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ROLL NUMBER

DESCRIPTION

2296

2005 SENATE NATURAL RESOURCES

SB 2296

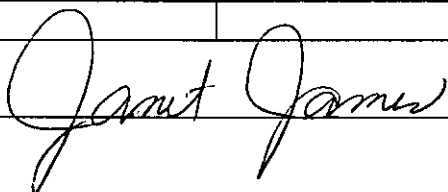
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2296

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date January 28, 2005

Tape Number	Side A	Side B	Meter #
1	X		0.5 - 20.1
Committee Clerk Signature 			

Minutes:

Senator Ben Tollefson, Vice Chairman of the Senate Natural Resources Committee brought the committee to order.

All member of the committee were present except **Senator Stanley Lyson** who was temporally out of the committee to present a bill at another committee hearing.

Senator Tollefson opened the hearing on SB 2296, relating to water permit terms.

Senator Joel Heitkamp of District 26 cosponsor of SB 2296 introduced the bill stating it was the result of what is being asked to do in the water community. Looking long range and dealing with the bureau and corp, they are asked to include them in the water communities' 50 year plans. The discussion is here in this committee as to whether a legislative look should be made at what the criteria should be. It is difficult to make a 50 year plan of water needs when there is not a 50 year permit to work with.

Stuart Carlson, Executive Director of the North Dakota Rural Water Systems Association testified in support of SB 2296 (See attached testimony).

Senator John Traynor had questions about the Spirit Wood Aquifer, it's size, quantity and quality.

Senator Heitkamp wanted to put on record that SB 2296 is not a result of something the Water commission has done, but have in fact worked very closely with the water groups.

Stuart Carlson confirmed that the State Water commission has been an intricate part of the development and execution of all the rural and regional water systems.

Jerry Blomeke, (4.5) General Manager of Cass Rural Water District testified in support of SB 2296 (See attached testimony). He also presented a letter of support of SB 2296 from Fargo Mayor Bruce Furness (See attached).

Steve Burian, (8.4) Chief Executive Officer of the Advanced Engineering and Environmental Services, Inc. testified in support of SB 2296 (See attached testimony).

Dave Koland (12.3) General Manager of the Garrison Diversion Conservancy District testified in Support of SB 2296 (See attached testimony). He also presented a copy of the Resolution passed by the Board of Directors of the Garrison Diversion Conservancy District (See attached).

Senator Traynor asked where the Red River Valley looking for their source of water.

Dave Koland responded that they are currently looking at three different sources, The Lake of the Wood, ground water from east and south of Fargo and the Missouri River.

Ilene Larson (15.4) representing the North Dakota League of Cities testified in support of SB 2296 (See attached testimony).

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Senate Natural Resources Committee

Bill/Resolution Number SB 2296

Hearing Date 1-28-05

Senator Tollefson asked for opposing testimony and then asked for testimony in a neutral position.

Dale Frink (16.9) the North Dakota State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission, testified in a neutral position of SB 2296 (See attached testimony).

Senator Tollefson closed the hearing on SB 2296.

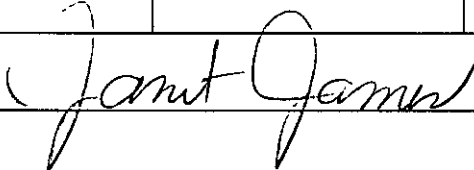
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2296

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date February 11, 2005

Tape Number	Side A	Side B	Meter #
1	X		17.1 - 27.5
Committee Clerk Signature 			

Minutes:

Senator Stanley Lyson, Chairman of the Senate Natural Resources Committee opened the committee work on SB 2296 relating to water permit terms.

Senator Joel Heitkamp cosponsor of SB 2296 reviewed that the bill was brought before the committee because of the fact that the Corp. of Engineers and the Bureau are requiring 50 year commitments. Other states are water permitting for 50 years as the federal government is requiring this commitment.

Discussion was held as the lack of recommendation by the State Engineer and that the department probably will have more input if the bill gets to the house. This will not really lock things in, but will be a tool for better planning of the future. Changes can be made if necessary and then a new plan would then be developed again. It was also to be understood that this bill is not before the committee because the water commission has done anything wrong.

Senator John Traynor made a motion for a Do Pass of SB 2296.

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Senate Natural Resources Committee

Bill/Resolution Number SB 2296

Hearing Date 2-11-05

Senator Michael Every second the motion.

Roll call vote #2 for a Do Pass of SB 2296 was taken indicating 7 YEAS, 0 NAYS AND 0

ABSENT OR NOT VOTING.

Senator Rich Wardner will carry SB 2296.

Senator Lyson closed the committee on SB 2296.

Date: 2-11-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2296

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Traynor Seconded By Every

Senators	Yes	No	Senators	Yes	No
Senator Stanley Lyson, Chairman	✓		Senator Joel Heitkamp	✓	
Senator Ben Tollefson, Vice Chair	✓		Senator Michael Every	✓	
Senator Layton Freborg	✓				
Senator Rich Wardner	✓				
Senator John Traynor	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Wardner

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

REPORT OF STANDING COMMITTEE (410)
February 14, 2005 9:35 a.m.

