engineer and Chief Engineer-Secretary
to the State Water Commission**

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Lacosta Rickford
Operator's Signature

10/15/03
Date

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In the Devils Lake basin, we are pursuing a comprehensive three-pronged approach to the area's flood-related problems, including upper basin water management, infrastructure protection, and an outlet to the Sheyenne River.

Most notable were our efforts on an outlet from Devils Lake to the Sheyenne River. On February 25, 2003, the U.S. Army Corps of Engineers announced their willingness to proceed with a federal outlet for Devils Lake. Unfortunately, the total cost has grown to \$208 million, with a non-federal cost of \$73 million. The time schedule has also been delayed to 2005 for the start of construction. At this point, the State Water Commission is still considering moving forward with a federal outlet, but needless to say, we have not abandoned the state-sponsored outlet project either.

With regard to upper basin management, State Water Commission staff assisted with the completion of an update to the 1995 Devils Lake Basin Water Management Plan. In addition, we are looking into the possibility of utilizing stored water in the upper reaches of the basin in a beneficial manner, such as irrigation, to reduce flooding. Infrastructure protection and relocation efforts are also being completed throughout the Devils Lake basin.

Moving our attention to flood control efforts in the east, significant advances occurred in Grand Forks and East Grand Forks to construct permanent flood protection structures. Phase I and Phase II levee constructions are currently underway, while design efforts on Phases III and IV are in progress. The entire project is scheduled for completion in 2005, depending on the availability of federal funds. When completed, Grand Forks and East Grand Forks will be protected from flood events at least equal to the 1997 flood. As of January 31, 2003, the State Water Commission had paid Grand Forks \$31.5 million of the \$52 million total contribution.

In response to North Dakota's struggling rural economy, especially in the agricultural sector, we also made progress in our efforts to provide better opportunities for irrigators throughout the state by enhancing the Bank of North Dakota's AgPACE Program. The AgPACE program provides low-interest financing to on-farm businesses. The funds are used to buy down the interest rate on loans that have been approved by a local lender and the Bank of North Dakota. The enhanced program increases the interest buy-down for new irrigation development, and conversions from gravity flow to more efficient sprinkler systems.

In another effort to support North Dakota's agricultural producers, the State Water Commission reinstated the Drought Disaster Livestock Water Assistance Program in response to extreme drought conditions in multiple counties throughout the state (see attached map, Page 11). The livestock watering program provides cost-share assistance to producers living in, and adjacent to, those counties identified by Governor Hoeven as

"drought emergency areas." In the first four months, 80 producers applied to the State Water Commission for cost-share assistance through that program.

Assisting cities to develop or expand alternative water supplies continues to be an important part of our work. Water supply studies have recently been completed for the cities of Rugby, Bottineau, and Park River. Studies are currently underway for the cities of Devils Lake and Medina, and additional cities have expressed interest regarding potential studies.

Technologically, we made tremendous progress through partnerships with several other agencies, resulting in the development of a new statewide Geographic Information Systems HUB. When fully operational, the HUB will serve agencies and the general public as a clearinghouse for countless forms of GIS-related data. Without question, the HUB will be a tremendous asset to all state agencies and private entities currently using GIS technology for land and water management or planning purposes.

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ENGROSSED SENATE BILL 2022

Engrossed Senate Bill 2022 contains the Senate approved budget for the State Water Commission. The budget totals \$149 million.

Administrative and Support Services	\$ 2,077,370
Water and Atmospheric Resources	<u>147,367,303</u>
Total	\$149,444,673

General Funds	\$ 9,440,117
Federal Funds	29,925,147
Other Funds	110,079,409

The agency's authorized FTE's have been reduced from 89 to 82.

Our agency budget contains only two special line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriation, Water Development, and Atmospheric Resources Divisions, as well as all project funding.

The Senate approved budget funds the agency with revenues from the Resources Trust Fund, the Water Development Trust Fund, bond proceeds, cost-shares from project sponsors, and federal funds. The Senate also included General Fund dollars for agency operations.

The Resources Trust Fund is projected to bring in \$10.6 million in new revenue this biennium. This is an anticipated reduction of \$265,000 from the 2001-2003 projected

revenue and is based on projections provided by the Office of Management and Budget (OMB).

The Water Development Trust Fund is projected to bring in \$20.7 million in new revenue this biennium. This is an anticipated reduction of \$3.2 million from the 2001-2003 projected revenue and is based on projections provided by OMB.

Engrossed Senate Bill 2022 also provides \$49.5 million of bonding authority to be supported from 45 percent of the tobacco settlement proceeds. Preliminary calculations prepared by our bond underwriter indicate that the agency's uncommitted share of future tobacco receipts could support an issue of this size.

These amounts, plus the beginning balances in the funds and cost-shares from project sponsors, will provide the agency's funding.

The 2003-2005 Water Development Report is provided for your reference. The purpose of the 2003-2005 Water Development Report is: to serve as a supplement to the 1999 State Water Management Plan; to provide up-to-date information regarding North Dakota's current and future water development project needs; to provide current information regarding North Dakota's ability to fund those water development needs; and to serve as a formal request for funding from the Resources Trust Fund.

As indicated in the Water Development Report, the total estimated project and program funding needs submitted by project sponsors total over \$406 million for the upcoming biennium. In order to meet budget constraints, it is necessary to prioritize project needs. The priority process includes very close coordination with the Governor's Office, State Water Commission members, and the North Dakota Water Coalition.

The following table represents potential priority projects, including estimated non-federal expenditures for the current biennium, and potential allocations in the 2003-2005 biennium.

Potential Priority Projects	Estimated 2001-2003 Expenditures	Potential 2003-2005 Allocations
Devils Lake		
Outlet	\$1,500,000	\$20,000,000
Basin Dev. & Misc.	\$1,000,000	\$2,000,000
Infrastructure	\$2,200,000	\$2,000,000*
Flood Control		
Grand Forks	\$19,500,000	\$18,507,000
Wahpeton	\$600,000	\$2,298,000
Grafton	\$250,000	\$500,000
Fargo	\$500,000	\$10,500,000
Maple River Dam	\$500,000	\$3,500,000
General Water Management	\$4,500,000	\$6,500,000*
Irrigation	\$500,000	\$5,300,000*
Missouri River Management	-	\$100,000
Eastern Dakota Water Supply	\$150,000	\$150,000
MR&I	\$5,000,000	\$10,000,000*
NAWS	\$400,000	\$2,400,000
SWPP	\$8,444,000	\$6,149,000
Baldhill Dam	\$1,000,000	\$307,000*
Weather Modification	\$350,000	\$350,000
Project Totals	\$46,394,000	\$90,561,000
Bond Payments	\$4,100,000	\$10,200,000
SWC Operations	\$9,734,000	-
Flood Emergency Deficiency	\$2,000,000	-
Combined Total	\$62,228,000	\$100,761,000
Estimated Cash Balance	\$20,161,000	\$0

*\$18 million of these allocations are currently obligated and under contract but will not be expended until after July 1, 2003.

The Executive budget recommendation included \$11 million for Flood Emergency Deficiency loan repayments as a part of the state's matching share of federal disaster relief funding. The Senate changed the funding source for the Division of Emergency Management's deficiency payment of \$8.9 million to General Fund. Currently, \$2 million will be drawn from the Water Development Trust Fund by the University of North Dakota, North Dakota State University, and the Parks and Recreation Department. The appropriation authority is contained in each individual agency's appropriation bills.

AGENCY SPECIFICS AND ISSUES

The Senate approved budget includes the elimination of eight positions. The previous Assistant State Engineer's position was not funded. As a result, the same FTE now serves as both Assistant State Engineer, and Director of the Water Development Division. The Section 404 program was also eliminated, which included five FTEs. And, two positions that relate to our water quality laboratory, which is located within the State Department of Health Laboratory, were eliminated.

The State Water Commission laboratory provides the services necessary to carry out a water quality program in support of the water management and water supply development responsibilities of the State Water Commission. A footnote in the Executive budget states that the Department of Health has indicated a willingness to assume the water-testing services. To support this service, \$77,000 was added to the Commission's budget. However, the amount added does not match the Department of

Health's rate schedule to perform the necessary analyses. If the testing is provided for this cost, a savings will result for the Water Commission.

Another change that was made necessary to reach our budget goal was the elimination of funding for the intern pilot program for our cloud seeding operations. Although the interns did not previously receive a salary, we did pay a stipend to defray living expenses. The value of the flight hours and project experience should allow us to continue the intern program, but we will not be able to offer any financial assistance to the interns.

The Senate approved budget did add one FTE and \$100,000 of Federal funding authority for a Floodplain Mapping Coordinator. However, they did not increase the general or special funds for the matching requirement. That money will have to be found within our existing budget.

In addition, the Senate approved budget did not include salary increases for state employees. In a time when it has become increasingly difficult to compete with private industry for quality professionals, this puts our agency at an even greater disadvantage to attract, and more importantly, retain quality employees. With that in mind, I respectfully request that you consider reinstating some salary increases.

With regard to lawsuits, we expect legal issues to demand a tremendous amount of staff time during the next biennium.

The adequacy of the NAWS project environmental assessment was challenged by Manitoba in October 2002, when they brought a lawsuit against the U.S. Department of Interior. Manitoba contends that the project constitutes a major federal action significantly affecting the quality of the human environment and that a more detailed Environmental Impact Statement must be completed.

Approximately 90 landowners in the Devils Lake area brought a lawsuit in May of 1999 claiming damages from the high lake level. Devils Lake's rise of about 24 1/2 feet since 1993 has inundated 80,000 acres of land. The landowners assert that the state and local water resource districts are responsible for the lake's increase. The state successfully resisted the plaintiffs' efforts to certify the case as a class action, and the case is currently in the discovery phase.

In May 2002, the State of North Dakota and Governor Hoeven successfully obtained injunctive relief against the U.S. Army Corps of Engineers prohibiting the Corps from lowering Lake Sakakawea in the spring of 2002, and thereby, protected the lake's forage fish spawn, which is crucial to the lake's sport fishery. The suit also challenges the way in which the Corps fails to meet contemporary water needs in its management of the Missouri River system reservoirs.

Unfortunately, the outlook for Missouri River water levels is even more severe in 2003 than it was in 2002. On February 1, the snow pack above Fort Peck Dam was only 73 percent of normal, while the Fort Peck to Garrison reach, including the Yellowstone, was

at 80 percent of normal. The U.S. Army Corps of Engineers is forecasting 19.2 million acre-feet of runoff in 2003, which is only 76 percent of normal. At stake are North Dakota's nationally renowned recreational fishing industry and several community and private water supply intakes along the mainstem system.

The Governor, both by letter and in person has asked General Fastabend, Commander of the Northwestern Division of the Corps of Engineers, to shorten the navigation season by an absolute minimum of five weeks to conserve water. To date, the Corps has been unwilling to provide even this minimal amount of water conservation, stating that a shortening of the navigation season should not be implemented until the Master Manual Review and Update is completed.

The State Health Department issued a notice of violation of state water quality standards, which serves notice to the Corps that legal action will be pursued to require the Corps to maintain Lake Sakakawea at higher levels to avoid water quality violations.

In addition, a coalition of regional and national conservation organizations, led by American Rivers, has also sued the Corps of Engineers and the Fish and Wildlife Service in Federal District Court in Washington D.C. This lawsuit charges mismanagement of the Missouri River is causing harm to the ecological values of the river and is imposing undo hardship on some river front communities. This could become the largest of the lawsuits as many states and industries are expected to intervene on one side or the other.

Another important and new issue for us is noxious weed control on sovereign lands.

North Dakota Century Code Chapter 61-33 provides that the State Engineer is

responsible for management of state sovereign lands, defined as the beds of navigable lakes and streams up to the ordinary high water mark. With a growing list of invasive species, we have seen the cost of controlling noxious weeds on sovereign lands grow. We only expect to spend \$12,000 during the 2001-2003 biennium for weed control in these areas, but we anticipate this amount to increase substantially in the future.

And finally, I would also like to address the construction of a new shop building for the Water Commission. The 2001-2003 budget included \$977,100 for the construction of a new maintenance shop. Since then, Water Commission staff have tried to locate affordable land for the new building. Unfortunately, available land in the Bismarck area is very costly.

One possible solution is to enter into a long-term lease. Burleigh County may be willing to enter into such a lease with land it owns near the county fairgrounds. Senate Bill 2022 provides for this option. Another possibility is to build a new shop immediately north of our existing shop on land that is owned by the State Water Commission. I would like to offer an amendment that would allow us to build on our existing land.

Exhibit 2a

PROPOSED AMENDMENTS TO SENATE BILL NO. 2022

Page 2, line 13, after the quotation mark insert "and may build a new shop on new land or one or more of the existing parcels"

Page 3, line 19, after "facillty" insert "on new or the existing water commission property"

Page 3, line 29, after "building" insert "on new or the existing water commission property"

Page 4, line 1, after "building" insert "on new or the existing water commission property"

Page 4, line 3 after the comma insert "on new or the existing water commission property,"

Page 4, line 7, after "building" insert "on new or the existing water commission property"

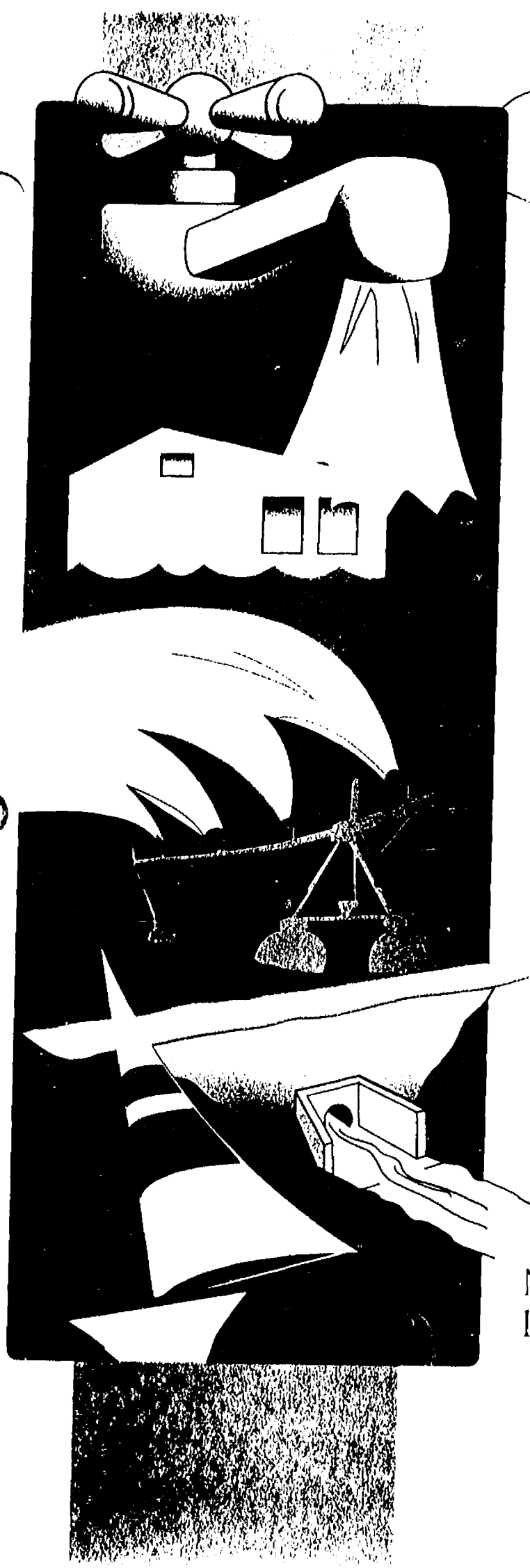
Page 4, line 11, after "appurtenances" insert "on new or the existing water commission property"

Renumber accordingly

2003-2005

Exhibit 3

CONTACT AGENCY FOR COPY OR
LEGISLATIVE COUNCIL LIBRARY



2003-2005 Water Development Report

AN UPDATE TO THE
1999 STATE WATER MANAGEMENT PLAN

North Dakota State Water Commission
December 2002

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Lacosta Rickford 10/15/03
Operator's Signature Date

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**Testimony of
Dennis Hill, Chairman
North Dakota Water Coalition
SB 2022
January 21, 2003**

Mr. Chairman and members of the Senate Appropriations Committee:

My name is Dennis Hill, and in addition to being the Executive Vice President of the North Dakota Rural Electric Cooperatives Association, I am the Chairman of the North Dakota Water Coalition. The North Dakota Water Coalition is comprised of more than 30 statewide and regional organizations in North Dakota who have a stake in the critical water needs facing our state. The Water Coalition has joined together so that we are united in our efforts to complete North Dakota's water infrastructure for economic growth and quality of life.

These needs include rural and urban flood control, water supply for cities, farms, and industrial opportunities, irrigation, a solid commitment to Devils Lake, water management, and other critical water needs. Water supply projects continue to include large regional projects such as the Southwest Pipeline and NAWS, as well as some new water supply expansion projects in the south central and north central areas of our state that you will hear testimony on today.

The Water Coalition strongly urges your support for a budget that allows for adequate funding to meet the critical water needs of North Dakota. At this time I'm going to turn it over to Mike Dwyer who will provide you with the potential water development funding scenario we're facing now and in the future.

Thank you.

North Dakota WATER COALITION

P.O. Box 2254
Bismarck, ND 58502
(701) 223-4330
FAX (701) 223-4645

MEMBERS
Associated General Contractors
of North Dakota

BOMMM Joint Water
Resource Board

Cass County Joint Water Board

City of Bismarck

City of Devils Lake

City of Dickinson

City of Fargo

City of Grand Forks

City of Minot

City of Williston/Upper Missouri
Lake Sakakawea Planning Council

Devils Lake Basin Joint Board

Eastern Dakota Water Users

Economic Development
Association of North Dakota

Garrison Diversion Conservancy
District

Greater North Dakota Association

North Dakota County
Commissioners Association

North Dakota Association of
Rural Electric Cooperatives

North Dakota Atmospheric
Resource Board

North Dakota Education
Association

North Dakota Farm Bureau

North Dakota Farmers Union

North Dakota Irrigation Caucus

North Dakota League of Cities

North Dakota Municipal Bond Bank

North Dakota Rural Water
Systems Association

North Dakota State Water
Commission

North Dakota Water Resource
Districts Association

North Dakota Water Users
Association

North Dakota Weather
Modification Association

Red River Joint Water Board

Souris River Joint Water Resource
Board

Spirit Lake Tribe Water Resource
Program

Southwest Water Authority

Turtle Mountain Band of Chippewa

Three Affiliated Tribes

West River Joint Water Board

Testimony of Dennis Hill, Chairman North Dakota Water Coalition SB 2022 March 6, 2003

Mr. Chairman and members of the House Appropriations Committee:

My name is Dennis Hill, and in addition to being the Executive Vice President of the North Dakota Rural Electric Cooperatives Association, I am the Chairman of the North Dakota Water Coalition. The North Dakota Water Coalition is comprised of more than 30 statewide and regional organizations in North Dakota who have a stake in the critical water needs facing our state. The Water Coalition has joined together so that we are united in our efforts to complete North Dakota's water infrastructure for economic growth and quality of life.

These needs include rural and urban flood control, water supply for cities, farms, and industrial opportunities, irrigation, a solid commitment to Devils Lake, water management, and other critical water needs. Water supply projects continue to include large regional projects such as the Southwest Pipeline and NAWS, as well as some new water supply expansion projects in the south central and north central areas of our state, and you will hear testimony today from residents who have been waiting many years for quality water.

As a state we have made investments in infrastructure - electricity, roads and telecommunications. The Water Coalition believes that a state commitment to water development is necessary for economic growth and quality of life here in North Dakota.

We strongly urge your support for a budget that allows for adequate funding to meet the critical water needs of our state. At this time I'm going to turn it over to Mike Dwyer who will cover the potential water development funding scenario we're facing now and in the future.

Thank you.

LaCosta Rickford
Operator's Signature

10/15/03
Date

WATER BUDGET 2003-2005

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Revenues

	Carryover and New Revenues 2001-2003	Proposed New Revenues 2003-2005
Resources Trust Fund	25,425,000	10,500,000
Water Development Trust Fund	47,700,000	20,600,000
REVENUE SUBTOTALS	\$73,125,000	\$31,100,000
Bonding	9,263,860	60,000,000
TOTALS	\$82,388,860	\$91,100,000

Allocations

	2001-2003 Expenditures	Authorized Additional Expenditures (assumes bonding)	2003-2005 Proposed Water Coalition Staff	Combined Allocations/Expenditures
Devils Lake				
Outlet	1,500,000	9,000,000	16,000,000	25,000,000
Basin development	1,000,000	3,750,000	(1,750,000)	2,000,000
Dike	2,200,000	2,000,000	0	2,000,000
Eastern Dakota Water Supply	150,000	0	150,000	150,000
Flood Control				
Grand Forks	19,500,000	4,400,000	14,107,000	18,507,000
Wahpeton	600,000	1,000,000	1,298,000	2,298,000
Grafton	250,000	0	500,000	500,000
Maple River Dam	500,000	7,700,000	0	7,700,000
Bald Hill Dam	1,000,000	0		
Fargo	500,000	5,000,000	5,500,000	10,500,000
General Water Management	4,500,000	4,500,000	2,000,000	6,500,000
Irrigation	500,000	5,600,000	1,000,000	6,600,000
Missouri River Management	0	0	100,000	100,000
MR&I	5,000,000	10,000,000	0	10,000,000
Northwest Area Water Supply	400,000	0	2,400,000	2,400,000
Weather Modification	350,000	0	350,000	350,000
Southwest Pipeline	8,444,000	0	6,800,000	6,800,000
Project Totals	\$46,394,000	\$52,950,000	\$48,455,000	\$101,405,000
Bond Payments	4,500,000		8,970,000	8,970,000
SWC operations (WDTF transfer)	9,733,820		\$10,070,000	10,070,000
Flood Emergency Deficiency			\$11,000,000	11,000,000
SUBTOTAL	\$14,233,820		\$30,040,000	\$30,040,000
Totals	\$60,627,820	\$52,950,000	\$78,495,000	\$131,455,000
				-21,761,040
				-91,100,000
TOTAL NEED/OBLIGATION			\$131,455,000	
COMBINED BALANCE	\$21,761,040			(18,583,960)

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LaCosta Rickford
Operator's Signature

10/15/03
Date

Exhibit 6A

WATER BUDGET 2005-2007

Proposed Anticipated Revenues 2005-2007

Resources Trust Fund	\$10,500,000
Water Development Trust Fund	\$20,600,000
REVENUE TOTAL	\$31,100,000

Proposed Obligations 2005-2007

Bond Payments	\$17,970,000
SWC Operations	\$10,070,000
OBLIGATIONS TOTAL	\$28,040,000

BALANCE FOR WATER PROJECTS IN 2005-2007 **\$3,060,000**

ADDITIONAL CONTINUING CRITICAL WATER NEEDS IN 2005-2007: EXAMPLES—

Devils Lake	\$25,000,000
Southwest Pipeline (Medora/Beach/Morton)	\$15,700,000
Fargo (Completes state need)	\$5,000,000
Maple River Dam (Completes state need)	\$2,000,000
Irrigation and General Water	\$5,000,000
MR&I (Williams Rural Water)	\$10,000,000
TOTAL	\$62,700,000

OTHER CRITICAL WATER NEEDS (state funding not anticipated):

South Central Regional Rural Water System	\$65 million
North Central Rural Water Consortium	\$23 million
Devils Lake Water Supply	\$30 million

Meeting the

Challenge

THE NORTH DAKOTA WATER COALITION 2003-2005

North Dakota continues to face water challenges

for two simple reasons, too much of it where there shouldn't be, and not enough of it where it's needed.

Since the nineties and beyond, our state has battled forces with many natural disasters, and in the wake of their path the resources and funding needs are significant.

Inside is a glimpse of the water projects and needs in North Dakota, highlighting the four major water projects with largest state funding needs: Fargo, Devils Lake, Grand Forks and the Southwest Water Pipeline Project.

It is clear that if we are to "Meet the Challenge" of North Dakota's water priorities, adequate resources must be available.

Completing these critical projects will save millions in local, state and federal dollars, and will achieve economic growth and quality of life for us all.

—Dennis Hill, Chairman
North Dakota Water Coalition

*"Water is a very good servant,
but it is a cruel master."*

—C.G.D. Roberts,
Adrift in America, 1891.

Meeting Our Biggest Challenges

Grand Forks Flood Protection: Opportunity for Completion

The Grand Forks/East Grand Forks Corps of Engineers Flood Damage Reduction (FDR) Project was authorized by the federal government in December 1998. It is designed to protect both communities from floods of a similar magnitude to the 1997 flood disaster, which caused billions of dollars in damage and forced the evacuation of nearly 60,000 residents. Construction on the project began in 2000 and is scheduled for completion in December 2004.

Community officials continue costly flood fights every year. The 2001 flood fight and cleanup cost an estimated \$3 million for the two communities. The psychological effects on the community cannot be underestimated. Flood protection is crucial in re-establishing a sense of security for the people of Grand Forks.

Cost of the total project is estimated to cost \$397 million. The state share of that total is estimated at \$131 million, which includes the previously allocated \$62 million.

Southwest Pipeline Project: Medora to Beach

Small communities continue to struggle with poor quality water trying to meet current state and the Environmental Protection Agency (EPA) standard requirements. Many rural customers have discolored water high in sulfates, sodium, fluorides, total dissolved solids and nitrates. Local officials at Beach are very concerned with falling wells, and the estimated cost for drilling a new well is \$130,000.

Hopes of economic development in southwest North Dakota are directly related to providing an adequate quantity of quality water. Proposed economic development by the Theodore Roosevelt Medora Foundation, including a golf course and housing development south of Medora, is contingent upon receiving pipeline water.

To complete the Medora-Beach Phase of the project it is estimated to cost \$22.5 million, including \$4.5 million to provide service to areas in Morton County.

Fargo Flood Control: Close to a Crisis

During the 1997 record spring flood, the south side of Fargo experienced major new flood threats from two sources: overland flooding from the Wild Rice River and Red River floodwater backing through Rose Coulee. Fargo constructed emergency levees to prevent these floodwaters from flowing north through Fargo, however properties and neighborhoods south of the emergency levees sustained severe flood damage. The Southside Flood Protection Project, designed to eliminate these flood threats, is nearing completion of the planning/development phase with construction scheduled to begin in 2003.

The Red River is also a severe flood threat. Prior to 1997, the city managed this threat with emergency and permanent levees. During the 1997 flood, some of the permanent levees were raised to prevent flooding. Following the flood, Fargo re-evaluated its permanent levees. Ridgewood Levee, the first levee system nearing reconstruction in north Fargo, provides flood protection to the Veterans Administration Hospital and the surrounding area. This project is expected to receive a federal appropriation to begin construction in federal fiscal year 2003.

The total estimated cost for both projects is \$48.4 million. The state share of that total is \$16.3 million.

