2009 HOUSE APPROPRIATIONS

HB 1020

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7394

Committee Clerk Signature Shirley Banning

Minutes:

Chairman Skarphol: The meeting was called to order on HB 1020, State Water Commission, by calling the roll and by Introducing **Dale Frink, State Water Engineer.**

Frink: Testimony was provided, see attachment # 1 P.P.# 1-21 with supplements a-d. The 2007-2009 Funding Summary P. 12 were reviewed. A delineation of HB 1020 appears on PP. 13-16.

Chairman Skarphol: Addressing Tammy Dolan, OMB Analyst. Would you ask your office to provide us with projections for even a wider range of numbers on oil for this budget? From $20.00 in $5.00 increments.

Rep. Wald: Have those federal funds been appropriated or are you betting on the....(inaudible)?

Frink: We're betting on the....., nothing has been guaranteed with federal dollars, but the last two years have been good. Continuing with testimony on P. 14.

On PP. 16-20 Priority Projects and Agency Specifics and Issues for the 2009-2011 Biennium are listed.

Rep. Klein: That second position for NAWS, is that coming out of the general fund?

Frink: That is all coming out of the general fund. Continuing to the end of his testimony.

Rep. Onstad The arsenic issues, they're raising those standards?

Frink: Yes, the EPA gave a certain amount of time to get into compliance with the arsenic issues.

Rep. Onstad There must be other cities with on again-off again...

Frink: There are, we're making good progress. Devils Lake, for example, was one with an arsenic problem. I think that will be solved when we get this new project done. Many other projects are related to arsenic.

Rep. Onstad: SW pipeline there is always the question of whether there is enough water in Lake Sakakawea and what's available. Currently serving some 35,000 people out there the draw from Lake Sakakawea.

Frink: SW pipeline takes about 20-25 CFS, NAWS takes about 40, and the Red River project will take about 120 CFS. All added up is about 200 CFS. The reason Lake Sakakawea is down is because the Corps of Engineers tries to meet a target of 35,000 CFS in Kansas City. So you can see that 200 CFS isn't going to make much difference, because it's the draw for navigation that's...

Dennis Hill, North Dakota Water Coalition Chairman: Offered testimony in support of HB 1020, see attachment # 2.

Brad Wimmer, Commissioner, City of Fargo: Offered testimony in behalf of the city of Fargo and in support of HB 1020, see attachment # 3.

Mark Bittner, Fargo City Engineer: Provided further detail with attachments #4 and 5 and demonstration with a map to show flood control area.

Rep. Williams: The larger holding ponds, are there still plans for larger holding ponds in northern Richland County?

Bittner: The larger areas are storage ponds. They are very expensive to build. We think there are better ways to spend this money. We are supportive of upstream protection.

Rep. Hawken: Using map #1, I am biased. Our first home that is no longer there. My current home (points to map) is here. We've lived through it, we've lost a house. This is **extremely important to our community.**

Rep. Klein: In relation to other flood control projects in the state, ratio of what the city of Fargo is contributing, what the state is contributing and what you 're getting out of the Federal Government. Is that changed? What are those ratios?

Bittner: The $161M is federal funds, $75M of state funds, and $75M local funds, combination city of Fargo and other benefiting communities..

Rep. Williams: Is there still a plan, with these levies, for flood control?

Pat Zavoral, Fargo City Administrator: The answer is "No". We've not pursued it. We hold about 4,000-6,000 acre feet. For $20M you could hold 60,000 acre feet someplace else that would benefit everywhere else. Our initial plan is to do something internally in Fargo.

Chairman Skarphol: Another way to ask the question is, discounting, anybody within the boundaries of which you're proposing to do. Is your project in any way detrimental to anybody upstream?

Zavoral: The hydraulics that's been done has indicated that there is a 100 year design. There is no upstream or downstream.

Bob Schempp, Minot/NAWS Advisory Committee: Offered testimony in support of HB 1020, see attachment # 6. The Water Commission has provided funding, the commission and

its employees are extremely important to water management and development throughout the state of North Dakota. Funding is extremely important.

Rep. Klein: The treatment plant at Max, the funding for that is federal? But it is not in place?

Schempp: It is not in place. The alternative of the Bureau is to build the treatment plant at Max with disinfection plus the ultra violet method of treatment that was planned in Minot. It is the obligation of the Federal Government. With the money available, there shouldn't be any problem.

Rep. Klein: It will cost what?

Schempp: $17.5M.

Rep. Klein: That is to treat all of the water going through NAWS.

Schempp: It is to disinfect and to kill as many of the squiggleys as you can and underground pipe to Minot to further treat it. There are environmental safeguards to prevent any leaks. They have been overdesigned, in my opinion. To protect a problem that doesn't exist.

Alan Lee, Berthold/NAWS Advisory Committee and Mayor of Berthold: Offered testimony in support of HB 1020, see attachment # 7. Berthold got water for the first time but the distribution line is extremely important.

Rep. Klein: Could NAWS be set up the same as SW pipeline?

Lee: It could follow the same pattern. NAWS is the transmission line. It is different. It will not supply water to my farm.

Rep. Klein: It is different than SW Pipeline.

Chairman Skarphol: Do you have North Prairie Water Association?

Lee: North Prairies is Minot, we didn't have the water availability,

Rep. Klein: That system coming out of Tioga, Stanley area will that eventually tie into NAWS for supply?

Lee: No.

Chairman Skarphol: That crosses the continental divide and we'll run into issues again.

Doug Neibauer, South Central Regional Water: Offered testimony in support of HB 1020, see attachment # 8,discussing the Rural Water Supply.

Rep. Klein: What is the location and is it sized to take care of all you water needs in the future?

Neibauer: We built a phase I equipment that will take us into phase 2 and 3. We currently have about a 1.85M gallon plant and ultimately will go to 3.8M gallon.

Rep. Klein: Where is it located?

Neibauer: North of Bismarck about 7 miles on Highway 1804.

Rep. Wald: What is your fee per 1,000 gallons?

Neibauer: $5.00 per thousand. We utilize both sources of water.

Chairman Skarphol: You do use both sources.

Neibauer: Yes, both sources.

Jerome Olson, Traill Rural Water District: Offered testimony in support of HB 1020, see attachment # 9.

Chairman Skarphol: If your constituents aren't unhappy with a $100 water bill, the rest of us should be tickled.

Rep. Klein: You say you have 8 three river crossings?

Olson: Until this year's flood.

Rep. Klein: You run one of the water treatment plants until you get to phase 3? When do you plan to move into phase 3?

Olson: When funding becomes available. Our rates are so high, that...

Chairman Skarphol: Asks Mr. Frink to provide a spread sheet listing the water rates for all of the projects throughout North Dakota so we have comparative data..

Melody Kruckenberg, President North Dakota Rural Water Systems: Offered testimony in support of HB 1020, see attachment #10.

Denton Zubke, McKenzie County WRD: Offered testimony in support of HB 1020, see attachment # 11.

Rep. Klein: The agreement that you have with three affiliated Tribes, is the state water commission involved in that and are all those agreements in place, the costs, etc?

Zubke: Yes, we are. When we did that in 2000, all of those agreements went to the state water commission. Inspected by all parties involved, and the agreement included for the future use that we're anticipating when we build the rest of this project.

Rep. Klein: The cost, you are paying for part of it, what is that?

Zubke: Part of these dollars that we're requesting will include cost sharing in the expansion.

Rep. Klein: Ongoing continued costs are those included in your water rates?

Zubke: Yes.

Chairman Skarphol: Addressing Mr. Frink, there is concern out there about the use of all of the fresh water by the oil industry. It is not entirely unwarranted and if you're aware of any work being done by an entity in the state, including the EERC or whatever, with regard to how that may ultimately be reduced, the committee would like to be aware of it. The oil industry pumping millions of gallons of water into the ground, does have some concern.

Frink: We are aware of the issues and have asked for a meeting with Ron Ness concerning ground water issues. We also catch flack from the other side, some of the cities, etc are selling the water at a pretty nice rate and want to continue to do that. We are aware of the issues.

Chairman Skarphol: The committee would like to be informed of the issues.

Mike Hynek, Mayor of Stanley: Offered testimony in support of HB 1020, see attachment # 12. Very little of the water is sold to the oil industry. He discussed the affect of the NW Oil Impact on MR & I.

Rep. Wald: Have you been in contact with the Energy Impact Office?

Hynek: Yes, the city of Stanley applied for $182,000 under the energy impact funds and got $0.

Rep. Wald: Is the fund empty?

Hynek: I assume the fund is empty.

Rep. Wald: There are bills floating around to remove the cap and put additional dollars into the energy impact fund. That might relieve some of the financial pressure you are under.

Rep. Klein: Is it a well source to the Ray/Tioga System?

Hynek: Yes,

Rep. Klein: The capacity to increase, have they got the reserves to be able to supply all of this additional water?

Hynek: Yes, the Water Commission has done the studies and there's an adequate supply...

Rep. Klein: The treatment by the plant – they treat the water for you? You get potable water and the capacity of that plant is no problem, they can expand?

Hynek: It would be the doubling of the capacity of the plant.

Rep. Klein: $6.4

Rep. Onstad How disappointing is it to have this potential and to say to the residents that you can't provide the water?

Hynek: It is frustrating and we've dealt with .....

Chairman Skarphol: For information purposes, this $6.4M project, the Water Commission has provided a $4.2M grant. I also have put in a bill to cover the balance of it and we will be hearing tomorrow.

Additional money would be provided, R and T water for $13M to upgrade the plant, there are number of things pending.

Delmar Schramm, Mayor of Hazen: Offered testimony in support of HB 1020, for which attachments # 13 and 13a were provided. He discussed the advantage of the Southwest Pipeline Project to the city of Hazen. Wasted water, pumping into the lagoon

Rep. Klein: Would you shut down your lines if....?

Schramm: Farmers have it come into town to buy water for their cattle

Don Albers, Center: Offered testimony in support of HB 1020, see attachment # 14. Water softeners and filters have to be used. Water has to be treated with Clorox to eliminate the rotten egg smell.

Chairman Skarphol: Were you successful in your campaign? Was it a big majority?

Albers: Yes. Costs for treatment plants in the future have been updated. City of Center subsidizes a lot of the cost of the water. Since the vote, the city of Center has doubled the cost of the water.

Rep. Klein: I imagine the water is affect by the coal veins in your area.

Albers: Not sure, I have no facts.

Ken Vein, Lake Agassiz Water Authority Board: Offered testimony in support of HB 1020, attachment # 15 speaking in favor of the Red River Valley Water Supply.

Rep. Onstad: Is Canada challenging the Red River Valley project?

Vein: Yes, they are.

Rep. Onstad: Are they usually the same issues?

Cronguist: Inaudible.

Clark Cronquist, Lake Agassiz Water Authority Board: Offered testimony in support of HB 1020, see attachment # 16.

Dave Koland, General Manager Garrison Diversion Conservancy District: Offered testimony in support of HB 1020, see attachment # 17.

Rep. Wald: What is the average evaporation on Lake Sakakawea as compared to the amount that is being used, that 1"?

Koland: It is average about 3' a year.

Rep. Wald: Water we use is insignificant compared to the……

Koland: The amount proposed for all uses in North Dakota is a small amount.

Rep. Klein: Boundary waters treaty, where are you setting that in relation to Manitoba. Has anything been discussed on the lawsuit?

Koland: The Secretary of Interior has signed the record of decision for the NAWS project so that it can move forward. A record of determination was also signed stating that the Red River Valley project is in compliance with the Boundary Waters Treaty.

Chairman Skarphol: What does that mean?

Koland: We will meet the goals and bring it to a higher standard. If it could not meet the goals than nothing will meet the standards.

Rep. Onstad The water resource act of $200M, that is for other projects across the state not just ...

Koland: In the Dakota Water Resources act, it was actually $200M for Tribal MR and I water systems. An additional $200M to the $200M we have for state MR and I projects, totaling $400M and $200M for the Red River Valley Water supply program. $600M was grant money, $200M was reimbursement. Users have to pay that money back.

Chairman Skarphol: It's been authorized but not appropriated.

Koland: We have to go back to Congress and get authorization to use Missouri River Water.

Mike Dwyer, North Dakota Irrigation Association and the North Dakota Water Resource Districts Association: Offered testimony in support of HB 1020. Attachment # 18 provides an outline of his testimony, P. 16 of attachment #1 gives the Governor's budget. We have to prepare for $52M or less. We support this bill with the hope that there is $104M for these projects; $20M for the Fargo flood control, $12M for SW Pipeline, $12M for NAWS, $11M for the small water treatment projects. If you cut all those in half, we support the bill but we'd like you to come up with another $52M to make the progress that is identified.

Rep. Wald: What do we pay in Dickinson; addressing Mary Masad.

Mary Masad, Manager and CEO of Southwest Water Supply: Our rates went up to 3.12 for contract customers that include all cities, small businesses. Our rural rates are 41.10 per month for a standard customer, this also includes 2000 gallons.

Rep. Wald: Could you put that down on paper and email it to me?

Rep. Onstad: The SW Pipeline is basically using.....water, each of the communities is using treatment plants?

Masad: We share the intake with Basin Electric for ABS plants, we pump water from....and pipe it to Dickinson. That is serving 28 communities, 14 small business contracts, Red Traill Energy, We will be building a water treatment plant north of Zap. The Water Commission has owned the land for years. We will ultimately have 2 water treatment plants.

Frink: Closing remarks.

Chairman Skarphol: Recess until 2:30 this afternoon to continue with DPI.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

House Education Committee

☐ Check here for Conference Committee

Hearing Date: February 6, 2009

Recorder Job Number: 8897

Committee Clerk Signature Shirley Brauning

Minutes:

Chairman Skarphol: The meeting was called to order to discuss HB 1020, State Water Commission. (47.28)

Dale Frink, North Dakota State Engineer and Chief Engineer-Secretary to the State Water Commission: We have nothing to add but will answer questions.