Module No: SR-29-2725
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2296: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2296 was placed on the
Eleventh order on the calendar.

2005 HOUSE NATURAL RESOURCES

SB 2296

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2296

House Natural Resources Committee

☐ Conference Committee

Hearing Date **March 10, 2005**

Tape Number	Side A	Side B	Meter #
1	x		1700-5569
Committee Clerk Signature <i>Loren Bonnet</i>			

Minutes:

Chr. Jon O. Nelson: We will open the hearing on SB 2296 and I will ask the clerk to read the title. All members present.

Dave Koland, Garrison Diversion Conservancy District: (Written testimony attached)

Verbal addition made at end of the first paragraph of written testimony: It also increased the ceiling for the Tribal MRI program to \$220 million, provided \$25 million for resource enhancement and \$6 million for a recreational program.

Chr. Nelson: Are there any questions? Seeing none, thank you for your testimony.

Sen. Joel Heitkamp: In this bill, we're talking about dealing with the problems that we're faced with. The Corps (of Engineers) and the Bureau (of Reclamation) are saying they need a 50 year plan. If you make the argument that you need "x" amount of water, we need a 50 year plan and we need you to back up how you're going to do that. This bill addresses that. It is not, and I want to stress this to your committee, a reflection of anything wrong that the State Water

Commission has done. My experiences with them and their water permitting department has been very good. What this does is codify where the federal government has taken us. It says to the Water Commission, as we look at these, we have to lay them out on 50 year increments. Our committee asks what we are locking in for. Are there avenues where we can go back? If I give one person a 50 year permit, and another person comes on the edge of it and can irrigate and produce aqua products and jobs, are we locked in? My contention is no, absolutely not. There's nothing in (unintelligible) how we can go about that. We live under Western Water Law, first come, first served. We all know that. That doesn't change the fact that through the years, and I know your committee is very aware of the fact, that we can go in and change and make available water if we need to. The most perfect example I have ever seen of that is in the Grand Forks Trail Rural Water Systems area, where certain individuals had irrigation permits. Up on the north valley, near Cavalier, same thing. You just sit down and work out a plan and make it happen. Money might change hands, because people have made some adjustments (and there are costs involved). This bill says we will look at it in terms of 50 years.

Chr. Nelson: Are there any questions? Seeing none, thank you for your testimony. Is there further supporting testimony?

Stuart Carlson, ND Rural Water Assoc.: (Written testimony attached)

Chr. Nelson: Are there any questions?

Rep. George J. Keiser: I understand the concept but what's the validity of a 50 year projection? That's my hangup. Examples: I'm from Bismarck. The Chamber of Bismarck, in 1990, undertook Project 2000 to estimate (needs?unintelligible) of Bismarck. We're about 40,000 people short in a ten year span. Go back 50 years to the city of Orlando. Had they written their

proposal (50 years ago), would it have met the needs of Orlando today? It's a great concept and it makes us feel good, but how valid is it?

Carlson: If I'm in a community with a 30 year water permit and that's all I can get, and I'm fortunate enough to get a business to come in, build a processing plant, and bring 40 people into the community. The problem could be, without being able to plan a little into the future, is that the acre feet that I currently have would not allow me to bring in that business. Not only is it population, but it's economic membership.

Keiser: That's just my point. Once you do your plan and are kind of locked in for the long period, and you have a dramatic change for whatever reason, you may not have the flexibility to change for the long term. In writing a business plan, we use to think about a five year business plan. Banks are happy if you can do a two year plan because they recognize the need for flexibility, not for putting yourself in a position in a dynamic world that changes so quickly. That's the issue for me.

Carlson: It's a wonderful process that we go through...we bring something (of a flood? unintelligible), have a debate, bring it to you to make that decision. I appreciate your comments.

Chr. Nelson: Are there any further questions? Seeing none, thank you for your testimony.

Is there further supporting testimony?

Brett Jochim, Advanced Engineering and Environmental Services, Inc.: (Written testimony attached)

Chr. Nelson: Are you part of a collaborative team that tries to predict water needs of the communities and areas for 50 years? It seems to be a daunting task. Walk me through that process. Who's part of that team?

Jochim: Most of the time we go in and work for a municipality to develop a master and facility plan. One of the first tasks involved is to determine what the long term needs will be. In a more sophisticated municipality, there are several organizations that do planning, the MPO, for example. There are a number of individual planning departments within a city. There are a number of resources of people who are thinking about planning and what things are going to look like in the future. You take those and use them collaboratively, and do them in increments. For example, you might do a long term plan (Bismarck is a good example). The master plan that we completed for Bismarck for 1998 looked out through the year 2025. That was the primary focus of the plan. However, we looked out through the year 2060 as well, especially as it pertained to water appropriations. Many times, infrastructure is limited. It's imperative that communities know that and understand what can happen and what it means for their water supply and the infrastructure that goes along with it to serve the community as they grow. Many times you're looking at a 25-30 year period for a primary plan, but you're also looking beyond that for 50-75 years to see what you need as you look at the ultimate build out for the infrastructure.