Devils Lake Solutions: Federal Project

The State of North Dakota is pursuing a temporary emergency phased implementation outlet project out of West Bay to the Sheyenne River. The first phase of the project is 100 cfs, and the next phases include the capability of expanding the outlet project to 200 or 300 cfs, if necessary. The estimated cost for the State's outlet is \$20 to \$25 million.

The Corps of Engineers is designing a permanent 300 cfs outlet from Pelican Lake to the Sheyenne River. Presently, the Corps is finishing up the Environmental Impact Statement (EIS). After a disappointing delay in August, the Corps is scheduled to release a Final EIS in January 2003, at the earliest, and have a Record of Decision (ROD) completed shortly thereafter. If the ROD supports an outlet project, flooding conditions still exist, and additional funding is made available, the Corps may initiate the bid process on the Pelican Lake Outlet Project sometime in 2003.

The total cost of the Corps project is approximately \$127 million, including downstream mitigation. The state cost share would be 35 percent of approximately \$45 million.

North Dakota Water Coalition—Ongoing Projects

Eastern Dakota Water Supply

The Red River Valley study and environmental analysis will include a comprehensive analysis of all the reasonable alternatives for determining the best way to meet the water supply needs of the Valley. Each alternative will be studied on an in depth basis. As a minimum, three alternatives will be evaluated.

Flood Control

In addition to the flood control projects for Fargo, Grand Forks and Devils Lake, several other Red River flood control projects are needed, including Wahpeton, Grafton, and Maple River and Baldhill Dam protection.

General Water Management

Every North Dakota region and county has projects included in the State Water Management Plan. The State Water Commission provides support for these water management and development projects, which require cost-sharing with local entities, primarily water resource districts. Joint water boards are playing a key role in these local water management projects.

Indian MR&I

An additional \$200 million from the Dakota Water Resources Act has been authorized for Indian MR&I projects. These funds would be applied toward the Standing Rock Sioux Tribe, Three Affiliated Tribes, Spirit Lake Nation and the Turtle Mountain Band of Chippewa Indian Reservations.

Irrigation

North Dakota, which ranks last among the 17 western states in terms of total irrigation, has exciting potential to strengthen and expand irrigation to build and diversify North Dakota's economy. The state, along with local entities and private businesses will have to provide the needed capital and infrastructure requirements to develop significant Missouri River irrigation opportunities.

Missouri River Management

The Missouri River Coordinated Resource Management Program is underway to address critical Missouri River issues, including bank stabilization, fishing, recreation, water management, endangered species, land use, natural resources and water quality.

Municipal, Rural and Industrial

The Municipal, Rural and Industrial (MR&I) water supply program helps North Dakota communities bring a clean, reliable supply of water to their residents, farms, schools, hospitals and industries. The needs continue to grow. The challenging work of encouraging and evaluating municipal, rural and industrial water supply projects is shared by the Garrison Diversion Conservancy District and the State Water Commission.



Northwest Area Water Supply

Construction began in April 2002 for the regional water system for northwestern and north central North Dakota. The estimated cost for the project is \$165 million which will provide Missouri River water for municipal, rural and industrial (MR&I) purposes. Current design serves 15 cities, including the city of Minot, plus three existing and four proposed rural water systems, serving a total population of approximately 75,000 people.



Weather Modification

Operational cloud seeding is presently employed annually by five North Dakota counties and portions of a sixth. Annual cost of the program is about \$690,000, two-thirds of which is raised by the participating counties through local taxes up to 7 mills. The remaining third is cost-shared by the state. Economic impacts were recently assessed and are estimated at \$24.7 million in the target areas in increased crop production alone.

NORTH DAKOTA WATER COALITION

Members

Associated General Contractors
of North Dakota

BOMMM Joint Water
Resource Board

Cass County Joint Water Board

City of Bismarck

City of Devils Lake

City of Dickinson

City of Fargo

City of Grand Forks

City of Minot

City of Williston/Upper Missouri
Lake Sakakawea Planning Council

Devils Lake Basin Joint Board

Eastern Dakota Water Users

Economic Development
Association of North Dakota

Garrison Diversion Conservancy District

Greater North Dakota Association

ND County Commissioners Association

ND Association of Rural Electric
Cooperatives

ND Atmospheric Resource Board

ND Education Association

ND Farm Bureau

ND Farmers Union

ND Irrigation Caucus

ND League of Cities

ND Municipal Bond Bank

ND Rural Water Systems Association

ND State Water Commission

ND Water Resource Districts Association

ND Water Users Association

ND Weather Modification Association

Red River Joint Water Board

Souris River Joint Water Resource Board

Spirit Lake Tribe Water Resource
Program

Southwest Water Authority

Turtle Mountain Band of Chippewa

Three Affiliated Tribes

West River Joint Water Board

North Dakota Water Coalition

The mission of the North Dakota Water Coalition is to complete North Dakota's water infrastructure for economic growth and quality of life.

North Dakota Water Coalition Membership

The North Dakota Water Coalition is made up of 36 statewide organizations, regional entities, municipalities, and other groups from across North Dakota.

North Dakota Water Coalition Goals

1. To provide an adequate water supply across North Dakota for manufacturing, industrial, energy by-product utilization, agriculture, agricultural processing, recreation, wildlife, municipalities and rural water systems which have inadequate supply or quality of water.
 - Complete a workable and achievable Garrison Diversion Project through passage of the Dakota Water Resources Act to provide an affordable multiple-use water supply to central and eastern North Dakota, including the James, Sheyenne and Red Rivers.
 - Complete the Southwest Pipeline and Northwest Area Water Supply Projects.
 - Stabilize Devils Lake.
 - Secure adequate funding for the MR&I Program.
 - Develop multi-use statewide water impoundments for recreation, wildlife and fishing.
 - Secure funding for irrigation development.
2. To complete projects to control and alleviate flood waters and damages, including Grand Forks, Devils Lake and Fargo flood control, bank protection, and increasing the flood control capacities of the Baldhill Dam and Reservoir, the Maple River Dam and others.

North Dakota
WATER
COALITION

Exhibit 19

Michael A. Dwyer
Executive Vice President
701-223-4616
701-223-4645 (Fax)

PO Box 2254 • Bismarck, ND 58502-2254

NORTH DAKOTA

Water Users
Association

Senate Appropriations Committee Hearing
on SB 2022

North Dakota Water Users Association
Loren Zimmer, President

Members of the Senate Appropriations Committee,

I am Loren Zimmer, President of the North Dakota Water Users Association. North Dakota is a great state, made up of people who are proud to live here, and who join together to make this a great place to live. One of the critical needs for economic growth and quality of life is water. We need to develop our water resources for agriculture and irrigation, for municipal and domestic use for health and quality of life, for flood control to protect our property from damage, and for recreation to provide the opportunities that make North Dakota a special place to live.

Our current and past Governors, our Legislature, and our Congressional Delegation have been united in making a commitment to water development and water management. The Resources Trust Fund in 1981, and the Water Development Trust Fund in 1999, are two examples of your commitment to developing our water resources. Because of your commitment, we have built or are building the Souris River Flood Control, the Sheyenne River Flood Control, the Southwest Pipeline Project, the NAWS Project, the Grand Forks Flood Control Project, many rural water systems, irrigation projects, Garrison Diversion, Devils Lake, and other critical water needs to prosper our state. We must complete all of these important projects to protect our future. On behalf of the North Dakota Water Users Association, we ask that you not retreat from the commitment you have made to complete North Dakota's water infrastructure for economic growth and quality of life. Thank you.

Dedicated to Protect, Develop, and Manage North Dakota's Water Resources

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Operator's Signature

Lacosta Rickford

10/15/03
Date

Exhibit 17

**Testimony of
Ben Varnson, president
North Dakota Water Resource Districts Association
SB 2022
January 21, 2003**

Mr. Chairman and members of the Senate Appropriations Committee:

My name is Ben Varnson, and in addition to being the President of the North Dakota Water Resource Districts Association, I am also the Chairman of the Nelson County Water Resource District in Lakota, and also a director on the Devils Lake and Red River Joint Water Boards. The North Dakota Water Resource District Association is comprised of approximately 48 out of 52 counties statewide. Our authority comes from Century Code Chapter 61-15 which gives us a wide range of responsibilities inclusive of doing "all things reasonable and proper to preserve the benefits to be derived from the conservation, control and regulation of the water resources" of our counties and watersheds.

As water managers we serve at the pleasure of our county commissioners and we serve because we have a firm belief that wise, thoughtful, and progressive water development is needed to secure and protect our economic and cultural base with the state.

While we realize the pressures placed on the state and the Legislature to stretch scarce available dollars, we want also to express to you that the water community within our state has very serious needs relative to water development projects. The scope of water projects range from flood control to communities in all parts of the state, water supply and delivery systems to those that are struggling with poor or inadequate water, and for other projects including irrigation and general water management.

While we recognize that SB 2022 places a burden on all of the necessary water projects in the state because of a need to include State Water Commission funding, and FEMA reimbursements, our association hopes this committee will support a budget which allows for sufficient funds for the continuation of needed water development projects now and in future years.

Thank you.

Exhibit 7

**Testimony of Bob Frantsvog before Senate Appropriations
Committee**

**RE: SB 2022 State Water Commission Budget
January 21, 2003**

Mr. Chairman and members of the committee, my name is Bob Frantsvog. I am the Finance Director for the City of Minot.

I am pleased to report to you that on April 5, 2002, a ground breaking was held in Minot marking the beginning of construction of the NAWS project. This past summer the first phase of the project started, installing an estimated 10 miles of pipe beginning at the Minot Water Treatment Plant and going south toward Lake Sakakawea. The NAWS project will bring water from Lake Sakakawea to Minot, and to northwest and north central North Dakota. When completed, the NAWS project will provide a high quality water supply, meeting the long-term water supply needs of an estimated 63,000 people. The 35% local funding share for the project is being paid by a one percent city sales tax in Minot. This sales tax generates approximately 4.5 million dollars per year.

The State Water Commission has played a key role in Minot and the area with assistance in flood control, and the development of the NAWS project. It is imperative that appropriations for the State Water Commission are adequate so that they can continue support for water development not only in northwest and north central North Dakota but also throughout the entire state.

Most of the water supply for northwestern and north central North Dakota comes from ground water sources. These ground water sources are poor in quality and at times very limited. The rural areas of northwest and north central North Dakota are in desperate need of an adequate supply of good quality water. Good quality water is a necessity for families, businesses, agriculture, and also in attracting new business and industry. The City of Minot remains committed to funding the local share of supplying water to areas beyond Minot to northwest and north central North Dakota. The initial phase of the NAWS project created a new hope for a better water supply for many people. We need to continue to be committed to the completion of the entire NAWS project.

The state needs a water development budget that provides sufficient funds for continuing the development of water projects in North Dakota. I hope you agree, and I urge you to adopt a budget that will allow them to continue to address these needs.

Thank you

LaCosta Rickford
Operator's Signature

10/15/03
Date

Northwest Area Water Supply

ND State Water Commission
900 East Boulevard Avenue
Bismarck, ND 58505-0850

CONTACT INFORMATION
If you have any questions or need more information about the Northwest Area Water Supply project, please contact the NAWS project office at (701) 224-2771 or visit our website at www.ndswc.com.
ND STATE WATER COMMISSION
John Hovsen, Commissioner
Robert Johnson, Deputy Commissioner
Elmer Hillebrand, General Counsel
Robert Thompson, Policy
Jack Olin, Director
Harley Swanson, Manager
Larry Hanson, Director
Mark Halstrom, Director
Curt Hoffman, Director
Dale L. Fink, State Engineer
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Gary Hagen, Vice Chairman
Wanda Emerson, Vice Chairman
Kenny Rogers, Vice Chairman
Allan Lee, Vice Chairman

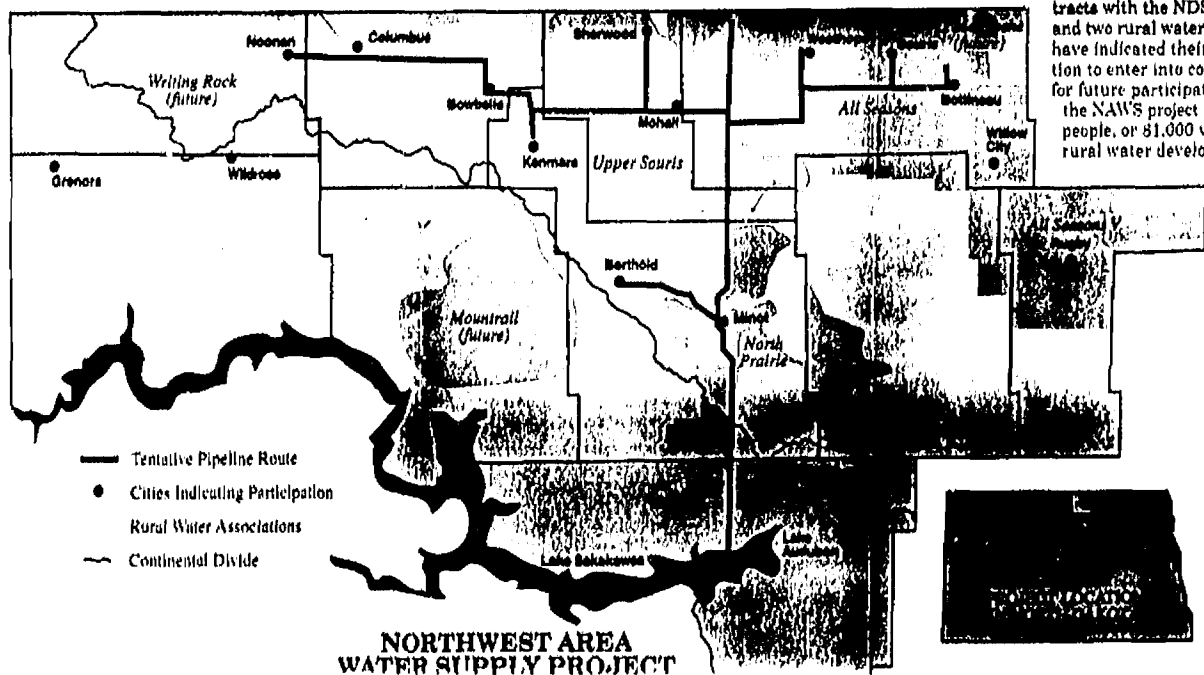
Background

Construction of the Northwest Area Water Supply (NAWS) project is now underway, bringing the opportunity for good quality drinking water to communities in northwestern and north central North Dakota. Development of the NAWS project has been a lengthy process, but the first steps of construction have now been taken, with the ceremonial groundbreaking held in Minot on April 8, 2002.

Project evolution

In 1991, the North Dakota Legislative Assembly passed into law, a bill creating the NAWS Advisory Committee, while giving the North Dakota State Water Commission (NDSWC) the authority to construct, operate, and manage the project. In 1993, Houston Engineering, which had worked on previous NAWS studies, was retained as the pre-final design team for the NAWS project.

For the pre-final design, every public water system, including cities, communities, and rural water systems within the 10 county project area were given the opportunity to sign Agreements of Intent to purchase water from the NAWS project. Fifty public water systems signed this agreement, including 41 communities and nine rural water associations. After NAWS water rates were determined, those communities were then asked to sign Water Service Contracts. As of 2002, 16 communities have signed Water Service Contracts with the NDSWC, and two rural water systems have indicated their intention to enter into contracts for future participation in the NAWS project of 63,000 people, or 81,000 with rural water development.



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Operator's Signature *LaGosta Rickford*

Date *10/15/03*

The \$145 million NAWS project will be funded on a cost-share basis with 65 percent federal funds coming from the Garrison Municipal, Rural and Industrial (MRI) water supply program, and 35 percent through local funding. The local share is currently being met by a 1 percent city sales tax in Minot, generating approximately \$4.5 million dollars annually. Only those users who actually purchase water from the system will pay for the operating costs of the water delivery system.

The federal portion of the NAWS funding is appropriated by Congress on an annual basis, through the Bureau of Reclamation's budget. As a result, persistent local support will be important in ensuring that funding is adequate to complete this vitally important project on schedule.

Project features

The NAWS project will be of sufficient size to deliver a maximum daily flow of 28 million gallons per day to the Minot Water Treatment Plant. The raw and pretreated water pipeline from Lake Sakakawea to the treatment plant will be 45 miles of 30-inch and 36-inch diameter steel or ductile iron pipe. This pipeline will include a three million gallon water storage reservoir and a booster pump station with pretreatment facilities. The remainder of the project will consist of some 250 miles of pipeline ranging in size from 22 inches to 4 inches in diameter as well as eight storage reservoirs and 12 pump stations. In general, the pipeline will be routed to follow highway and other road alignments in the project area.

A Supervisory Control and Data Acquisition (SCADA) system will be used to monitor system function, collect data, and provide remote systems operation control. Each major facility will be equipped with a remote telemetry unit to communicate with the central control facility. Those facilities on the pretreated water pipeline include the intake pump station, booster pump station, pretreated water storage reservoir, and a pressure reducing station upstream of Minot. The influent control facility at the Minot Water Treatment Plant will also be connected to the remote system.

Biota control

Prevention of the interbasin transfer of biota from the Missouri drainage to the Hudson Bay drainage via the NAWS project is of great concern to the NDSWC. The NAWS project includes two methods of biota transfer control: water treatment and special design features. Before Missouri River water crosses the continental divide, it will be pre-treated with chlorine and ammonia (chloramination). At the treatment plant, Missouri River water will be softened, filtered, exposed to ultra-violet light and then chloraminated as a final disinfection step.

Design features include automatic shutdown of key facilities in the event of failure of critical equipment. Five automated pipeline isolation valves will also be included within the Hudson Bay drainage, which will close automatically upon sensing a failure anywhere within the system.

An emergency response plan has been outlined for the project, with the purpose of identifying the necessary steps to be taken in the event of a catastrophic failure of the pipeline, resulting in the discharge of pretreated water into the Hudson Bay drainage. Details of an emergency response plan will be developed and implemented prior to the NAWS project becoming operational.

The first portion of the NAWS project to be constructed will be the 45-mile pipeline delivery system to Minot's Water Treatment Plant. The first construction contract, starting from the Minot Water Treatment Plant and proceeding out of town to the south along U.S. Highway 83, consisted of 9.5 miles of 36-inch and 30-inch diameter pipeline. Plans and specifications for the next few years of pipeline construction are currently being developed. The three million gallon pretreated water storage reservoir will be constructed along Highway 83, approximately 15 miles south of Minot. The intake pump station located on Lake Sakakawea will lift water from the lake and pump it to a booster pump station planned for construction near the town of Max.

Future development

NAWS will eventually bring water from Lake Sakakawea to Minot, and to as far away as Sherwood in the north, Bottineau in the east, and Noyan in the west. Along the way, successive phases of construction will also connect the communities of Berthold, Mohall, Kenmare, Bowbells, Columbus, Westhope, and Souris. Smaller regional systems may also be considered as alternatives to the central supply from the Missouri River. These alternatives will be evaluated as they develop, and as the NAWS project progresses. Separate supplies will be developed for Grenora and Wildrose.



Above and Right: Construction near the old landfill in Minot, east of Burdick Expressway 6-1 north of the U.S. Hwy. 2 and 83 bypass, shows the trenchbox to protect workers. The trench in this area is up to 20 feet deep.

Top: Construction on the NAWS project on the outskirts of Minot. Above: Installation of a combination air/vacuum intake release valve vault.

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Operator's Signature

La Costa Rickford

Date

10/15/03

Senate Appropriations Committee
SB 2022 - State Water Commission Budget Hearing
Tuesday, January 21, 2003, 8:30 - 11:00 a.m. CST
Testimony of Pat Lynch, Mayor of Beach, ND

Good Morning:

Mr. Chairman, and members of the committee, my name is Pat Lynch, mayor of Beach in southwest North Dakota. Thank you for this opportunity to talk to you about the water needs of our city.

We definitely need a new source of water. Beach has requested sole source service from the Southwest Pipeline Project for two major reasons.

First of all, our current water supply is extremely high in sodium. Because of this high level of sodium, we can't grow decent lawns or gardens. The water turns everything white and causes the ground to become hard, killing the tender young plants. What's worse, though, is how the water may be affecting the public's health. The sodium content is nearly *five times* the level recommended by doctors.

Second, we are experiencing many problems with our wells. With last summer's drought and heat, should a large fire – or worse yet, another drought occur this year – our wells would not be able to provide an adequate supply of water.

Beach has only one good well. The other two are questionable. Our one good well, our *main* well, has been giving us trouble for the past three years. If that one goes down, we'll have to drill almost immediately – at an estimated expense of more than \$120,000 - money our city does not have.

We need to look to every avenue we can to improve the quality of life of our present and future citizens. Certainly people considering a move to Beach are going to look at water quality and its effects on health, and aesthetic aspects such as yards, gardens, trees and visual appearance. Water

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LaCosta Rickford
Operator's Signature

10/15/03
Date

is the lifeblood of any community, especially as we look to the future with hopes to grow and prosper. We feel strongly that economic development and community growth are directly related to assurance that Beach can provide a dependable supply of quality water. Quality water, our most precious resource, is an essential element to the economic development of not only Beach, but our entire state.

My community originally signed up for the Southwest Pipeline Project in 1983. We were told that by 1996 or 1998 we would have pipeline water. We've waited patiently, but Beach is at the point where we need water and we need it now. We need this project completed. We appreciate all you can do to make that happen. Thank you.

Senate Appropriations Committee
SB 2022 - State Water Commission Budget Hearing
Tuesday, January 21, 2003, 8:30 - 11:00 a.m. CST
Testimony of Justin Kohanes, Beach, ND

Good Morning:

Mr. Chairman, and members of the committee, my name is Justin Kohanes of rural Beach, ND. I'm here today to share with you my family's experiences dealing with the poor quality water supply in our area. I also ask for your support to continue funding to the State Water Commission which will enable the Southwest Pipeline Project to continue with the next phase of construction -- the Medora-Beach Phase.

Golden Valley and Billings Counties in southwest North Dakota need a good quality and dependable water supply. My family and I moved out to the farm eight years ago. We really like the house and location; however, our water is not fit to drink or even bathe with. In those eight years, I have replaced three water heaters, four kitchen faucets, a washing machine, and a pump in the dishwasher. Currently, I haul water from Beach. Because of the poor quality of Beach's water, we use it for household use only. We purchase water from the store for drinking and cooking purposes.

I haul water with a 475-gallon tank three to four times per week. My family of four - my wife Kiffin, and two boys, Jared 8 and Jordon 6, use about 1,200 gallons of water every week. We have learned how to be very conservative with water. Think about how you wash your vehicle or water your lawn or flowers without a second thought. We aren't able to do those things because of the extra trip to haul another load of water.

My closest neighbor is in his 80's, and he has hauled water all of his life. Another one of my neighbors' well for his home and livestock is now pumping sand. His wife, too, buys water from the

store to drink.

You may be asking, why not drill a new well? Because the estimated cost to dig a new well is \$30,000 with no guarantee of water.

If young families like mine are to continue being part of the rural community, it is essential that quality water be made available so we can enjoy the quality of life so many take for granted.

We are all very hopeful that the Southwest Pipeline Project will come our way very soon. Without good quality water, you don't have anything. Thank you for your time.

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La Costa Rickford
Operator's Signature

10/15/03
Date

Good morning Mr. Chairman and members of the committee. My name is Justin Kohanes of rural Beach, ND. Thank you for this opportunity to talk to you about the water needs of our area and share my family's experiences dealing with poor quality water. I also ask for your support to continue funding to the State Water Commission enabling the Southwest Pipeline Project to continue with the next phase of construction – the Medora-Beach Phase. Golden Valley and Billings Counties in southwest North Dakota need a good quality and dependable water supply, specifically the city of Beach. The city has requested sole source service from the Southwest Pipeline Project for two major reasons.

First, the current water supply is extremely high in sodium. Not only does it turn everything white and cause the ground to harden, it may be affecting the public's health. The sodium content is nearly *five times* the level recommended by doctors.

Second, Beach has only one good well. The other two are questionable. The good well, the city's *main* water source, has not been working properly the past three years. If that well goes down, they'll need to drill almost immediately – at an estimated expense of more than \$120,000 - money the city does not have.

My family and I moved out to the farm eight years ago. We really like the location; however, our water is not fit to drink or even bathe with. In those eight years, I have replaced three water heaters, four kitchen faucets, a washing machine and a pump in the dishwasher.

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My closest neighbor is in his 80's, and has hauled water all of his life. Another one of my neighbors' wells for his home and livestock is now pumping sand. His wife, too, buys water from the store to drink.

You may be asking, why not drill a new well? Because the estimated cost to dig a new well is \$30,000 with no guarantee of water.

If young families like mine are to continue being part of the rural community, it is essential that quality water be made available so we can enjoy the quality of life so many take for granted. We are all very hopeful that the Southwest Pipeline Project will come our way very soon. Without good quality water, you have nothing. Thank you for your time.

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Operator's Signature

10/15/03
Date



North Dakota State Water Commission



Southwest Water Authority



QUESTIONS ABOUT THE SOUTHWEST PIPELINE PROJECT
may be directed to Ray Christensen, Operations
Chief for the Southwest Water Authority, at
701-225-0241, or toll free at 1-800-425-0241, or
by email to ray.christensen@ndswc.nd.us
North Dakota State Water Commission at
1011 Lounsbury, 701-225-4959. E-mail inquiries
may be sent to ndswc@ndswc.nd.us

CONTACT INFORMATION

The Joint Venture of
Bartlett and West Consulting Engineers
and Boyle Engineering Corporation, ND 58603
Joseph B. Bartlett, P.E.
1455 East Century Ave., Bismarck, ND 58603

ENGINEERING CONSULTANT

Larry Bates, Dickinson
Larry Ziegler, Dickinson
Joe Steier, Slope County
Duane Buehler, Oliver County
Steve Tomes, Mercer County
John Kiehl, Mercer County
Ray Biebert, Hettinger County
Brian Roth, Grand County
Darrel Oech, Golden Valley County
Emmanuel Stroh, Dunn County
Don Flynn, Bowman County
James Oermann, Billings County
Leonard Jacoby, Adams County
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Loren Myran, Chisholm County

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ND STATE WATER COMMISSION MEMBERS

Background

Southwestern North Dakota has always had a chronic water supply problem, both in the quality and quantity of readily available water. In 1983, as a result of the need for adequate amounts of good quality water, the State Legislature authorized the North Dakota State Water Commission (NDSWC) to construct and operate the Southwest Pipeline Project (SWPP).

Construction of the SWPP began on the main transmission lines in Mercer County in 1988. In October of 1991, water delivery began in Dickinson. By 2002, service had been extended to 23 communities and over 2,300 rural customers, in total serving greater than 11,000 people. In 2002, the SWPP supplied over one billion gallons of treated water, with approximately 10 percent of it going to rural customers.