Dave Laschkewitsch: There were some questions asking about triggers. We are still waiting for the oil extraction tax numbers. Three more months would set the triggers on right now.

Chairman Skarphol: There is a bill to change the oil tax, maybe you should remind someone that an emergency clause would be very convenient on that bill.

Laschkewitsch: It has been quite quiet, we haven't heard anything.

Chairman Skarphol: And as it stands today, the bill would remove the language with regard to triggers. If there were an emergency clause that passed, it would be very beneficial for water development in the state of North Dakota.

Rep. Klein: What's that bill number?

Chairman Skarphol: 1235, its author happens to be Rep. Skarphol.

Rep. Wald: Interest on those carryover funds, is that accrued to your agency or to the general fund?

Laschkewitsch: The interest goes to the general fund.

Rep. Wald: What would that trigger be?

Chairman Skarphol: Stay at 8 ½, there would be no trigger mechanism any longer.

Laschkewitsch: We don't get the full 11 ½, only the extraction so the difference for the Water Commission is 6 1/2 – 4 ½. You asked about the interest in the Resources Trust fund in the 07-09 biennium, it will be almost $2M. It may exceed that.

Rep. Wald: It is their money, they should get the interest.

Would you like an amendment to change change that?

Laschkewitsch: With the bonding, there isn't much money that stays in there. The funds come in, we make the bond payments.

Rep. Wald: It's kind of a clearing account.

Frink: I've a question on 1235, when it was originally written it was 10%, is it still?

Chairman Skarphol: It will be 7%, bringing it up to 8.75% or greater. Notas great as 10%

Frink: That could have some stiff ramifications on the Resources Trust fund if that is the case. It gets into your long term bonds on oil. If you drop 5% to 3 it would have a significant loss.

Rep. Onstad: I believe it came out 8 ¾. I assume it is 55 production tax and 3 ¾ extraction tax.

Frink: That cuts our revenues in half, when the triggers were off.

Chairman Skarphol: There could be changes made to mitigate the unintended consequences to you.

Frink: If we could agree to something that would be neutral.

Chairman Skarphol: The intent was to reduce the complications to the tax law with regard to oil and get rid of a lot complications.

The other question is our University System asked for emergency funds due to the flood at NDSU. Do you have abilities to help, having input into what is necessitated in order to be eligible as an agency to help?

Frink: We have no control. We work with the Federal flood insurance. Cities are responsible to work with that.

Rep. Wald: It was an issue between FEMA and NDSU.

Frink: It is, we have no control, they work with the locals

Chairman Skarphol: It is an issue because we keep providing money for multiple occurrences.

Rep. Klein: The money to game and fish to control along the river to take out of the water trust fund, where are we at in that area?

Chairman Skarphol: The issue is finding an enforcement officer to take care of the problems that are on the reservoir? It is perceived that it is a water issue.

Frink: The office of the State Engineer is responsible for the management of soverign lands and ordinary high water marks, sand bars and islands. Due to the Attorney General's opinion we are asked to get more active. We have to pay some to Game and Fish for wardens.

Chairman Skarphol: Are you aware of Rep. Porter's bill? Bill to take $200,000 from the Water Development Trust Funds to pay for costs associated with the enforcement officer or an off duty enforcement officer.

Frink: There are also issues in Williston, want to cover a broader base.

Todd Sando, Assistant State Engineer: Staff met with the Game and Fish yesterday to discuss the river issue. We're in the middle of developing an MOU with Game and Fish to pay out of our budget that we would fund them to do the law enforcement. It wouldn't be significant man hours.

Frink: Our preference is to work out agreements with various groups. I don't know that the total bill would be $200,000 but it requires a broader look than just Bismarck.

Rep. Onstad: Are you also in charge of islands that disappear?

Frink: Islands typically are not sovereign lands. That would be part of the Army Corps Land. The State of North Dakota still claims that. Only under water on Lake Sakakawea.

Chairman Skarphol: The funds should go to the Water commission because you are the primary enforcement entity. We could give you general funds.

Frink: The Water trust fund, I don't know if it has $200,000. It doesn't have a lot of money.

Rep. Kroeber: In the Water Development Trust fund there is $919,000 predicted at the end of the biennium.

Laschkewitsch: Our bond payments are due on July 1, the biennium ends June 30. I need $8M on June 30 because it has to be there by July 1. Even though you've given us the authority to spend that money, we won't do it. It's got to be available in that fund.

Chairman Skarphol: So we appropriate it this biennium but you don't expend it until next biennium.

Laschkewitsch: Initially we prepared our budget leaving the $8M uncommitted, but it got rolled in.

Frink: The tobacco settlement dollars are repositors to the trust fund and we usually get them in January and April but these bond payments on July 1 and if we make it, the only way is to save that is to save $8M. We have to spend $7.1M less for water projects out of it. It is pretty much a balance right now.

Rep. Wald: What is the interest rate on those bonds?

Frink: Like 3.5%. There is also a .....

Laschkewitsch: We cannot prepay them. They must be retained for 10 Years. We can deposit the moneys into a non revocable trust.

Frink: We cannot rebond if we wanted to. We bonded the income we have now and needed a 20% cushion.

Chairman Skarphol: Are you prohibited from speaking against Measure 3?

Frink: We can oppose but cannot use agency money to take a position.

Rep. Wald: Your agency chose not to take a position on Measure 3, is that correct?

Frink: Last summer, when oil was $140, and it looked like we had plenty of money. Everyone has causes and opinions and I'm not gonna go against those.

Chairman Skarphol: Anything unexpected going on?

Laschkewitsch: August of 2007 we got $1.3M from oil extraction, August of 2008 was $5.3M and the last one I have is January 09, we're back to $2.3. Without that bill we could drop down to $24M instead of the $100M that was in our budget.

Chairman Skarphol: Typically there has never been anything done to mitigate that swing. You're at the mercy of whatever happens. The funds you received as carryover are committed.

Laschkewitsch: As of December, we have $80.4m committed, uncommitted $29.6M We earmark some projects, Fargo Southside is gonna be one. In our budget we planned about $16.6M, we've only taken action on $2.5 of it, so there is $14M not committed but the agency would be hesitant.....I have that money, A big chunk of that money will be brought forward that I planned to give to Fargo, they just haven't come in and officially asked for it.

Rep. Kroeber: Is the Fargo project in the $80.4M committed or the $29M uncommitted?

Laschkewitsch: The $80M committed, I only have $2.5M in there. So I have $14M of the $29M that I'm saying is uncommitted earmarked for Fargo. There will be a substantial amount carried forward.

Rep. Hawken: Is there a reason they haven't come in?

Frink: They're still arguing about where the alignments, etc. There are quite a few decisions to be made. We did commit $500,000 for the planning and studies, and they havven't sent us a bill on that either.

Chairman Skarphol: Mr. Dwyer is distributing a flyer that has a supposition that there is $40M for Fargo flood control. Is that $16M Dave's been talking about included in that $40M? or is the $40M in addition to...

Frink: They know about the $14M. It might be $53M they're looking for. That's new money. The original is based on $104M available for new projects. We know that's not gonna happen. They're working on $52M and one is the Red River Valley project is not gonna need as much money so they're gonna give that money to the Fargo South project.

Rep. Wald: Is this the second biennium you're working off this budget? PP. 16-17 of previously distributed attachment, you are looking for a hydrologist how critical is that for you?

Frink: We are behind on our water permits, because we are getting close to the point where the only new water available is out of the Missouri river. We're trying to find water supplies for oil companies and ethanol plants and irrigators. oil field wants permits,

Rep. Wald: Under constraints to offer enough to salary to keep these people.

Frink: I am obligated to support the gov's budget on that. Additional money in budget for salary increases.

Chairman Skarphol: Drinking water, cleanwater Health Department

Chairman Skarphol: Drinking water, clean water, my assumption is that drinking water would come to you, potentially. The clean water would go to the Health Department. Is that what you are hearing?

Frink: Most of those go to the Health Department. Our money has to come through an existing program, Bureau of Reclamation. The only one we would tie into would be the MR and I program that we do have. The Bureau has a total of $500M on the House side and $130M is rural water that has to be shared by the four states. Very little will come into the Water Commission budget.

Chairman Skarphol: What kind of potential, can you give a dollar figure at all?

Frink: The $300M is for 3-4 states. We would be happy to get $50M-$75M. We've got $55M in our budget for Federal and about $45M RM and I.

Rep. Onstad: Typically do those dollars come with matching dollars?

Frink: They have to come through existing money. To get a water project is not easy. We submitted about $90M of projects. It has to go through the Bureau of Reclamation and they distribute it to use.

Chairman Skarphol: In the past have you had any input into the earmarks that Congress creates?

Frink: We provide a list and they would earmark those and might add or reduce so we have flexibility. We rebalance from that.

Chairman Skarphol: If they earmark dollars, you can redistribute it.

Frink: If it goes to the Bureau of Reclamation not all of it will come to North Dakota. We have to wait for the Bureau of Reclamation. We hope to get money for rural and industrial projects. Getting back to Bill 1235. The total is 11.5% and I hope to see if it can come out of both sides.

Chairman Skarphol: We will walk up and see Mr. Walstad. Meeting adjourned.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: February 9, 2009

Recorder Job Number: 9017

Committee Clerk Signature Shirley Brannong

Minutes:

Chairman Skarphol: Brought the Committee back to order to discuss HB 1020, State Water Commission budget. One of the big issues on the Commission is the oil funding mechanism; we have to be sure we get that right. As far as their budget itself, was there anything that the committee....? We've got a couple of FTEs that we are still going to talk about, at least in our caucus. Their concern is that there will be any money to work with based on oil revenues. I am not sure there is anything of significance we were intending to change on the Water Commission.

Rep. Klein: The only major change that I see there is that money we have to put general funds into the Water Commission so they can pass that on to the Game and Fish. I think that was $200,000.

Chairman Skarphol: To be applied for an Enforcement Officer.

Rep. Wald: I realize its water commission property or land at the river bottom, but I still think that's the local sheriff department issue on both sides of the river.

Chairman Skarphol: The impression I got is they don't have authority to go out on the river and enforce anything. It's a water issue and the Water Commission is given that responsibility through some type of Memorandum of Understanding (MOU) to Game and Fish.

Rep.Williams: It was my understanding that they got a legal opinion on it and they do not have .....

Rep. Kroeber: He told us that they definitely have the responsibility for it, Water Commission did. But they did not have any way to enforce it. The $200,000 that was going to go to Game and Fish who is in turn going to take and coordinate the efforts between Game and Fish, local officers, up and down the river. That was their main activity to see that this would get done. IT wasn't that Game and Fish was going to do all of it but they would coordinate it and they would hire some off duty people to help both from the sheriff department that already are doing some things with boats.

Chairman Skarphol: And to compensate those departments.

Rep. Kroeber: Correct, it was to compensate those departments, Game and Fish said they don't need another FTE. He said the additional FTE that they would have on their aerial services would in the off time, be able to coordinate those activities.

Rep. Klein: Rep. Wald and I ran into him and as far as that FTE, we told him he wasn't going to get it and he didn't have a problem with it.

Chairman Skarphol: He did talk about the fact that that pilot could do those duties.

Rep. Klein: The other thing that they were going to do is the cross-deputization so that the local deputy would be able to enforce this on the river is the Game and Fish guy.

Rep. Wald: How does this differ from a Game and Fish person on Lake Sakakawea checking for licenses for violations from the water between Bismarck and Mandan?

Rep. Onstad: If you consider the land up to the river bed is Game and Fish's responsibility. What they are referring to is, as the water goes up and down islands are created because of sovereign issues, The state Water Commission is responsible for those islands, as opposed to

what boarders the rive which Game and Fish has. Game and Fish patrols that, Bismarck's and Mandan's Guide Teams patrol that, other different sheriff's departments. If we reassign that authority to deal with that, it is an issue on those particular islands only the state engineer has the authority to enforce any kind of ruling there.

Rep. Wald: Are you suggesting that if an island appears in Lake Sakakawea or a sand bar appears, how does that differ from this situation?

Rep. Onstad: The questions asked about islands, and they consider some as being permanent, are Game and Fish, but those floating islands, this occurs in the original river bed where the State Engineer has the sovereign authority.

Rep. Martinson: We've had this problem in Bismarck and there is no difference. The Game and Fish controls the water and nobody controls the land. They can arrest somebody for driving intoxicated on the river. Not arrest somebody for being drunk on the land, on the island. Who has the jurisdiction and bottom line is nobody wants it. There are hundreds of people on the sandbars and it's become a garbage dump. He wants somebody to be in charge on the sandbar, not on the water.

Chairman Skarphol: It would appear that we have to have an amendment drafted for $200,000 in general fund money to the State Water Commission for them to have available as grant money to give grant through Game and Fish. Do we have a motion?

Rep. Klein: So move.

Rep. Martinson: Second

Joe Morrissette, OMB Analyst: When you do your amendments on the Game and Fish budget, you'll need to increase their grants line by $200,000, so they can receive these monies and pay them out as grants to the local law enforcement agencies.

Vote Taken on the amendment: Yes: 8, No 0, Absent: 0 Motion Carried.

Rep. Wald: The blue sheets that we got on the Water Commission, dated January 28, can we assume that is a pecking order on projects they are gonna work on based on the oil income?

Chairman Skarphol: That's the recommendation of Mike Dwyer, and the State Water Commission may have a different order than that. Their priority list is can be in a state of flux based on emergencies.

Rep. Wald: We could ask them for a tentative scenario when somebody on the floor asks which projects are going to be funded, that you have some time of an answer.

Chairman Skarphol: Directs **Sheila Sandness, Legislative Council Representative**, to get a list from the Water Commission on their priority list.

Sandness: You want a list of their projects based on which revenue scenario...

Chairman Skarphol: Regardless of their revenue, they are going to have to adapt whatever revenue they get.

Sandness: In the past when I have asked for that, they tell me that it depends on certain projects they won't start unless they know that they have the funds to finish them.