Chr. Nelson: Thinking from an eastern ND perspective, if you look out 50 years and see today's needs and the potential of future needs, that would only bring water coalition groups together more rapidly and more cohesively as far as bringing Missouri River Water to that part of the state. Do you agree with that?

Jochim: The concept of regionalization of systems and working together in collaboration has taken a tremendous boost. There is an impetus for people to work cooperatively. One of the driving forces behind that is because people are looking into the future based on being burned in the past.

Chr. Nelson: Further questions? Seeing none, thank you for your testimony. Is there further supporting testimony?

Jerry Blomeke, Cass Rural Water District: (Written testimony attached)

Chr. Nelson: Are there any questions?

Rep. Darrell D. Nottestad: Are there any irrigation permits in place in the West Fargo aquifer?

Blomeke: None that I'm aware of.

Nottestad: Have any ever been denied?

Blomeke: Permit applications?

Nottestad: Yes.

Blomeke: I don't know that any have been formally denied, but we've been told by the State Water Commission that they don't intend to issue any further permits out of the West Fargo aquifer system.

Nottestad: Are there any permits in place that aren't being used in irrigation?

Blomeke: I don't know the answer to that.

Chr. Nelson: Maybe Mr. Frink can answer that question. Further questions for Mr. Blomeke? Seeing none, thank you for your testimony. Is there further supporting testimony? Seeing none, is there any opposition to SB 2296? Is there any neutral testimony?

Dale Frink, ND State Water Commission: (Written testimony attached)

Chr. Nelson: Are there any questions? Seeing none, I understand the dilemma.

Frink: We've got situations like when we were trying to provide a water permit for (unintelligible) near Wahpeton. It was very difficult. You have to satisfy all the existing

(partners?), and we had Gov. Schaefer who absolutely wanted us to find water someplace. It just makes it more and more difficult to do that.

Chr. Nelson: In your opinion, would that move the industrial, municipal, and rural users to consider sources like the Missouri River in a more cohesive unit? If you look out 50 years, obviously those projections that you make are going to make those decisions hard for immediate industry. Should we begin to look at that in a more rapid time table to meet those needs?

Frink: I think, whether or not this bill passes, people are going to look for other sources like the Missouri River. This will tie up more water, so people beyond that are going to have to go further for their water supply. It might be the Missouri River.

Rep. David Drovdal: When you give out water permits, do I understand you correctly, if somebody comes in for a water permit of 1,000 (gallons?), do you build in the growth rate or do you give the permit for 1,000 and if they need more they have to come back and re-permit?

Frink: No, the applicant will come in with a water permit application that will show what they can use now and then they will have to justify that growth rate. In that table, if they can justify an annual growth rate of 2%, we would give a water permit for 1,811.

Drovdal: The permits that you have given out the last few years, have they been justifying the 2%? Is that standard?

Frink: You have to do it on a case by case basis. In ND now, we have growing Class A communities, and the Class B rural areas are declining. For the most part, Class A communities (like Bismarck, Fargo, Grand Forks, Minot) have very large water permits, so it's not about them. It's about the rural water systems primarily. They're in an area where in some cases, they aren't growing that much and so I think maybe the big issue will be justifying the annual growth rate.

Rep. George J. Keiser: I'm trying to follow up on the chairman's question. Currently, we have a 30 year and this bill proposes to take us to a 50 year. Do we not recognize right today, the looming crisis relative to water? It's defined. Is going to 50 years going to improve your definition of what the crisis is on the horizon?

Frink: I think it will. It pushes us closer and closer to what a lot of other states in the west have called themselves "fully appropriated states." There just isn't any water available. In ND, I think we will have water in the Missouri River, but for the rest of the state, it's going to push us in many areas to a fully appropriated status.

Keiser: To continue, do the people involved in the water issues in our state not recognize that? Is there some way that this 20-year extension going to turn the light bulb on and (recognize) that a crisis is coming?

Frink: That's the big issue. They would like to tie up as much water as possible this interim. We don't exactly know what the future is. Rather than give that water permit to an irrigator, they would rather tie it up. Maybe that's the way to go. Maybe domestic should be that kind of priority. The difference is that if we've got this 20-year period maybe an irrigator could be using that water, rather than just having it tied up. It's difficult.

Rep. Darrell D. Nottestad: I'm looking at this from two points of view. Grand Forks has a need coming out of the Red, and until we get water out of the Missouri, that's the way it's going to have to be. As I look at western Grand Forks County, all the rural water comes out of there and the rural water goes north from there. If the rural water systems go to this 50 year plan when that gets in place, what do you see for the future of new irrigation requests coming in? You know how fast they're coming in. You know how fast they're coming in from that area.