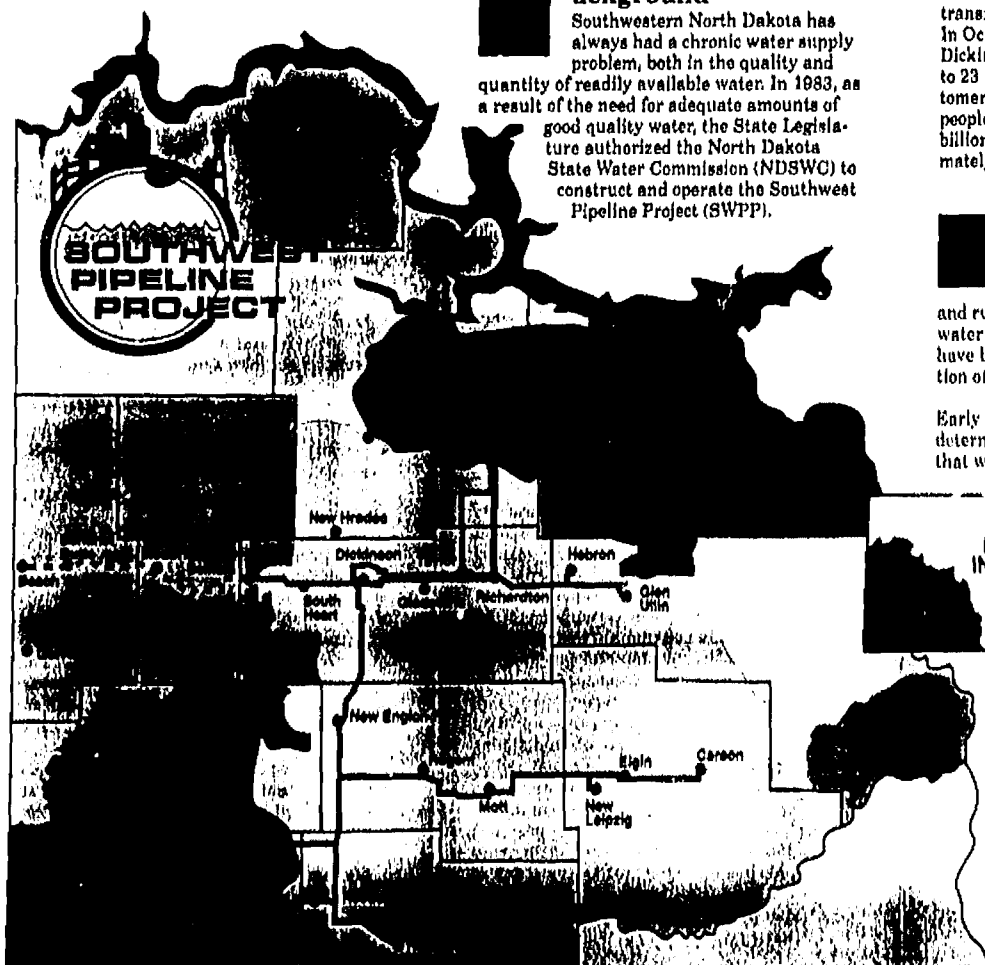
Project evolution

The SWPP was originally designed as a wholesale water supply system that would serve both cities and rural water systems under the terms of water service contracts. The project was to have been built quickly, utilizing a combination of bonds and State funding.

Early in the project's construction, it was determined that those rural water systems that were going to be served by the project,

could be more efficiently designed, built, and operated if they were integrated with the project. Integration was approved by the Legislature.

PROJECT LOCATION IN WESTERN NORTH DAKOTA



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Operator's Signature

10/15/03
Date

Assembly in 1989, and adopted by the NDSWC in 1991.

Since then, integration has guided the project development. A conceptual plan dividing the entire project area into rural water service areas was developed. These service areas have become the basis of the project's phased development plan, which determines the order in which service areas are to be constructed.

As the integration concept became reality, it was evident that a local organization would be needed to conduct the customer relations with the rural water users. A first step towards this goal was the formation of the Southwest Water Authority (SWA) as a nonprofit corporation. In 1991 the Legislature created the SWA as a political subdivision. In this role, the SWA has served as a partner in the realization of the dream of the SWPP.

Water Treatment

Water for the SWPP is treated at the city of Dickinson's water treatment plant. The water treatment plant is still owned by the City of Dickinson, but is managed by the SWA.

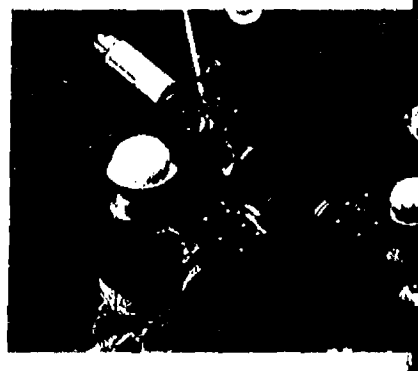
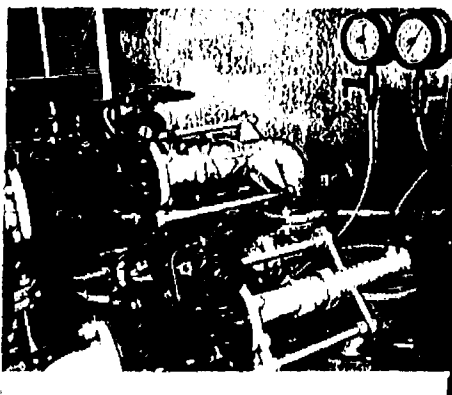
The treated water supply from the Dickinson water treatment plant has proven to be sufficient to meet all of the domestic water supply needs of the region. This allows cities to maintain their individual supplies for emergencies only. When built, treated water from the SWPP for Oliver, Mercer and the northern portions of Dunn County, may come from a separate facility.

The original plan to fund the SWPP with general obligation bonds was found to be unconstitutional by the North Dakota Supreme Court. Fortunately, at about the time construction was to begin, the reformulated Garrison Diversion Project's Municipal, Rural, and Industrial (MR&I) Water Supply Program came into existence. This grant provides up to 75 percent of the cost for development of water supply projects. The legislation creating the program states that the SWPP is eligible and gives cost-sharing credit for the funds the State had previously expended on the project. Without this program, and the cooperation of the Bureau of Reclamation and the Garrison Diversion Conservancy District, the SWPP would probably still be just a dream. To date over \$32 million from North Dakota's Resources Trust Fund and General Fund and nearly \$70 million in MR&I funding has been spent on the SWPP.

residents making capital repayments under the terms of their service agreements. The SWPP generates a revenue stream that is sufficient to make payments on revenue bonds issued for construction. This steady source of revenue overcomes the concerns the North Dakota Supreme Court had about the original bonding plan. In 1997, the State Legislature approved revenue bonding as a method for financing the SWPP. Since then approximately \$16.6 million in revenue bonds have been issued for the project. Almost \$7.3 million of this amount has come through USDA Rural Development's Grant-Land Program. These funds, along with state funding through the Water Development Trust Fund have qualified the project for \$9.2 million in USDA grants. In 1999 and 2001 State Legislative Assemblies approved \$4.6 million and \$7.3 million respectively for the SWPP from the Water Development Trust Fund.



Above: A plan train installing main water pipeline south of New Leipzig, North Dakota, in 1998.
Left: Installation of double cross pipe on the main transmission pipeline in the early days of construction of the SWPP.
Below: Inside a pipeline construction site.



Above: Installation of valves at a pipeline intersection.
Right: Construction on the eight inch main transmission pipeline between Richardson and Hebron in 1998.



Operations

On January 1, 1996, the NDSWC transferred all operation and maintenance functions of the SWPP to the SWA. While ownership and new construction of the project remains with the NDSWC, the SWA is the entity that does the work and makes the decisions necessary to get good quality water from Lake Sakakawea into people's homes. In 2001, the SWA received permission from the North Dakota Legislature to reduce the number of their board of directors from 27 to 14.

Future development

Under the Phased Development Plan of the SWPP the next area to be constructed is the Morton Beach regional area. This area includes the extension of the main transmission line from Belknap to Beach, and the construction of rural distribution pipelines, eventually serving users in Billings-Golder Valley, and western Stark County. A rural water distribution system for southern Morton County, served by Missouri West Water Users, is also included in this phase of the SWPP. Morton County has always been part of the SWA, and construction of this system will provide service to an area that would not have had reasonable service without the SWPP. Some of the features in the non-Morton County portion of the SWPP include 47 miles of 10- and 12-inch pipeline, three potable water reservoirs, several booster pump stations, and rural distribution pipelines serving over 100 rural water users. The Morton County portion encompasses about 160 miles of pipe, serving roughly 150 users. The total cost for the Beach-Morton Phase, including the Morton County system, is estimated to be \$22.5 million.

Exhibit 11

**Testimony of
Rocky Thomas, secretary
North Central Rural Water Consortium Board
SB 2022
January 21, 2003**

Mr. Chairman, members of the Senate Appropriations Committee, my name is Rocky Thomas; I am manager of the McLean-Sheridan Rural Water System, and I also serve as secretary of the North Central Rural Water Consortium (NCRWC) Board. I have been asked to provide testimony before you today on behalf of the North Dakota Rural Water Systems Association, regarding projects that are ready to proceed if funding were made available through sources such as the Water Development Trust fund. The NCRWC project is just such a venture.

As the information in the hand out you have just received indicates, the NCRWC project is unique in many respects in the state of North Dakota. To our knowledge this project is the first fully organized cooperative effort to fill gaps between existing systems. It is the first project to consider setting system boundaries aside, and utilizing existing infrastructure to its fullest potential, for the benefit of the customer. And, as indicated by Tribal Council, it is the first organized effort to seek long-term working relations with the Three Affiliated Tribes, in serving tribal and non-tribal members outside of the Fort Berthold Reservation. The NCRWC was in fact, recently cited as an example of independent agencies working toward a common goal by Gov. John Hoven in his address at the North Dakota Water Users Convention. And, the NCRWC will soon be featured in a quarterly international publication on Holistic Management, published by the Allen Savory Center.

The NCRWC Project primarily encompasses expansion of three existing rural water systems in central North Dakota. When developed this project will fill the gaps in service areas from Wilton to Carpio, Churches Ferry to Carrington. It will address arsenic problems in the communities of Granville, Karlsruhe, Anamoose and Selz. We plan to assist Pick City, Sakakawea State Park, the Corps of Engineers, and the State Fish Hatchery in meeting surface water regulations. And replace Underwood's water supply which will be lost to adjacent mining activities, acting as a wheeling agent for the city of Riverdale. We plan to provide potable water to an estimated 700 rural homes, farmsteads, and businesses throughout the area, in addition to those we currently serve.

Because the NCRWC project encompasses expansion within three existing distribution systems, a considerable portion of the requirements for environmental assessment and cultural resources surveys have previously been met. Further, there have been numerous studies on portions of this project, and some, but not all, include both cultural and environmental assessment. For this reason the NCRWC project can be ready to move forward on very short notice, given funding.

Our single largest holdup at this point is the limited total allocations from the Dakota Water Resources Act to the Garrison Diversion Conservancy District. Through utilization of funding sources such as the Water Development Trust fund, this project could move forward.

In closing gentlemen, I urge you to review the information you have received in the handout, you will find our website address, where you will find more information regarding our project. And, I urge you to remember that the NCRWC also needs your support for funding at the state level.

Lacosta Rickford
Operator's Signature

10/15/03
Date

My need for quality water

Chairman Holmberg and members of the committee.

My name is Gene Goven from north of Turtle Lake.

Two days ago I stood before you sharing that we are capturing more raindrops where they fall, infiltration versus surface runoff and thus raising more grass. Also shared with you that the water quality is improving on our watershed.

However, our well water still stinks. Stinks like rotten eggs from Hydrogen Sulfide.

Most of the time the odor is tolerable, to us. When we get company; they notice it as soon as they step in the door. There are times that it gets stronger. Then, especially when taking a shower or washing clothes, it is, well just about more then we can take, especially to my wife.

We also get that ring around the sink, tub and stool. After sitting in a glass or jar for an hour our well water turns to the color of light tea. Needless to say we don't buy many white clothes. They just don't stay white after being washed.

Our softener cannot keep up. If I have it backwash every night, we then have trouble with our septic tank and drain-field. A backed up septic tank is not my idea of quality of life.

Our wells are 130 feet deep. If we go deeper we have to drill 500 to 800 feet. The water is then super soft. But then the sodium level is from 500 to 700 PPM. Well over the maximum recommended guideline for health purposes of 200 parts per million. Especially for infants and elderly.

If we had rural water going past our yard my quality of life would improve. Not just from having better drinking water but my wife would be... well anyway, you get the picture.

For this reason I stand before you today, and urge your support of Senate Bill 2022 to provide bonding for such rural water projects on a state level. I would also ask your support of Senate Concurrent Resolution 4037 supporting the North Central Rural Water Consortium and South Central Regional Water District Projects.

Thank you

Exhibit 12



The North Central Rural Water Consortium

A cooperative effort on the parts of:

McLean-Sheridan Rural Water

Central Plains Water District

North Prairie Rural Water

Associate Members:

Mandan, Hidatsa, & Arikara Nation
Mountrail County Rural Water

Spirit Lake Nation
Garrison Rural Water

~ Our Mission Statement ~

**To Generally achieve, more feasible water supply systems.
Working cooperatively, to reach the most efficient goal in
service to our respective customers**

Find us online at -- www.ruralwateronline.com/NCRWC.htm

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Operator's Signature

10/15/03
Date

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11. Timelines (cont.)
12. Project Service Area
13. Communities exceeding the proposed Arsenic Standard within the Project Area
14. Available Water Resources within the Project Area
15. NCRWC Brochure

**Testimony of
Rocky Thomas, Secretary
North Central Rural Water Consortium Board
SB 2022
January 21, 2003**

Mr. Chairman, members of the Senate Appropriations Committee, my name is Rocky Thomas; I am manager of the McLean-Sheridan Rural Water System, and I also serve as secretary of the North Central Rural Water Consortium (NCRWC) Board. I have been asked to provide testimony before you today on behalf of the North Dakota Rural Water Systems Association, regarding projects that are ready to proceed if funding were made available through sources such as the Water Development Trust fund. The NCRWC project is just such a venture.

As the information in the hand out you have just received indicates, the NCRWC project is unique in many respects in the state of North Dakota. To our knowledge this project is the first fully organized cooperative effort to fill gaps between existing systems. It is the first project to consider setting system boundaries aside, and utilizing existing infrastructure to its fullest potential, for the benefit of the customer. And, as indicated by Tribal Council, it is the first organized effort to seek long-term working relations with the Three Affiliated Tribes, in serving tribal and non-tribal members outside of the Fort Berthold Reservation. The NCRWC was in fact, recently cited as an example of independent agencies working toward a common goal by Gov. John Hoven in his address at the North Dakota Water Users Convention. And, the NCRWC will soon be featured in a quarterly international publication on Holistic Management, published by the Allen Savory Center.

The NCRWC Project primarily encompasses expansion of three existing rural water systems in central North Dakota. When developed this project will fill the gaps in service areas from Wilton to Carpio, Churches Ferry to Carrington. It will address arsenic problems in the communities of Granville, Karlsruhe, Anamoose and Selz. We plan to assist Pick City, Sakakawea State Park, the Corps of Engineers, and the State Fish Hatchery in meeting surface water regulations. And replace Underwood's water supply which will be lost to adjacent mining activities, acting as a wheeling agent for the city of Riverdale. We plan to provide potable water to an estimated 700 rural homes, farmsteads, and businesses throughout the area, in addition to those we currently serve.

Because the NCRWC project encompasses expansion within three existing distribution systems, a considerable portion of the requirements for environmental assessment and cultural resources surveys have previously been met. Further, there have been numerous studies on portions of this project, and some, but not all, include both cultural and environmental assessment. For this reason the NCRWC project can be ready to move forward on very short notice, given funding.

Our single largest holdup at this point is the limited total allocation of funding available to the Garrison Diversion Conservancy District. Through utilization of funding sources such as the Water Development Trust fund, this project could move forward.

In closing gentlemen, I urge you to review the information you have received in the handout, you will find our website address, where you will find more information regarding our project. And, I urge you to remember that the NCRWC also needs your support for funding at the state level.

~ Board of Directors ~

Ralph Packulak, Chairman - Central Plains Water District

Blaire Olafson, Vice Chairman - North Prairie Rural Water

Rocky Thomas, Secretary - McLean-Sheridan Rural Water

Jason Betterley, Treasurer - North Prairie Rural Water

Brad Weber, Board Member - Central Plains

Gene Goven, Board Member - McLean-Sheridan

Alf Dylbing, Alternate Representative - Central Plains Water District

Ronald Opland, Alternate Representative - North Prairie Rural Water

Frank Heinzen, Alternate Representative - McLean-Sheridan

~ Associate Member Representatives ~

Texx Lone Bear - Three Affiliated Tribes

Felicia Felix - Three Affiliated Tribes

Dave Cavanaugh - Spirit Lake Nation

North Central Rural Water Consortium

Board Rep	Alternate Rep	Manager Rep
McLean-Sheridan Rural Water		
Gene Goven, Chairman	Frank Heinzen, Vice-Chairman	Rocky Thomas, Manager
1824 - 15 th Avenue NW Turtle Lake, ND 58575	5503 - 16 th Street NW Garrison, ND 58504	McLean-Sheridan Rural Water 987 - 17 th Avenue NW Turtle Lake, ND 58575-9649 Office Phone: 701-448-2686 Home Phone: 701-448-2233 Fax: 701-448-2315 Cell Phone: 701-460-1269 E-mail: msrw@westnyc.com
Home Phone: 701-448-2405	Home Phone: 701-743-4469	
E-mail: gmkgoen@westnyc.com	E-mail: None	
		NCRWC - Secretary/Information Officer

Board Rep	Alternate Rep	Manager Rep
North Prairie Rural Water		
Blaire Olafson, Vice-President	Ronald Opland, Director	Jason Betterley, Manager
7101 - 128 th Avenue NE Glenburn, ND 58740-9566	5315 - 170 th Street SW Des Laes, ND 58733-9411	North Prairie Rural Water 1225 Hwy. 2 Bypass East Minot, ND 58701-7927 Office Phone: 701-852-1886 Or - 1-800-536-3150 Home Phone: 701-852-4820 Fax: 701-624-0231 Cell Phone: 701-720-4474 E-mail: jasondb@verendrye.com
Home Phone: 701-728-6520 Cell Phone: 701-720-5703 E-mail: olafson@minot.ndak.net	Home Phone: 701-725-4343 E-mail: None	
NCRWC - Vice-Chairman		NCRWC - Treasurer

Board Rep	Alternate Rep	Manager Rep
Central Plains Water District		
Brad Weber, Director	Alf Dylbing, Chairman	Ralph Packulak, Manager
1941 - 67 th Avenue NE New Rockford, ND 58356	4985 - 29 th Street NE Maddock, ND 58348	Central Plains Water District P.O. Box 157 Fessenden, ND 58438-0157 Office Phone: 701-547-3751 Home Phone: 701-547-3699 Fax: 701-547-3571 Office E-mail: cpwd@stellarnet.com Home E-mail: pack@stellarnet.com
Home Phone: 701-947-2974	Home Phone: 701-438-2392	
E-mail: beweber@stellarnet.com	E-mail: None	NCRWC - Chairman

Engineering Firms	
NCRWC	Fort Berthold
Darrell Hournbuckle, PE	Ken W. Royse, PE
Interstate Engineering	Bartlett & West Engineers, Inc.
P.O. Box 2035	3456 East Century Avenue
Jamestown, ND 58402-2035	Bismarck, ND 58503-0737
Office Phone: 701-252-0234	Office Phone: 701-258-1110
Fax: 701-252-0203	Fax: 701-258-1111
Cell Phone: 701-320-2462	
E-mail: durrellh@iengi.com	E-mail: k_royse@bartwest.com

Associate Members		
Fort Berthold Rural Water	Spirit Lake Rural Water	Mountrail County Rural Water
Texx Lone Bear, Manager	Dave Cavanaugh, Manager	Jack Hanzal, Director
Fort Berthold Rural Water	Spirit Lake Water Management	Mountrail County Rural Water
P.O. Box 399	P.O. Box 187	7110 - 41 st Street NW
New Town, ND 58763-9102	St. Michael, ND 58370-0187	Parshall, ND 58770
Office Phone: 701-627-3410	Office Phone: 701-766-1209	
Home Phone: 701-627-3524		Home Phone: 701-862-3273
Fax: 701-627-4303	Fax: 701-766-4253	
	Cell Phone: 701-230-2794	
E-mail: texx@newtown.ndak.net	E-mail: Davecavanaugh2000@yahoo.com	E-mail: jhanzal@parshall.ndak.net

5/30/2002 Revisions

~ NCRWC Project Highlights ~

Prior to 2000 - both Underwood and Wilton had questioned service by McLean-Sheridan, groundwork for McLean-Sheridan - Phase IV was underway. Interstate Engineering was asked to prepare a Preliminary Engineering Report on the Project.

Spring 2000 - McLean-Sheridan Phase IV was introduced to MR&I per written notification.

Summer 2000 - Project presented the MR&I Committee, with statement request for funding would be soon forthcoming.

The Preliminary Engineering Report was finalized, and presented the McLean-Sheridan Joint Water Resource Board for review and approval. Shortly thereafter

Fall 2000 - Preliminary Engineering Report and request for funding was submitted MR&I

Meetings began with the Cities of Underwood, Wilton, and Benedict
Public meetings began with Brush Lake Cabin Owners Association

Spring 2001 - Canvassing began, renewed efforts in public meetings throughout the summer, holdings meetings in Max, Benedict, Butte, Drake, and Anamoose. Many of these locations 3 and 4 meetings were held. Meeting with the Cities continued.

Summer 2001 - Decision was made was made to extend canvassing efforts to include the undeveloped territory North and West of Garrison.

Fall 2001 - Numbers indicated need for alternative methods to address the rural needs of the Benedict/Max Douglas area. Feasibility was found very questionable from McLean-Sheridan's end. North Prairie was approached about serving this area.

Central Plains was contacted about void existing between the two systems and working to fill that gap in service territory.

At this time both North Prairie and Central Plains indicated they would like to pursue filling gaps existing on the opposite sides of their systems, and discussions ensued on how best to go about that.

Dec. 2001 - North Prairie was unable to attend First Meeting due to problems on the system.

Jan. 2002 - Second meeting was scheduled North Prairie Rural Water's Office, morning of derailment! Rescheduled!

Jan. 2002 - Core group finally all got together to discuss what Direction we wanted to go. Looked at inviting the Tribes to secure water in outlying areas of questionable capacity.

Jan. 2002 - Meetings with MR&I and USDA- Rural Development to determine if we could pull this off.

- Feb. 2002 -** Meeting of all parties interested. 18 -- 20 in attendance. Tribes indicated they were interested in Associate Membership only at this time.
- Mar. 2002 -** First official meeting, Consortium Established, met with Legal Counsel requested he begin work on Articles of Incorporation, By-Laws, Etc.
- Request was presented to roll the McLean-Sheridan Phase IV Project into the Consortium Project. Approval was verbally granted.
- April 2002 -** Business as usual.
- May 2002 -** Met with the Bureau of Reclamation, Rural Development, and the State Water Commission. Everything was a go, simply had to comply with BOR specs on Environmental and Cultural review and assessment.
- June 2002 -** State Water Commission questioned procedures on NCRWC requests for amended budget. Back to square one! In meeting with Dale Frink, Dave Koland, and Warren Jamison we were essentially told we had to start over.
- Legal opinion offered on our position as requested.
- Review of Language in contained in the New Farm Bill.
- July 2002 -** Reports on Benson Rural Water Project were supplied us. Portion of the Benson Project allocated Central Plains was approved for funding and construction at the time of the report, the other two portions were phased. The Portion allocated to Central Plains is the only remaining phase not developed.
- Phase IV Preliminary Engineering Report Amended to include Consortium Data.
- Aug. 2002 -** Preliminary Engineering Report presented MR&I and SWC Staff. Response was there are no funds for construction, and they would not recommend for approval a time sensitive study, that would be shelved for 5 years, and have to be redone.
- Answers to that problem having been offered, we were confronted with proposal that all potable water project studies be included in our study within the Project Area, where any other studies might be present. Cause for this action was stated to prevent MR&I from having to study multiple studies to determine which was feasible. Likewise it was suggested that if we were to be considered for funding that Garrison Rural Water must involved in the Consortium.
- Sep. 2002 -** Meeting with GRW, they'll get back to us. Funding is otherwise put on hold. Implementation of Political Action Plan.
- Nov. 2002 -** GRW finally submits letter indicating acceptance of Associate Membership.
- Dec. 2002 -** Natural Resources Committee of the Three Affiliated Tribes offers resolution to enter long term working relations with the NCRWC.

North Central Rural Water Consortium

Projected Costs as of 14-Jan-03

Completion of Feasibility Study	\$ 80,000
Cultural Resources Class I	\$ 50,000
Phase I (Additional Users within Existing Service Areas	\$ 3,000,000
Phase II Area 1	\$ 6,000,000
Phase III (Water Treatment Expansion)	\$ 2,000,000
Phase IV Area 2	\$ 3,500,000
Phase V Area 3	\$ 6,400,000
Phase VI Area 4	\$ 2,600,000
Total	\$ 23,830,000

Per the NCRWC Project Timelines that follow, the standard review periods typical of the Bureau of Reclamation were used in calculation, if the Bureau could be convinced to expedite review, timelines on the project could shortened, considerably.

It should further be noted that if the Feasibility Study for this project were funded today, through utilization of either State or Federal Funds the Timelines for the project could be moved forward 4 months as well.