Rep.Williams: Wasn't # 1 on their list the Fargo Flood Control?

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

House Appropriations Committee
Education and Environment Division

☐ Check here for Conference Committee

Hearing Date: February 11, 2009

Recorder Job Number: 9145

Committee Clerk Signature Shirley Branning

Minutes:

Chairman Skarphol: Called the meeting to order to discuss HB 1020, State Water Commission budget.

Briefly, looking at the green sheets, number 1 is the hydrologist to work on ground water permitting; number 2 is the engineer Tech 4 position for the NAWS that is paid by user fees. Addressing **Sheila Sandness, Legislative Council Staff**, please explain 6 and 8. $90+M in those categories. Is 6 what they would consider bond payment and carry forward? And 8 is the hoped for amount available for projects in this biennium?

Tammy Dolan, OMB Staff: Confirming, they just put in the net change amount for the net expected revenue. Depending on whether they are categorized as a capital asset or a grant.

Sandness: I showed you the change in both lines, Capital versus grant line.

Rep. Wald: the capital project is part of that work going on right now?

Sandness: Right, it includes their bond payments of $16M

Rep. Klein: The bond payment of $16+M, is that where we pledged tobacco dollars against. The $20,000 of equipment, what is it that they're getting for that?

Sandness: It is survey equipment.

Chairman Skarphol: And the $45,000 on line 7 for technology equipment.

Dolan: Infrastructure maintenance, computer systems.

Chairman Skarphol: They have their own complete system. Any potential amendments on this?

Rep. Klein: On February 9 we did agree to amend the Game and Fish. Is that in the system?

Sandness: I've maintained a list to be compiled so that you can see the complete effect of all the amendments. That could go to full committee to be adopted or.

Rep. Klein: $200,000 in the amendment?

Sandness: Yes, the $200,000 pass through grant to Game and Fish is on the list of items.

Rep. Klein: I move a Do Pass as amended.

Rep. Wald: Second.

Chairman Skarphol: If there is no further discussion, we will vote.

Do Pass as Amended: Yes 8, No 0, Absent 0. Carrier: Rep. Klein.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1020

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 17, 2009

Recorder Job Number: 9620

Committee Clerk Signature

Minutes:

Chm. Svedjan opened the hearing on HB 1020.

Rep. Klein distributed and explained amendment .0101 (Attachment A). This amendment provides $200,000 from the general fund as we discussed earlier for administrative and support services for law enforcement activities on sovereign lands owned by the state. There is very little money in the water trust fund. This will go as a grant to the Game & Fish for enforcement as discussed in the Game and Fish bill.

Motion Made By Rep. Klein to move the amendments; Seconded By Rep. Skarphol.

Discussion:

Rep. Klein: We are considerably short of money in the budget due to passage of Measure 3 that took money away from that fund. One of the FTEs is required for a hydrologist. They are backlogged for new wells. The second one is funded through the NAWS system. That isn't general fund money. That is paid by the user.

Chm. Svedjan: the removal of the $3 million for the Red River Valley Water Supply.

Rep. Kaldor: This budget shows the effect of the equity adjustment. It's a significant amount that will be reduced from the budget and I assume that is because of engineers.

Chm. Svedjan: Maybe significantly.

Rep. Glassheim: I thought we were putting money into this every biennium.

Rep. Klein: That was one-time money last session.

Chm. Svedjan: You are not perhaps suggesting we set aside a fund?

Rep. Glassheim: From the water budget.

Rep. Skarphol: This is one of the most concerning budgets. Their revenue comes primarily from oil and it could be substantially low based on what happens with oil. With what is happening in the oil patch and oil prices their revenue could be substantially below what their anticipated needs are. We were looking at $108 million and we have reduced that to $52 million. That is a major cut.

Voice Vote on amendment; carried.

Do Pass As amended .01.01 by Rep. Klein; Seconded by Rep. Wald.

Vote: 24 Yes 0 No 1 Absent Carrier: Rep. Klein

Hearing closed.

Date: Feb. 9, 2009
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1020

House House Appropriations Education and Environment Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☑ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Rep. Klein Seconded By Rep. Martinson

Representatives	Yes	No	Representatives	Yes	No
Bob Skarphol – Chairman	✓		Joe Kroeber	✓	
Francis Wald – Vice Chairman	✓		Kenton Onstad	✓	
Kathy Hawken	✓		Clark Williams	✓	
Matthew M. Klein	✓				
Bob Martinson	✓				

Total Yes 8 No 0

Absent 0

Bill Carrier _____

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

To amend by adding $200,000 for 1 FTE for grant to Game and Fish.

Date: Feb 11, 2009
Roll Call Vote #:

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1020

House House Appropriations Education and Environment Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number amendments being drafted

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ Amended

Motion Made By Rep. Klein Seconded By Rep. Wald

Representatives	Yes	No	Representatives	Yes	No
Bob Skarphol – Chairman	✓		Joe Kroeber	✓	
Francis Wald – Vice Chairman	✓		Kenton Onstad	✓	
Kathy Hawken	✓		Clark Williams	✓	
Matthew M. Klein	✓				
Bob Martinson	✓				

Total Yes 8 No 0

Absent

Bill Carrier Rep. Klein

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

Do Pass
amendments being drafted
to remove funding for rent

Attachment A
2/17/09

98020.0101
Title.
Fiscal No. 1

Prepared by the Legislative Council staff for
House Appropriations - Education and
Environment
February 11, 2009

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 12, replace "394,161" with "594,161" and replace "2,849,027" with "3,049,027"

Page 1, line 14, replace "138,002,135" with "138,202,135" and replace "311,001,398" with "311,201,398"

Page 1, line 16, replace "1,615,951" with "1,815,951" and replace "12,493,198" with "12,693,198"

Page 1, after line 24, insert:

"**SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and support services line item in section 1 of this Act includes $200,000 from the general fund that the state water commission shall provide as a grant to the game and fish department for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0101 FN 1

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - State Water Commission - House Action

	Executive Budget	House Changes	House Version
Administrative and support services	$2,849,027	$200,000	$3,049,027
Water and atmospheric resources	308,152,371		308,152,371
Total all funds	$311,001,398	$200,000	$311,201,398
Less estimated income	298,508,200	0	298,508,200
General fund	$12,493,198	$200,000	$12,693,198
FTE	86.00	0.00	86.00

Department No. 770 - State Water Commission - Detail of House Changes

	Adds Funding for Enforcement on Sovereign Lands[1]	Total House Changes
Administrative and support services	$200,000	$200,000
Water and atmospheric resources		
Total all funds	$200,000	$200,000
Less estimated income	0	0
General fund	$200,000	$200,000
FTE	0.00	0.00

[1] This amendment provides $200,000 from the general fund for administrative and support services for law enforcement activities on sovereign lands of the state. A section is added providing that the State Water Commission provide a $200,000 grant to the Game and the Fish Department for these enforcement activities.

Date: 2/17/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1020

Day 31

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98020.0101

Action Taken Adopt amendment .0101

Motion Made By Klein Seconded By Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote - carries

98020.0102
Title.0200
Fiscal No. 2

Prepared by the Legislative Council staff for
House Appropriations
February 17, 2009

VK
2/18/0
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1020

Page 1, line 12, replace "394,161" with "488,031" and replace "2,849,027" with "2,942,897"

Page 1, line 13, replace "137,607,974" with "137,000,806" and replace "308,152,371" with "307,545,203"

Page 1, line 14, replace "138,002,135" with "137,488,837" and replace "311,001,398" with "310,488,100"

Page 1, line 15, replace "136,386,184" with "136,298,107" and replace "298,508,200" with "298,420,123"

Page 1, line 16, replace "1,615,951" with "1,190,730" and replace "12,493,198" with "12,067,977"

Page 1, after line 24, insert:

"**SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and support services line item in section 1 of this Act includes $200,000 from the general fund that the state water commission shall provide as a grant to the game and fish department for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0102 FN 2

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - State Water Commission - House Action

	Executive Budget	House Changes	House Version
Administrative and support services	$2,849,027	$93,870	$2,942,897
Water and atmospheric resources	308,152,371	(607,168)	307,545,203
Total all funds	$311,001,398	($513,298)	$310,488,100
Less estimated income	298,508,200	(88,077)	298,420,123
General fund	$12,493,198	($425,221)	$12,067,977
FTE	86.00	0.00	86.00

Department No. 770 - State Water Commission - Detail of House Changes

	Adds Funding for Enforcement on Sovereign Lands[1]	Reduces Funding for Anticipated Salary Savings[2]	Removes Salary Equity Funding[3]	Total House Changes
Administrative and support services	$200,000	($34,777)	($71,353)	$93,870
Water and atmospheric resources		(222,831)	(384,337)	(607,168)
Total all funds	$200,000	($257,608)	($455,690)	($513,298)
Less estimated income	0	(34,761)	(53,316)	(88,077)
General fund	$200,000	($222,847)	($402,374)	($425,221)
FTE	0.00	0.00	0.00	0.00

[1] This amendment provides $200,000 from the general fund for administrative and support services for law enforcement activities on sovereign lands of the state. A section is added providing that the State Water Commission provide a $200,000 grant to the Game and Fish Department for these enforcement activities.

[2] This amendment reduces salaries and wages funding to recognize anticipated savings from vacant positions and employee turnover.

[3] This amendment removes funding added in the executive budget for state employee salary equity adjustments.

Date: 2/17/09
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1020

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98020.0101

Action Taken Do Pass as Amended by .0101

Motion Made By Klein Seconded By Wald

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer	✓		Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew	✓		Rep. Kerzman	—	
Rep. Kreidt	✓		Rep. Metcalf	✓	
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 24 No 0

Absent 1

Floor Assignment Klein

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

REPORT OF STANDING COMMITTEE

HB 1020: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (24 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1020 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "394,161" with "488,031" and replace "2,849,027" with "2,942,897"

Page 1, line 13, replace "137,607,974" with "137,000,806" and replace "308,152,371" with "307,545,203"

Page 1, line 14, replace "138,002,135" with "137,488,837" and replace "311,001,398" with "310,488,100"

Page 1, line 15, replace "136,386,184" with "136,298,107" and replace "298,508,200" with "298,420,123"

Page 1, line 16, replace "1,615,951" with "1,190,730" and replace "12,493,198" with "12,067,977"

Page 1, after line 24, insert:

"**SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT.** The administrative and support services line item in section 1 of this Act includes $200,000 from the general fund that the state water commission shall provide as a grant to the game and fish department for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0102 FN 2

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 SENATE APPROPRIATIONS

HB 1020

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-11-09

Recorder Job Number: 10697

Committee Clerk Signature Alice Delzer

Minutes:

Chairman Holmberg Opened the hearing on HB 1020 regarding to state water commission.

Dale L Frink North Dakota State Engineer and Chief Engineer-Secretary to the State Water Commission. Testified in favor of HB 1020 and provided written testimony # 1.

Senator Fischer On these conditional water permits, are they short term?

Frink No those are long term permits. What we do when we first grant a permit it is conditional until it is developed. After it is developed we inspect it and perfect it.

Senator Fischer And then the permit is cancelled?

Frink In some case we will issue a permit that is not developed and we will cancel them or if you have three continuous years of nonuse you are eligible for cancellation.

Senator Fischer What about temporary construction?

Frink Temporary permits can be issued for up to one year. I like to give out temporary permits because they are not long term and we can manage them. We can cancel them immediately. Continued with written testimony

Senator Warner If you are not able to make bond payments, do you have access to that money?

Frink Not any more. Continued with written testimony

V. Chair Grindberg Can you give us more of an overview on what is happening in Devil's Lake; the reallocation with the snow pack. We have been providing appropriations for Devil's Lake many times. I recall many times hearing testimony stating that sooner or later we will not be able to control it. I was surprised to hear that we need another 100M dollars to save the city. What are total expenditures to date if we assume that will happen?

Frink 100M is what would be needed to protect Devil's Lake, it has to come up 10 or 12 feet, depending on what the overflow elevation could be. There is a lot of property that would be damaged if it ever came up to that level. If it ever does get there, the soils are vey sandy, I think it time it will erode its way done. The corps is looking at a very substantial levy. Part of the cost of raising the dike this time is that the corps has totally revised its levy requirements after Katrina in LA. They are much more conservative than they used to be. In GF I was trying to convince them to go higher.

V. Chair Grindberg We know how the corps moves, we know the snowpack is going to melt, we are going to know the impact, is the money even going to make a difference?

Frink We are looking even longer term than this year. The lake is at 14.47 feet. The weather service is predicting it will crest at 14.52. The dike is 14.60. They should be alright this year. But the corps is actually looking at a dike that is to be many miles longer and they are going to start this year. If the lake doesn't come up that high this year, I don't know how that will affect the project. It is a multiyear project.

V. Chair Grindberg What is the Grand Island road at elevations wise?

Frink 14.55

V. Chair Grindberg So one can assume that we will want to be raising that too?

Frink Devil's Lake is a region that just eats money. Our roads are a never ending battle.

Senator Christmann On this particular subject, back in 1997, Fargo made a decision to put up some berms. Some things were lost and others saved. What is the ultimate saving price of Devil's Lake as opposed to moving it? There is a big problem with drinking water coming up from under the lake. Would we spend a 1 Billion, 10 Billion? Where would we go as opposed to moving the whole thing?

Frink The 700M amount is all around the lake, not just the city. A large chunk of that is DOT's cost to raise the roads all around the lake. In terms of the city, there are different alternatives, none very good. As far as the water supply, I think that has been rerouted. It is in good shape.

Senator Christmann I would just hope that whoever is on the subcommittee would give some long term thoughts to what is going to be necessary over there in a worst case scenario before we commit to another 100M dollars. If we keep adding 10M here and 5M there it seems like a good idea but cumulatively I don't know if it is or not.

Frink It would be 75% federal money with the 100M and probably the 700M. It is a lot more federal than state or local dollars.

Senator Christmann Those are real dollars and they are huge.