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House Natural Resources Committee

Bill/Resolution Number **SB 2296**

Hearing Date **March 10, 2005**

Frink: It clearly will make it more difficult to give new irrigation water permits in some areas.

There is no question about that.

Rep. Dorvan Solberg: That's my question and I think that is something we should consider here. Irrigation water is very critical.

Chr. Nelson: Are there any questions? Seeing none, thank you for your testimony. Is there further testimony? Seeing none, I'll close the hearing on SB 2296.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2296

House Natural Resources Committee

☐ Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1		x	500-1289
Committee Clerk Signature <i>Loren Bonnet</i>			

Minutes:

Chr. Nelson: Let's take up SB 2296.

Rep. DeKrey: I move do not pass. I'll explain if I get a second.

Rep. Norland: Second.

DeKrey: The way this bill was explained to us, I see it as a threat to agricultural irrigation.

What they're doing is trying to tie up the ground water 50 years out for municipalities. That's about the only thing we have going in Kidder County right now is our potato irrigation. Now, they're getting into vegetables. Nobody got up and said, "No, you're not right."

Rep. Keiser: Being from Bismarck with the Missouri River running between Mandan and Bismarck, I really should be voting for this bill. But I do oppose it. I think it is bad for the future of the state. I don't think there is any value in extending that period.

Rep. Drovdal: I also oppose this bill. I will vote for the do not pass.

Chr. Nelson: I think some of those fears are unfounded. I think what this bill intends is to give a total picture of the water needs 50 years out. As water is appropriated in this state, it's by a permit by permit basis. This does not lock up water for municipal systems. That's what the permitting process does, not this particular bill. It does give us a better picture of what we're looking forward to. My thought is that this will only result in a larger group looking toward the Missouri River as a water source and promote that as one of the remaining alternatives. I think that's the intention. It isn't to restrict irrigation or agricultural use.

Rep. Nottestad: I question their statement because the bill we had before the committee three weeks ago did exactly that. It preserved irrigation with the Garrison water being used as a replacement for ground water to irrigate. But, this bill very specifically says that for 50 years, water could be tied up for rural use. For those of you who were here yesterday, heard my question of Dale Frink. I asked, "If water is reserved by municipalities for 50 years, will that limit the requests and how you handle irrigation permits?" His answer was yes. What I am seeing will affect my county. Simplot cut out dry potatoes last year, irrigation is going to have to increase to pick up the tab on that. I'm sure they'll cut it out two years from now. They'll cut more because McDonald's are getting fussier about their product. Irrigated potatoes gives them the product. If this gets reserved, for a 50-year advance, then the other side will say we'll probably have Missouri River water in by that time. One or the other of the irrigation is going to be hurt. I can't support the bill. I told Dale that I couldn't support it. He wasn't happy, but he said questions came up that they didn't expect.

Rep. DeKrey: The problem I have is that if we lock up ground water for municipalities and urban use, when we do get 50 years down the road and they are carving up the Missouri River,

taking water out, and divvying it out, they're going to look at ND and say that our needs for the Missouri River are this much smaller because you've locked up this much ground water to go to municipalities. To me, why should we give away some of the potential use of the Missouri River which we think we have a rightful claim to.

Chr. Nelson: I look at it just the opposite, that this increases the total need. We're using that 50-year projection to add to the total need of water and would do just the opposite of what you said. That's the way I understand it.

Rep. Porter: The complexity of this bill is one that from the water groups, they want it because they want to show that all of our surface water and irrigation aquifers are locked up, so they can go to the Bureau of Reclamation and say you have to support bringing Missouri River water to eastern ND. That's what they want to use this for. The downside of this is that it locks it up and it makes it more difficult for the agricultural producer to get a permit because there is another hoop to jump through at the State Water Commission level. I definitely understand your problems with it, Rep. DeKrey, because of that. There is going to be a new hoop that somebody in Tappen(i.e) is going to have jump through to prove and the Water Commission is going to have more administrative time involved in that permitting process. The underlying purpose of this bill is to show that all the water from Bismarck to Fargo and from Wahpeton to Grand Forks is spoken for so that they can go to the Bureau and say now will you give us a reliable alternate source because we've used all our water. That is the underlying purpose, but I understand what you're saying. I'm not comfortable from either side. I know they want to show everything being used, and I know there will be new hoops to jump through for the other producers. I think everybody is just going to have to look at it from their area and make their vote.

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House Natural Resources Committee

Bill/Resolution Number SB 2296

Hearing Date March 11, 2005

Rep. Norland: Question.

Chr. Nelson: Question has been called on a Do Not Pass Motion on SB 2296. Karen, call the roll.