Month	TASK
	Canvassing of Interested Parties Ongoing for the Last Year
Start	Approval of North Central Rural Water Consortium Feasibility Funding
1	Cultural Class I Inventory Search Begins Public Meetings Initial Loan Finance Coordination Meeting
2	Submit Draft Feasibility Study for comments Public meetings conclude Finalize Pipeline Layout Complete Cultural Class I Inventory & Report
3	Submit Feasibility Study for Approval BOR starts Environmental Assessment Process Complete Interim Finance Applications
6	NEPA Documents from BOR Obtain Loan Finance Approval Phase I Design begins (Users within the existing service areas) Cultural Class III (if necessary) Phase I complete Phase II Design begins (Area 1 Expansion) Phase III Design begins (WTP Expansion) Phase I Easements begins Phase II Easement begins
7	Submittal of Phase I Plans and Specifications to BOR for Approval Phase IV Design begins (Area 2 Expansion) Cultural Class III Phase II complete Phase IV Easement begins
8	Submittal of Phase II Plans and Specifications to BOR for Approval Phase V Design begins (Area 3 Expansion) Cultural Class III Phase III complete Cultural Class III Phase IV complete Phase V Easements begins
9	Advertise for Bids Phase I Submittal of Phase IV Plans and Specifications to BOR for Approval Phase VI Design begins (Area 4 Expansion) Phase III Design Submittal to BOR for Approval

10

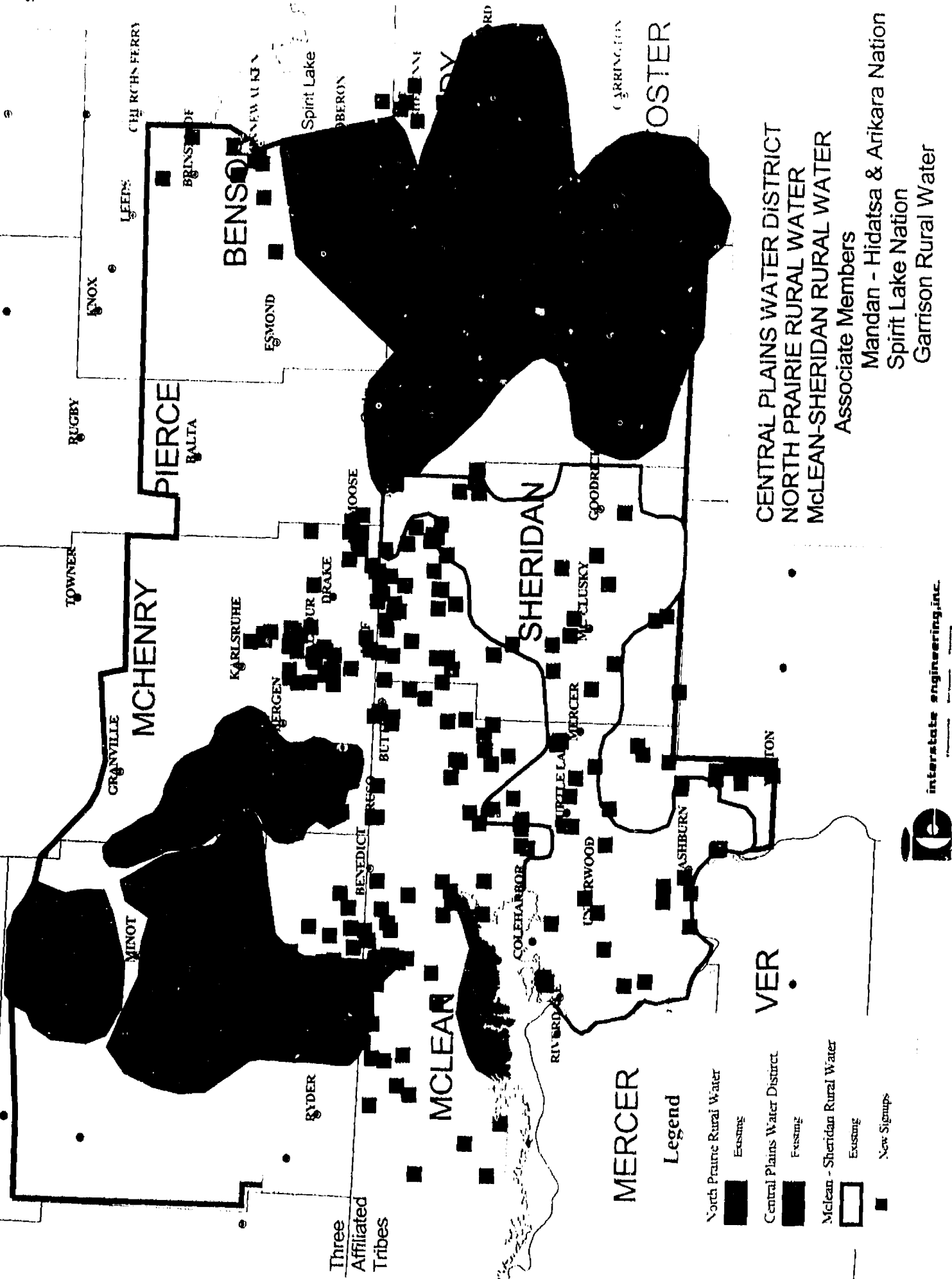
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Lacosta Rickford
Operator's Signature

10/15/03
Date

10	Open Bid for Phase I	
	Phase I Contracts	
	Advertise for Bids Phase II	
	Phase V - Submittal of Plans & Specifications to BOR for Approval	
	Phase VI - Cultural Class III Phase VI Complete	
11	Open Bid for Phase II	
	Phase II Contracts	
	Phase IV Advertisement	
	Phase VI - Submittal of Plans & Specifications to BOR for Approval	
12	Phase I Construction Begins	
	Phase III Advertise for Bids	
	Phase IV Open Bids	
	Phase IV Contracts	
	Phase V - Advertise for Bids	
13	Phase II Construction Begins	
	Phase III Open Bids	
	Phase III Contracts	
	Phase V Open Bids	
	Phase V Contracts	
	Phase VI Advertise for Bids	
14	Phase IV Construction Begins	
	Phase VI Open Bids	
	Phase VI Contracts	
15	Phase III Construction Starts	
	Phase V Construction Begins	
16	Phase VI Construction Begins	
18	Phase I Construction Completed	
25	Phase II Construction Completed	
26	Phase IV Construction Completed	
27	Phase V Construction Completed	
28	Phase VI Construction Completed	
31	Phase III Construction Completed	
	Note: Two areas exist for compression of the time line.	
	1. Cooperation of the BOR of Review periods.	
	2. Completion of the Feasibility Study prior to the end of the Bi-ennium	

North Central Rural Water Consortium

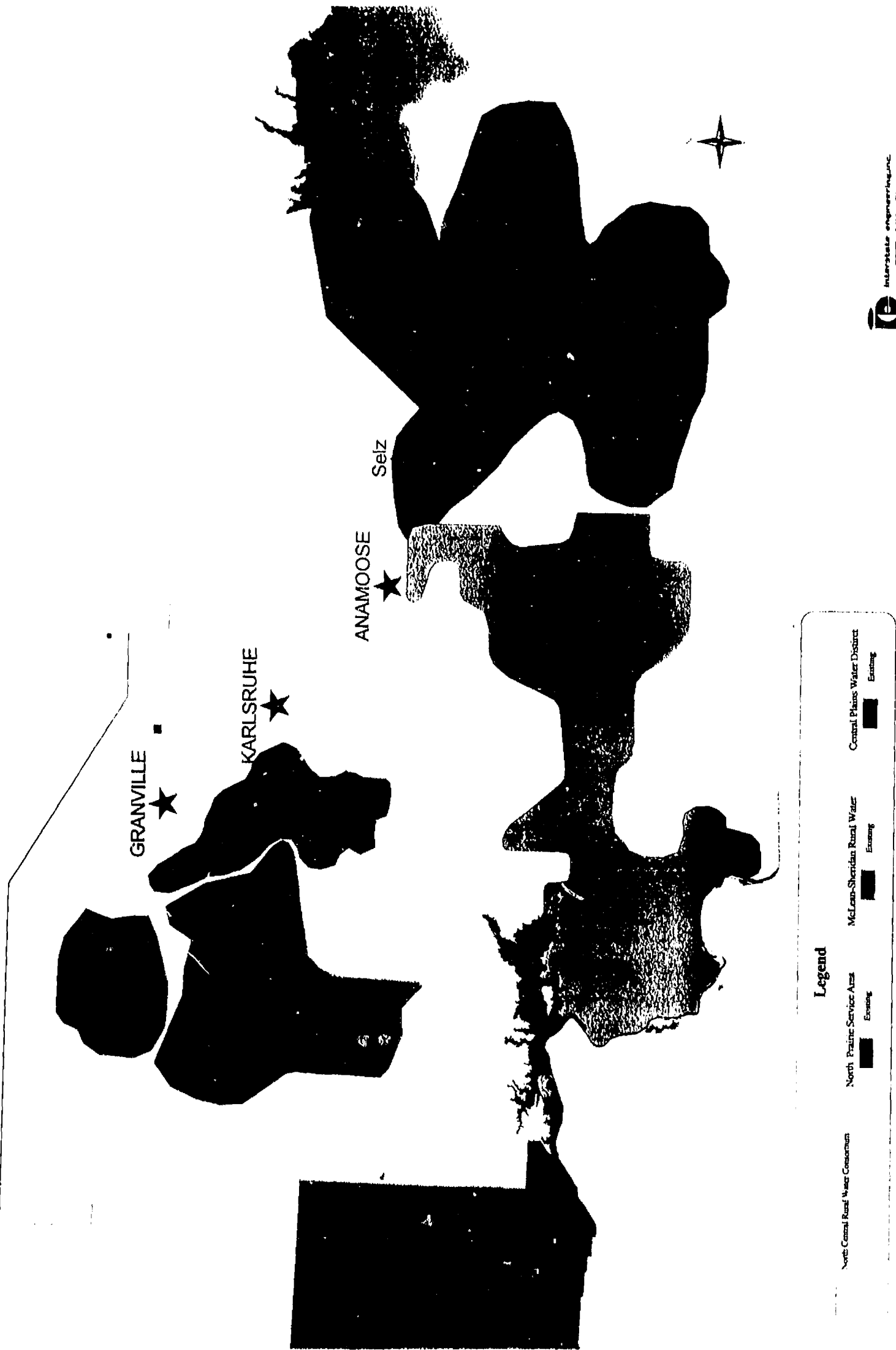


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Operator's Signature *LaCosta Rickford*

Date *10/15/03*

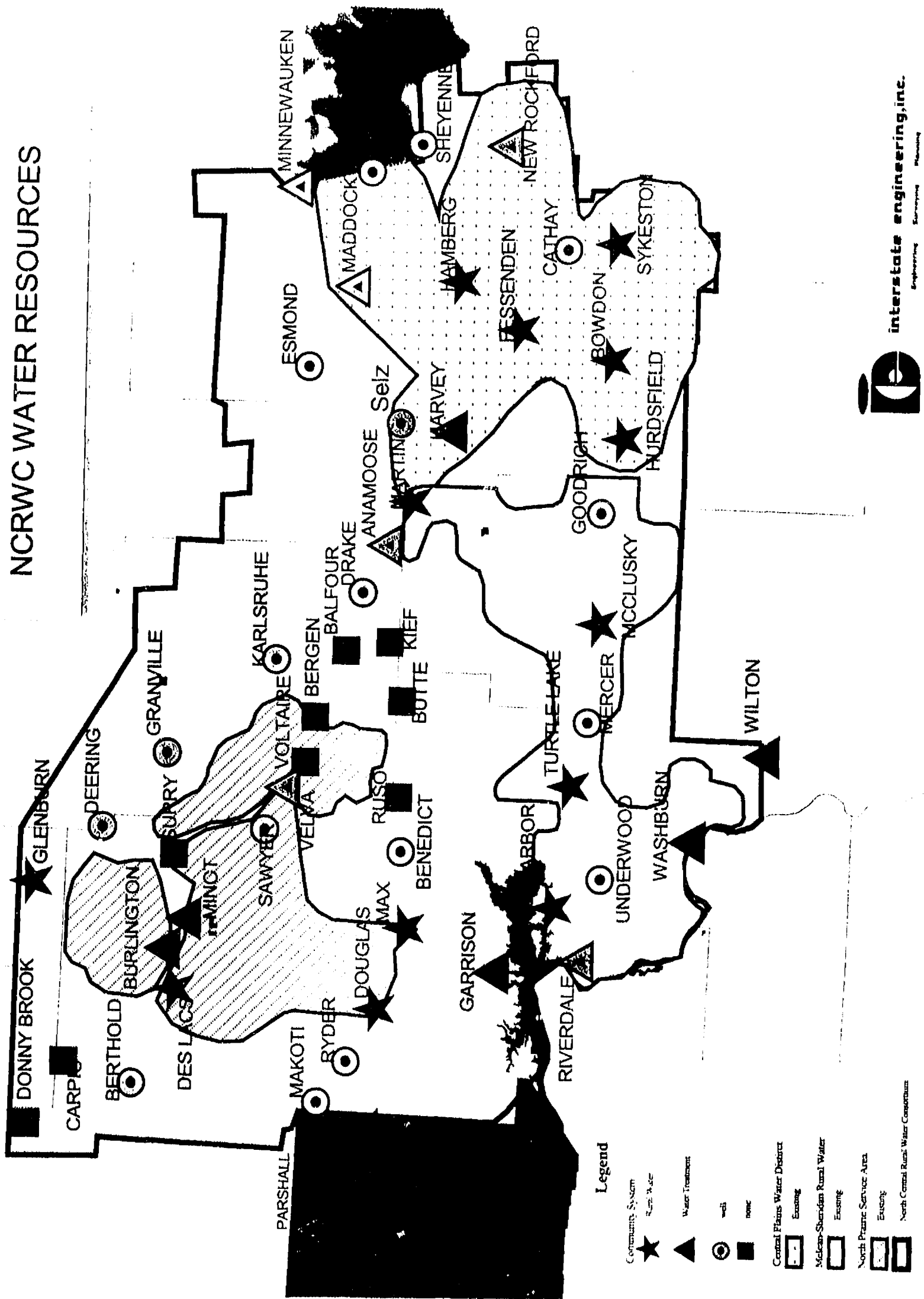
NCRWC ARSENIC COMMUNITIES > 10 PPB



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Lacosta Rickford 10/15/03
Operator's Signature Date

NCRWC WATER RESOURCES



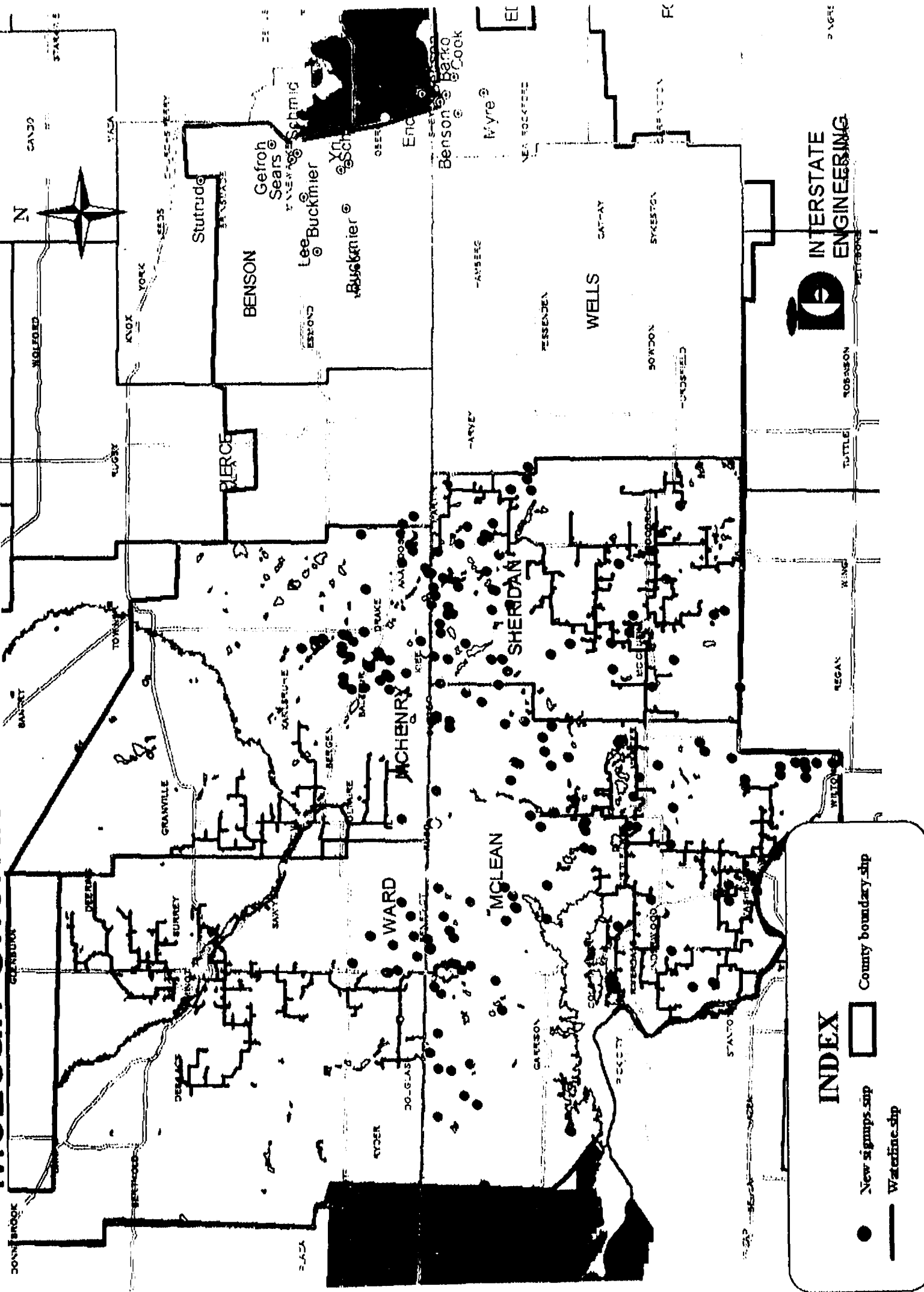
interstate engineering, inc.
Engineering Surveying Planning

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10/15/03
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McLean-Sheridan Rural Water 10/25/2002 - 12/12/2002

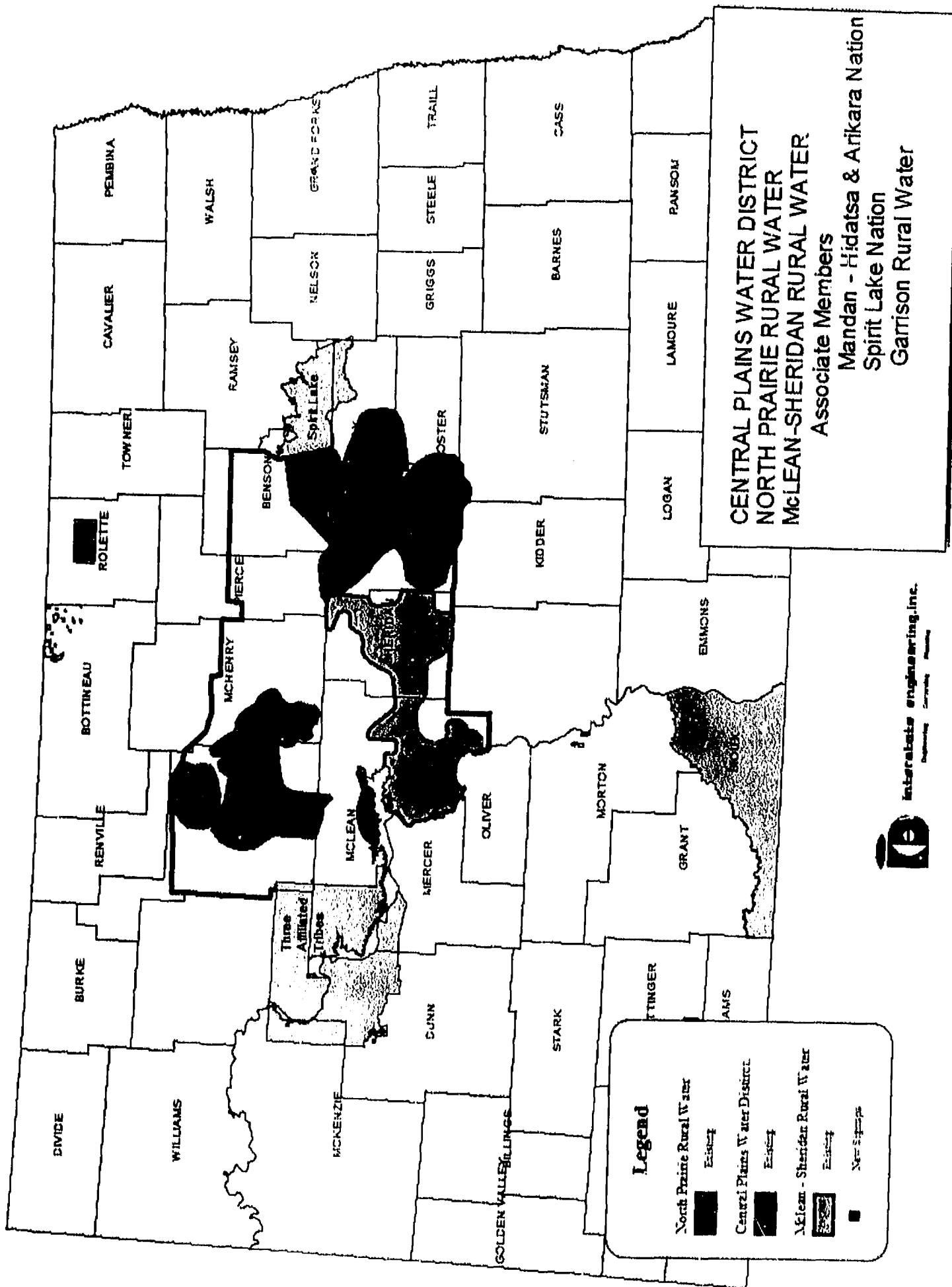


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10/15/03
Date

North Central Rural Water Consortium



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10/15/03
 Date

The North Central Rural Water Consortium began in McLean-Sheridan's efforts toward "Phase IV" Expansion. As indicated on the map at right, over 200 rural connections signed up for the Phase IV project. Likewise the communities of Underwood, Wilton, Anamoose, and Benedict committed to McLean-Sheridan's Phase IV Feasibility Study.

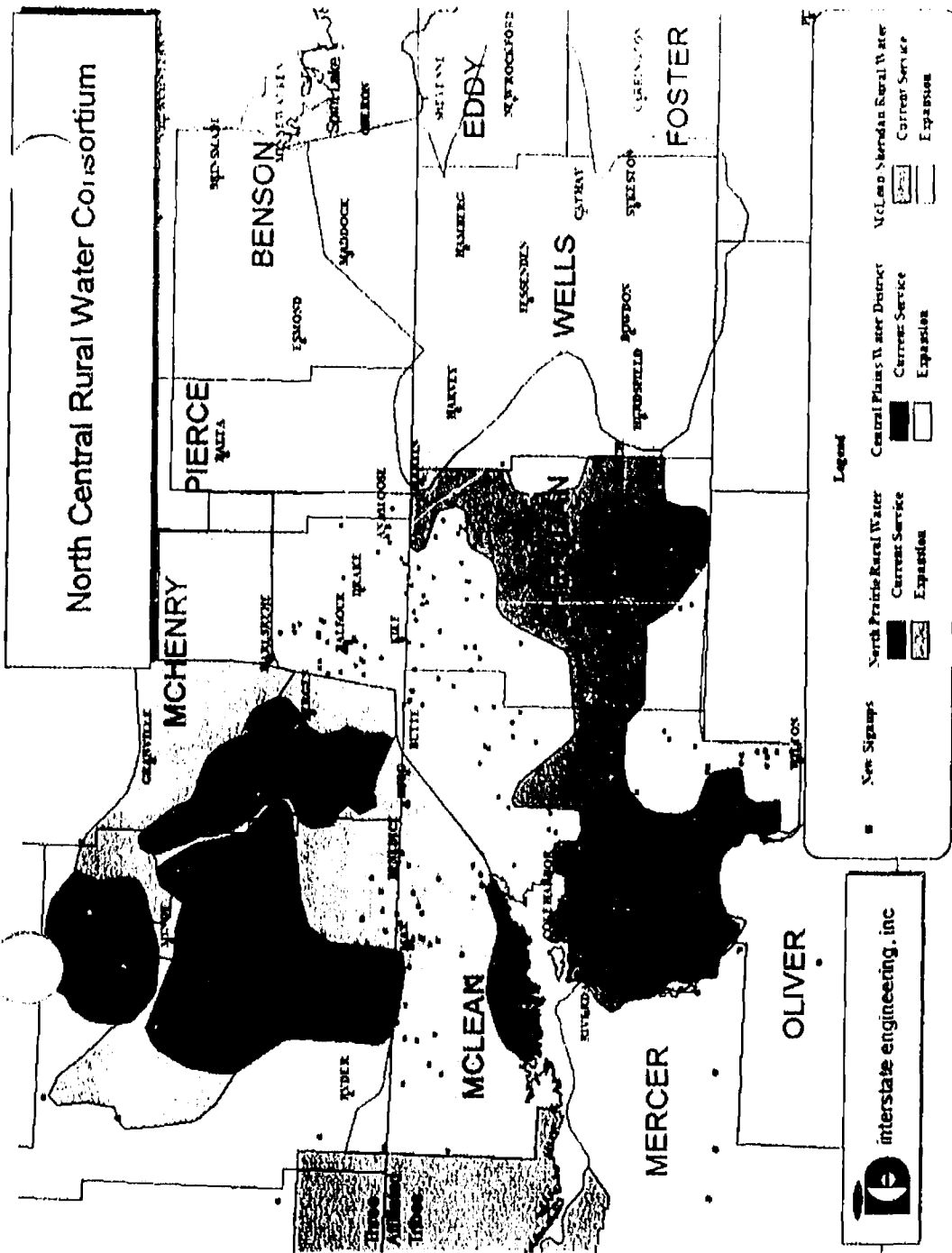
The Benedict area presented a challenge in the project, in that although user density was good in the immediate area, little interest was found in route from the source. This resulted in a user density of 3.5 miles per user, and in turn drove user density on the project overall to 2.8 miles per user.

In attempting to overcome this hurdle, McLean-Sheridan approached North Prairie Rural Water about assuming these connections, tying them into existing NP lines in the Max area. Assuming the new service lines could be constructed under McLean-Sheridan's project grants, North Prairie agreed. North Prairie also had plans for expansion in the rural Minot area, and when the numbers found there were combined with those in the Benedict area User Density dropped from 3.5 miles per user, to less than 3.4 mile. And, in turn, by removing the Benedict area from McLean-Sheridan's project, density on the remainder of Phase IV dropped to 1.8 miles per user as well, thus presenting each system with a more feasible project. McLean-Sheridan's project density was greatly enhanced, and North Prairie benefited from grant funds in expansion to the Benedict area.

Likewise, looking at the gap in coverage existing between the McLean-Sheridan and Central Plains systems, cooperative efforts were entertained to fill the gap there under McLean-Sheridan's Phase IV Project. Again, discussions ensued between the system managers to determine Central Plains needs, and Central Plains indicated their needs were far more extensive, that they would like to develop the remaining portion of the former Benson Rural Water Project, serving roughly 150 rural homes, and the City of Minnewauken. It was suggested in this meeting, that the 3 systems work together and seek funding as one large project.

In that North Prairie and Central Plains needs were very real, and existed primarily outside of what would be considered plausible as a part of the McLean-Sheridan Phase IV Project, the Consortium concept afforded a means too address the other systems needs. Discussions continued between the system managers, and the concept was presented the respective Boards. Each Board felt it in their system's best interest, to participate.