V. Chair Bowman Didn't we put a pumping station up there and wasn't it taken out or is it still pumping? That was a big deal a few years ago to get some water pumped out of there.

Frink We did build an outlet, there are so many constraints put on that outlet, we can't pump enough water. We have about 26 M invested; we pumped it 80 days last year. We have visited with the state health department. At some point we hope they are going to let us turn it on. There are tough decisions to be made. We probably will have to pump some more this year. We have been sued several times for pumping; hopefully those law suits are behind us. There an awful lot of people watching us. Yesterday we had a conference call and there may have

been 40 people on this telephone call, just to look at the Red River, all related to this outlet. There are many people watching us and we would love to turn it on.

V. Chair Bowman If you continue to build dikes, when does the point come when the water goes over the pump and we create a bigger problem? Someday it is going over, it will cut a channel and we can't do anything about it. Do they still sue us because of what happens naturally?

Frink We have had that discussion many times. If we do anything about that natural outlet, we will get sued. There are all kinds of issues regarding liability. The adjutant general was told that he could personally be liable for downstream damages. The corps and federal government, I can guarantee, will not take dirt out of it. So it will have to be us and we will end up in court when we do it.

Senator Fischer How much objection by Canada and Missouri is political vs. scientific?

Frink Missouri to me is all political. Manitoba's concern is that you would transfer some biota. We are going to put that water through an ultraviolet treatment process. There are some people who just don't want it and that are the bottom line.

Senator Fischer Don't they think that biota has already been transferred?

Frink DL is different. I think everyone recognizes that DL is in the Red River Basin and that is doesn't discharge on its own very often. Our case in DL is stronger.

Discussion about water issue with Devil's Lake continued his testimony including further written testimony. See attachments #2&3.

Senator Seymour What is your definition of a strategic plan?

Frink What this one does is first of all gives people an idea of what the state water commission does. If you turn to page 7, the ARB, it does have an action plan in there and target dates. It lays out some of our goals that we have.

Senator Mathern Give us a comment about your staffing situation in terms of having sufficient staff regarding the stimulus package and other variables.

Frink First of all we have a very good staff. The area we are shorter on is water appropriations and water permits. We could use 5 employees. If you don't have the employees you can't give out water permits. This bill includes one employee for water rights. We are trying to handle that backlog. Spoke about some other projects and the difficulty of battling lawsuits

Senator Christmann There seems to be a far greater emphasis on starting projects than completing them. What is WTP?

Frink That is a water treatment plant.

Senator Christmann In my own area, it has been in the works for almost a quarter of a century. I read in you testimony that for the 09-11 biennium that efforts will include completion of the pipeline in Hazen and Stanton to which you added "depending on financing." When I look in the strategic plan on page 22 it appears to me that the whole thing will be done by 2011. Can you tell me what we are going to see in action in the next 2-4 years?

Frink In the last 6 months, we have lost a lot of money in terms of declining oil prices. In Aug. and Sept., we received about 5½ M a month but we are now done to about 1M (number fuzzy on tape). Then measure 3 passed in November which is costing us 6M this biennium and will cost us 12M next biennium. Your water treatment plant and pipeline to Hazen will cost about 18M; this measure 3 took those funds away from us. We are hoping to fund that 18M with federal dollars. We have it in both the stimulus plan and in the normal (unintelligible) program. You have to make adjustments. We have things like the DL levy and people telling me to start looking at funding. We have a lot of pressure if Fargo floods and the problem of Stanley and their water supply. I still hope to get that treatment plant funding for Hazen and the pipeline to Hazen.

Senator Christmann Asked some technical questions about water input and outflow in relation to the Maple River Dam and the DL outlet.

Frink 1240 is not very large. The Maple River Dam will make a difference downstream.

Chairman Holmberg You will be around for subcommittee. We have a list, the weather kept a lot of folks from getting here today.

Mike Dwyer Spoke on behalf of Brad Wimmer and Mark Bittner See attachment # 4.

Alan Lee Mayor of Berthold. Spoke in support of 1020. Also passed out testimony from Bob Schempp. See attachments #5&6.

Doug Neibauer Executive Director-South Central Regional Water District. Spoke in support of 1020.See attachment # 7

Melody Kruckenberg Submitted written testimony. See attachment #8.

Denten Zubke McKenzie County WRD. Spoke in support of 1020. See attachment # 9.

Mary Massad Manager/ CEO Southwest water authority. Spoke in support of 1020. See attachment # 10.

Don Albers Center and Oliver County. Submitted written testimony. See attachment # 11.

Delmar Schramm Mayor of Hazen. Submitted written testimony. See attachment # 12.

V. Chair Grindberg My father in law is proud of what he has done in the southwest efforts. Are we getting close to being done? When will it be completed?

Massad When Oliver, Dunn, and Mercer are done we will be completed.

Dave Koland General Manager of Garrison Diversion Conservancy District. Spoke in support of 1020. See attachment # 13 (1.24.32)

Ken Vein Submitted written testimony. See attachment # 14.

Mike Dwyer ND Water Resource Districts Association and the ND Irrigation Association. See attachments #15&16. Explained the budget numbers he submitted.

Senator Christmann This question is for Mr. Frink. If we approve the budget as is and the monies come in; are we likely to end up at the end of two years from now with a big pot of money for one project or several pots for several projects but because of law suits they are likely to be incomplete? Or, will the money be used somewhere else?

Frink That is what we go through every year. The money isn't earmarked so we have the flexibility to move money around. Two years ago we were not intending to be in Mercer County, but we were able to move some money over there. We do that all the time. Just the fact that two months ago we working on a 120M budget and now we're working on a 71M budget. We need to have that flexibility to move the money around. I am pretty reluctant to move money away from the south Fargo project. We try to move the money around. We have a couple of projects that have been stalled from some time. It depends on oil prices. We can work with less if there is more oil money. We are going to have to cut that down.

Senator Mathern When that situation arises, where it appears you need to move money from one project to another; who makes that decision?

Frink The water coalition meets a few times a year to discuss things but that is a strictly advisory group. The sate water commission and governor make the final decision.

Chairman Holmberg We do have a subcommittee appointed; Senator Fischer, Senator Holmberg and Senator Lindaas. Closed the hearing on HB 1020.

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2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1020 subcommittee

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 6, 2009

Recorder Job Number: 11743 (starting 49:00)

Committee Clerk Signature Rose Laning

Minutes:

Senator Fischer called the water commission subcommittee hearing to order on HB 1020. Committee members **Chairman Holmberg** and **Senator Lindaas** were present.

Dale Frink, North Dakota State Engineer, State Water Commission

(Talked about wording in the amendment) The original bill used the word "shall". He had issues with the wording, however, it was amended. I agreed that if it was amended with the word "recommend" and it was limited to retention projects, I would not testify against it. When it passed the House I listened to the testimony and the legislators actually pointed out that the state engineer did not oppose this bill. The State Water Commission as policy set the cost share requirements at 50%. If 2316 passes, it's pretty hard to ignore. To me it is setting out some intent for the legislature. We would set the policy for the water commission for flood retention dams at 65%. The governor and he agree that using the "recommends" the water commission does not have to fund it at 65%. If this would pass, my recommendation to the water commission is that they set the cost share at 65% and if you don't have money, you don't have money, you don't spend it.

Senator Fischer: The bill was brought forward because there were inconsistencies in funding.

Dale Frink: We look at the type of use. There are cost shares formulas for different projects.

Senator Fischer: And they change on a daily basis.

Dale Frink: No. We've been pretty consistent.

Senator Fischer: You fund some at 30%, sometimes 65%, at 33%, and NAWS is 1/3, 1/3, 1/3, right? NAWS (Northwest Area Water Supply) – you pay 65% through MRI.

Dale Frink: Yes, it's supposed to be 65% federal, 35% Minot. The State Water Commission pays for our own staff and we also pay for some of the legal fees. Because the federal government hasn't kept up with where we want to go, the state water commission has contributed dollars to NAWS (Northwest Area Water Supply). Our percentage with NAWS is maybe 10%. The SW pipeline is going to be paying us back 50 years from now. NAWS won't. That was their choice.

Senator Fischer: You understand why the bill is there.

Dale Frink: I'd rather have the state water commission set the policy. I don't disagree with the legislature. You have the authority to make that policy change.

Senator Fischer: handed out the Proposed ND Coalition Funding Plan – March 11, 2009 – see attached # 1. He said the recommendation of the State Water Commission is to adopt the March 11 budget.

Dale Frink: highlighted and went over the funding plan. Stated the governor is committed to the $45 M for the next biennium to work with flood control.

Senator Fischer: We may have an amendment that speaks to that and then asked if the southwest pipeline and NAWS would be funded sufficiently to proceed.

Dale Frink: We told SW pipeline that we'd try to get a treatment plant in Mercer County.

Senator Fischer: That's the total $8 M?

Dale Frink: It's more than that. We've got money in the stimulus package for the SW pipeline. We're not sure how much it is, but it's significant. We also have money for the SW pipeline in the 2009 MRI.

Senator Fischer: The latest stimulus money shows $20 M dollars.

Dale Frink: That might be high, but it's going to be earmarked. The total of those two would fund the treatment plant. NAWS will not get any stimulus money; however, NAWS does have money in 2009 MRI.

Senator Holmberg: I'm trying to figure out another bill that dealt with the stimulus money from the Health Department – HB 1305. I'm trying to reconcile that along with your discussion here about stimulus money. Are you talking about Health Department money when you are talking about other money?

Dale Frink: I'm talking about the Bureau of Reclamation, Garrison Diversion, Conservancy District and State Water Commission.

Senator Fischer: Then over on this sheet that we were using, it identifies the Water Commission for $20 M. Now you're saying that you put that number in there as an estimate of what might be coming.

Dale Frink: I signed off on a letter that we'll be able to spend the money whatever it might be. Senator Dorgan has also scheduled a meeting out in Dickinson. That would be the only money coming in to the State Water Commission. In light of the bill that says that the legislature has to approve all stimulus money, how will that be handled? Will you be putting the extra $15-20 M into our budget?

Chairman Holmberg: Are you looking at HB 1481? We have new language that has been drafted that I have not seen. We don't know what the language is.

Dale Frink: Will this be added in?

Senator Fischer: Yes. The only thing we haven't heard yet is the amount.

Senator Fischer: HB 1305 is all stimulus money and appropriates additional $2.1 M for the R&T Water Supply.

Dale Frink: This is in addition to that.

Conversation between Frink and Senator Fischer continued regarding allocated monies.

Senator Fischer: With regards to Devils' Lake; is there any other solution other than to raise the dikes? If you put in structure, are you responsible for activity across the lake?

Dale Frink: Not that I'm aware of. There is no Attorney General's ruling.

Senator Fischer: The money coming out of the trust fund, there is no water development or tobacco money used in here.

Dale Frink: handed out budget sheet for Water Commission.

Senator Fischer: With stimulus money, it's a matter of whether or not the committee agrees about using it there.

Chairman Holmberg: That's where the red hearing is. The $100,000 general fund.

Senator Fischer: Someone needs to insist rather than deny and walk away.

Chairman Holmberg: In HB 1305, do we stand a better chance to take Renwood Dam out of the bill. Then you will have it separate and can work on it in conference committee.

Senator Fischer: I don't object to give water to Mercer County, and water plant is needed. In their budget, some are hard numbers and some are guesses.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020 subcommittee meeting

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-09-09

Recorder Job Number: 11801

Committee Clerk Signature Alice Delzer

Minutes:

Senator Fischer opened the meeting of the subcommittee. Senator Fischer, Senator Holmberg and Senator Lindaas were present. Also present were Dale Frink, Commissioner of the State Water Commission, Dave Laschkewitsch, State Water Commission, Sheila Sandness, legislative council and Tammy Dolan, OMB.

Senator Fischer said they took the equity and the salaries out.

Senator Holmberg said we need to put both the salary and the equity back in.

Sheila Sandness said the green sheet starts with the changes the governor made. The red book shows other changes, it shows vacant FTE positions.

Senator Fischer this is different than the green sheet.

Sheila Sandness said there are two green sheets. It was updated after cross over.

Tom Sundahl said there are two additional FTEs, one in the water development division and one for operations in the NAAS pipeline, because it has become operational, probably located in Minot. The NAAS customers will pay for that position.

Dale Frink asked if they have two vacancies.

Tom Sundahl said they only have one.

Senator Fischer said they did not do anything with the budget.

Tom Sundahl said they added money that will pass through to Game and Fish. They are going to hire some enforcement officers.

Sheila Sandness said the water commission is responsible for sovereign lands enforcement.

Tom Sundahl said they will be Game and Fish employees; the State Water Commission is paying.

Senator Fischer said 1305 related legislation goes away. It was funded out of stimulus money.

Tom Sundahl said that was going to be the bill used permanent oil. It doesn't actually go away; it is part of the Health Department.

Senator Holmberg said they were never opposed to that project.

Dale Frink said we support it and funded most of it. The stimulus money comes out of the health department so it makes sense to go this way.

Tom Sundahl asked Senator Fischer is he received the email regarding the question on the general fund. $1,533,075 is the amount of agency operations that are paid for using the water development trust fund.

Senator Fischer said the balance in the trust fund, that is tobacco, right? I thought they came out of general funds.

Tom Sundahl said most of our agency operations do. Last biennium there was about $1.2 million that was still funded out of the trust fund.

Senator Fischer over the years, before it was moved to the trust fund, that was general fund. 2001 is when it switched over.

Tom Sundahl there were two bienniums when we transferred funds out of the water development trust fund to the general fund. Two years ago you made the change to use almost all general funds. If the goal is to put all the operations on the general fund, $1,533,000 and change would do it.

Senator Fischer that is the way it is supposed to be, all in general funds.

Sheila Sandness said she has on the water development trust fund analysis $1,530,246 but that was before the reduction for the salary.

Dale Frink said that is right and they are putting it back so it would go back to the original number, $1,533,075.

Everyone seemed to agree.