Do Not Pass Vote:

7-Yeas; 6-Nays; 1-Absent; CARRIER: DeKrey

Date: 3/11/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NOS B 2296

House NATURAL RESOURCES Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number :

Action Taken : Do Not Pass

Motion Made By : DeKrey Seconded By : Norland

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Jon O. Nelson		✓	Rep. Lyle Hanson	✓	
Vice Chairman - Todd Porter		✓	Rep. Bob Hunsakor		✓
Rep. Dawn Marie Charging		✓	Rep. Scot Kelsh		✓
Rep. Donald L. Clark		✓	Rep. Dorvan Solberg	<u>Ab</u>	
Rep. Duane DeKrey	✓				
Rep. David Drovdal	✓				
Rep. Dennis Johnson	✓				
Rep. George J. Keiser	✓				
Rep. Mike Norland	✓				
Rep. Darrell D. Nottestad	✓				

Total (Yes) 7 No 6

Absent 1

Floor Assignment De Krey

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

REPORT OF STANDING COMMITTEE (410)
March 11, 2005 2:27 p.m.

Module No: HR-45-4792
Carrier: DeKrey
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2296: Natural Resources Committee (Rep. Nelson, Chairman) recommends DO NOT PASS (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2296 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

SB 2296

**Testimony by Stuart Carlson, Executive Director
North Dakota Rural Water Systems Association**

to the

Senate Natural Resources Committee Hearing on SB 2296

Bismarck, North Dakota
January 28, 2005

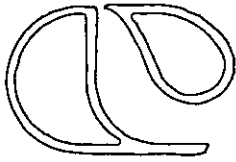
Mr. Chairman and members of the committee, my name is Stuart Carlson and I serve as the executive director for NDRWSA.

We are an Association that represents the water and waste water interest of 32 rural or regional water systems and over 260 community water and waste water systems.

NDRWSA membership and the board of directors have passed a resolution in support of Senate Bill No. 2296.

This bill will allow water systems to better plan for future capacity needs in an ever changing environment.

NDRWSA supports Senate Bill No. 2296 and asks for a favorable vote from this committee and the full legislative assembly.



Cass Rural Water Users District

BOX 98 • 131 MAPLE STREET
KINDRED, NORTH DAKOTA 58051
PHONE: 701-428-3139 • FAX: 701-428-3130

TESTIMONY IN SUPPORT OF

SB 2296

NORTH DAKOTA SENATE NATURAL RESOURCES COMMITTEE

*Same testimony
given to the
House*

Chairman Larson and members of the committee 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 to speak in support of SB 2296. There are a number of sound technical and state wide policy issues that will be discussed in support of this bill. However, I would like to briefly focus on some issues that are more local in nature.

Cass Rural Water District utilizes the West Fargo Aquifer for a major portion of its water supply. The West Fargo Aquifer is also used by the cities of Horace, Harwood and West Fargo as their sole supply of water. In the year 2000 the North Dakota State Water Commission issued a detailed study of the entire West Fargo Aquifer System. The conclusion of that study was in essence, that the aquifer was being mined at a rate of up to 2.3 feet per year and at current withdrawal rates the aquifer had a useful life ranging from 20 to perhaps 50 years. In short what this means to the major users of the West Fargo Aquifer system is that we need to secure a reliable source of water. I quote from page 215 of the study **"There are several management actions that could mitigate these water-level declines to varying degrees. Some possibilities are purchase of existing water rights, appropriating unappropriated ground water rights, the reuse of waste water, aquifer storage and recovery procedures, water conservation measures, and developing unused surface water allocations. Depending on the development costs, and the proportion of the available resources that could be developed, these possibilities could be significant options for additional water, rather than continuing the depletion the WFAS. The potential for the utilization of currently held, perfected and conditional surface-water allocations appears to be of sufficient volume and feasibility, such that this is the most promising available**

alternative to augment or replace water supplies currently obtained from the WFAS"

In short the study concludes that the most promising solution to this very real problem is to utilize surface water sources as a replacement for this dwindling ground water source. It is not uncommon for water managers to look 50 or more years into the future when attempting to address this kind of situation because of technical complexities, cost considerations as well as legal and political issues. I am sure that you are all aware of the efforts of the Bureau of Reclamation, the State of North Dakota, Garrison Conservancy District and the Lake Agassiz Water Authority on the Red River Valley Water Supply Project. These groups are taking the prudent approach by planning 50 years into the future and we are simply seeking to have state law be compatible with this extremely important undertaking. Consequently, I respectfully ask the committee to vote yes on SB 2296.



Mayor Bruce W. Furness
200 3rd Street North
Fargo, North Dakota 58102
Phone (701) 241-1310
Fax (701) 476-4136

January 28, 2005

Senator Stanley W. Lyson, Chair
Senate Natural Resources Committee
600 East Boulevard Avenue
State Capitol
Bismarck, ND 58505

Dear Committee Chair Lyson:

I am writing in support of SB 2296. The City of Fargo has developed master plans for water treatment and distribution; and wastewater treatment and collection. These master plans have 5, 10, 15, 25 and 50 year planning horizons for our community. The plans anticipate continued growth through the year 2050 and beyond.