There remained however, some territory on the outer perimeters of the combined distribution area, where providing service would be difficult. In viewing available resources, the Fort Berthold and Spirit Lake water systems appeared to provide the simplest options in securing service for those customers.



Find us on the Web at:

It was thus decided, to approach the Tribes about the Consortium efforts. In discussions with the Tribal Entities, both indicated that because their funding came from a separate pool, full membership was likely not of benefit to them. Both were however, very much interested in potential sales outside of the reservations and agreed to sell water to the Consortium Members, to serve the areas in question. In wishing to remain informed of all happenings on the NCRWC, for planning of their own projects, the tribes requested Associate Membership.

Diversity in governance of the three member systems presented a minor challenge, and Non-Profit status was dictated as our only means of combining the three agencies. The NCRWC was certified a ND Non-Profit Corporation, by the Secretary of State's Office, April 29, 2002.

www.ruralwateronline.com/NCRWC.htm

In summarizing what we hope to accomplish, the communities of Granville, Karlsruhe, Anamoose, and Selz each face violation of the new Arsenic standard. Wilton has an aging treatment plant in need of major renovation, while surface water has encroached upon their wellfield, rendering part of their wells unusable at this time. And, Underwood faces loss of their water supply to coal mining activities of the Falkirk Mine, in the very near future. The NCRWC project will address the needs of each of these communities, and we anticipate, provide service to 600+ rural households throughout 7 counties in Central North Dakota. The members' distribution systems will cover approximately 10% of the entire state of ND. The NCRWC is the way of the future; in developing and sharing our resources responsibly.

Frequently Asked Questions

Q: Is this a Merger?

A: No, it is not. Each Member System will retain their separate identity. The NCRWC is simply a mechanism to accomplish our respective goals in expansion, in the most feasible manner. We simply feel that we can accomplish a great deal more for the surrounding area working cooperatively, rather than competing against each other.

Q: Who are the NCRWC members?

A: Member systems include - Central Plains Water District - Fessenden; North Prairie Rural Water - Minot; and McLean-Sheridan Rural Water - Turtle Lake. Associate Members are - The Three Affiliated Tribes and Spirit Lake Nation.

Q: What is the role of the Associate Members?

A: The Associate Members have agreed to sell Member Systems water from treatment plants on the reservation to serve customers outside of the reservations, rather than our having to duplicate these facilities.

Q: What is the political make up of the NCRWC?

A: Central Plains is a Water District, North Prairie is a Non-Profit, and McLean-Sheridan is governed jointly by the Water Resources Boards of McLean and Sheridan Counties. The NCRWC is established as a Non-Profit Corporation.

Q: Who are the Board Members?

A: The NCRWC Board is comprised of Board Members and Managers of the three member systems. The respective Boards felt given the complexity of the venture upon which we were about to embark that the Managers' knowledge of the systems was necessary. Each system also appointed an alternate Board Representative and By-Laws were established in such fashion so as to allow additional member systems.

Q: What other benefits might be seen?

A: The three Member Systems have already discussed contingency connections to allow another system to serve portions of the neighboring system during outages, where feasible. Likewise discussion has been entertained in respect to shared manpower, essentially hiring one employee to work a given distribution area, irrespective of which system's facilities he might be working on in any given day.

North Central Rural Water Consortium

A cooperative effort on the
parts of

McLean-Sheridan
Rural Water
Central Plains
Water District

and

North Prairie
Rural Water

~ Our Mission Statement ~

To generally achieve, more
feasible water supply systems.
Working cooperatively,
to reach the most efficient
goal in service to our respective
customers.

Find us on the Web at
www.ruralwateronline.com/NCRWC.htm

The NCRWC is about cooperating for the benefit of those we serve, and in that process it's about working together toward more feasible water supply and distribution systems. It is about filling the existing gaps between the participating systems and these systems surrounding us. It is about prudent management of all available funding. And, it is about setting system boundaries aside between member systems to accomplish these goals whenever and wherever necessary.

The NCRWC will strive to keep costs affordable to our users by utilizing existing facilities to the fullest extent possible, wherever the needs of those requesting new service may benefit from such. Rather than duplicate production and/or distribution facilities in a given area, the NCRWC will review and assess the existing facilities in the area, and use existing member services, or contract with non-members to provide those services to our customers.

This will result in more cost efficient operations, and thus a more affordable rate to our customers. Likewise it will lower the costs of the project overall, and afford the funding agencies the most prudent management of available funds possible.

If this means another system serves users signed up by a member system, we're all for it! Be they members of the NCRWC, or not. Our goal is to provide service to the prospective customer at the most affordable rate possible, and at the same time offer the funding agencies the best deal for their funding dollar. We are committed to that goal, even if it means giving up connections to another system.

We as a group, feel it is our responsibility to set the standard for the way things should be done in funding such projects in the future, and in that we will strive to present an example to all systems in the Great State of North Dakota.

Interstate Engineering, Inc.
Engineering - Surveying - Planning

Exhibit 10

**Testimony
Appropriations Committee on Senate Bill 2022**

I am Douglas Neibauer, Executive Director of Burleigh Water Users Cooperative and I have been asked to provide testimony on South Central Regional Water System by North Dakota Rural Water Users Association.

The concept of South Central Regional Water System was developed to fulfill a goal in the BWUC Strategic Plan. The goal is to "Develop and implement a system expansion plan to serve the unmet water needs of the counties in South Central North Dakota".

The South Central Regional Water System will provide an affordable, high quality and reliable water source to the existing 2816 farms and rural households of BWUC, to 1450 new customers and ten (10) municipalities in a five county area consisting of Burleigh, Emmons, McIntosh, Logan and Kidder Counties. The Municipalities are Ashley, Braddock, Hague, Hazelton, Linton, Napoleon, Strasburg, Venturia, Wilton and Wishek.

The project has the promise to help stimulate growth and economic development in South Central North Dakota, an area that is currently battling a severe drought that has depleted water sources in some areas. The City of Strasburg and surrounding area has Arsenic levels that exceed current EPA standards which will need to be addressed by year 2006. It is apparent; this entire area needs a remedy to the current water shortages and quality problems.

I do concur that the Vision of Growth for North Dakota is attainable "we must commit to building targeted industries where we have natural advantages-advanced manufacturing, value-added agriculture, technology based business services, tourism, and energy" (Governor John Hoeven, 2003 State of the State Address). All the above will need an affordable, high quality and reliable water supply.

Today, our challenges are to continue the quest for prosperity and quality of life for rural North Dakota. We must commit to working together to build a spirited new future for North Dakota.

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La Costa Rickford
Operator's Signature

10/15/03
Date

Testimony on Senate Bill 2022

March 6TH 2003

By: Dean Deis Address: 630 73rd Street SE Linton ND.

I am a 3RD generation farmer/rancher (a family of four) in the Linton Area who is signed-up for rural water and is anticipating a reliable water supply from the South Central Regional Water System.

My present supply of water falls short in quantity to meet our household and farm demand. This is a common problem for much of Emmons County. At this time, I am restricted as how I can water my livestock in the winter months and I have one pasture that has no water for summer livestock usage. Rural water would allow me options for service to livestock through pasture connections where water sources are nonexistent or inadequate. I would also have a suitable water source available for crop spraying at my farm. I presently haul water from the City of Linton for this use. Some parts of the County such as the Strasburg area have a very high Arsenic concentration in their water which is not suitable for human consumption.

A quality water supply would help stimulate growth and economic development in South Central North Dakota an area that is currently battling a severe drought that has depleted water sources in many areas. The low water runoff from the drought conditions has left many of the area dams and dugouts with a very poor water quality or no water at all.

Funding from the State is critical and is needed now to start construction on rural water in on South Central Regional Water System that will provide an affordable, high quality and reliable water supply to over 1600 individual sign-ups and ten (10) towns anticipated for bulk service.

Senator Traynor

SB 2022

Exhibit 1

- CITY OFFICES -

423 Sixth Street
P.O. Box 1048
Devils Lake, ND 58301-1048

Fax (701) 662-7612
TDD (701) 662-7610



- CITY COMMISSION -

Fred Bott, President
Dick Johnson
Tim Helsler
Barry Gago
Craig Stromme

January 17, 2003

Honorable Ray Holmberg
State Senator
Chairman, Senate Appropriations Committee
600 E. Boulevard Ave.
Bismarck, ND 58505

RE: Devils Lake Drinking Water Supply

Dear Chairman Holmberg & Senate Appropriation Members:

On Tuesday, January 21, 2003, you will be hearing testimony in regards to funding of water projects for the 2003-2005 biennium. During this meeting, I anticipate a list of water projects will be provided to your committee for review. This list has been discussed several times during meetings of the ND Water Coalition, of which we are a member, with final recommendations expected during the Coalition's meeting on January 20, 2003.

The City of Devils Lake understands how important water projects are to communities and the State of North Dakota, which is why we support the proposed list of water projects. However, I feel it is necessary to advise the Committee regarding the serious challenges that threaten the viability of the City of Devils Lake's existing drinking water supply.

The construction of the levee around the City has protected most of the City's infrastructure, but the majority of its water transmission pipeline lies outside the protection of the levee. In fact, approximately six miles of transmission pipeline, along with numerous gate valves, air release valves, and blow-off discharges, are covered by the waters of Devils Lake. This causes great concern because we are unable to perform the desired level of routine maintenance and inspection of the system, which is 40 years old and nearing the end of its design life. If a waterline break or appurtenance failure were to occur anywhere within the six miles of submerged pipeline, the City would be without an adequate water supply.

The City is also challenged to meet a stricter drinking water regulation for arsenic. The City's supply is currently quadruple the new standard scheduled to take effect in January 2006. This high concentration may prevent us from obtaining a compliance deadline extension, which is available to some of the other communities exceeding the arsenic standard to a lesser degree. Other challenges associated with our water system include the long-term viability of our existing supply and easement renewal concerns regarding the current pipeline route.

The North Dakota Department of Health (NDDH) understands the seriousness of our water supply challenges. This is evident in the project funding priority list developed by the NDDH for use in

TODD E. DALZIEL Auditor (701) 662-7600 E-mail: todd_d@ci.devils-lake.nd.us	GARY A. MARTINSON Assessor/Building Official (701) 662-7607 E-mail: gary_m@ci.devils-lake.nd.us	MICHAEL E. GRAFSGAARD Engineer (701) 662-7614 E-mail: mike_g@ci.devils-lake.nd.us	LYLE P. JAEGER Public Works Director (701) 662-7618 E-mail: lyle_j@ci.devils-lake.nd.us	J. THOMAS TRAYNOR, JR. City Attorney (701) 662-4077 E-mail: tomtraynor@traynor-ruten.com
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Operator's Signature

La Costa Rickford

10/15/03
Date

administering the Drinking Water State Revolving Fund (DWSRF) loan program. The City of Devils Lake ranked first out of 68 projects the Health Department prioritized for possible financial assistance through the DWSRF for 2002. In fact, the City ranked a full 10 points above the second ranked project. The cost to develop a new water supply for the City weighs heavily upon the location of the new water source. Identification of a new source is currently being investigated by the North Dakota State Water Commission (NDSWC), with preliminary study results anticipated in April of 2003. Until detailed studies are complete, we will not have a refined cost estimate and will continue to use the preliminary estimate of \$30 million for project planning purposes.

We have had a great deal of communication with North Dakota's Congressional Delegation regarding the critical nature of our water supply, but to date, no federal funding sources have been obtained. We have been informed that any future significant federal funding sources will be difficult to obtain due to the large amount of funding required to address our water supply needs. Therefore, a combination of funding sources may be required to insure the City can provide a safe, reliable water supply that is affordable to our residents.

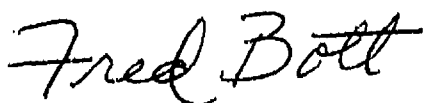
The City of Devils Lake respectfully requests that the State consider funding the non-federal portion of a drinking water supply project to an extent that would allow the City to keep water rates at or below \$30 per month as outlined in the State Water Management Plan. Currently, City residents pay \$16 per month for water service and 6,000 gallons of water. The proposed \$30 per month charge is nearly double that currently charged.

To better describe our water system challenges, I am enclosing a letter sent to Dale Frink, State Engineer, last spring. Included with the letter is an excerpt from testimony provided by Mike Dwyer at Senator Conrad's Field Budget Hearing, held in Bismarck on February 20, 2002, as well as a Cost-Share Request form submitted to the NDSWC.

If you have any questions regarding our water system, please contact Michael Grafsgaard, P.E., our City Engineer, at (701) 662-7614.

Thank you for the work completed to date in helping our community address flooding issues caused by the ever-expanding lake. Your efforts are greatly appreciated.

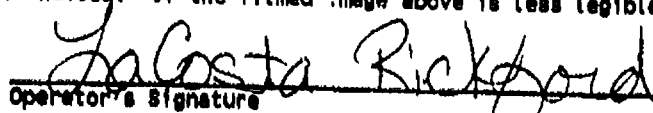
Sincerely,



Fred Bott
President of City Commission

FB:MEG:hoc

xc: Honorable Jack Traynor, State Senator
Honorable Eugene Nicholas, State Representative
Honorable Dennis Johnson, State Representative
Dale Frink, P.E., State Engineer, NDSWC
Dave Koland, GDCCD
Mike Dwyer, ND Water User Association
Dennis Hill, ND Water Coalition


Operator's Signature

10/15/03
Date

- CITY OFFICES -

423 Sixth Street
P.O. Box 1048
Devils Lake, ND 58301-1048

Fax (701) 662-7612
TDD (701) 662-7610



- CITY COMMISSION -

Fred Bott, President
Dick Johnson
Tim Heisler
Rick Morse
Craig Stromme

April 4, 2002

Dale Frink
ND State Water Commission
900 E Blvd
Bismarck, ND 58505-0800

Dear Dale:

Enclosed is the completed Project Information and Cost-Share Request Form for the City of Devils Lake in regards to projects eligible for funding in the next biennium. I have also enclosed an excerpt from recent testimony submitted by Mike Dwyer at Senator Conrad's Field Budget Hearing, held in Bismarck on February 20, 2002. This excerpt provides a good background and outlines the critical nature of our project.

We are presently pursuing funding for two phases of our Emergency Water Source and Treatment Project, a study phase and a project implementation phase. During the study phase, the City of Devils Lake will need State Water Commission staff expertise to further evaluate two potential water sources, the Spiritwood Aquifer near Devils Lake and the Spiritwood Aquifer east and south of East Devils Lake. Once further evaluated, we anticipate the completion of a field investigation of the preferred aquifer system identified from the desktop review. Based on conversations with Milton Lindvig from your office, it appears the field investigation will be necessary to determine a location for well field development that could supply the City with enough water over a long-term planning period.

Upon completion of the study phase, the location of the wellfield, along with a plan for potential future expansion will be outlined. Completion of this phase should allow the development of an accurate engineer's estimate for a project to deliver water to the City and provide the necessary treatment to remain in compliance with all existing and foreseeable Safe Drinking Water Act regulations.

The project implementation phase will commence once the study phase is complete and adequate funding has been secured. For purposes of the form, I have used a preliminary estimate of \$30 million for the project cost. The City is currently working with the congressional delegation to secure federal funding for the project. As part of this process, we recently completed a grant application that could provide up to 55% grant for the project, which amount to \$16.5 million. As such, this amount was placed in the federal funding source portion of the attached form.

TODD E. DALZIEL Auditor (701) 662-7800 E-mail: todd_d@ci.devils-lake.nd.us	GARY A. MARTINSON Assessor/Building Official (701) 662-7607 E-mail: gary_m@ci.devils-lake.nd.us	MICHAEL E. GRAFSGAARD Engineer (701) 662-7814 E-mail: mike_g@ci.devils-lake.nd.us	LYLE P. JAEGER Public Works Director (701) 662-7618 E-mail: ljaeger@ci.devils-lake.nd.us	J. THOMAS TRAYNOR, JR. City Attorney (701) 662-4077 E-mail: tomtraynor@traynor-rutten.com
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La Costa Rickford

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Date

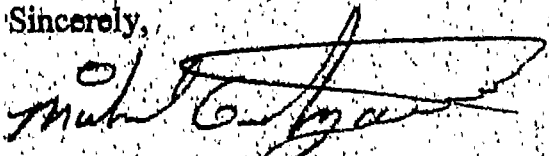
The estimate for the City portion of the project was developed assuming a \$30 per month water user fee as outlined in the State Water Management Plan. Water purchase is estimated at \$18 per month (\$3.00 per 1,000 gallons and 6,000 gallons per user per month). The remaining \$12 per month could be used to fund the local portion of the project. Currently this portion is envisioned to be funded with a loan through the State Revolving Fund (3% over 20 years). A \$12 per month minimum charge from the City's 2,400 accounts would fund a loan of approximately \$4.5 million, which includes consideration for funding reserve accounts.

With the submittal of this information, the City of Devils Lake respectfully requests that the State consider funding the non-federal portion of the project to an extent that would allow the City to keep water rates at or below \$30 per month. Using the scenario previously outlined, the state portion would be approximately \$9 million. Currently, City residents pay \$16 per month for water service and 6,000 gallons of water. The proposed \$30 per month rate is nearly double that currently charged.

In the near future I anticipate a meeting with your staff to outline a Scope of Work for the study phase of the project. I trust we will be able to work together to develop a cost-effective project that will serve the City with a safe, reliable source of water for many years to come.

If you have any questions regarding the form, or would like to discuss this project further, please call me at (701)662-7614.

Sincerely,



Michael Grafsgaard, P.E.
City Engineer

LaCosta Rickford
Operator's Signature

10/15/03
Date

ND STATE WATER COMMISSION
Project Information and Cost-Share Request Form

This form is to be filled out by the project or program sponsor, with SWC staff assistance as needed. Upon receipt of a request form, the information will be reviewed and added to the state's proposed project/program database. It will serve as the formal cost-share request to the North Dakota State Water Commission. For assistance, please contact the SWC Planning and Education Division at (701) 328-4989.

Please answer the questions as completely as possible. Supporting documents such as maps and engineering reports should be attached to this form. If additional space is required, please use extra sheets as necessary. (An electronic version of the form can be provided on a disk or emailed upon request).

1. Project, program, or study name: Emergency Water Source and Treatment

2. Sponsor(s): City of Devils Lake

3. Location: (county; section-township-range etc. and provide a map if possible)

Depending upon water availability and quality

4. Description of request: ☒ new ☐ update (previously submitted) ☐ maintenance

5. Specific needs addressed by the project, program, or study:

a. If study, what type:

☒ Water Supply ☐ Hydrologic ☐ Floodplain Management ☐ Feasibility
☐ Other

Please explain the above checked item: We will need State Water Commission expertise and cost-share to test and develop a new water source for the City.

b. If project:

☐ Flood Control ☐ Snagging & Clearing ☐ Drainage
☐ Recreation ☐ Bank Stabilization ☒ Water Supply
☐ Channel Improv. ☐ Irrigation ☐ Water Quality/Habitat
☐ Other ☐ Multi-Purpose

Please explain each above checked item: Once the study from Part A is complete, financial support will be required to implement a project to provide a safe, reliable drinking water supply to the City.

c. If program, please explain: _____

6. Jurisdictions/Stakeholders involved: City of Devils Lake and its residents, institutions and businesses

7. Description of problem or need: Please see cover letter and attached testimonial

8. Has a feasibility study been completed?: ☐ yes ☐ no ☒ ongoing ☐ not applicable

9. Has engineering design been completed?: ☐ yes ☐ no ☒ ongoing ☐ not applicable

10. Have land or easements been acquired?: ☐ yes ☒ no ☐ ongoing ☐ not applicable

11. Permits required for project or program implementation and status:

a. Federal: ☐ Section 404 ☐ other ☐ uncertain ☐ not applicable

List federal permits applied for: _____

List federal permits approved: _____

b. State: ☒ construction ☒ water use ☐ drainage ☐ other ☒ not applicable

List state permits applied for: _____

List state permits approved: _____

c. Local: ☐ zoning ☐ floodplain development ☐ other ☐ not applicable

List local permits applied for: _____

List local permits approved: _____

d. Do not know what permits are required ☐

13. Do you expect any significant obstacles to implementation/construction (i.e., problems with land acquisition, permits, funding, local opposition, environmental concerns, etc.)? Funding and cost share availability to offset the local financial burden of such a large project will be crucial to implementing this project. City residents will not be able to fund this project without substantial grant funding.

15. Funding sources (Total need):	Study cash	Project	in-kind.
Federal	\$ 0.00	16.5 million	\$
State	\$ 75,000	9.0 million	\$
Local	\$ 75,000	4.5 million	\$
Other	\$ see cover sheet		\$

Source	2001-2003	2003-2005	2005-2007	2007-2009	2009-2011	Beyond
Federal	\$8.25 million	\$8.25 million				
State	\$75K + 4.5 million	\$4.5 million				
Local	\$75K + 2.25 million	\$2.25 million				
Total	\$15,150,000	\$15 million				

SWC Action Taken: Approved___ Not Approved___ Other___ Reason:

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10/15/03
Date

state, and federal dollars.

B. Funding for Emergency Water Source and Treatment for Devils Lake

1. Water Supply.

In the past decade, the city of Devils Lake has faced many challenges resulting from the flooding of Devils Lake. Responses to these challenges have included the construction of a levee to protect infrastructure, raising of roads to maintain adequate transportation routes, relocation of hundreds of homes and abandonment/relocation of numerous utilities. The rising lake is now threatening the city's drinking water supply.

The city of Devils Lake currently owns and operates an 80-acre well field located on the Spirit Lake Nation approximately 18 miles southeast of the city. Water is pumped through a single 16-inch transmission pipeline from the wells to a storage reservoir in the southeast part of the city. Approximately one-third of this transmission pipeline is currently covered by the rising waters of Devils Lake. Included within the six miles of flooded transmission line are numerous gate valves, air relief valves and blow-off discharges. Due to the significant amounts of water over these valves (many are submerged by 25 feet of lake water) and the difficulty of locating leaks underneath the lake, a failure of any portion of the system underwater would result in a loss of water supply to the city for an indefinite period of time.

This threat is very real. The transmission line has been in service for over 40 years, thereby leaving it susceptible to leaks and other maintenance challenges. Much newer water systems in the area have experienced several valve failures due to corrosive soils eroding bolts holding the valves together. Since the transmission pipeline is normally operated under relatively low pressures and is under considerable depths of water in some locations, even a relatively minor leak could cause significant alarm as the pressure differential between the interior and exterior sides of the pipeline could allow untreated saline lake water to enter the city's potable water supply.

Though the inundation of the city's transmission line poses an immediate threat to the city, a recently finalized and anticipated stricter regulation of Arsenic and Radon will force the City to implement appropriate treatment technology to maintain compliance with the Safe Drinking Water Act. A recent level of Arsenic detected within the city's drinking water was 40 ppb. This level will need to be reduced to below 10 ppb by January 2006 to remain within compliance.

The city is also concerned about the long-term viability of its current water source. The Spirit Lake Nation has developed a well field in the vicinity of the city's wells and additional funding is anticipated in the near future to increase the Spirit Lake Nation well capacity to meet the demands of their expanding rural water system. There is some concern as to whether the Warwick Aquifer would be able to provide an adequate water supply to both entities during extreme drought conditions. Depending on the ensuing interpretation of water appropriation and sovereign nation legislation, the city of Devils Lake may not have an acceptable level of water supply protection to meet its needs in

the future.

In response to these challenges the city is working with the State Water Commission to identify potential alternative sources for its water system. Preliminary estimates for new water source development and treatment is near \$30 million. Last year the city submitted a project ranking questionnaire to the ND Department of Health for enlistment on the Intended Use Plan under the Drinking Water State Revolving Fund (DWSRF) program. Due to the critical nature of the project, the city is ranked first on their project priority list.

The city of Devils Lake is requesting assistance to secure emergency appropriations and/or grant funding to reduce the local financial burden of providing a reliable potable water supply to our community. Without a significant amount of emergency or grant funding, the city of Devils Lake cannot reasonably afford the level of debt associated with sufficiently meeting its current water system challenges. Pending the development of adequate funding, the city has planned to commence with the final design and bidding phases in 2002 with construction taking place in 2003 and 2004.

2. Flooding/Devils Lake Outlet

This testimony will not further address the critical flooding problems created by Devils Lake water levels. This is not a one-time spring flood, but a permanent ongoing disaster. We are disappointed that the President's budget did not include funding for a permanent Devils Lake outlet; and our finding plan recommends that this funding be provided.

C. Missouri River

1. Missouri River Concept/Comprehensive Plan

In 1998 the Missouri River Coordinated Resource Management Program was established. This program brought together the Missouri River stakeholders to discuss issues related to the North Dakota reach of the river. One of the results of numerous meetings was the identification of a need for a comprehensive plan for the Missouri River corridor. The first phase of this effort is the development of a concept plan. This effort is now underway at an estimated local cost of \$60,000. When the concept plan is completed and with the concurrence of the Morton, Burleigh, Oliver, McLean and Mercer counties, a full comprehensive plan will be developed.

The BOMMM Joint Board and the North Dakota Water Education Foundation are coordinating this effort with the five counties. Funds in the amount of \$600,000 will be required to complete a full comprehensive plan. The plan, when completed, will guide future development, conservation/historic easements, and bank protection measures along the Garrison reach of the Missouri River to prevent a loss in economic, agriculture, aesthetic, environmental, recreational, and natural resource values of the river.

Devils Lake Testimony on Senate Bill 2022 – by – Joe Belford

Thank you Mr. Chairman and members of the committee for this opportunity to briefly discuss the flooding crisis we still face at Devils Lake and to request your support for critical funding included for Devils Lake flood control in Senate Bill 2022.

After a decade of fighting the Devils Lake flood, I must tell you that the ongoing high water situation remains a terrible social and economic burden for the people of my region and for the whole state. Even though many homes and businesses have been moved or protected, many more near Devils Lake, Minnewaukan and Fort Totten are still very vulnerable. The economic fabric of our region is seriously weakened and only the stick-with-it, tenacious character of our people has kept us from a major collapse.

Devils Lake reached its recent high elevation of 1448.01 feet about sea level in 2001. It began overflowing to Stump Lake at 1446.5 feet about sea level. The lake is currently at elevation 1446.88 feet above sea level despite a couple of relatively dry years. The catastrophic summer storms that hit parts of North Dakota and Minnesota this past summer makes it abundantly clear that our situation at Devils Lake could change drastically overnight. We must not assume the worst is over!

We are grateful that the slow down in rising lake levels has allowed us time to work on all aspects of our Three Pronged Solution. Much of our infrastructure around Devils Lake has been improved or protected at a cost of about \$400 million. Many roads have been raised and we have funding committed that is necessary for the next three foot rise in the Devils Lake dike system. Better basin water management is moving forward through several projects and a newly updated Comprehensive Basin Water Management Plan has been approved by the Devils Lake Joint Water Board. Best of all, the State Water Commission began construction of a state temporary outlet project last fall. Beginning that project has been a great shot in the arm for the morale of our citizens.