Senator Fischer said we got a list of requests, the projects pop up and they are all over. One amendment the conference committee obligated last year was the finishing of line art (?) and some maintenance cost. He is hearing NAAS is not going to operate but they need another $1 million or $2 million. We could move that around within the budget.

Tom Sundahl said NAAS will operate.

Senator Fischer said he received a communication that said at $5 million, they need another $1million. He asked what is happening with NAAS this year that the $5 million is not enough. What are the projections?

There was discussion between Senator Fischer and Gene Schafer, former director about numbers that changed.

Senator Holmberg said he assumes they are comparing the coalition funding plan dated March 12 with the one we got the other day, March 11. He noticed the flood control at Fargo went from $20 – $35 million. The bottom totals are all the same.

Dale Frink talked about the last projection for income to the resource trust fund. The water commission's budget is based on the $104 million, the governor's budget. The authority was left in the budget.

Dave Laschkewitsch said when they prepare the budget, they prepare it on the current estimate at the time, and they used the estimate of $104 million. There have been revised

estimates; the House did not take any of the authority down. He suspects they didn't last biennium either. Sometimes they have more authority than they have cash. Last biennium, the thought was if extra money comes in, they would have the authority to use it. It rights itself at the end of every year. Unspent authority goes away.

Tammy said you don't have to reduce the authority unless you want to.

Senator Fischer said he knows there is a lawsuit, does that mean there is a hold up in construction?

Dale Frink said they lawsuit affects the construction between Lake Sakakawea and Minot. It does not affect the construction beyond Minot. They will be hooking up Kenmare and Mohall this year.

Senator Fischer asked if that is the $5 million.

Dale Frink said they are trying to get the lawsuit resolved. If that happens they would get into it next year.

Senator Fischer asked if they would need more than $5 million for the second year.

Dave Laschkewitsch said they would shift their emphasis if they can. If they can't, they will build on the other side. If the lawsuit is resolved, they would stop building on the north side of Minot and put their emphasis back to connecting the lake.

Senator Fischer asked how much is left there, a couple miles.

Dave Laschkewitsch said the pipeline is in place. The big problem is they have an intake to build and a treatment plant. Minot has said they will advance as many funds as they can to make the project go.

Senator Fischer asked the estimate on the NAAS treatment plant.

Dale Frink said $18 million.

Senator Fischer asked about the intake.

Dave Laschkewitsch said there is still discussion on the intake as to whether they can use Snake Creek.

Dale Frink said they are eligible for federal dollars. That is how we intend to fund all of it.

Senator Fischer asked about the oil impact MR9. Does this supplement 1305?

Dale Frink said this is in addition to that.

Senator Fischer asked if the MR9, the $5 million that is allocated, does that include the MR9 in Garrison?

Dale that is an addition, this would be a supplement.

Senator Fischer said before the contract, that would have come to you.

Dale Frink said because of the federal money they are getting right now some of those would be their first cuts.

Senator Fischer said when looking at MR9 in the state, there is MR9 money you receive and MR9 money Garrison receives. Does it run through you to Garrison?

Dale Frink said no it all goes to Garrison. The only stuff they pass on to us is NAAS and Southwest Pipeline. The Garrison Diversion Conservancy District was the main entity so in 1986, they killed the irrigation project and swapped out and gave us the MR9 program.

Senator Fischer asked about their anticipated income on MR9.

Dale Frink said the last few years it has been around $26 million per year. The state gets $26 million for the Indian MR9.

Senator Fischer said we shouldn't be counting it.

Dale Frink said it goes from the Bureau of Reclamation directly to the tribe.

Senator Fischer said the irrigation is through the irrigation caucus, they make the decision. He got a phone call last night to put more money in it.

Dale Frink said the reason it is not on there is they have a hard time spending what we give them. The general water management gives them the flexibility. If he needed to supplement irrigation, he would take it out of general fund. Trying to develop an irrigation project is tough.

Senator Fischer said they have been fairly successful with dry land irrigation. When was the district started? Was that 10 years ago? How many developed on their own. Are there a lot of them?

Dale Frink said not very many. They haven't had the requests.

Senator Fischer that was a priority in the legislature before I was in.

Dale Frink said money was the main problem, the local share. They were hoping to get federal funds.

Dale Frink said he would like consideration of $850,000 for the USGS Flub(?)

Senator Fischer asked if they want it earmarked.

Dale Frink said they don't want to shut down. The extreme gauges in the state of North Dakota. We fund 60% of them.

Senator Fischer said he knows we put a ton of money into them.

Dale Frink said water resource puts in about 10%, all of the same gauges in the state. 30% are funded all federal. There is the Red River, the Southeast, about 10% of the gauges are funded locally, and we fund 60%. The National Weather Service forecasts off the gauges, if we don't have gauges, if we would lose 60% of our gauges, it would be ugly. During these floods, people got on the internet so many times on the gauges, the USGS wanted to shut us down because they thought there had to be terrorist activity.

Dave Laschkewitsch said if you get too many hits from the same place the server assumes it is being attacked so they block out that address. The state was shut out for a short time.

Dale Frink said the bottom line is if you earmark $75 million for Fargo and all the other ear marks, it will be above the money they have which means they will probably not be able to contract for anything.

Senator Fischer said he doesn't have the amendment yet that deals with Fargo. Not all of that money is coming out of your money. Representative Carlson and Senator Fischer went in last week and had an amendment drawn up. It hasn't been decided. We aren't going to wound any of these projects. They will not exceed the $45 million for this biennium out of their budget. They are working the model now against the numbers we saw this year. The Corps and FEMA came out and surprised all of us saying they are going forward with what they had planned before the flood. Locally, we owe it to the citizens of Fargo to take a look at those numbers, using data that is even higher than that. The technical committee is working on that now. Now they are projecting down towards Wallicker. The thing is the Fargo flood control is $55 million, or close to that number.

Dale Frink said if you earmarked more than what we have money for, that means we cannot contract. The one that stands out that he doesn't want to lose would be the USGS extreme gauge. We pay 50 %, they pay 50%. We don't pay the 50%, we lose the gauges. We even do some of the maintenance of the gauges. I don't know if we paid for Grand Forks or not. If we dropped Grand Forks, someone else would pick it up but they would drop something else. Grand Forks would be a pretty significant hit.

Senator Fischer asked if Grand Forks is a member. They are all up and down, from Wahpeton, Kindred, Hickson, Abercrombie, all over, they are very valuable. In recent years they paid extra money to armor them. There is a new type of gauge ,a pressure type gauge, they put it under the water, set the pressure and you can tell the stages, it is quite sophisticated.

Senator Holmberg asked if the ice beats it up.

Senator Fischer said that is the idea. The State Water Commission was criticized because Minnesota was putting more money in from DNR. They didn't realize the Water Board's share on the cost of the gauges. They didn't include the local share because Minnesota doesn't do a local share. We put more stem (?) gauges on the Red and everywhere else than they do. He asked if Dale just wants to be sure the money is in there, he doesn't care if it is earmarked.

Dale Frink said he just wants to make sure there is enough money. It is something they pass through.

Senator Fischer asked if the Devils Lake $2 million, is that the biennial deal?

Dave Laschkewitsch said that is operation costs of the outlet. They hope one year they will be able to operate it, the Devils Lake levy raise, flood control.

Dale Frink said he thinks it depends on how high the water gets this year. The corps is prepared to be able to go into construction late this year in certain areas. The city doesn't have much money and this won't pay for all of it by themselves. If the lake doesn't go up as much as forecast, they could delay.

Dave Laschkewitsch said there are estimates as high as $100 million, the local share could be 25%. It is a multiyear project. This might get us through the first biennium.

Dale Frink said about 2 months ago the governor asked him to add something. I picked $10 million.

Senator Fischer asked about the other amendments, if we use any stimulus money, it must be used on new projects.

Dave Laschkewitsch said the stimulus money they are receiving they are told will come with an earmark. If we are going to get it, it will be for Southwest pipeline.

Dale Frink said NAAS will not receive any funds because of the law suit.

Senator Fischer said they have Southwest pipeline at $8 million, that is not for the treatment plant?

Dave Laschkewitsch said that is the special fund money, not general fund . It is not 100% of the project money, it is the special funds. This is the Water development trust fund and the resources trust fund. There are federal monies coming to several of these projects. That is in addition to the 71.5. In the Southwest pipeline case, we would look at getting possibly $12 million of federal money, the 8 would be state money.

Dale Frink said we will also get at least $8 million of normal MR and I so that is 20. We have told them if that actually all comes true, then we will get it.

Senator Fischer it's different MRI money that the feds send through.

Dave Laschkewitsch said the $12 million of stimulus was not built into their budget.

Dale Frink said one of the things they have been visiting with the Bureau of Reclamation, it is going to be earmarked for specific projects. They may add a couple of projects to that.

Dave Laschkewitsch said they have told us if these projects they select cannot use it, it will return to the Bureau of Reclamation and we may have an opportunity to submit a request for additional funds. We could probably ask for more if someone else doesn't use it but that will be a long ways down the line. We won't know when that will happen.

Sheila Sandness said if she were to do the amendment, you need an additional $12 million?

Dave Laschkewitsch said at this point that is what they believe, they have thrown $20 million around for a while. Dale as heard that 20 may be a little optimistic. 12 is more realistic. It will be coming for Southwest.

Dale Frink said 1497 has the language in the bill.

Senator Fischer there are going to be some amendments. We took Renwick out of 1305 because (inaudible). He doesn't mind that they might pay higher taxes but let's get it done.

They built that alternative road to get in, there is a road that goes across the dam into the park.

You identify it as the number one dam you want to build.

Dale Frink said they have 50% of the (inaudible).

Senator Fischer said they have 50% of the non state money.

Senator Holmberg said in 1305 we had $100,000 for Renwick and we had the other projects in the northwest. We need to address that in these amendments. We need to put it on the list.

Senator Fischer I will argue that on the floor if I have to. We put $2.2 million back in your budget by transferring the Tioga Ray Wildrose Stanley.

Dave Laschkewitsch said that was never in, that was permanent oil money that we don't get.

Dale Frink said it is a $6 million project, we already funded 70%. This funds the other 30%.

Senator Fischer said he doesn't care, the past is done. Let's just talk about Renwick.

Dave Laschkewitsch said the feds put in close to $6 million.

Senator Fischer talked about state and local shares. He doesn't know why we don't use 25% of the project, "not to exceed"...

Senator Holmberg said it is the intent of the Senate Appropriations Committee to add the $100,000 for that local share, because one county dropped the ball.

Dale Frink said they have approved $1,378,000 for it so far.

Senator Fischer said then we will appropriate another $100,000.

Senator Fischer said they keep calling it the Beulah plant and it is the Zap.

Dale Frink said it is in Zap for Beulah. It would service that entire that area.

Dave Laschkewitsch said last biennium it was supposed to be a $600,000 project, you gave $200,000 general, $200,000 of (inaudible), there should be $200,000 missing.

Senator Fischer said the Department of Human Services pays them per biennium for IT services $48 million. And then our old friend the Michigan Spillway.

Senator Fischer they are in a jam over at Game and Fish.

Dale Frink said this should not be a Game and Fish. It is a drainage project.

Senator Fischer said we have it funded in your budget.

Dale Frink said it's not right to make that G and F .

Senator Fischer said his argument is Game and Fish is the one that put the rule into place. It's a water project. They never said one word about it. And then all of a sudden, drops it in your lap. He has a problem with that. It should be shared. It doesn't set very well with him. And to put a program together, which is in their budget now. They should be able to come up with something, not necessarily on the water project but anywhere they enforce that rule, there should be a resolution to it that doesn't dump it on the landowner or the water project. They should participate in getting it done. Especially on a county that doesn't have the where with all to come up with it. His thought was to take it out of the Red River Valley water supply. To be honest, that isn't going to go anywhere, there isn't any funding for it.

Dave Laschkewitsch said they shifted $9 million to get enough for Fargo.

Senator Fischer said eastern North Dakota has to prioritize a project that needs to be done. He understands why it is out of there. There are a lot of hoops to jump through on the Red River Valley water supply project. His concern is the things that have not been addressed, one is the environmentalists haven't spoken. Audubon is the one that stopped it, using the channel. He is hearing Audubon has concerns with aquatic nuisance species. Who is going to be responsible for cleaning that up? Game and Fish went down to (inaudible) creek and they paid for everything. That is where they set a precedent of controlling as well as identifying. He has been on the committee since it started. He doesn't like using the channel, but if that's the choice, fine. There are some real issues out there.

Dale Frink said once they find them and identify them it is their expense to try and correct it. In the case of Devils Lake, they want to keep carp out Devils Lake. No one wants to ruin a good fishery. We believe they should take some measures to protect that. We do all kinds of things besides this, the oil companies we require them in some cases to drill deeper for water. Irrigators, we require they put meters on those wells.

Senator Fischer asked how they are doing on Lake Isabel.

Dale Frink said he is hoping it is coming up.

Dave Laschkewitsch said there are requirements and regulations that have to be paid for.

Dale Frink said we gave them choices, they don't like any of them. They want a gravity outlet, which jeopardizes the fishery.

Senator Fischer talked about Manocheck dam.

Dave Laschkewitsch said it would be a concern if everything is earmarked and they are then unable to respond to changes, crisis and stalled projects.

Senator Holmberg asked if we are in a position to have amendments drafted.

Senator Fischer said he has a list and can talk to Dale. He will get the draft and have one more meeting.

Senator Holmberg asked about a timeline as to when they could be drafted.

Senator Fischer said he has to get Representative Carlson and others working on Fargo deal. We are not going to take it all out of here, some of the projects are necessary. Some will come out of permanent oil or general funds. They had a meeting yesterday.

Senator Holmberg asked if the completion of the Fargo component will be done in this bill in conference committee.

Senator Fischer said he will find out the intention of the group that has been working on that. Then the amendments will all come together.

Senator Holmberg said please don't get nervous that this is being held until the end. Human Services had to be finished first because of the complexity of those amendments.

Senator Fischer said the big thing is the funding for the flood control.