Our experience with 50 year planning cycles has been useful and productive. Consequently, we support changing the granting of water permits from 30 to 50 years. We need to project out 50 to 100 years in analyzing the vital resources which allow communities and the state to prosper and grow.

In addition, all the planning efforts of bringing water from the Missouri River to Eastern North Dakota is predicated on a 50 year planning cycle. It makes little sense to have this planning effort undertaken if state law and regulations only allow for permitting to take place for 30 years. What we have seen in Fargo over the past three decades is the need to approach water development in longer planning cycles. Expanding the permitting process in the state will help all of us as we move forward on key water projects.

Thank you for accepting this written testimony. I urge your support for SB 2296.

Sincerely

A handwritten signature in cursive script that reads "Bruce W. Furness".

Bruce W. Furness
Mayor

BWF:sf
fisb2296

Testimony by Steve L. Burian, Chief Executive Officer
Advanced Engineering and Environmental Services, Inc.

to the

Senate Natural Resources Committee Hearing on SB 2296

Bismarck, North Dakota
January 28, 2005

Mr. Chairman and members of the Senate Natural Resources Committee, my name is Steve Burian. I am the Chief Executive Officer of Advanced Engineering and Environmental Services, Inc. (AE2S). As a consultant specializing in water system planning, I work extensively with numerous municipal, regional, and rural water systems throughout the State of North Dakota. I am here this morning to provide testimony in favor of Senate Bill 2296.

Scarcity of Water Sources

On a national scale, North Dakota is relatively void of plentiful groundwater and surface water resources. Many of the aquifers in the state have limited production capabilities or very poor water quality. Most of the aquifers suitable for development in North Dakota are heavily appropriated. Furthermore, nearly all of the surface water sources in the state, with the notable exception of the Missouri River, do not provide a reliable supply during extended drought conditions. Given the limited groundwater and generally unreliable surface water supplies in the state, it is imperative that municipal and rural water systems be allowed to secure water appropriations from the limited reliable sources that do exist based on long-term water demand projections.

Water System Growth

Currently, in North Dakota, nearly all of our urban centers and a large number of our rural water systems are growing and projected to continue to grow, many at significant rates.

This growth is projected to lead to significant increases in future water demands. In response to this growth, municipal and rural water systems are developing water supply plans for 50 years or more to ensure that sufficient water resources will be available to support the anticipated growth. Current North Dakota policy, however, does not allow these systems to secure water appropriations to support these long-term water supply needs.

Planning Horizons and Infrastructure Design Lives

In my role as a water supply consultant, the objective of water supply planning is to identify present and future water needs, identify suitable water supply alternatives, and recommend a strategy for securing the most feasible supply and constructing the required infrastructure. Two text books commonly cited for water supply planning, entitled Water Resource Planning and Water Treatment Plant Design, have been published by the American Water Works Association (AWWA). The AWWA is considered by many to be the authoritative resource utilized by the water industry to establish design criteria and guidelines for water supply infrastructure. Per these references, it is recommended that major water supply infrastructure be designed for a planning horizon of 50 years or more due to the initial costs of construction, the level of difficulty associated with expansion, and the limitations on subsequent treatment and distribution if undersized. In addition, the life expectancy of major components of water supply infrastructure, which include collection devices or intakes, wells, and water transmission mains, is 50 to 75 years or more. Since the service life of water supply infrastructure extends beyond 50 years, the design standards often include provisions for future expansion to meet long-term demand projections. Given that the recommended water supply planning horizons extend to 50 years or more and the life of the water supply infrastructure extends to 50 years or more, it is critical that that the State of

North Dakota allow municipal and rural water systems to secure water appropriations based on reasonable projections of future water use at least 50 years in the future.

Summary:

High quality, abundant, and reliable groundwater and surface water supplies in North Dakota are scarce resources. Urban centers and numerous rural water systems project significant growth and associated future water demands. The water industry standard for water supply planning is 50 years or more, and water supply infrastructure has an expected design life of 50 years or more. Based on this documentation, I strongly encourage you on behalf of municipal and rural water systems within the State of North Dakota to recommend passage of the proposed Senate Bill 2296. In closing, I would like to thank you, Mr. Chairman and members of the Committee, for the opportunity to testify in support of this important legislation.

Testimony by Dave Koland, General Manager
Garrison Diversion Conservancy District

To the

*Same testimony
given to
House*

Senate Natural Resources Committee Hearing on SB 2296

Bismarck, North Dakota
January 28, 2005

Mr. Chairman, members of the committee; my name is Dave Koland. I serve as the General Manager of Garrison Diversion Conservancy District. Garrison Diversion is a political subdivision of the state created in 1955 to construct the Garrison Diversion Unit of the Missouri River Basin Project as authorized by Congress on December 22, 1944. Amendments in 1986 and 2000 have changed Garrison Diversion from a million acre irrigation project into a multipurpose project with an emphasis on the development and delivery of municipal and rural water supplies. The Dakota Water Resources Act of 2000 (an amendment to the Garrison Diversion Reformulation Act of 1986) authorizes \$200 million for construction of the Red River Valley Water Supply Project to meet the needs of the Red River Valley and increased the ceiling for the Municipal, Rural and Industrial (MR&I) water supply program to \$400 million.