While we have made some progress, we must continue in earnest to complete a permanent outlet project. We are told the US Army Corps of Engineers will release its plans for a Devils Lake Emergency Outlet by the end of January or early February. We must be in a position financially to move quickly on that front. Time to implement a federal project is still an issue so it is essential that the state continue with its temporary outlet project to begin moving water as soon as possible.

One critical need that is not addressed in Senate Bill 2022 is the raw water supply for the City of Devils Lake. Currently, the city's decades old water supply pipeline is under Devils Lake for a distance of eight miles. Should this section of the pipeline fail in any way, the City will be without drinking water. The cost to develop a secure source is estimated at \$30 million. Unfortunately, we have not found a funding source to meet this critical need.

Thank you for your favorable consideration of Senate Bill 2022. We in Devils Lake and many others across North Dakota desperately need the financial support this bill provides.

Devils Lake Testimony on Senate Bill 2022 – by – Joe Belford

Thank you Mr. Chairman and members of the committee for this opportunity to discuss the flooding crisis we still face at Devils Lake and to request your support for funding included for Devils Lake flood control in Senate Bill 2022.

After a decade of fighting the Devils Lake flood, I must tell you that the ongoing high water situation remains a terrible social and economic burden for the people of my region and for the whole state. Even though many homes and businesses have been moved or protected, many more remain vulnerable. The economic fabric of our region is seriously weakened and I am convinced it is only the stick-with-it character of our people that has kept us from a major collapse.

The lake is currently at elevation 1446.88 feet above sea level despite a couple of relatively dry years. I'm sure you are aware of the catastrophic summer storms that hit parts of North Dakota and Minnesota this past summer. Those storms are a clear warning that our situation at Devils Lake could change drastically overnight. We must not assume the worst is over!

We continue to follow the three pronged approach to our flooding problems. We have made progress in upper basin water management and infrastructure protection but building an emergency outlet to the Sheyenne River remains a huge challenge. The Corps' long awaited outlet feasibility study recently concluded a federal project would cost \$202 million. We are very disappointed at this news because the cost is far too high and it would still take five or more years to build. It is more important now than ever that the state build its own emergency outlet as soon as possible.

Over the past ten years we have had great support from the legislature and people across North Dakota in dealing with our ongoing crisis. We are very grateful for that understanding and for the help! But, unfortunately, we still face major problems well beyond local capabilities to address. Last fall, the State Water Commission began construction of a state emergency outlet project. Beginning that project was a great shot in the arm for the morale of our citizens. We need your support of Senate Bill 2022 which includes the funding necessary to complete the critical third prong of our flooding solution.

Attachment to
Joe Belford's Testimony (10/26/03) (U)

I have enclosed an article from the January 26, 2003 edition of the Detroit Lakes Tribune concerning the Devils Lake Outlet I thought the Ramsey County Commissioners might be interested in. The Detroit Lakes Tribune is published in Detroit Lakes, Minnesota.

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LaCosta Rickford
Operator's Signature

10/15/03
Date

North Dakota, I object

Sen. Dayton all wet on Devils Lake outlet

It is continuously amazing how most Americans — private citizen and public officials — say they are willing to help all interests, but typically reject doing anything outside their own backyard.

A natural disaster — flooding or drought — is a perfect example. Last week, the U.S. Senate approved a \$3.1 billion assistance package for farmers who suffered losses in 2001 and 2002. The measure is now attached to an appropriations bill, to be voted on shortly by the full Senate before it advances to the U.S. House of Representatives.

The bill is approximately one-half of what the U.S. Senate approved last year as an amendment and then attached it to an appropriations bill. That bill floundered when Congress opted to approve continuing resolutions to keep the federal government in business rather than full-blown spending measures.

Minnesota's two senators split on the \$3.1 billion disaster package. Sen. Norm Coleman (Republican) went for the deal under the philosophy it is best to get some relief to farmers now, rather than to hold out for more. Sen. Mark Dayton (Democrat) objected, in part, because some farmers who never were harmed in either year will get assistance under this legislation. That isn't right.

I have no idea why the Senate would approve such a package, but the first guess is "politics." There are always silly things coming out of Congress, and this is just another addition to a very long list.

I had to chuckle at Sen. Dayton's characterization of last week's disaster vote, equating it to throwing 10 feet of rope to an individual drowning 20 feet from shore. While true, the senator's analogy also applies to Devils Lake, N.D., where residents are seeking relief from several years of continually rising water — resulting in substantial loss of homes, property and livelihood — and need cooperation from individuals like yourself to do the obvious: construct a lake outlet.

Tim

Kjos

Staff Writer



[Handwritten signature]

Last week, Dayton joined U.S. Sen. John McCain (R-Ariz.) in trying to strip \$100 million in outlet funding from the omnibus appropriations bill. Fortunately, their effort was turned back in the Senate.

Dayton says he agrees with the Minnesota Department of Natural Resources and Canadian officials that water from Devils Lake is environmentally harmful. Dayton chastised North Dakota officials for trying "to slip this by rather than proceed in a more responsible way."

Well, senator, North Dakota has tried for years in a responsible way to get something done and it's been individuals and groups like yourself and the DNR standing in the way. North Dakota officials have addressed the problem to two presidential administrations and two Minnesota governors and their staffs. The U.S. Army Corps of Engineers, the Manitoba government, Federal Emergency Management Agency and U.S. Department of Transportation — along with state and provincial agencies — are very aware of the situation. There have been countless ground and aerial inspections.

Kjos to page 15A

Kjos

Continued from page 14A

tions. Millions of dollars have been spent in road construction, home and business relocations and other infrastructure protection because of that lake. If the lake continues to rise, the City of Devils Lake — equal in size to Detroit Lakes — is in trouble.

But the roadblocks persist. Environmental concerns about the outlet are a smokescreen used by people and groups to oppose a project that is outside their backyard. It is ridiculous to suggest the Sheyenne and Red rivers and Hudson Bay will be degraded because of the outlet. Anybody who has looked at those rivers will realize that current quality is far from pure.

Unfortunately, this country has fallen into a pit whereby environment and wildlife rank higher on the preservation scale than humans. We are more willing to let people lose their homes and businesses to flooding — or take away irrigation water from Oregon farmers and ranchers by misguided U.S. Fish and Wildlife officials, halt logging because of the spotted owl, prevent ranching because of black-footed ferrets and prairie dogs — because of fear that biota will float downstream.

Dayton suggests the \$3.1 billion ag disaster bill is a "slap in the face to every farmers across the nation who is in danger of losing his or her farm because of a natural disaster." Gee, Senator, what do you suppose is happening at Devils Lake? Isn't it a facial slap to Devils Lake residents to suggest further study rather than taking corrective action? I wonder what Minnesota reaction would be if Lake Minnetonka were flooding in this fashion. Would there be a big push for corrective measures, or would Minnesota just let the lake level rise and Mother Nature do its will?

The answer is Lake Minnetonkans and their state/congressional delegations would be pounding on every possible door to get relief. But the Devils Lake problem is far, far away, and thus the critics can sanctimoniously stick their heads in the sand.

Sunday, January 26, 2003 edition of the Detroit Lakes Tribune,
Detroit Lakes, MN.



Mayor Bruce W. Furness
200 3rd Street North
Fargo, North Dakota 58102
Phone: (701) 241-1310
Fax: (701) 241-1526

TESTIMONY OF
FARGO MAYOR BRUCE W. FURNESS
To The House Appropriations Committee
Regarding SB 2022
March 6, 2003

Good Morning, I'm Bruce Furness, Mayor of Fargo, and I am speaking in favor of SB 2022. A portion of this bill addresses flood protection issues in south Fargo and in the surrounding area of Cass County. As we reported to this Committee last session, Fargo was contacted prior to the 1999 Legislative Session regarding its need for flood control projects. At that time, we wrote to State Engineer David Sprynczynatyk that we would be willing to defer any flood protection assistance from the state until after some of the more severely affected areas were addressed. We did, however, alert state government that we would be needing help in the future.

We are still in the development phase of a project to protect some 3500 existing homes south of I-94 and east of I-29. At the Legislature's suggestion, we incorporated upstream concerns and included protection of areas outside Fargo that would be affected by this project. This additional protection has increased the scope and cost of this project. We are asking that the state fund 50% of the non-federal share of this project, the same consideration as given to other flood control projects in the state.

This project has a range of approximately \$25 million to \$45 million depending on the level of protection needed by the surrounding properties. It includes a dike, drainage system and pumps for Fargo's south side and ring dikes and other flood protection for the cities of Horace, Briarwood and Frontier, as well as rural subdivisions north of the Wild Rice River.

The project is intended to provide permanent flood protection for this area plus prevent the expansion of the 100 year floodplain now being studied by FEMA. Annual savings of \$5,000,000 in flood insurance premiums are estimated to be achieved by the project through the limiting of expected floodplain expansions.

Currently, \$11 million of federal funds through FEMA have been identified to support this project. The state has previously funded \$5.5 million toward this project and this year's allocation is another \$5 million. Fargo is prepared to provide a similar amount for its share of the project. Without this permanent project, the potential for south side flooding in Fargo is very real and the need for Fargo residents having to pay flood insurance on their homes will become a major issue.



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10/15/03
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There have been allegations made to this Legislature that we have tried to sneak something through this appropriation process. I can only repeat the history of this need since 1999. We have been clear with the developers of the State Water Plan and with State executives about our needs and timeframe.

We have tried to address the concerns of the 2001 Legislative Session by having meetings with the Cities of Horace, Briarwood and Moorhead, local water resource districts and other affected agencies regarding this issue. FEMA is a key agency in finalizing the details of the project. FEMA has requested that the design be tested against the new 100 year flood plain hydraulics being developed by a FEMA contractor.

We have been unable to accomplish this task since the new floodplain hydraulics data is still in development. FEMA wants us to use the \$11 million by the end of 2004, but we cannot finalize the design without the new 100 year hydraulics data they have not yet provided. A Catch-22 situation, indeed.

We intend to move forward with this important flood control project as soon as we are able and ask your continued support. We urge a "Do Pass" for SB 2022.

filetest2022

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In Costa Rickford
Operator's Signature

10/15/03
Date

TESTIMONY OF
FARGO CITY ENGINEER, MARK H. BITTNER
TO THE HOUSE APPROPRIATIONS COMMITTEE
REGARDING SB 2022
MARCH 6, 2003

Good morning, I am Mark Bittner, Fargo City Engineer. I am speaking in support of SB 2022, which includes State matching funds for a flood control project south of Fargo.

A large area in south Fargo and south of the City is impacted by flooding from the Red, Wild Rice and Sheyenne Rivers. Significant flooding has occurred with alarming frequency, with the most recent major flood events in the spring of 2001 and 1997.

The southside flood control project is intended to provide two primary benefits:

1. Provide permanent flood protection for existing properties in south Fargo and also adjacent small cities and rural subdivisions. Exhibit A is a picture of the extent of flooding south of Fargo in the spring of 1997. Permanent flood protection for this area will protect against similar events, significantly reducing flood preparation costs and flood damages.
2. Limit the expansion of 100 year flood plain areas. FEMA is currently in the midst of a Flood Insurance Study (FIS) on the Red and Wild Rice Rivers in this area. The 100 year flood plain elevation is expected to rise between 1.5' and 2' in the area, resulting in significant expansion of the 100 year flood plain coverage area. Exhibit B shows current flood plain delineations in the area. Without a flood control project south of Fargo, the current 100 year flood plain (blue area) will expand significantly into the current 500 year flood plain (tan area). Such an expansion of the 100 year flood plain would require many homeowners to begin carrying flood insurance. This flood insurance requirement could impact approximately 3500 homeowners in Fargo alone, plus many others south of Fargo. To place this number of potential impacted properties in perspective, the entire State of ND currently has approximately 5700 flood insurance policies in force.

The proposed flood control project consists of an east-west dike south of Fargo to intercept flood waters, an adjacent diversion channel to carry flood flows to the Red River, and a large pump station and control structure to prevent backup in Rose Coulee/Drain 27. The flood control plan presented in 2001 was located at 70th Avenue south extending from the Red River to two miles west of I-29, and had a \$22 million estimated cost. In response to 2001 legislation, the City expanded alternative analysis to allow flood protection options for adjacent small cities, rural unincorporated subdivisions and upstream isolated developments. Exhibit C is a map showing the original 70th Avenue South alternative, plus project alternatives added in response to

2001 legislative directives. The range of cost of these alternatives has increased to \$25 to \$45 million. To finance the costs associated with the added project options, the City is requesting additional State funding to match the local cost share.

Technical design parameters of the flood control project have been independently developed by engineering firms under contract with Southeast Cass Water Resource District and FEMA. The design flows for the project (based on a replication of the 1997 flood event) have been set by these agencies. FEMA has also requested that the design be tested against the proposed revised 100 year hydraulics.

Extensive computer hydraulic modeling has been completed to evaluate river stage impacts associated with the proposed project options. For the 70th Avenue South outlet alternatives shown in Exhibit C, the Red River stage increases range from 1.25" to 4.00", and Wild Rice River stage increases range from 0.75" to 3.75", as detailed on Exhibit D.

Developing the additional project alternatives has slowed project implementation. We believe we are now in a position to select the appropriate alternative based on interested participants and move rapidly to permitting, design, right-of-way acquisition and construction. The City desires to have permanent flood protection in place as soon as practical to prevent a reoccurrence of 1997 or 2001 flooding, and to be in place ahead of FEMA remapping of area flood plains. We urge your consideration and support for State matching funds, included in SB 2022, for flood control improvements south of Fargo.

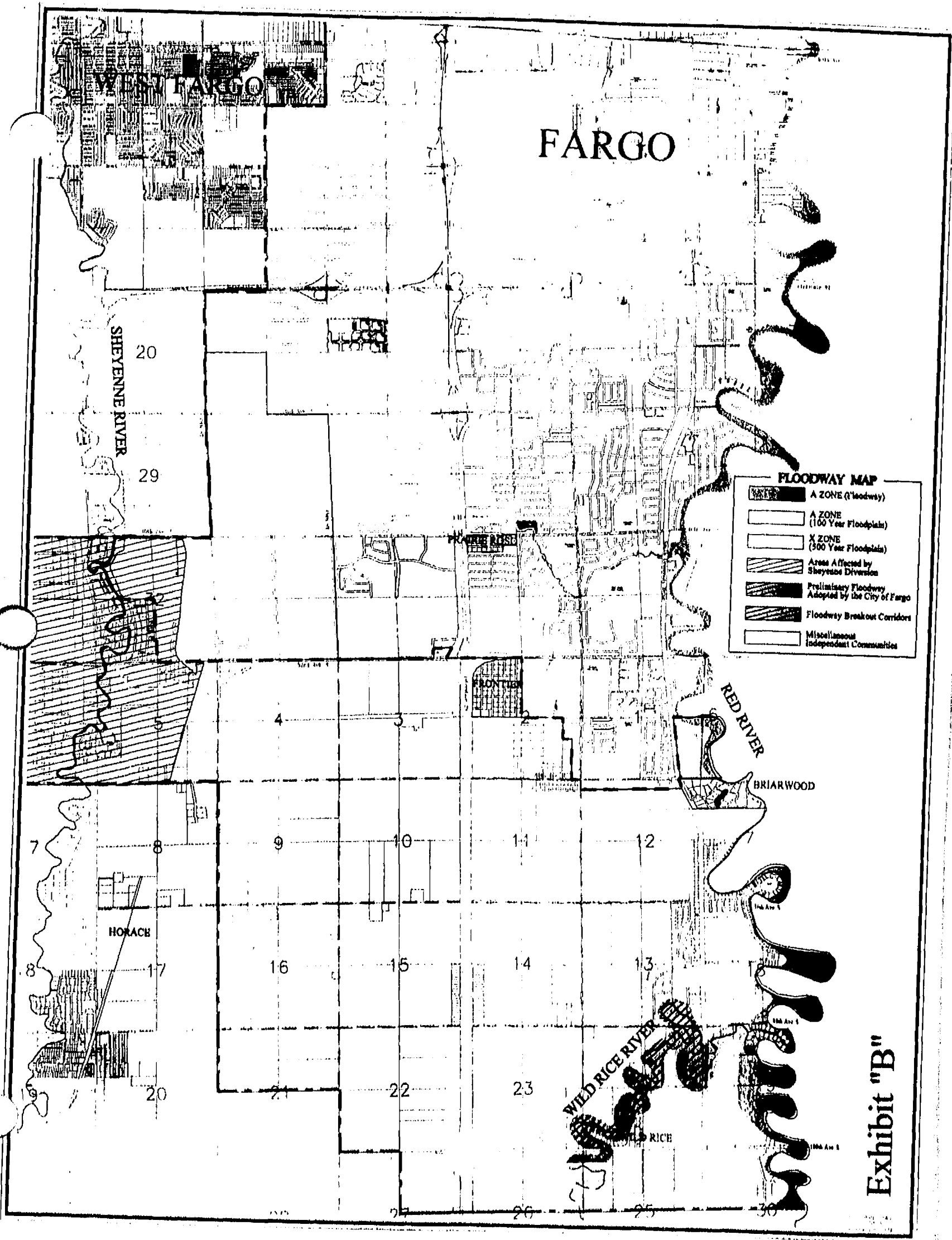
Thank you for the opportunity to present these views.

wordb\mhbl\SB2022testimony

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10/15/03
Date

5/2/2002

South Side Flood Protection
Fargo, ND

Table of Estimated Hydraulic Impacts
1997 Spring Flood Analysis

Red River Stage Increases (Inches)

Alternate	Rose Coulee	70th Ave So	Wild Rice R.	124th Ave So	Hickson
Rose Coulee Outlet	1.25	1.25	0.75	0.25	0.00
70th Ave Outlet	1.25	4.00	2.25	1.00	0.50
Wild Rice Levee	1.25	4.00	5.25	2.75	0.75
With Briarwood and Maple Prairie Levees					
70th Ave Outlet	1.25	4.00	3.75	1.50	0.75
Wild Rice Levee	1.25	4.25	7.50	3.75	1.25

Wild Rice Stage Increases (Inches)

Alternate	Red R.	Cass 14	Cass 16	Interstate 29	Cass 18
Rose Coulee Outlet	0.75	0.50	0.25	0.25	0.00
70th Ave Outlet	2.25	1.75	0.75	0.50	0.00
Wild Rice Levee	5.25	6.00	4.75	7.00	0.75
With Briarwood and Maple Prairie Levees					
70th Ave Outlet	3.75	3.25	1.25	0.75	0.00
Wild Rice Levee	7.50	8.00	5.25	7.25	1.00

EXHIBIT D

MOORE ENGINEERING, INC.

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LaCosta Rickford
Operator's Signature

10/15/03
Date

Vernon Muschel's Testimony

CITIZENS FOR RESPONSIBLE FLOOD CONTROL

Committee Members: Terry Compson, Mick Pflugrath, Richard Freeman,
Paul Breen, R.D. "Dick" Knutson, Tim Kowalski, Steve Paulson,
Steve Syrdal, Jeanne Narum, Claude Richard, George Richard
4830 174th Ave SE, Horace, ND 58047
www.responsiblefloodcontrol.org

March 6, 2002

RE: Senate Bill 2022
State Water Commission Budget Bill
\$11 Million Funding Earmarked By SWC For Fargo Dike Project

Dear House Appropriation Education & Environment Sub-Committee Members:

Who We Are: We are a neighborhood organization consisting of approximately 2000 voting members living in Fargo and south of Fargo in Cass County.

Our Concern: The lack of information from Fargo as it races ahead with a south-side dike project (i.e. location unknown with construction starting this summer or fall!). This dike project has regional impacts (upstream, downstream, to Minnesota, etc.)! It appears Fargo is planning to build the project now and beg for forgiveness later.

Our Request Of You: A responsible State House of Representatives decision requires that the current funding be denied or restricted until a meaningful discussion is had! Why? Because Fargo knows how to avoid a local vote on the local funding component! That discussion tool is not the answer!

Without Your Help: Fargo can run roughshod over all other interests.

Questions Needing Answers Prior To Funding Include, For Example:

- What is the location of dike? How can construction start this summer if Fargo really doesn't know which of the proposed dikes is going to be built? Has Fargo in fact already picked a location? If so, why hasn't that information been shared?
- Is it appropriate to authorize \$11 Million for project that is yet to be defined? Next biennium, Fargo intends to ask for even more money (per Fargo Mayor Furnace, 3/5/03, KFGO Radio). Why not pick a project, have a meaningful discussion, and ask for all the necessary funding next biennium?
- Once construction starts, how do you stop and have a meaningful discussion with those who are impacted? You don't, right?
- Can North Dakota afford to spend \$11 Million today to protect the future growth that Fargo told the Senate Appropriations Committee about? How much should North Dakota be expected to pay? Who benefits from this investment? The land developers who can now sell land at a premium as flood insurance costs are less?

over →

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L. Costa Rickford
Operator's Signature

10/15/03
Date

- Can North Dakota afford to exhaust all of the water project tobacco funds today?
- Is there room in the budget to do today that which is intended for growth 50 to 100 years out?
- Is it wise to save this \$11 Million in case of an emergency during this biennium?
- What about the public input meetings that Fargo promised the Senate Appropriations Committee would be held now? There have been none. Does Fargo even care what the public thinks?
- What about Devils Lake, they need help today to survive, right? What about northwestern North Dakota, they need water today to survive, right?
- Why hasn't Fargo talked to Minnesota city, county and state bodies that will be impacted by this project? The 6" rise projected on the Red River is awful close to the 9" maximum allowed by law. Shouldn't Minnesota have a chance to review these numbers before the project is built? Numbers on this project have been found to be wrong before. If Minnesota is not consulted, what will it cost North Dakota if there is a disagreement later?
- If flood plain management (i.e. water retention) will work south of the dike (per Fargo's testimony to the Senate Appropriations Committee), why won't it work in the future development area that Fargo wants to dike-in?
- Why does Fargo need a new southern dike when it has already protected itself against another 1997-type flood?
- Are dikes the answer? No, it is common knowledge that water retention is a better answer as there are only two types of dikes, those that have failed, and those that will fail. Water retention has improved since 1997 and is continuing to be developed. Isn't water retention a reasonable approach to address a 250-year flood event?
- If a dike project is needed, why isn't the least harmful project being pursued (the Rose Coulee project that would add 2" to the Red River)? It will cost \$45 million compared to the \$40 million cost of the most harmful project (the County Road 16 project that will add 6" to the Red River). The County Road 16 project will cause higher flood levels for the people who suffered most during the 1997 flood.
- Why isn't the inclusion of funding for individual ring dikes outside the dike enough? Because the proposed funding is only intended to ring dike those living away from the river. Why, when the most populated area is along the river? Smoke and mirrors?
- Etcetera?

In closing we note that our facts may not be perfect, but they are close and are the best available as Fargo is not sharing information.

Thank you for your time and consideration.

Respectfully Submitted,

Citizens For Responsible Flood Control

CC Exhibit 1

4/8, 2003

Dear Decision Maker,

Sample form of 156 turned in with these 2 paragraphs

The City of Fargo is proposing to build a dike system south of Fargo. The proposed dike will protect a sparsely populated area of land that Fargo intends to use for future growth. The proposed dike will channel floodwaters directly into the Red River, causing even more flooding problems for the people harmed most during the 1997 flood.

The proposed dike is not in the best interest of our friends and neighbors. We do not support the building of the proposed dike. We ask that you please state your opposition to the proposed dike project.

Respectfully,

Stanley Township
Board of Supervisors

Rod Young 8009 15th ST S Fargo ND 58104
Rod Young - Supervisor

Ski Kostman 1705-118th Ave South Horace, ND 58047
Ski Kostman - Supervisor

Todd Z Ellic - 2005 124th Ave. So. Horace ND 58047
Todd Ellic - Supervisor

Michael Cuffe 10405 CO RD 17S Horace N.D 58047
Mike Cuffe - Supervisor

[Signature] 6000 64th Ave S., Fargo N.D. 58104

Perry Ranning - Clerk

David Matheson 7105 12th ST. So. Fargo, ND 58104
David Matheson - Chairman

I live on County Rd. 14. & I'm the one that
gets the brunt of the flooding. When they
built up the road in front of my house it
caused my husband so much agitation as he
knew it would make flooding worse. He had a
massive stroke & died Aug. 24, 1999. I
blamed the county & I wrote them a letter
saying they killed my husband. He
was here first. My husband has been here &
I've been here 54 yrs. & they should take that
into consideration. Now, across the road -
(Kistner property) there are 5 houses there & 1
will be built this summer. They are
bringing in loads of dirt & of course I'm going
to be the water recipient. I've asked them to
bury me out. They don't listen to me. Look
how they tried to get Martin & Nelson's land
Horse. Larry thinks they can do what
they want. The last flood they put a dike
around Round Hill & Heritage Hills. Maybe I don't
have a big house like those rich people - but it
is my home. Just before my husband died
he sold 19 acres to Jeff Jones. He's a nice person
but he had to bring in dirt. I doubt I would
have sold it. This last flood we were able to
save the basement except for sleepage & we've
built up around house. When they put the
new bridge in Oak asked them to put the
dirt around river to build up as they refused.
They also took out a driveway & promised to put it
back but they reneged on that, too.

I'll send you \$20 - I live on my Soc. Sec. &
my son who is not able to work lives
with me now. I appreciate all you have
been doing. Thanks very much.

Excuse my writing I had surgery Feb. 20 for
a hole in my rotator cuff & I haven't
Apr. 2. Ask Jeff Jones for money. He owes Jeff Jones
Construction Co; with Ruth. And retired.
Sincerely
Nella Dennis

CITIZENS FOR RESPONSIBLE FLOOD CONTROL

Board Members: Paul Breen, Terry Compson, Richard Freeman, Vern Kepler,
R.D. Knutson, Tim Kowalski, Steve Paulsen, Mick Pflugrath, Claude Richard,
George Richard, Bonnie Rutten, Steve Syrdal

Phone (701)588-4653, Fax (701)588-4170, Web Site www.responsiblefloodcontrol.org

THE DIKE THAT WON'T DIE!

Dear Friends & Neighbors,

Your Citizens Group has been fighting hard since 1998 to convince the powers that be that the proposed dike project south of Fargo IS NOT in the best interest of our citizens. In fact, had the dike that was initially proposed been in place prior to the 1997 flood, our neighbors impacted the most in 1997 would have had another two to six inches or more of floodwaters to deal with, depending on where they live.

What this proposed dike would accomplish is to secure 24+ sections of sparsely populated land for Fargo's future growth. This is at the expense of our people who already live in the flood prone areas. The proposed dike won't even remove that area from the flood plain. That means flood insurance is still needed.

If you feel that this dike needs to be stopped, WE NEED YOUR HELP NOW!