Senator Fischer closed the subcommittee hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-28-09

Recorder Job Number: 12321

Committee Clerk Signature

Minutes:

Chairman Holmberg opened the hearing on HB 1020 regarding the water commission. Roll call was taken. All Committee members were present. (except **Sen. Krebsbach**) You have on your table a new budget status summary. What does this do to the new income and corporate tax, do you know where it is on here. (discussion followed regarding the budget status sheet.) (started the recorder at this time)

Sen. Christmann- wouldn't it be kind of nice to have an asterisk on the ones that are done and signed? So we can see what is still in play and what isn't?

Chairman Holmberg- you could bring that up to the people that make those decisions.

Sen. Fischer went over amendments 98020.0206 with the committee, see attachment #1.

Chairman Holmberg- this amendment is flawed a little the equity is still in this one and that will come out.

Sen. Fischer moved the amendment in the corrected version with the exclusion of the equity.

Sen. Krauter- I have questions concerning sections 7 and 8, do we have an established fargo flood control project that the Corp is working on that we have commitments too? Is there a plan on the table?

Sen. Fischer- yes there is a plan for the flood control project that they are evaluating now after this event.

Sen. Krauter- my point is if this is something the Corp is working on that we have to match? If we are matching $75 million total, is this match a number that the Corp has agreed too?

Sen. Fischer- no the Corp has not agreed to anything because they haven't been asked. Fema put in $11 million. A lot of it is we are asking for state money and using local money for the balance.

Sen. Krauter- I would like to see the map on this, throwing all these numbers around and such.

Sen. Fischer- what we are looking for is $45 million this biennium $30 million next biennium totaling $75 million, so $75 million local and $75 state. The language is the same as bill 2188 from 1999.

V. Chair Grindberg- given that Sen. Dorgan was here last Friday talking about a plan and that being complete and then the federal government would step in, as I understand this, this approach that we are talking about here this morning addresses more or less a non-federal program for immediate protection.

Sen. Warner- I have some real reservations about supporting this, it seems like we are tying up some rigid strings with a lot of money for future projects that aren't even in the blueprint stage yet we have immediate needs throughout the state, we might be better off with the intent that the state will come in at the right moment and that we will back funding flood control for Fargo. We don't need to be tying up the money this far in advance when we have projects all over the state that need to be done.

Sen. Christmann- would this count as part of the local and states part of the big project?

Sen. Fischer- it could, the city leaders in Fargo have made trips to Washington and have come back with nothing because the process with the Corp of Engineers can be ten years before you get a permit, we don't have the immediate need that Grand Forks did.

Sen. Christmann- I am going to just use Jamestown for an example but we talked about all these various projects so if they come up with a solution that they could buy off on locally in the next 2 years, is the water commission able to borrow money from the state bank?

Sen. Fischer- depending on the size of the project their limitations are only with the money that they take in.

Sen.Krauter- doesn't the sate engineer, water commission and the governor have the same authority with the Fargo flood control project moved along and they could commit $45 million and get the project going? That is the same with every community, if they have the flexibility to do that today why do we want to tie the hands of the commission on this issue?

Sen. Fischer- that is exactly what was done in 1999, the only thing that I could say is that the reason is that it has been done before so the language has been put in here pretty much the same way.

Sen. Krauter- I request that we divide out section 7 and 8 and vote on those separately.

Chairman Holmberg- I would just like someone from the water commission to reflect on that and give us some information cause this is a very important issue and we want to make sure we have it right.

Dale Frink, state water commission, talked to clarify questions that the committee had.

Dale-The issue came up because of the current estimate, because of the language in the bill we have $75.5 million, we could commit that much or more, but if we only get $30 million we would have a deficit. That is a significant issue.

Sen. Krauter- we are talking about the flexibility, do you have the flexibility to commit to this project or to any other project that we have across the state right now?

Dale- from what I understand we have the flexibility to consign contracts up to $75 million at least, but if the revenue doesn't come in all of us have a problem.

Sen. Krauter- the way I understand it we don't need the money today or this biennium do they cause the way I understand it here cause there is still plenty of dollars in it.

Dale- we are wondering if we should not get some type of cash from the Bank of ND, and that is something that maybe you should consider. General thought is that Fargo is not going to be able to spend $45 million in the next biennium.

Sen. Krauter- you are saying that if you only get $30 million in that you can't even commit to the $45 million that is in this amendment, you can't have it both ways. You want to have borrowing authority which isn't in the bill and on the low side of the money you don't have enough.

Dale- I would not mind having some additional money and some borrowing authority.

Sen. Wardner- if we take this language out and Fargo comes and they are ready to roll, are they top priority? Are you going to be able to take care of them? I agree I think that you are going to need some borrowing authority here to take care of these things. So will they be a top priority?

Dale- they are at the top most priority.

Sen. Wardner- so there is a commitment from the administration on down, when we are ready?

Chairman Holmberg- from the branch Ed Schafer had committed to $52 million before the legislature did anything with that.

Sen. Robinson- if we don't change the wording and we don't provide borrowing authority and we leave the amendment as it is, what other priority critical projects do you have that will have to be put on the back burner?

Dale- I will pass out a sheet of what we have for you to look over, see attachment #2.

Sen. Robinson- but in the aftermath of the conditions that we have been through the last couple of months in the state, there has to be some critical needs out there that we can't put off to long.

Dale- there are all kinds out there because of the flooding.

Sen. Lindaas- the $45 million in section 7 and 8 are they the same, is that the same money?

Dale- the $45 million is part of a separate fund

Sen. Fischer- if 2316 would have passed, it would not have applied to this section of the bill?

Dale- this does not have a cost share at all.

Sen. Lindaas- is the $45 million in section 7 the same $45 million that we are looking at in section 8?

Dale- yes

Sen. Mathern- how many dollars would you need in borrowing authority to meet this list that you have?

Dale- we based it on the $71.5 million

Sen. Mathern- can you do this?

Dale- yes

Sen. Mathern- if Fargo showed up in September with a permit and they had a contractor they could spend $45 million?

Dale- as far as cash we have $23

V. Chair Grindberg- if I am following this discussion to me it would make sense to purchase the following way. Would it be prudent just to provide the borrowing authority for 50/50 cost share for this biennium so when that date comes this biennium, this is immediate. I think that it keeps it pretty consistent with how we approached the Grand Forks project.

Dale- I was not thinking about borrowing for the $75 million

Sen. Christmann- to what extent does any of this impact in measure 3?

Dale- measure 3 cost is $18 million

Sen. Lindaas- section 11, the land purchase, is that in anyway a hindrance to the project? Is there anything that is going to be happening in the next biennium?

Dale- Garrison is the lead sponsor on that I would have to defer that to them

Sen. Mathern- section 7 authorizing land purchases, section 11 preventing land purchases, I know they are different projects and one is keeping water out and one is bringing water in, but I am little concerned. What if there are pieces of land that are in both projects, I am just wondering if that is going to be a hindrance that needs to be addressed so that one would not exclude the other.

Dale- is should be ok

Sen. Robinson- given the issues that surfaced here would it be in our best interest for the committee to regroup and address the issues that surfaced this morning, so that we have some assurance that there are dollars there that are in the prioritized list?

V. Chair Grindberg- I think that these are really interesting times in the state, I think we need to spend more time here with everything that has been thrown at us.

Sen. Robinson- this is a challenging situation, we are in a situation unlike any that we have had in the recent years and the last thing we need is another Grand Forks in Fargo, we cant let that happen. I think there is a means for us to craft some language on some borrowing authority so our water folks are in position to respond to any emergency that may develop in the next 24 months.

Sen.Christmann- I am even ok with approving this to make progress here, this is going to go into conference anyway. I am a little uncomfortable with borrowing authority, but if it is a

continuation of going off on a different path I am not comfortable with that. But on the small projects I don't have a problem with that for borrowing authority.

V. Chair Bowman- should the language be in the bill, in section 8 the way I read that is that the state can match a grant of federal funds or for the Fargo flood control so if they need the language in the bill to utilize the money, is that why that language is necessary?

Sen. Fischer- I think it was to cover all the bases, there is federal money in the project

V. Chair Grindberg- what I understand is that before this flood event in Fargo this was in the budget. The $150 million southside dike protection is state and local federal permits and it is a go, after this flood there is talk about a much larger plan.

Sen. Krauter- there are so many what ifs, what if the south side flood project goes ahead and that stops other plans, the language here scares me, we all want to do the right thing.

Chairman Holmberg- the resolution has to be flexible but we need to make sure what needs to get done gets done.

Sen. Wardner- I think we need to give the water commission flexibility to respond but they have to have the resources, I would like to see something done before it goes into conference committee.

Sen. Lindaas- we are dealing with immediate concerns and long term concerns, I want to see long term plans not entered by short term thoughts.

Chairman Holmberg closed the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1020

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 29, 2009

Recorder Job Number: 12362

Committee Clerk Signature Rose Laning

Minutes:

Chairman Holmberg called the committee hearing to order on HB 1020 regarding the Water Commission. Roll call was taken and all members present.

Chairman Holmberg: We have another set of proposed amendments that tried to put the water bill in a shape more a tune to what the committee wants knowing there will probably need to be some more adjustments in the conference committee, but we do have to get this bill to conference committee. We would like to take final action on it this morning. They just arrived so Sheila can run through the amendments and state what the changes are.

Sheila Sandness, Legislative Council: WE removed the salary equity and added the borrowing authority at $22 M and the language for that which is basically the dollar value changes. The paragraph with regard to the Fargo flood control, we put in the legislative intent, section 7. It is the intent of the 61st legislative assembly that a total of $75 M be committed by the state as the state's cost share for Fargo flood control of which $ 45M is provided for the biennium beginning July 1, 2009 and ending June 30, 2011 and that is including the water and atmospheric resources line in section ! of the Act. We also, in section 8, provided the exemption that the $45 M would be carried over if it was not spent. We also indicated that the funds may be used only for land purchases and construction and could not be used for administration, engineering, legal, planning, or other similar purposes. Section 9 did not

change, other than to change the reference to Pembina County, the Renwick Dam. Section 10 did not change in regard to the Nelson County water resource district. Section 11 is the new section regarding the Bank of North Dakota loan authorization.

Chairman Holmberg: Then you removed that reference to the water project. By water project, I mean the bringing water to the east, that was in the other amendment.

Sheila Sandness: That's correct. We removed the land purchasing limitation on the Red River Valley water supply project.

Chairman Holmberg: So questions by committee members - Not sure if it's perfect, but.....

Senator Christmann: Is the $22 M borrowing authority, is that the water commission's estimate of what might be needed to match things that they guess might possibly come up? Is that number derived from what source?

Chairman Holmberg: I think it's derived from a formula as to what they might need in a worst case scenario. Again, we had a discussion yesterday that the water commission had this authority that they can borrow up to $71 M, but they wanted accomplices. This is the accomplice language.

Senator Robinson: We all appreciate the effort that you folks put forth in making some changes. I would move the amendments. We need to move on. In my opinion, they are fit to go to the conference committee.

Senator Robinson moved the amendments.

V. Chair Grindberg seconded.

Chairman Holmberg: Further discussion?

Voice vote passed.

Senator Robinson moved moved Do Pass on HB 1020.

Senator Bowman seconded.

A Roll Call vote was taken. Yea: 14 Nay: 0 Absent: 0

Senator Fischer will carry the bill.

Prepared by the Legislative Council staff for
Senator Grindberg
March 31, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, line 3, remove "and" and after "credit" insert "; and to amend and reenact section 61-01-04 of the North Dakota Century Code, relating to the exercise of eminent domain by the state water commission"

Page 2, after line 17, insert:

"**SECTION 6. AMENDMENT.** Section 61-01-04 of the North Dakota Century Code is amended and reenacted as follows:

61-01-04. Eminent domain - Who may exercise.

1. The United States, or any person, corporation, limited liability company, or association may exercise the right of eminent domain to acquire for a public use any property or rights existing when found necessary for the application of water to beneficial uses, including the right to enlarge existing structures and use the same in common with the former owner. Any canal right of way so acquired ~~shall~~ must be located so as to do the least damage to private or public property, consistent with proper and economical engineering construction. ~~Such~~ The property or rights may be acquired in the manner provided in chapter 32-15 and the North Dakota Rules of Civil Procedure.

2. Notwithstanding any other provision of law and superseding the authority of any water resource district to the contrary, the state water commission may exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper for the construction of dams, flood control projects, and other water conservation, distribution, and supply works of any nature and to permit the flooding of lands, and to secure the right of access to such dams and other devices and the right of public access to any waters impounded thereby for a flood control project benefiting a city with a population greater than seventy-five thousand. The state water commission may take immediate possession of the right of way desired, as authorized by section 16 of article I of the Constitution of North Dakota, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county wherein the right of way is located. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the state water commission, and the matter must be tried at the next regular or special term of court with a jury unless a jury is waived in the manner prescribed for trials under chapter 32-15."

Renumber accordingly

Prepared by the Legislative Council staff for
Senator Fischer
April 3, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 2, after line 5, insert:

"**SECTION 4. FARGO FLOOD CONTROL PROJECT FUNDING.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, $45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not expended by July 1, 2011, are not subject to section 54-44.1-11 and must be carried over into the next or subsequent bienniums and may be expended only for Fargo flood control projects subject to legislative appropriation. Funds appropriated under this section may be used only for land purchases and construction and may not be used for administration, engineering, legal, planning, or other similar purposes. Funds appropriated under this section are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009)."