The act also authorized two studies: The Secretary of Interior is conducting a comprehensive study of the water quality and quantity needs of the Red River Valley in North Dakota and possible options for meeting those needs

and the Secretary and the State of North Dakota, represented by Garrison Diversion Conservancy District (GDCCD), are jointly preparing an Environmental Impact Statement (EIS) concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley.

The planning period that was chosen for the studies was the year 2050. Major supply works are being constructed and financed with a view that they will need to meet the water needs for at least the next 50 years. Repayment of federal projects is often calculated over similar extended periods.

Construction of a large regional water supply project must often be done over an extended period of time and in several carefully planned phases. Construction of the last few phases of a project will depend on the initial phase of the project having been constructed with sufficient capacity to provide an adequate supply of water when the final phase of the project is constructed. Water projects being constructed in North Dakota are no longer just to serve a local area but are by necessity regional in scope.

The ability to plan and construct water projects in several connected phases is a prudent and wise use of one of our most valuable natural resources. Even the wettest part of our state, the Red River Valley, is susceptible to what could be an economically devastating drought. The numerous and complicated regulations that govern the construction of any large water project require that the planning horizon be far enough in the future that valuable construction dollars are not spent unwisely.

Consider for instance the Red River Valley Water Supply Project authorized in the Dakota Water Resources Act of 2000. This project will be built to meet the needs in the Red River Valley in the year 2050. Construction will probably not even begin until 2008. The first phase will probably take 5-7 years to construct. The wisdom in planning 50 years ahead from the year 2000 is obvious when 2015 is the first year you may be able to deliver water to your citizens.

Mr. Chairman, members of the committee; this is an important piece of legislation for the people of North Dakota. It will enable our cities and rural water systems to do a better job of providing a safe, clean, and reliable supply of drinking water to the people they serve.

RESOLUTION

Water System Planning Requirements

Whereas, planning cycles for municipal and rural water systems are becoming extended due to the complex interrelationships of various governmental jurisdictions; and

Whereas, the costs of developing these water systems is escalating and must be amortized over longer periods; and

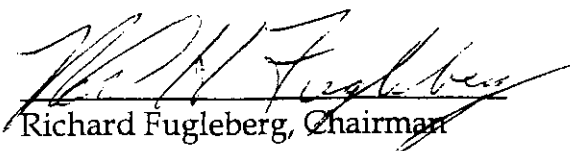
Whereas, federal water groups such as the Corps of Engineers and Bureau of Reclamation are utilizing planning windows of 50 years; and

Whereas, Section 89-03-03-04 of the North Dakota Administrative Code provides that the total quantity of water a municipality or rural water system may hold under all permits for municipal use may not exceed the quantity the municipality or rural water system can reasonably expect to use thirty years in the future; and

Whereas, the Lake Agassiz Water Authority may seek legislation to extend the time period specified in the North Dakota Administrative Code from 30 years to 50 years;

Now, Therefore, Be It Resolved that the Garrison Diversion Conservancy District supports the efforts of the Lake Agassiz Water Authority to change the time period allowed under the North Dakota Administrative Code for future water requirements of a municipality or rural water system from 30 years to 50 years.

SEAL


Richard Fugleberg, Chairman


Dave Koland, Secretary

To: Senate Natural Resources Committee
From: Ilene Larson, North Dakota League of Cities
Date: January 28, 2005
Re: Senate Bill No. 2296

Mr. Chairman and members of the Senate Natural Resources Committee, my name is Ilene Larson, and I am here on behalf of the North Dakota League of Cities to testify in support of Senate Bill No. 2296.

The membership of the North Dakota League of Cities, assembled at our annual conference in Bismarck last September passed the following resolution:

2004-10. Water System Planning Requirements

Whereas, planning cycles for municipal and rural water systems are becoming extended due to the complex interrelationships of various governmental jurisdictions; and

Whereas, the costs of developing these water systems is escalating and must be amortized over longer periods; and

Whereas, federal water groups such as the Corps of Engineers and Bureau of Reclamation are utilizing planning windows of fifty years; and

Whereas, section 89-03-03-04 of the North Dakota Administrative Code provides that the total quantity of water a municipality or rural water system may hold under all permits for municipal use may not exceed the quantity the municipality or rural water system can reasonably expect to use thirty years in the future; and

Whereas, the Lake Agassiz Water Authority may seek legislation to extend the time period specified in the North Dakota Administrative Code from thirty years to fifty years;

Now, therefore, be it resolved that the North Dakota League of Cities supports the efforts of the Lake Agassiz Water Authority to change the time period allowed under the North Dakota Administrative Code for future water requirements of a municipality or rural water system from thirty years to fifty years.