1. NOW IS YOUR TIME TO MAKE A DIFFERENCE! If you don't feel this issue is important enough to make your voice heard RIGHT NOW, then you will either be paying for a \$40+ Million dike project in the near future and/or be impacted by more floodwaters than you saw during the 1997 flood.
2. Please read the attached "Top Ten Reasons" fact sheet as to why the proposed dike project must die.
3. We have also enclosed a sample letter that simply states that you do not support the proposed dike project. Please take the time to sign and return this letter to the address listed below (both spouses should sign along with any other voting-age household members). If you do this, your Citizens Group will send a copy of your letter to every N.D. State Legislator, Senator Dorgan, Senator Conrad, Representative Pomeroy, our F.E.M.A. and Corp of Engineers representatives, the N.D. State Water Commission, the Southeast Cass County Water Board, and the City of Fargo.
4. It costs your Citizens Group a lot of money to work for you. All time spent by your Citizens Group is voluntary. The money only goes to pay expenses. Please sign the enclosed letter (or a letter of your own if you prefer), enclose your most generous contribution (\$50 or \$100 or whatever you can afford), and mail both to the address listed below.

YOU CAN MAKE A DIFFERENCE. Please take the time to do it right now!

Thank you!

Mr. Richard Freeman, Treasurer
2914 South 124th Avenue
Horace, ND 58047

March 22, 2003

Dear Decision Maker,

The City of Fargo is proposing to build a dike system south of Fargo. The proposed dike will protect a sparsely populated area of land that Fargo intends to use for future growth. The proposed dike will channel floodwaters directly into the Red River, causing even more flooding problems for the people harmed most during the 1997 flood.

The proposed dike is not in the best interest of our friends and neighbors. We do not support the building of the proposed dike. We ask that you please state your opposition to the proposed dike project.

Respectfully,

I recomend we do have a dike and flood protection very bad. I remember very much that this area I'm in is not going to be used as a holding pond like it was in 97. Everyone on the east side of 81 - "Chrison East and Briarwood were protesting against opening up 81 so the water could go down on the west side.

I remember very much they come out on the highway with a forklift and tried to stop the opening of the highway.

It's either pay for the dike or pay for flood insurance the rest of our life.
We need flood protection bad.

Allen Brekhestram
Anna Brekhestram

March 31, 2003

To Whom it may concern:

Fargo has created its own water problems. The bigger town grows, the more it slows the water. From crowding the river and other drainage systems. The bigger town gets, the more run-off that is created from streets, roofs, parking lots, ect.

Fargo needs to concentrate on increasing the flow of water through the city by moving homes and buildings, by cleaning and widening the river and other ditches, raising bridges, ect.

By putting dikes south of town, Fargo is just putting their problem on someone else and this unfairly treats property owners to the south and west of the proposed dike system.

Respectfully,

John & Peggy Rutter
16522 41ST ST. SE.
Mapleton, ND, 58059

CITIZENS FOR RESPONSIBLE FLOOD CONTROL

Board Members: Paul Breen, Terry Compson, Richard Freeman, Vern Kepler,
R.D. Knutson, Tim Kowalski, Steve Paulsen, Mick Pflugrath, Claude Richard,
George Richard, Bonnie Ritten, Steve Syrdal

Phone (701)588-4653, Fax (701)588-4170, Web Site www.responsiblefloodcontrol.org

TOP TEN REASONS TO DEFEAT THE FARGO DIKE PROJECTS:

1. OTHER LESS EXPENSIVE OPTIONS ARE AVAILABLE TO PROTECT THE EXISTING HOMES AND PROPERTIES IN SOUTH FARGO SHOULD ANOTHER 250 YEAR FLOOD OCCUR. WATER RETENTION SITES IN THE TRAVERSE LAKE AREA, AND ON THE WILD RICE RIVER AND MAPLE RIVER ARE EXAMPLES OF FLOOD CONTROL OPTIONS THAT HELP ALL OF OUR CITIZENS.
2. THE DIKE/DIVERSION OPTIONS BEING CONSIDERED PROTECT AREAS SOUTH OF FARGO THAT HAD VERY LITTLE DAMAGE IN 1997. THIS PROJECT WILL PROTECT AN UNDEVELOPED PORTION OF LAND THAT THE CITY OF FARGO WANTS TO USE FOR FUTURE EXPANSION. THIS DIKE WILL NOT PROTECT THE CITIZENS WHO SUSTAINED THE MOST DAMAGE IN 1997, BUT WILL IN FACT CAUSE THEM MUCH HIGHER FLOOD LEVELS THAN THEY EXPERIENCED IN 1997.
3. MANY IMPROVEMENTS HAVE ALREADY BEEN MADE THAT WOULD MAKE THE 1997 FLOOD MORE MANAGEABLE SHOULD A SIMILAR FLOOD OCCUR NOW.
4. MANY HOMES DAMAGED IN THE 1997 FLOOD HAVE ALREADY BEEN REMOVED.
5. DIKE PROTECTION IN TIMBERLINE, FOX RUN, PRAIRIE ROSE, FRONTIER AND THE 64TH AVENUE AREA HAVE ALREADY BEEN PUT IN PLACE.
6. COUNTY ROAD 14 HAS BEEN RAISED ABOUT TWO FEET. FLOOD WATERS THAT RAN OVER COUNTY ROAD 14 BETWEEN I-29 EAST TO THE WILD RICE RIVER WILL NO LONGER FLOW OVER THE ROAD.
7. BALD HILL DAM IS BEING RAISED WHICH WILL LESSEN THE FLOODING ON THE SHEYENNE RIVER WHICH IN TURN LESSENS THE FLOOD WATERS SPILLING OVER TO THE WILD RICE RIVER AND RED RIVER.
8. FOR OUR CITIZENS LIVING ON THE WRONG SIDE OF ANY DIKE/DIVERSION PROJECT, YOUR PROPERTY VALUES WILL BE IMPACTED AND YOU WILL EXPERIENCE MUCH HIGHER FLOOD LEVELS THAN YOU EXPERIENCED IN 1997. IT IS NOT PART OF THE DIKE PLAN TO REIMBURSE OUR CITIZENS FOR THESE LOSSES.
9. THIS DIKE/DIVERSION PROJECT IS HUGE. IT WILL COVER MANY ACRES OF VALUABLE LAND AND DESTROY THE BEAUTY OF OUR COMMUNITY WHEREVER THE DIKE/DIVERSION IS PLACED. THE DIKE WILL NOT REMOVE THAT AREA FROM THE 100 YEAR FLOOD PLAIN. YOU WILL STILL NEED FLOOD INSURANCE. THE ESTIMATED COST IS CURRENTLY \$40 MILLION AND CLIMBING!!! THE COST OF REPAIRING AND MAINTAINING SUCH A DIKE/DIVERSION CHANNEL GOES ON FOREVER.
10. REMEMBER, THIS WAS A 250 YEAR FLOOD. OUR CITIZENS WILL BE BETTER SERVED IF THIS DIKE IDEA IS SCRAPPED! OUR TAX DOLLARS (FEDERAL, STATE, AND CITY) CAN BE PUT TO BETTER USES AND OUR CITIZENS CERTAINLY DO NOT NEED TO PAY MORE PROPERTY TAXES FOR SUCH A PROJECT!

TESTIMONY
Supporting SB 2022

My name is Jerry Blomeke and I am the General Manager of Cass Rural Water District headquartered in Kindred, North Dakota. I am here today representing the rural water systems and municipalities in the eastern 1/3 of the state.

We believe that the legislature made a wise decision during the 1999 session when it set up the Water Development Trust Fund with a 45% allocation of the tobacco settlement dollars. There are a number of very important water funding needs in North Dakota, including a reliable long term supply of water to the eastern part of the state. Without a reliable source of water the economy of this part of North Dakota could be severely damaged should an extended drought occur.

As an example Cass Rural Water District provides water to nearly 3,000 households in Cass County as well as 24 cities and towns including Casselton, Mapleton, Buffalo, Hunter, Kindred, Tower City and Argusville. Cass Rural Water District obtains nearly 1/2 of our water supply from a ground water source known as the West Fargo Aquifer. In addition to Cass Rural Water District the towns of Harwood, Horace and West Fargo rely on this aquifer for their primary source of water. In the year 2000 a study of the West Fargo Aquifer was completed by the North Dakota State Water Commission.

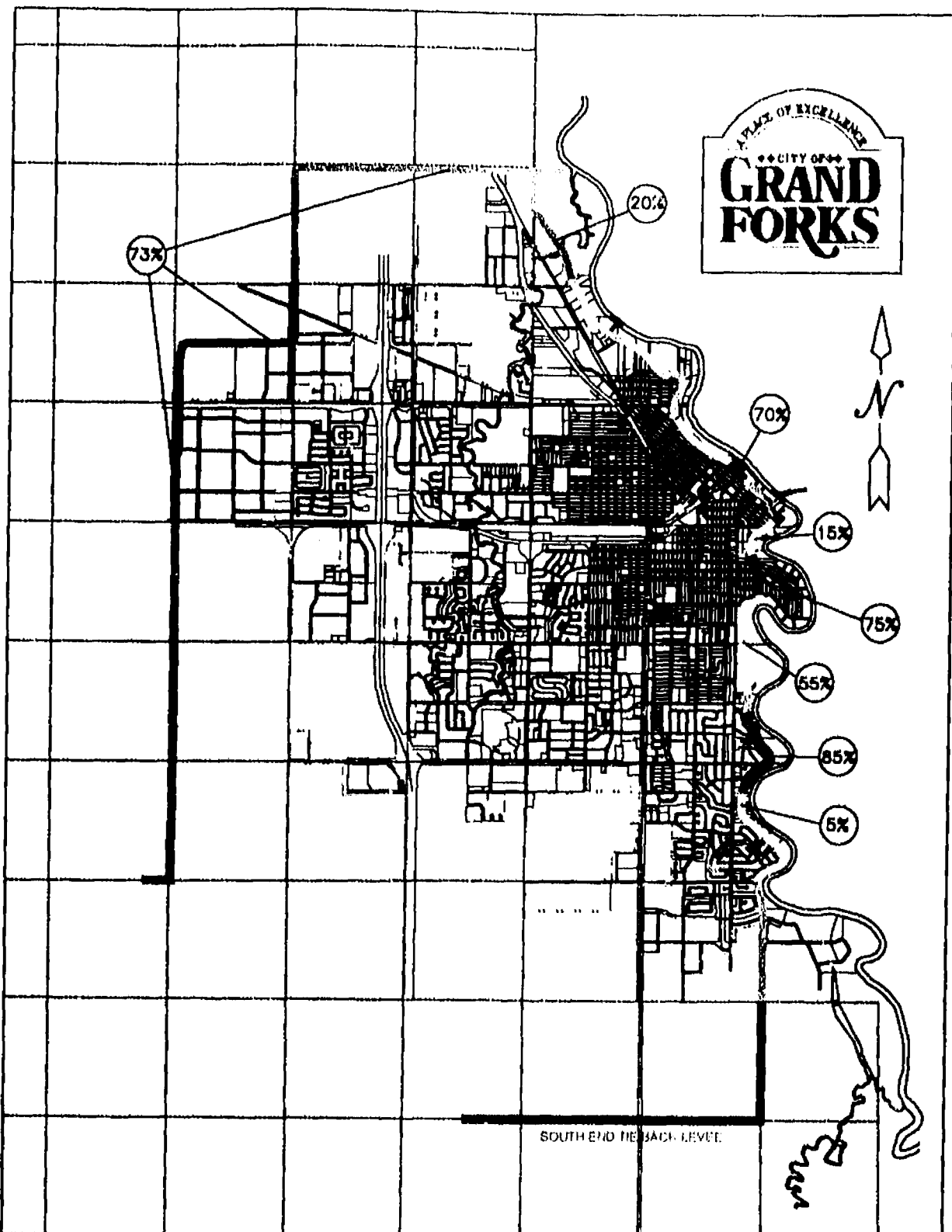
One of the conclusions of this study was that the withdrawal rate on the aquifer was far in excess of the recharge rate. Observation well data shows that the static level of the aquifer is declining at the rate of two feet per year. If that rate of decline continues this water source will be exhausted in the next 20 to 30 years. This is just one example of the many water supply needs the Water Development Trust Fund was set up to help address. The water supply needs of the Red River Valley are real, are critical and must be met for North Dakota's economic vitality and quality of life. A severe drought would be devastating to eastern North Dakota. I want to thank the committee for the opportunity to testify today and would strongly urge you to adopt SB 2022 as amended by the Senate.

Exhibit 14

Senate Bill 2022
Senate Appropriations Committee

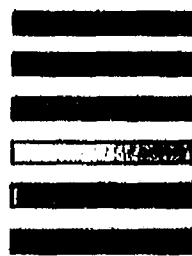
Statement of Support from Grand Forks City Engineer Al Grasser
for funding for the Grand Forks Flood Protection Project
January 21, 2003

- ◆ On behalf of the City of Grand Forks, I would like to extend our sincerest thanks for the support we have received for our flood protection project. We support the continued commitment represented through the funding authorizations contained in this bill.
- ◆ The Grand Forks/East Grand Forks Flood Protection Project was authorized by the federal government in December of 1998. It is designed to protect both cities from floods of a similar magnitude to the 1997 disaster. The Grand Forks portion of the project consists of 13 miles of levees and floodwalls and a small diversion channel. (See map.)
- ◆ The total project cost for both cities = \$387 million
 - Grand Forks total cost = \$230 million
 - Federal Government to fund \$102 million of GF total.
 - State of ND to fund 45%, up to \$52 million
 - Grand Forks to fund remaining \$76 million locally, plus \$11 million of betterments. Local funding will come from:
 - Reallocate existing property taxes
 - Existing sales tax dollars
 - Revenue from use tax
 - City-wide special assessment
- ◆ Non-federal expenses through December 5, 2002: \$68.6 million total. The State of ND has agreed to reimburse 45% of this amount up to \$52 million. Through December 5, 2002, the city has used nearly \$31 million of the state funds. Most of the money in this timeframe has been spent on the acquisition of property, relocation of utilities and cost match to federal funds.
- ◆ As can be seen on the attached map, Grand Forks is approaching the halfway mark of the project construction. Project management is in full swing with pre-design, design and construction activities all going on at the same time.
- ◆ We anticipate spending an additional \$60 million from July 2003-June 2005 in non-federal funds. It is anticipated that the City will reach the \$52 million cap before the 45% reimbursement threshold is reached in the coming biennium. **We are respectfully requesting passage of SB 2022 which provides the State of ND funding commitment of up to \$20 million in this biennium to help us complete this project.** Most of the money in this timeframe will be spent on the acquisition of property, relocation of utilities and cost match to federal funds. The estimated substantial completion timeline for the entire project is by the end of 2004 with final completion sometime in 2005.
- ◆ This flood protection project is very important to the future of our community and the State's financial support is crucial to our being able to pay for our portion of the costs. We are very appreciative of the money you have invested in our community to date and respectfully request your continued support of this project.



PERMANENT FLOOD PROTECTION

PHASE I CONSTRUCTION	76% COMPLETE
ENGLISH COULEE DIVERSION	73% COMPLETE
ENGLISH COULEE PUMP STATION	20% COMPLETE
PHASE II CONSTRUCTION	15% COMPLETE
PHASE III CONSTRUCTION	BID SPRING 2003
PHASE IV CONSTRUCTION	BID SPRING 2004



DATE: January 7, 2003

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LaCosta Rickford
Operator's Signature

10/15/03
Date

Exhibit 15

SHEYENNE – MAPLE FLOOD CONTROL PROJECTS

Testimony for the Senate Appropriations Committee

Senate Bill 2022

January 21, 2003

Presented by:

Jeffrey J. Volk, PE & LS

Moore Engineering, Inc., Project Engineer

1986 WATER RESOURCES DEVELOPMENT ACT

P.L. 99-662

PLAN FEATURES

- **Sheyenne River Diversion at West Fargo**
Project Sponsor – Southeast Cass Water Resource District
Operational – Spring 1992
- **Sheyenne River Diversion from Horace to West Fargo**
Project Sponsor – Southeast Cass Water Resource District
Operational – Fall 1991
- **Maple River Dam**
Project Sponsor – Cass County Joint Water Resource District
Under US Army Corps of Engineers permit review since 1993.
Permit decision anticipated - Summer 2003
- **Baldhill Dam 5 Foot Floodpool Raise**
Project Sponsor – Sheyenne River Jt. Water Resource District
Operational – Spring 2003

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10/15/03
Date

Chairman Holmberg and committee members. My name is Jeffry Volk, Project Engineer for the Maple River Dam. The Maple River Dam project is one component of a federally authorized four-part plan for flood control along the Maple, Sheyenne, Rush and Red Rivers. The first two projects have been operational for ten years and are providing much needed flood protection from the Sheyenne River for the cities of West Fargo and Horace and the rapidly growing area between these cities. The third component, the five-foot flood pool raise at Baldhill Dam will provide an additional 30,000 acre-feet of temporary floodwater retention to Lake Ashtabula on the Sheyenne River upstream of Valley City. This modification to Baldhill Dam was completed last year allowing it to be operated for the first time, if necessary, this spring.

The last component of this four-part flood control plan is the proposed Maple River Dam project. The Maple River Dam will provide an additional 60,000 acre-feet of temporary floodwater retention on the Maple River to help further reduce flood damages along the Maple, Rush, Sheyenne and Red Rivers in eastern North Dakota. This floodwater retention structure will provide flood damage reduction for the cities of Durbin, Mapleton, Reiles Acres, Harwood, Argusville, West Fargo, Fargo, Grand Forks, Drayton and Pembina as well as hundreds of rural residents and numerous other communities in North Dakota, Minnesota and Canada. In Cass County alone, it will also reduce flood damages and provide increased traffic safety during flood events, to Interstate Highways 29 and 94 as well as State Highway 18 and 12 county highways.

We have estimated the total cost for the Maple River Dam to be \$20.75 million. Our additional financial need from the State of North Dakota to complete this project is estimated to be \$9.25 million. The North Dakota State Water Commission has already provided \$1.1 million in financial support for the development of this project in the current and prior bienniums.

As with many water projects, the Maple River Dam project has gone through more than its share of delays and setbacks associated with the federal regulatory process. Last week we delivered to the Omaha District Corps of Engineers the last study report required by the Corps to complete the Section 106 process, which will allow them to prepare a Record of Decision for the Section 404 permit we have been working towards for almost 10 years. Based upon our discussions with Colonel Ubbelohde in Omaha, he has made a commitment to the Cass County Joint Water Resource District to complete the Section 106 and Section 404 regulatory processes as soon as possible following the completion of this last study report. We are currently planning for the regulatory process to be completed this summer, allowing for construction to begin late this year or early in 2004 and delivering the long awaited flood protection benefits this project will provide in 2005.

Attached to this testimony is additional information relating to the Maple River Dam project, including a listing of the many cities, counties, boards, agencies and groups that have written letters of support for this project to the Commander of the Omaha District Corps of Engineers. Also, at the December 2002 meeting of the Red River Basin Commission, a resolution of support was approved, with no objection, indicating this project meets the Guiding Principles this International Commission has established for the management of the Water Resources in the Red River Valley.

Thank you for allowing me to present this important flood control project to you. I request that you continue to support and fund the development of water projects in North Dakota as outlined during the 56th legislative assembly with Senate Bill 2188 and again during the last legislative assembly. I will be glad to answer any questions you may have.

LaCosta Rickford
Operator's Signature

10/15/03
Date

SHEYENNE – MAPLE FLOOD CONTROL PROJECTS

Testimony for the Education and Environment Division
House Appropriations Committee

Senate Bill 2022

March 6, 2003

Presented by:
Jeffrey J. Volk, PE & LS
Moore Engineering, Inc., Project Engineer

1986 WATER RESOURCES DEVELOPMENT ACT
P.L. 99-662

PLAN FEATURES

- Sheyenne River Diversion at West Fargo
Project Sponsor – Southeast Cass Water Resource District
Operational – Spring 1992
- Sheyenne River Diversion from Horace to West Fargo
Project Sponsor – Southeast Cass Water Resource District
Operational – Fall 1991
- **Maple River Dam**
Project Sponsor – Cass County Joint Water Resource District
Under US Army Corps of Engineers permit review since 1993.
Permit decision anticipated - Summer 2003
- Baldhill Dam 5 Foot Floodpool Raise
Project Sponsor – Sheyenne River Jt. Water Resource District
Operational – Spring 2003

Chairman Martinson and committee members. My name is Jeffry Volk, Project Engineer for the Maple River Dam. The Maple River Dam project is one component of a federally authorized four-part plan for flood control along the Maple, Sheyenne, Rush and Red Rivers. The first two projects have been operational for ten years and are providing much needed flood protection from the Sheyenne River for the cities of West Fargo and Horace and the rapidly growing area between these cities. The third component, the five-foot flood pool raise at Baldhill Dam will provide an additional 30,000 acre-feet of temporary floodwater retention to Lake Ashtabula on the Sheyenne River upstream of Valley City. This modification to Baldhill Dam was completed last year allowing it to be operated for the first time, if necessary, this spring.

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We have estimated the total cost for the Maple River Dam to be \$20.75 million. Our additional financial need from the State of North Dakota to complete this project is estimated to be \$9.25 million. The North Dakota State Water Commission has already provided \$1.1 million in financial support for the development of this project in the current and prior bienniums.

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Thank you for allowing me to present this important flood control project to you. I request that you continue to support and fund the development of water projects in North Dakota as outlined during the 56th legislative assembly with Senate Bill 2188, repeated during the 57th legislative assembly and as passed by the Senate in Senate Bill 2022. I will be glad to answer any questions you may have.

Maple River Dam Benefits and Testimonials

1. Flood protection downstream in the major metropolitan areas of North Dakota

According to DEIS, annual flood damages are in excess of \$418,000 per year
According to DEIS: "floods in the basin are nearly an annual event."

2. Flood protection downstream for rural areas and farmlands

According to DEIS, Dam would protect 7,750 acres during a 100-year event
According to DEIS: "the largest benefits would be realized in rural areas from reduced damages to crops, farm buildings, soils, and rural roads and bridges."

3. Great support from the eastern part of the state, including letters of support at the public hearings:

City of Fargo
City of Grand Forks
City of Harwood

Cass County
Pembina County
Walsh County

North Dakota State Water Commission

Durbin Township, Cass County
Mapleton Township, Cass County
Warren Township, Cass County

Devils Lake Basin Joint Water Resource District
Maple River Water Resource District
North Cass Water Resource District
Red River Joint Water Resource District
Richland County Water Resource District
Rush River Water Resource District
Southeast Cass Water Resource District
Walsh County Water Resource District

North Dakota Water Coalition
Middle River-Snake River Watershed District (MN)
Red River Watershed Management District (MN)

Lower Sheyenne Flood Victims Association

1/18/2003

**SHEYENNE - MAPLE FLOOD CONTROL PROJECTS
SUMMARY OF PROJECT COSTS
AMOUNTS IN \$ 1,000**

	TOTAL PROJECT COST	FEDERAL DOLLARS	STATE DOLLARS	LOCAL DOLLARS
WEST FARGO DIVERSION Percent of Total	\$25,800 100%	\$15,000 58.1%	\$3,025 11.7%	\$7,775 30.1%
HORACE TO W FGO DIVERSION Percent of Total	\$12,650 100%	\$8,500 67.2%	\$1,260 10.0%	\$2,890 22.8%
MAPLE RIVER DAM # Percent of Total	\$20,750 100%	\$0 0.0%	\$10,375 50.0%	\$10,375 50.0%
BALDHILL DAM POOL RAISE Percent of Total	\$10,500 100%	\$7,000 66.7%	\$1,605 15.3%	\$1,895 18.0%
TOTAL ALL PROJECTS Percent of Total	\$69,700 100%	\$30,500 43.8%	\$16,265 23.3%	\$22,935 32.9%

Project Not Constructed

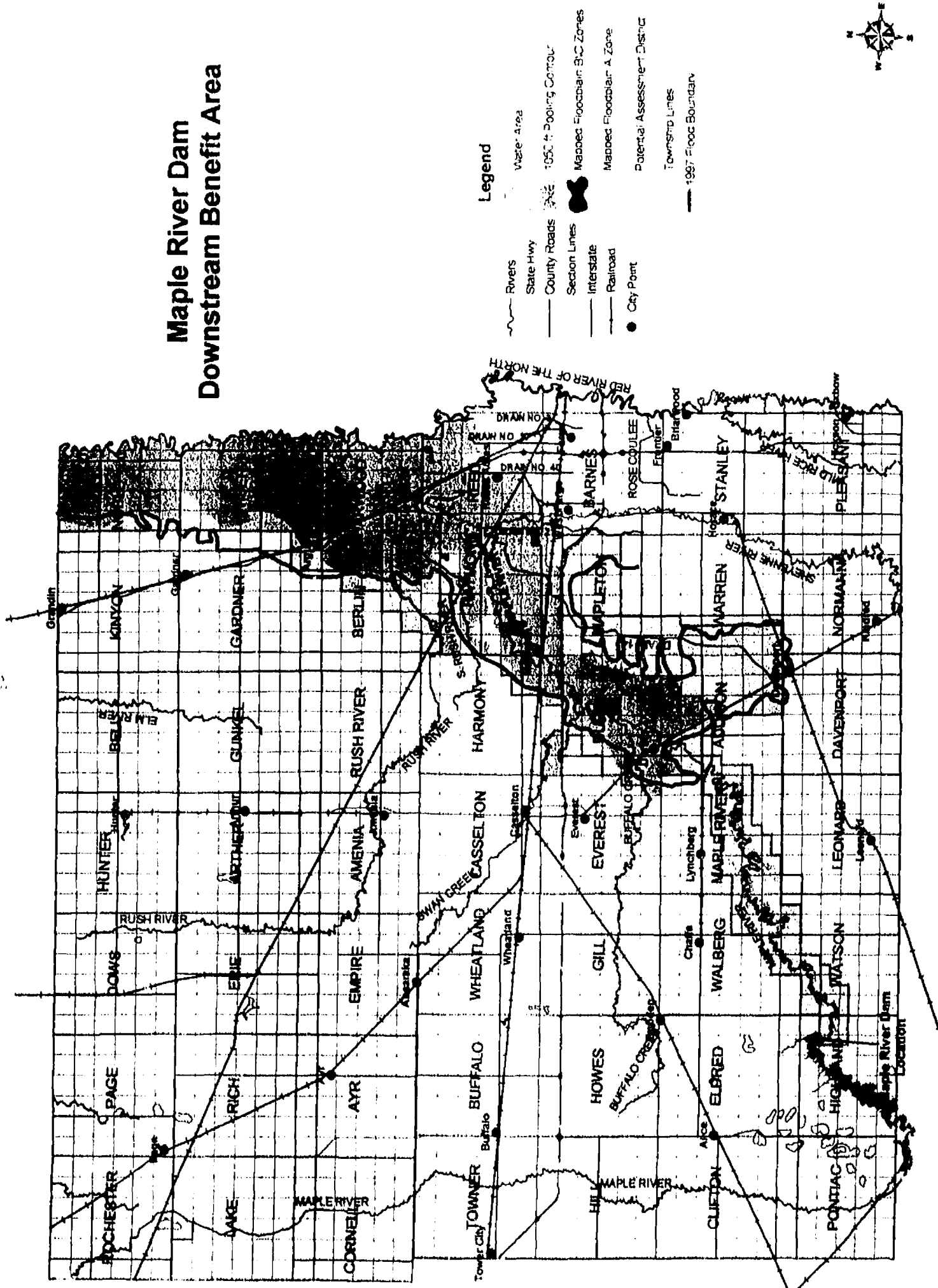
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10/15/03
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Maple River Dam Downstream Benefit Area



7/1/03
moore engineering, inc.