Page 2, after line 17, insert:

"**SECTION 7. LEGISLATIVE INTENT.** It is the intent of the sixty-first legislative assembly that a total of $75,000,000 be committed by the state to match a grant of federal funds for Fargo flood control of which $45,000,000 is appropriated in section 4 of this Act."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, line 2, replace "an exemption" with "exemptions"

Page 1, line 3, remove "and" and after "credit" insert "; to provide a limitation; and to declare an emergency"

Page 1, line 12, replace "488,031" with "594,161" and replace "2,942,897" with "3,049,027"

Page 1, line 13, replace "137,000,806" with "137,607,974" and replace "307,545,203" with "308,152,371"

Page 1, line 14, replace "137,488,837" with "138,202,135" and replace "310,488,100" with "311,201,398"

Page 1, line 15, replace "136,298,107" with "134,853,109" and replace "298,420,123" with "296,975,125"

Page 1, line 16, replace "1,190,730" with "3,349,026" and replace "12,067,977" with "14,226,273"

Page 1, after line 24, insert:

"**SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** There is appropriated out of any federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of $12,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for the southwest pipeline project, for the period beginning with the effective date of this Act and ending June 30, 2011.

The state water commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 2, after line 17, insert:

"**SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, $45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These funds may be used only for land purchases and construction; may not be used for administration, engineering, legal, planning, or other similar purposes; and

are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009).

SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL. It is the intent of the sixty-first legislative assembly that a total of $75,000,000 be committed by the state to match a grant of federal funds for Fargo flood control, of which $45,000,000 is appropriated in section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS. It is the intent of the sixty-first legislative assembly that of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide funding for the following projects, for the biennium beginning July 1, 2009, and ending June 30, 2011:

Digital elevation mapping project	$300,000
Enhancement of the local share of funding for the Renwick dam in Cavalier County	$100,000
Evaluate, in conjunction with state, local, and federal officials and entities, long-term flood control solutions in the Red River valley	$500,000
Michigan spillway in Nelson County	$500,000

SECTION 10. LEGISLATIVE INTENT - NELSON COUNTY WATER RESOURCE DISTRICT. It is the intent of the sixty-first legislative assembly that the state water commission assist the Nelson County water resource district by providing engineering and permitting services, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 11. LAND PURCHASE LIMITATION - RED RIVER VALLEY WATER SUPPLY PROJECT. Notwithstanding any other provision of law, the state water commission may not acquire any property or interest in property for the Red River valley water supply project until the project is approved by the federal government, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 12. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0206 FN 2

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - State Water Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Administrative and support services	$2,849,027	$2,942,897	$106,130	$3,049,027
Water and atmospheric resources	308,152,371	307,545,203	607,168	308,152,371
Federal fiscal stimulus funds			12,000,000	12,000,000
Total all funds	$311,001,398	$310,488,100	$12,713,298	$323,201,398
Less estimated income	298,508,200	298,420,123	10,555,002	308,975,125
General fund	$12,493,198	$12,067,977	$2,158,296	$14,226,273
FTE	86.00	86.00	0.00	86.00

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

	Restores Funding Relating to Anticipated Salary Savings[1]	Restores Salary Equity Funding[2]	Changes Funding Source[3]	Appropriates Federal Fiscal Stimulus Funding[4]	Total Senate Changes
Administrative and support services	$34,777	$71,353			$106,130
Water and atmospheric resources	222,831	384,337			607,168
Federal fiscal stimulus funds				12,000,000	12,000,000
Total all funds	$257,608	$455,690	$0	$12,000,000	$12,713,298
Less estimated income	34,761	53,316	(1,533,075)	12,000,000	10,555,002
General fund	$222,847	$402,374	$1,533,075	$0	$2,158,296
FTE	0.00	0.00	0.00	0.00	0.00

[1] This amendment restores funding for salaries and wages removed by the House to recognize anticipated savings from vacant positions and employee turnover.

[2] This amendment restores salary equity funding removed by the House.

[3] This amendment increases the funding for administrative and support services from the general fund and decreases the funding from the water development trust fund to provide that all administrative and support services are paid by the general fund.

[4] A section is added, as an emergency measure, appropriating federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for the Southwest Pipeline Project.

This amendment also adds sections to provide:

- Legislative intent that $75 million be committed by the state to match a grant of federal funds for Fargo flood control.
- For continuation of the $45 million appropriated for Fargo flood control beyond the 2009-11 biennium.
- Legislative intent that the State Water Commission provided funding for the following projects during the 2009-11 biennium:

Digital elevation mapping project	$300,000
Renwick Dam	$100,000

Evaluation, in conjunction with state, local, and federal officials, of long-term flood control solutions in the Red River Valley	$500,000
Michigan Spillway	$500,000

- Legislative intent that the State Water Commission assist the Nelson County Water Resource District by providing engineering and permitting services during the 2009-11 biennium.
- The State Water Commission may not, during the 2009-11 biennium, acquire any property or interest in property for the Red River Water Supply Project until the project is approved by the federal government.

98020.0207
Title. 0300
Fiscal No. 3

Prepared by the Legislative Council staff for
Senator Holmberg
April 28, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

Page 1, line 2, replace "an exemption" with "exemptions"

Page 1, line 3, replace "to provide an appropriation for repayment of the line of credit" with "to declare an emergency"

Page 1, line 12, replace "488,031" with "522,808" and replace "2,942,897" with "2,977,674"

Page 1, line 13, replace "137,000,806" with "137,223,637" and replace "307,545,203" with "307,768,034"

Page 1, line 14, replace "137,488,837" with "137,746,445" and replace "310,488,100" with "310,745,708"

Page 1, line 15, replace "136,298,107" with "134,799,793" and replace "298,420,123" with "296,921,809"

Page 1, line 16, replace "1,190,730" with "2,946,652" and replace "12,067,977" with "13,823,899"

Page 1, after line 24, insert:

"**SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** There is appropriated out of any federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of $12,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for the southwest pipeline project, for the period beginning with the effective date of this Act and ending June 30, 2011.

The state water commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 2, after line 17, insert:

"**SECTION 7. LEGISLATIVE INTENT - FARGO FLOOD CONTROL.** It is the intent of the sixty-first legislative assembly that a total of $75,000,000 be committed by the state as the state cost-share for Fargo flood control, of which $45,000,000 is provided for the biennium beginning July 1, 2009, and ending June 30, 2011, in the water and atmospheric resources line item in section 1 of this Act.

SECTION 8. FARGO FLOOD CONTROL EXPENDITURES - EXEMPTION. Funds spent by the state water commission for Fargo flood control during the 2009-11

biennium may be used only for land purchases and construction and may not be used for administration, engineering, legal, planning, or other similar purposes. Any funds allocated by the state water commission for Fargo flood control of up to $45,000,000 for the 2009-11 biennium that are not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects.

SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS. It is the intent of the sixty-first legislative assembly that of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide funding for the following projects, for the biennium beginning July 1, 2009, and ending June 30, 2011:

Digital elevation mapping project	$300,000
Enhancement of the local share of funding for the Renwick dam in Pembina County	$100,000
Evaluate, in conjunction with state, local, and federal officials and entities, long-term flood control solutions in the Red River valley	$500,000
Michigan spillway in Nelson County	$500,000

SECTION 10. LEGISLATIVE INTENT - NELSON COUNTY WATER RESOURCE DISTRICT. It is the intent of the sixty-first legislative assembly that the state water commission assist the Nelson County water resource district by providing engineering and permitting services, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 11. BANK OF NORTH DAKOTA LOAN AUTHORIZATION - APPROPRIATION. The state water commission may borrow the sum of $22,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota, which is appropriated for the purpose of emergency flood control and other critical water needs, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 12. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0207 FN 3

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - State Water Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Administrative and support services	$2,849,027	$2,942,897	$34,777	$2,977,674
Water and atmospheric resources	308,152,371	307,545,203	222,831	307,768,034
Federal fiscal stimulus funds			12,000,000	12,000,000
Borrowing Authority			22,000,000	22,000,000
Total all funds	$311,001,398	$310,488,100	$34,257,608	$344,745,708
Less estimated income	298,508,200	298,420,123	32,501,686	330,921,809
General fund	$12,493,198	$12,067,977	$1,755,922	$13,823,899
FTE	86.00	86.00	0.00	86.00

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

	Restores Funding Relating to Anticipated Salary Savings[1]	Changes Funding Source[2]	Appropriates Federal Fiscal Stimulus Funding[3]	Adds Borrowing Authority[4]	Total Senate Changes
Administrative and support services	$34,777				$34,777
Water and atmospheric resources	222,831				222,831
Federal fiscal stimulus funds			12,000,000		12,000,000
Borrowing Authority				22,000,000	22,000,000
Total all funds	$257,608	$0	$12,000,000	$22,000,000	$34,257,608
Less estimated income	34,761	(1,533,075)	12,000,000	22,000,000	32,501,686
General fund	$222,847	$1,533,075	$0	$0	$1,755,922
FTE	0.00	0.00	0.00	0.00	0.00

[1] This amendment restores funding for salaries and wages removed by the House to recognize anticipated savings from vacant positions and employee turnover.

[2] This amendment increases the funding for administrative and support services from the general fund and decreases the funding from the water development trust fund to provide that all administrative and support services are paid by the general fund.

[3] A section is added, as an emergency measure, appropriating federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for the Southwest Pipeline Project.

[4] A section is added allowing the State Water Commission to borrow up to $22 million from the Bank of North Dakota for emergency flood control and other critical water needs.

This amendment also adds sections to provide:

- Legislative intent that $75 million be committed by the state for Fargo flood control.
- For continuation of appropriation authority of up to $45 million for Fargo flood control beyond the 2009-11 biennium.
- Legislative intent that the State Water Commission provide funding for the following projects during the 2009-11 biennium:

Digital elevation mapping project	$300,000
Renwick Dam	$100,000
Evaluate, in conjunction with state, local, and federal officials	$500,000

and entities, long-term flood control solutions in the Red River Valley

Michigan spillway $500,000

- Legislative intent that the State Water Commission assist the Nelson County Water Resource District by providing engineering and permitting services during the 2009-11 biennium.

Date: 4-29-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number .0207 amendment

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen Robinson Seconded By Sen Grindberg

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner			Senator Robinson		
Senator Fischer			Senator Lindaas		
V. Chair Bowman			Senator Warner		
Senator Krebsbach			Senator Krauter		
Senator Christmann			Senator Seymour		
Chairman Holmberg			Senator Mathern		
Senator Kilzer					
V. Chair Grindberg					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Voice Vote
Passed

Date: 4/28/09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1020

Senate **Senate Appropriations** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number ~~[illegible]~~ HB 1020

Action Taken ☒ Do Pass ☐ Do Not Pass ☑ Amended

Motion Made By Robinson Seconded By Bowman

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	✓		Senator Seymour	✓	
Senator Fischer	✓		Senator Lindaas	✓	
Senator Wardner	✓		Senator Robinson	✓	
Senator Kilzer	✓		Senator Warner	✓	
V. Chair Bowman	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Mathern	✓	
V. Chair Grindberg	✓				
Chairman Holmberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Fischer

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

REPORT OF STANDING COMMITTEE

HB 1020, as engrossed: 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). Engrossed HB 1020 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "an exemption" with "exemptions"

Page 1, line 3, replace "provide an appropriation for repayment of the line of credit" with "declare an emergency"

Page 1, line 12, replace "488,031" with "522,808" and replace "2,942,897" with "2,977,674"

Page 1, line 13, replace "137,000,806" with "137,223,637" and replace "307,545,203" with "307,768,034"

Page 1, line 14, replace "137,488,837" with "137,746,445" and replace "310,488,100" with "310,745,708"

Page 1, line 15, replace "136,298,107" with "134,799,793" and replace "298,420,123" with "296,921,809"

Page 1, line 16, replace "1,190,730" with "2,946,652" and replace "12,067,977" with "13,823,899"

Page 1, after line 24, insert:

"**SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** There is appropriated out of any federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of $12,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for the southwest pipeline project, for the period beginning with the effective date of this Act and ending June 30, 2011.

The state water commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 2, after line 17, insert:

"**SECTION 7. LEGISLATIVE INTENT - FARGO FLOOD CONTROL.** It is the intent of the sixty-first legislative assembly that a total of $75,000,000 be committed by the state as the state cost-share for Fargo flood control, of which $45,000,000 is provided for the biennium beginning July 1, 2009, and ending June 30, 2011, in the water and atmospheric resources line item in section 1 of this Act.

SECTION 8. FARGO FLOOD CONTROL EXPENDITURES - EXEMPTION. Funds spent by the state water commission for Fargo flood control during the 2009-11 biennium may be used only for land purchases and construction and may not be used

for administration, engineering, legal, planning, or other similar purposes. Any funds allocated by the state water commission for Fargo flood control of up to $45,000,000 for the 2009-11 biennium which are not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects.

SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS. It is the intent of the sixty-first legislative assembly that of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide funding for the following projects, for the biennium beginning July 1, 2009, and ending June 30, 2011:

Digital elevation mapping project	$300,000
Enhancement of the local share of funding for the Renwick dam in Pembina County	$100,000
Evaluate, in conjunction with state, local, and federal officials and entities, long-term flood control solutions in the Red River valley	$500,000
Michigan spillway in Nelson County	$500,000

SECTION 10. LEGISLATIVE INTENT - NELSON COUNTY WATER RESOURCE DISTRICT. It is the intent of the sixty-first legislative assembly that the state water commission assist the Nelson County water resource district by providing engineering and permitting services, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 11. BANK OF NORTH DAKOTA LOAN AUTHORIZATION - APPROPRIATION. The state water commission may borrow the sum of $22,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota, which is appropriated for the purpose of emergency flood control and other critical water needs, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 12. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0207 FN 3

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1020

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1020

House Appropriations Committee
Education and Environment Division

☒ **Check here for Conference Committee**

Hearing Date: May 1, 2009

Recorder Job Number: 12442

Committee Clerk Signature Ellen LeTang

Minutes:

Chairman Skarphol: Called the Conference Committee to order and recognizing the members present including Senators Fischer, Holmberg and Warner and Representatives Wald and Williams. Some of our members have an issue with this amendment .0200, section # 11 and asks for Senator Fischer's interpretation of the amendment and the consequences.

Senator Tom Fischer: Section 11 was put in toward the end of our hearings and it had to do Emergency funds available and other critical water needs based on the concern of the state engineer about running out of available funds during the biennium. He cited the price of oil as his main concern about the 22 million put in.