We ask that you recommend a "do pass" on Senate Bill No. 2296.

TESTIMONY ON SENATE BILL 2296

Senate Natural Resources Committee

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

January 28, 2005

*Same testimony given
to the House*

Mr. Chairman and Members of the Senate Natural Resources Committee, I am Dale Frink, North Dakota State Engineer, and Chief Engineer-Secretary to the North Dakota State Water Commission. I am taking a neutral position on Senate Bill 2296.

Currently, reasonable projections of the future water requirements of a city or rural water system is defined as a 30-year projection in rules developed by the State Water Commission (N.D.A.C. 89-03-03-04). Senate Bill 2296 will change this to 50 years and it will be in statute.

I believe the primary reason for this bill is that everyone is becoming more aware that our water resources are rapidly approaching, or have reached the limit of their potential development or appropriation. The exception is the Missouri River. But, for the rest of the state, water users are, and should be reviewing their future water needs. Part of the review includes an analysis of future water needs, which can be a very inexact estimate. Obviously, water users would rather error high than low. One way to increase the factor of safety is to increase the length of the water use projections.

Future water use amounts also are highly dependent on the annual water use growth rate. Population growth, water use per individual, and geographic expansion of the system all affect this rate. Therefore, it is the combination of the annual growth rate (AGR) and the length of time the projections are made that determine the amount included in a water permit application. The following table shows the relationship of the AGR and time:

	<u>Water Permit Amount</u>			
	<u>0% AGR</u>	<u>1% AGR</u>	<u>2% AGR</u>	<u>3% AGR</u>
Today	1000	1000	1000	1000
+ 30 Years	1000	1348	1811	2427
+ 50 Years	1000	1645	2692	4384

The table shows that extending the time schedule to 50 years allows the applicant to tie up considerably more water. And, now the negative side of this issue. In evaluating future water permits, I must ensure that existing water use amounts can be supplied before new permits can be approved. Increasing the reserved amount for existing users will make it more difficult for new industry and other users to obtain adequate water supplies. All of us encourage industrial water development, irrigation development, etc. Because Senate Bill 2296 will tie up more water in certain areas, future development may be driven to areas with adequate supplies - like areas along the Missouri River, thus, placing water-short areas at a greater disadvantage in attracting new industries.

Mr. Chairman and members of the committee, the decision is yours.

By: Stuart Carlson

Re: SB 2296 - 3/10/05

**Testimony by Stuart Carlson, Executive Director
North Dakota Rural Water Systems Association**

to the

House Natural Resources Committee Hearing on SB 2296

Bismarck, North Dakota
March 10, 2005, 2005

For the record, my name is Stuart Carlson. I serve as the executive director of North Dakota Rural Water Systems Association (NDRWSA). NDRWSA serves a membership of 244 cities and 32 rural water systems. These 32 rural or regional water systems serve the water needs of over 25% of the state's population including over 294 communities and 90,000 rural residents.

NDRWSA membership and the board of directors have passed a resolution in support of Senate Bill No. 2296.

This bill will allow water systems to better plan for future capacity needs in an ever changing environment.

NDRWSA supports Senate Bill No. 2296 and asks for a do pass vote from this Committee.

Testimony by Brett M. Jochim, Chief Operating Officer
Advanced Engineering and Environmental Services, Inc.

to the

House Natural Resources Committee Hearing on SB 2296

Bismarck, North Dakota
March 10, 2005

Mr. Chairman and members of the House Natural Resources Committee, my name is Brett Jochim. I am the Chief Operating Officer of Advanced Engineering and Environmental Services, Inc. (AE2S). As a consulting firm specializing in water system planning, and a member of the ND Rural Water Systems Association, we work extensively with numerous municipal, regional, and rural water systems throughout the State of North Dakota. I am here this morning to provide testimony in favor of Senate Bill 2296.

Scarcity of Water Sources

On a national scale, North Dakota is relatively void of plentiful groundwater and surface water resources. Many of the aquifers in the state have limited production capabilities or very poor water quality. Most of the aquifers suitable for development in North Dakota are heavily appropriated. Further, nearly all of the surface water sources in the state, with the notable exception of the Missouri River, do not provide a reliable supply during extended drought conditions. Given the limited groundwater and generally unreliable surface water supplies in the state, it is imperative that municipal and rural water systems be allowed to secure water appropriations from the limited reliable sources that do exist based on long-term water demand projections.

Water System Growth

Currently, in North Dakota, nearly all of our urban centers, and a large number of our rural water systems, are growing and projected to continue to grow, many at significant rates. This growth is projected to lead to significant increases in future water demands. In response to this growth, municipal and rural water systems are developing water supply plans for 50 years or more to ensure that sufficient water resources will be available to support the anticipated growth. Current North Dakota policy, however, does not allow these systems to secure water appropriations to support these long-term water supply needs.

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