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Date



moore engineering, inc.

1042 14th Ave. E. West Fargo, North Dakota 58078 • Phone: 701-282-4692 • Fax: 701-282-4530

SHEYENNE - MAPLE FLOOD CONTROL MAPLE RIVER DAM CASS COUNTY JOINT WATER RESOURCE DISTRICT

Project Features

LOCATION: Section 14, Highland Township, Cass County ND

DRAINAGE AREA: 901.8 Square Miles

STORAGE CAPACITY: 60,000 Acre-Feet

POOL SURFACE AREA: 2,800 Acres

DAM CROSS SECTION:

Top Elevation: 1063 Feet

Height of Fill: 70 Feet

Top Width: 25 Feet

Side Slopes: 4:1 Downstream - Grassed

3:1 Upstream - Riprap

PRINCIPAL SPILLWAY SYSTEM:

Pipe: 66" Diameter Reinforced Concrete Pressure Pipe

Outfall Structure: S.A.F. Stilling Basin

EMERGENCY SPILLWAY SYSTEM:

1st Stage: 100-Foot Wide Concrete Chute

Control Elevation: 1050

2nd Stage: 1200-Foot Wide Earthen Channel

Control Elevation: 1055

PROJECT FINANCING:

Estimated Total Project Cost: \$ 20,750,000

Proposed Funding Sources:

State of North Dakota: \$ 10,375,000

Red River Jt. WRD: \$ 5,187,500

Cass County Jt. WRD: \$ 5,187,500

PROPOSED CONSTRUCTION SCHEDULE:

Begin Construction: 2003 / 2004

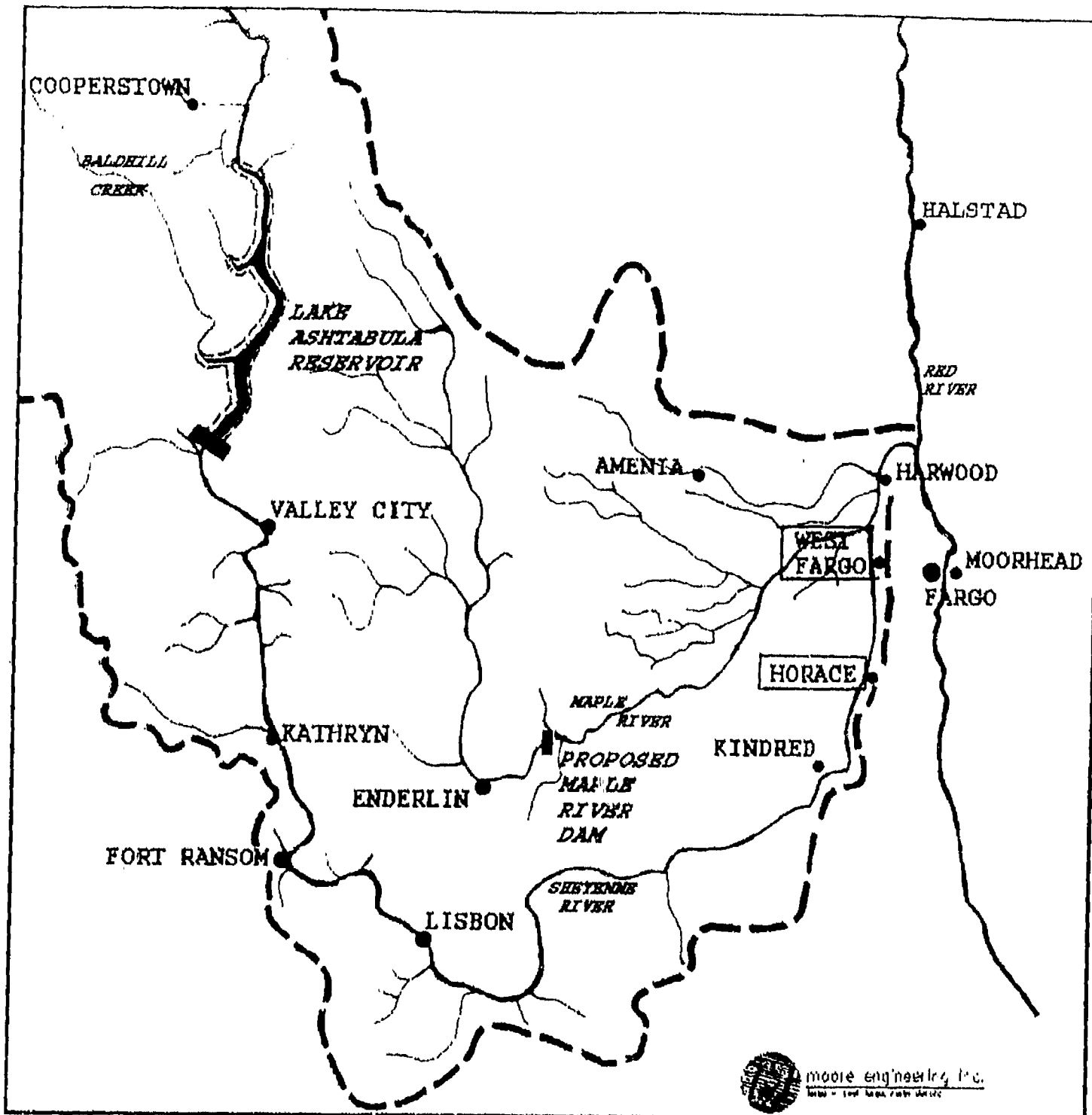
Complete Construction: Fall 2005

Civil Engineering • Planning • Land Surveying

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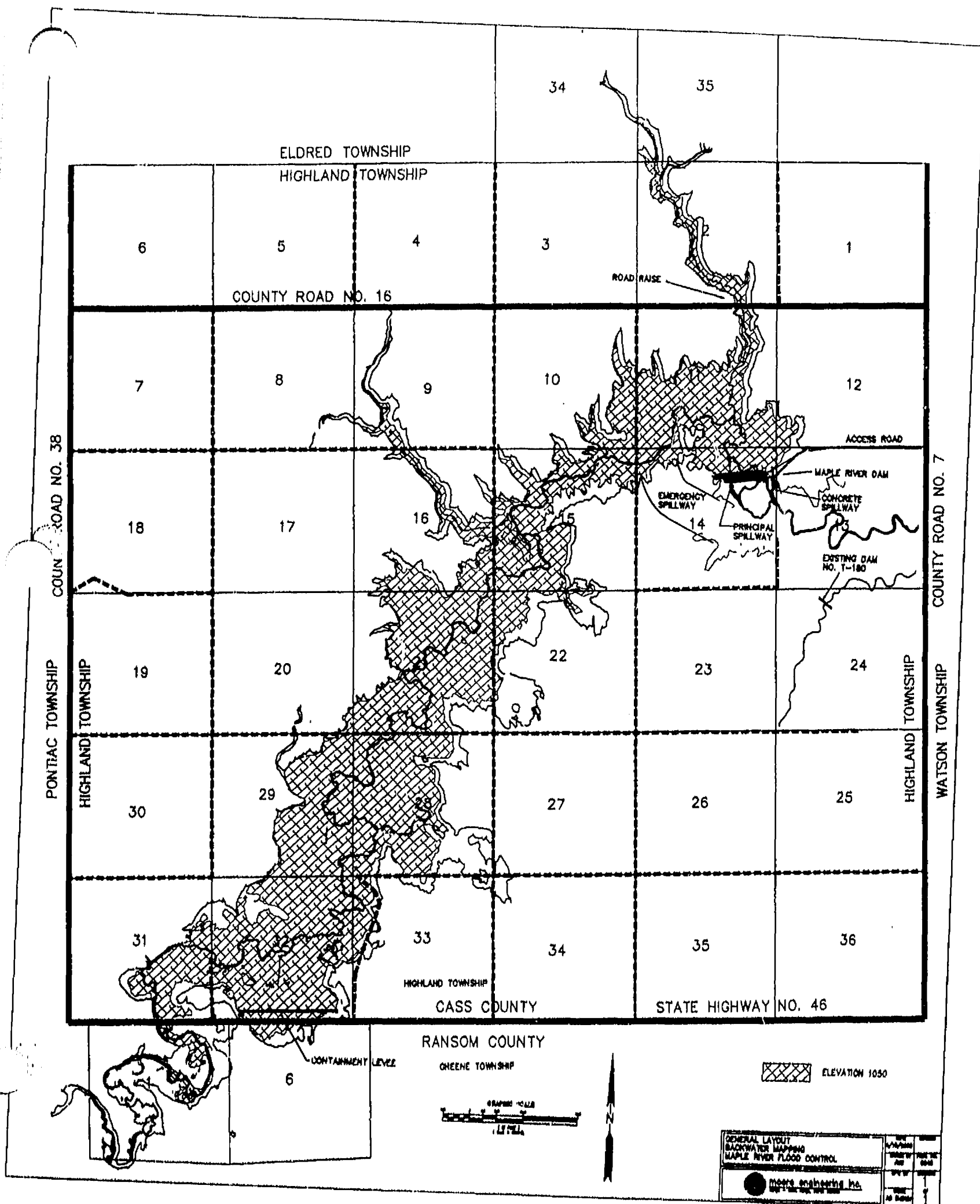


WATERSHED MAP

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10/15/03
Date

MAPLE RIVER DAM - CASS COUNTY JOINT WATER RESOURCE DISTRICT
FLOW CHARACTERISTICS ON RIVERS DOWNSTREAM OF DAM SITE

	FLOOD YEAR 1983			FLOOD YEAR 1975			FLOOD YEAR 1979			FLOOD YEAR 1993			FLOOD YEAR 1997		
	Without Dam	With Dam	Percent Reduction	Without Dam	With Dam	Percent Reduction	Without Dam	With Dam	Percent Reduction	Without Dam	With Dam	Percent Reduction	Without Dam	With Dam	Percent Reduction
MAPLE RIVER AT DAM SITE															
Peak Flow (CFS)	5,750	909	84.2%	7,610	862	88.7%	3,300	862	73.4%	3,770	862	76.9%	3,700	800	78.4%
Date of Peak	APRIL 11	APRIL 28		JUNE 30	JULY 6		APRIL 29	APRIL 27		JULY 17	AUGUST 7		APRIL 3	APRIL 7	
Days Over 1,000 CFS	12	0		7	0		11	0		21	0		9	0	
Volume of Water (Ac-Ft)	65,100	17,268	73.5%	43,980	5,700	78.5%	44,180	12,340	72.1%	73,870	32,000	56.6%	45,620	9,870	78.4%
Peak Flow (CFS)															
Date of Peak															
Days Over 1,000 CFS															
Volume of Water (Ac-Ft)															
Volume of Water (Ac-Ft)															
MAPLE RIVER AT MAPLETON															
Peak Flow (CFS)	6,070	4,062	33.1%	11,300	7,036	37.7%	7,100	5,082	28.2%	6,882	5,322	21.6%	5,620	4,984	11.2%
Date of Peak	APRIL 11	APRIL 11		JULY 2	JULY 4		APRIL 18	APRIL 17		JULY 18	JULY 18		APRIL 16	APRIL 16	
Days Over 2,000 CFS	10	2		11	12		11	7		12	6		17	19	
Volume of Water (Ac-Ft)	79,640	34,750	56.4%	133,065	86,570	35.6%	89,270	68,520	23.5%	100,080	66,710	33.3%	145,880	128,576	11.9%
MOUTH OF MAPLE RIVER															
Peak Flow (CFS)	6,101	3,456	43.4%	10,772	7,240	32.8%	6,533	5,721	11.9%	6,758	5,473	19.0%			
Date of Peak	APRIL 12	APRIL 12		JULY 5	JULY 5		APRIL 19	APRIL 19		JULY 21	JULY 20				
Days Over 2,000 CFS	11	3		11	12		11	7		13	7				
Volume of Water (Ac-Ft)	87,150	41,060	53.0%	137,870	103,500	24.9%	96,380	68,360	28.9%	104,170	70,900	31.9%			
MOUTH OF SHEYENNE RIVER															
Peak Flow (CFS)	7,550	4,587	39.6%	11,885	8,880	24.8%	12,040	10,895	9.4%	8,328	6,089	26.0%			
Date of Peak	APRIL 17	APRIL 16		JULY 8	JULY 8		APRIL 21	APRIL 21		JULY 26	JULY 26				
Days Over 4,000 CFS	15	17		12	10		21	28		31	32				
Volume of Water (Ac-Ft)	171,450	127,160	26.7%	199,220	165,780	17.0%	275,840	246,100	10.9%	320,830	278,930	12.7%			
RED RIVER BELOW SHEYENNE RIVER															
Peak Flow (CFS)	31,725	24,836	21.7%	24,463	21,746	11.2%	28,114	26,340	6.3%						
Date of Peak	APRIL 17	APRIL 16		JULY 8	JULY 7		APRIL 20	APRIL 20							
Days Over 10,000 CFS	22	23		13	13		13	13							
Volume of Water (Ac-Ft)	827,190	785,830	5.0%	480,870	445,780	7.3%	543,580	513,520	5.5%						
RED RIVER AT HALSTAD															
Peak Flow (CFS)	35,603	33,887	4.8%	40,283	38,807	4.1%	41,511	41,001	1.2%				69,900	68,304	2.3%
Date of Peak	APRIL 18	APRIL 16		JULY 10	JULY 10		APRIL 22	APRIL 22					APRIL 20	APRIL 20	
Days Over 15,000 CFS	21	21		19	19		18	18					39	38	
Volume of Water (Ac-Ft)	1,188,000	1,143,000	3.8%	1,128,000	1,094,000	3.1%	1,090,000	1,057,000	3.9%				2,923,000	2,866,000	2.0%
RED RIVER AT GRAND FORKS															
Peak Flow (CFS)	53,401	53,063	0.6%	45,789	44,777	2.2%	80,872	80,868	0.4%				111,000	109,404	1.6%
Date of Peak	APRIL 16	APRIL 16		JULY 14	JULY 13		APRIL 23	APRIL 23					APRIL 21	APRIL 21	
Days Over 30,000 CFS	19	19		17	17		19	19					33	31	
Volume of Water (Ac-Ft)	1,839,000	1,802,000	2.0%	1,324,000	1,285,000	3.8%	2,213,000	2,151,000	3.2%				3,941,000	3,805,000	3.5%

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La Costa Rickford

10/15/03

Date

Exhibit 16

**Testimony of Maynard Helgaas
Director, North Dakota Irrigation Caucus
on Senate Bill 2022
January 21, 2003**

Mr. Chairman and Members of the Senate Appropriations Committee.

My name is Maynard Helgaas, a Director on the Irrigation Caucus Board and Chairman of the Marketing Committee. I also serve on the Board of the Garrison Diversion Conservancy District, the High Value Irrigated Crop Task Force (HVICTF), SBARE and currently am Chairman of the Commercial Vegetable Growers of North Dakota. I should add that I am retired.

This is the same task force and growers who were the leaders in bringing the potato processing plant to Central North Dakota which has some three hundred employees. The processing plant has also increased on the farm employment and created greater rural prosperity. This group, along with our Economic Development Partners, continue to bring prosperity to our rural communities with the development of three added value companies this past year.

Dakota Fresh, Inc. a fresh cut salad plant at Medina, N.D.

Direct Line Distributors, Inc. a N.D. food processor distribution company.

Kidco Farms, a whole peel onion processing plant at Dawson N. Dak.

All who are associated with irrigation believes that the only way to significantly develop our irrigation potential is through the introduction of high value crops such as vegetables. If we are to establish a vegetable

LaCosta Rickford
Operator's Signature

10/15/03
Date

industry in North Dakota we are going to need longer term funding commitments than what APUC can provide. We can accomplish this through the State Water Commission, who has oversight responsibilities of irrigation districts, working with the State Bond Bank.

In 1999 you passed HB 1281 which authorized irrigation districts to bond, through the North Dakota Bond Bank, for any capital improvements needed as part of developing and marketing high value crops including but not limited to storage buildings, packaging, processing and marketing those crops. The State Water Commission, the Caucus, the Bank of North Dakota, the North Dakota Bond Bank along with USDA have worked out a guaranty agreement whereby up to ninety percent of irrigation district bonds could be guaranteed in developing the vegetable infrastructure that will be needed. Through the State Water Commission, the irrigation districts could partner with private capital necessary to meet the equity requirements. With state leadership, we can spread the risk and not put all the burden on the producers in developing the vegetable industry in North Dakota. We don't expect any of the storage, packaging or processing plants to be large, but believe the employment numbers on and off the farm will create rural prosperity and stem out-migration of our rural communities. This is why we need your favorable support in making those funds available to the State Water Commission through Senate Bill 2022.

Exhibit 18

ND Weather Modification Association Testimony Relative to Senate Bill 2022
Presented by Jay Sandstrom to the Senate Appropriations Committee
January 21, 2003

Mr. Chairman and members of the Committee:

Good morning. My name is Jay Sandstrom. I am from New Town. I have been active in cloud seeding at many levels for 20 years. I testify today on behalf of the program counties and townships involved in the North Dakota Cloud Modification Project.

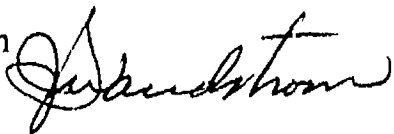
Mountrail County, where I live and run a farming operation, has been conducting cloud seeding operations through the North Dakota Cloud Modification Project for forty years. The program uses light, twin-engine airplanes to seed clouds during the months of June, July, and August each summer over parts of western ND to reduce hail damage and enhance rainfall. Long-term, independent evaluations of the program show that it's having success. Crop-hail losses have been reduced by 45%, rainfall has been increased by about 10%, wheat yields have been increased by 6%, and the total economic benefit to cost ratio is approximately 40 to 1.

About two-thirds of the funding for the program is provided by the participating counties, while the state provides one-third of the funding through cost-sharing. We support the allocation of \$350,000 in the executive budget for state cost-sharing for cloud seeding in the upcoming biennium. Though North Dakota's program can't afford costlier and more efficient high-performance jet or turboprop aircraft like other cloud seeding programs around the world, a good program can be maintained in the field with the combination of proposed state and county funds. With a little luck, we can continue to hold our own.

Cloud seeding in North Dakota has been successful in the past and the prospects for better results through technological improvements are on the horizon. The Atmospheric Resource Board, which is a division of the State Water Commission, has coordinated and participated in research programs in the past to improve scientific knowledge and operational application of cloud seeding. A research program was established by Congress in the US Bureau of Reclamation in 2002 and funds cloud seeding research in states that have a cloud seeding operations or research program. The ARB expects to have its research proposal submitted to the Bureau approved soon. Additionally, the National Academy of Science will be completing a review of the current state and future direction of weather modification later this spring. We anticipate the Academy will recommend additional research funding be provided by Congress and the Atmospheric Resource Board is ready to participate.

I encourage your support for our appropriation requests and I thank you for this opportunity to appear before the Committee. I would be happy to answer any question you may have.

Jay Sandstrom



LaCosta Rickford
Operator's Signature

10/15/03
Date

**Testimony for the Education and Environment Division
House Appropriations Committee**

Senate Bill 2022

March 6, 2003

**Presented by:
Jeffry J. Volk, PE & LS
Moore Engineering, Inc.**

With regard to Section 12 of Senate Bill 2022, the Cass County Joint Water Resource District requests that you not repeal Chapter 61-38 of the NDCC but simply limit the extent of expenditures for preparing and administering the program. In our opinion, the effort given by the NDSWC since the end of the last legislative session to set up the State Assumption of the Section 404 was inadequate to make a determination now that the State should abort the process. In short, the State Assumption of Section 404 of the Clean Water Act is necessary for two reasons. First, it will allow water projects to get through the regulatory process with considerable more regard for schedule and accountability, which reduces the cost of project development and allows projects that get permits to be constructed earlier, thereby accruing the project benefits sooner. Second, it will significantly reduce the fear many North Dakota residents currently have as they attempt to develop water projects. Following is the testimony I presented to the Senate and House Natural Resources Committees during the last legislative session as it related to this matter.

**Testimony for the Senate Natural Resources Committee
Senate Bill 2285**

February 1, 2001

I stand before you today to offer my support for Senate Bill 2285. Having the North Dakota State Water Commission assume jurisdiction of Section 404 of the Clean Water Act is the right thing to do for the State of North Dakota. I am a Registered Professional Engineer in North Dakota employed by Moore

Engineering, Inc. in West Fargo. I have spent most of my professional career helping political subdivisions in North Dakota plan and construct water development projects.

My experience with projects that have required section 404 permits is generally unreasonable delays from excessive over-regulation and added cost to the project. The current permit process in North Dakota is grossly inadequate and in my opinion does not work. I believe it is not working primarily because the federal employees responsible for the process are not capable of getting through the process. When supervisors of the incompetent employees are unable, or unwilling, to address the problem, nothing gets done in a timely or reasonable fashion.

It is also apparent that personal agendas of the decision-makers, who generally oppose water projects, are able to over-ride the permit process. As you well know, many of these water projects can get very issue driven, with projects proponents trying to get projects built to develop water infrastructure, while environmental interests are trying to prevent water projects, especially flood control and drainage projects. Currently, the Corps allows the opponents of water projects to demand and receive unreasonable analyses and costly mitigation for perceived unproven impacts to the environment. I believe this is a result of several things. First, the decision-makers live and work hundreds or thousands of miles from North Dakota. One of the stated purposes for an Environmental Impact Statement is to determine if the project is in the best interest of the public. How can the public be served by an agency that is located several states away? Second, generally the Federal Government does not have a history of being efficient and by its nature has a hard time dealing with incompetence.

I believe if North Dakota assumes jurisdiction of the Section 404 program, the permits will be administered in a more reasonable timeframe by people who better understand the local issues, substantially reducing the cost to fully develop water projects. You heard earlier of the many years of delay the Cass County Joint Water Resource District has experienced for the Maple River Dam Project. The chairman of the Water Resource District and I personally drove that permit application to the Bismarck office of the Omaha District US Army Corps of Engineers in the summer of 1994. Now nearly 7 years later, we still have no permit decision. The effects of this lengthy delay are unnecessary extended confrontations between project proponents and opponents as well as a higher unreasonable project costs.

These increased project costs come from two factors, higher construction costs due to inflation and much higher project development costs. For the Maple River Dam project, it has been very expensive to keep the required staff involved with the lengthy environmental reviews and permit processing. For this project, the Water Resource District has under contract an engineer, attorney, archaeologist and an architectural historian. Each of these also have support staff to meet the wishes of the COE. My estimate would be that six years of inflation has already raised the project cost at least \$1,000,000, while the added project administration costs are probably over \$250,000.

Another added cost to the communities developing projects and to the State of North Dakota are the lost benefits from not getting projects built in a timely fashion. Generally, projects that are being delayed by the existing cumbersome section 404 process are projects that will provide substantial benefits. Each year a project is delayed, these benefits are unrealized. A 1994 economic analysis for the Maple River Dam project calculated average annual direct flood damage reduction benefits of \$1,165,000 and average annual secondary benefits of \$3,140,000. The combined \$4,305,000 in annual benefits have been lost. What is really unfortunate for this project is the large benefit area that received substantial flood damages during the 1997 spring flood, many of which could have been reduced or eliminated had the dam been constructed.

Another project I was involved with was the Sargent County Drain # 11 channel cleanout project. This project demonstrated how the Omaha District Corps of Engineers, the United States Fish & Wildlife Service, the Environmental Protection Agency and the United States Justice Department utilized an alleged violation of section 404 of the Clean Water Act to threaten and intimidate the Sargent County Water Resource District, Radnlecki Construction Company, and Moore Engineering, Inc. Eventually, the State of North Dakota was also brought into the lawsuit as a defendant.

The case involved the cleanout of 25 miles of Sargent County Drain # 11. This channel was originally constructed in 1917 through three large wetland areas. It was clear from the original plans that the intent of the project was to improve drainage in western Sargent County as well as to drain these wetland basins. Section 404 has a clear exemption in it allowing projects to be maintained without the need for acquiring a permit. The Corps of Engineers, with support from the US Fish & Wildlife Service, alleged the cleanout project resulted in improvements to the channel, thereby requiring a section 404 permit. For seven years, the Corps of Engineers, US Fish & Wildlife Service, Environmental Protection Agency, and the US Justice Department demanded

that Sargent County basically destroy Drain #11 below each of the wetlands so the wetlands could be restored.

This case was a clear example of the ability of a few federal employees, from several different agencies, attempting to utilize section 404 of the Clean Water Act to accomplish their personal agendas. The total cost of this lawsuit had to have been over \$1,000,000. The federal government hired an expert witness who alone billed over \$200,000 for his services long before the trial started.

Reasonable people administering the section 404 program would not have allowed this lawsuit to have been filed, much less let it proceed for many years, with no apparent accountability by the federal employees representing the plaintiff, the United States of America. This case is a clear example of over-zealous regulators with authority to enforce laws. The judge for this case, Rodney Webb, even made a point of this in his "Memorandum and Order" stating in part "Mr. Keller's views struck the court as being colored by his personal emotions and convictions. ...and he was quite uncompromising in his views. Mr. Keller's general credibility was questionable as he failed to acknowledge even obvious facts when adverse to his position." Mr. Keller was an employee of the Omaha District Corps of Engineers responsible for enforcement of violations of section 404 of the Clean Water Act.

In summary, it is important that North Dakota assume jurisdiction over and administration of section 404 of the Clean Water Act. The current process for administering section 404 is not working. The process allows individuals to hide behind the regulations of this Act as well as several other Acts, to delay and prevent the construction of worthwhile water projects. The federal process does not require these individuals to be accountable for their actions or decisions. Time means nothing to them. Taking 3 months to schedule a meeting is a good example of how bad the current process works. I firmly believe that having North Dakota employees administering the process will bring accountability to the program. We cannot assume that having the North Dakota State Water Commission administer the section 404 program will automatically allow all project permits be approved. It is apparent however, that it will allow the permit process to proceed in a timely manor and in a reasonable fashion.

Thank you for allowing me to discuss this important issue with you today. I strongly urge you to recommend a DO PASS on Senate Bill 2285.