Chairman Skarphol: Would this have any effect on the Fargo flood control project, would it still be the full $45 million?

Senator Fischer: There is no way of guaranteeing that because of the flexibility of the Water Commission. If another project came in front of it, the State Engineer could fund that project first; however, the Governor adamant about getting this project started this done, that the short part of it is that there is work to do before that project starts and it may start yet this year. If the city of Fargo realizes it doesn't need all of that money and at the same time projects come in, there is the option to use that money to do that depending on the progress of that project.

Chairman Skarphol: Is there likelihood that $45M will be expended this biennium?

Senator Fischer: Personally, I think there is going to be a chase to see if they can. There is also an amendment in here to match Minnesota to try and evaluate the projects up and down the Valley and that probably play into this project so therefore, that process could back it off so the funding would be adequate.

Chairman Skarphol: Sheila, can you give us the council's perspective on the net effect of section 11 would be to water revenues?

Sheila Sandness~Legislative Council. I'm not sure what I could expand on Senator Fisher's explanation but there are carryover funds available for the flood control project of $23 million. The $22 million borrowing authority would bring that up to the $45million that is identified in the intent section up above and that $22 million would be there just in case that would be needing it if the revenues are too low for having this $45 million set aside for a project that may not need to use all of the funds and give them the flexibility to do some other projects. That was my understanding.

Chairman Skarphol: How much revenue is projected to be available, currently $71 million?

Sandness: I believe that the latest I've heard, $71.5 million.

Chairman Skarphol: This commits the $45 million, $23 million which is carried forward there would still be $50 million. The amendment would allow for the borrowing of the $22 million so you could go back to the $71.5 or $72 million. Any thoughts from the committee?

Rep. Wald: The carry over in the Water Commission is $23 million is that just for Fargo? If we appropriate $45 million plus the $23 million, we are at the $68 million.

(?): No.

Rep. Wald: The $23 million is included in the $45 million.

(?): No, it needed.

Chairman Skarphol: It is an issue of whether or not we want to be borrowing money and it happens on our side we are hesitant to do that at this point in time.

Rep. Williams: Senator Fischer, tell me point blank, knowing the project that we are primarily dealing with, is that section necessary?

Senator Fischer: I am not an oil man. The gamble is what happens to oil and what are the odds that oil prices are going to produce $71 million. Can the state water commission calculate what they need along with figuring out where Fargo is at in any one time? When we leave here, that part of the process is over, so if things were to slow down in the oil fields and because the revenues don't come from anywhere else and we find ourselves in a position where the project is on or ahead schedule, it's becomes very important.

Senator Holmberg: One consideration we had is, if the project is going to go forward and if for example, there is made available federal money that needs to be matched, we didn't want to have the Water Commission to have to cannibalize other programs they had in order to be matched. That why we were looking for a mechanism to make sure that was going to be money there available because we would hate to see other projects around the state to be put on hold because Fargo lurched. That was one of the reason we also did this. Is there another mechanism? I don't know but we have to have it flexible so that if the money is needed for this $45 million commitment, it is there and also sets up a message to those who also send money to project that the state is in.

Rep. Wald: Was there any discussion about if this loan provision is approved and the House explained our heartburn, going to the budget section for somewhat of an approval process?

Senator Fischer: I think that if the fact of the matter is it comes down to that, there would be no problem coming to the budget section and having it certified with everyone. The only thing is that the certainty of the appropriation would be, today or tomorrow, subject to a vote with the certainty of the $22 million would not be there. What we did this year because of utilization projections is funded down and made a line of credit available to the department for the budget section to prove that the money is at a certain level. There is no vote involved in it but to prove that the money is needed and move forward.

Chairman Skarphol: With regard to your projections with your oil revenue, I assume you know that the number is?

Laschkewitsch: The number we are playing with is $71.5 million.

Chairman Skarphol: Did you know what it is based on as far as the price per barrel and production level. Is it based on the revenue forecast that was done for the legislature?

Laschkewitch: That is the revenue forecast that was done for the legislature, not the House's forecast its OMB's forecast.

Chairman Skarphol: So, is it the legislative or OMB's forecast?

Laschkewitch: OMB's forecast, not the House forecast.

Sandness: I guess don't know if I can straighten that our but I could have to check to see on whether there was a big difference between those 2 numbers or not.

Chairman Skarphol: I think that is something that we need to know because with the fact that we didn't trigger, we should have little more reason for optimism.

Laschkewitsch: We do, for the last 3 months we have been averaging 1, 1.2, & 1.5 million dollars is where at and $1.5 was our last receipt. If you were to take 1.5 million by 24 months, you would be dramatically shy of $71.5 million.

Chairman Skarphol: So what you are saying that $71 is one figure but realistic figure is $36 million?

Laschkewitsch: I'm not going to say that, I can't forecast oil but I would say yes, at the rate the money is coming in now; $71 million will be a substantial number to get to. I have a worksheet with each month's estimate to get to $71 million (distribute a worksheet of monthly totals) if you were looking for that.

Chairman Skarphol: We will discuss this tomorrow.

Laschkewitch: It's arranged from monthly totals from 594 thousand up to the second year, right around 4.4 million a month.

Chairman Skarphol: Would the 594 would have been if we would have triggered.

Laschkewitch: That's correct so we will be ahead of that number. You are correct, the trigger did not trigger on.

Chairman Skarphol: Does that means that we have to have another period of 5 months below trigger price in order for that to happen?

Laschkewitch: There is also another bill that you are aware of, HB 1235 that would have an effect on this and that bill, I don't believe, was factored into it.

Chairman Skarphol: Only on new production would not have any effect on existing production?

Laschkewitch: Correct but once you get into that 2nd year, there is going to be new production factored into our revenue numbers.

Chairman Skarphol: But will there be wells coming off?

Laschkewitch: Correct, those forecasts are done by the tax department.

Senator Fischer: To get a full picture of the water commissioner's funding, we need a worksheet of all income & moneys from all accounts.

Dale Frink~Engineer for the State Water Commission: The real purpose of the $22 million is exactly what Dave is going through. If you multiply 1.5 million times the 24 months, we are way short of the 71.5 million. There is a real desire to lock up to make $45 million available for Fargo, no matter what. If you do that and if we come in very short, the rest of the state is not going to get a lot of money. If we get anywhere close to that $71.5 million and we don't need the $22 million but we have a lot of other needs in the state. We could by locking in $45 million for Fargo, which everyone wants to do and the oil comes in pretty low, you won't have much for anyone else, that is the rationale for the $22 million.

Chairman Skarphol: Section three of the amendment, the AARA money, that a certainty that you going receive that $12 million?

Frink: I believe that's a certainty and that goes to SW pipeline project.

Rep. Wald: If the loan were made into the tune of $22 million and if you don't achieve the $71 million in anticipated revenue, when is the loan due at the Bank of North Dakota how would you amortize that loan and for how long?

Frink: We haven't looked into that. We were looking for a way that if Fargo goes, revenues come in, stay somewhat where they are at right now, we are trying to get some money to some other projects besides Fargo.

Chairman Skarphol: Have you ever borrowed money before and how did you repay it?

Frink: We borrowed money once and I believe it was paid off for by the tobacco money.

Laschkewitsch: (Did not turn on mike).

Chairman Skarphol: How would you anticipate paying this loan and where would this money come from? Your list is still there, you are not really improving the list, you only paying interest on the money you want to spend.

Frink: If you are comfortable in giving all the money to Fargo and all the other projects very little, that's what we were trying to avoid. The only source we really have is the resource trust fund.

Chairman Skarphol: What you are doing in essence is delaying the inevitable by borrowing money.

Frink: If you are comfortable giving all the money to Fargo and none to anyone else, that is what we were trying to avoid, bottom line.

Chairman Skarphol: We will schedule again tomorrow and closes the Conference Committee hearing on HB 1020

2009 HOUSE STANDING COMMITTEE MINUTES

HB 1020

House Appropriations Committee
Education and Environment Division

☒ Check here for Conference Committee

Hearing Date: May 2, 2009

Recorder Job Number: 12460

Committee Clerk Signature Nancy L. Gerhardt

Minutes:

Chm. Skarphol called the Conference Committee on HB 1020 to order. Senators Fischer, Holmberg and Warner and Representatives Skarphol, Wald and Williams were present.

Chm. Skarphol: Sheila, did they send an amendment down with you?

Sheila Sandness: A previous amendment, .0206? Yes.

Amendment .0206 was distributed (Attachment A).

Chm. Skarphol: The leader feels strongly about the loan and about not borrowing money and he asked that we look at this amendment.

Rep. Wald: For purpose of discussion I'll move .0206.

Rep. Williams seconded the motion.

Chm. Skarphol: Sheila, can you tell us what the differences are between 0206 & 0207, which was previously adopted and how it would change.

Sheila: .0206 was prepared for Senate Appropriations and when they reviewed it there were language changes proposed. Section with regard to Federal Fiscal Stimulus funds remain the same. The section (legislative intent) was modified to say that the $75 million is committed as a state match and of that total $45 million was appropriated in Section 1.

Chm. Skarphol: Sections 9 and 10 look the same.

Sheila: The only change in Section 9 ,the Nelson County legislative intent did not change. Section 11 was eliminated with regard to the land purchase limitation on the Red River Valley. The only other changes were in the Fargo flood control paragraph and the intent paragraph language.

Sen. Holmberg: There's a mistake.

Chm. Skarphol: 0206 still has the reference to Cavalier County.

Sheila: .0206 included equity which was removed from .0207. The SPA includes the restoration of salary equity which you wouldn't do that.

Chm. Skarphol: So there would need to be two corrections if we were to adopt it.

Sheila: Yes.

Chm. Skarphol: The major change would be in 0207 is there is 22 million dollars worth of borrowing authority that does not exist in 0206.

Sheila: Right and there were some language changes to the intent, but I don't believe those were significant.

Sen. Warner: Section 11, is that in both .0206 and .0207.

Sen. Fischer: No.

Chm. Skarphol: Senator Fischer would you address that particular issue?

Sen. Fischer: Section 11, I had a concern – this is the Water Supply Project. It has nothing to do with flood control. Sen. Fischer read the Section 11 language. We have a new administration and there is no decision on that project. None of that has been approved. It was my reaction to an article in the newspaper that they were going to buy right of way without a permit. Like Grand Forks did, they went out and bought a section of land without the permit for a land fill, now they have a beautiful expensive piece of land. We could have a piece of land

that they don't have a permit for to lay pipe. I thought we should restrict that. It hit the fan with the Garrison people. I don't want to end up with a field of weeds.

Chm. Skarphol: What would your preference be for Section 11

Sen. Fischer: I reacted to something that hadn't been discussed. My concern is that we have a change of Administration. The Secretary of Interior has changed. We end up with land that we don't have a permit for. We bought land before we had a construction permit. We had everything else in line with the state government.

Chm. Skarphol: Would you be agreeable to language if we were to keep that section that said "Without budget section approval."

Sen. Warner: It was my appropriation that this was removed from the Appropriations.

Chm. Skarphol: So it is actually out, that section. I didn't understand that. Well committee members, we have a motion and a 2nd. I'm assuming we would want to have a substitute motion to include the changes necessary if we were to adopt this. We have a substitute motion to include the necessary changes of Cavalier to Pembina, and to restore the equity funding and remove section 11. Any further discussion? The clerk will take the roll.

Vote: 6 Yea 0 No 0 Absent Motion carries.

98020.0208
Title.0400
Fiscal No. 1

Prepared by the Legislative Council staff for
Conference Committee
May 2, 2009

VR
5/2/09
1084

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1020

That the Senate recede from its amendments as printed on pages 1742 and 1743 of the House Journal and pages 1601-1603 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, replace "an exemption; to provide a line of credit" with "exemptions"

Page 1, line 3, replace "provide an appropriation for repayment of the line of credit" with "declare an emergency"

Page 1, line 12, replace "488,031" with "522,808" and replace "2,942,897" with "2,977,674"

Page 1, line 13, replace "137,000,806" with "137,223,637" and replace "307,545,203" with "307,768,034"

Page 1, line 14, replace "137,488,837" with "137,746,445" and replace "310,488,100" with "310,745,708"

Page 1, line 15, replace "136,298,107" with "134,799,793" and replace "298,420,123" with "296,921,809"

Page 1, line 16, replace "1,190,730" with "2,946,652" and replace "12,067,977" with "13,823,899"

Page 1, after line 24, insert:

"**SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** There is appropriated out of any federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of $12,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for the southwest pipeline project, for the period beginning with the effective date of this Act and ending June 30, 2011.

The state water commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 2, after line 17, insert:

"**SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, $45,000,000 is for Fargo flood control projects, for the

biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects. These funds may be used only for land purchases and construction; may not be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009).

SECTION 8. LEGISLATIVE INTENT - FARGO FLOOD CONTROL. It is the intent of the sixty-first legislative assembly that a total of $75,000,000 be committed by the state to match a grant of federal funds for Fargo flood control, of which $45,000,000 is appropriated in section 1 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 9. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS. It is the intent of the sixty-first legislative assembly that of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide funding for the following projects, for the biennium beginning July 1, 2009, and ending June 30, 2011:

Digital elevation mapping project	$300,000
Enhancement of the local share of funding for the Renwick dam in Pembina County	$100,000
Evaluate, in conjunction with state, local, and federal officials and entities, long-term flood control solutions in the Red River valley	$500,000
Michigan spillway in Nelson County	$500,000

SECTION 10. LEGISLATIVE INTENT - NELSON COUNTY WATER RESOURCE DISTRICT. It is the intent of the sixty-first legislative assembly that the state water commission assist the Nelson County water resource district by providing engineering and permitting services, for the biennium beginning July 1, 2009, and ending June 30, 2011.

SECTION 11. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0208 FN 1

A copy of the statement of purpose of amendment is attached.

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1020 - State Water Commission - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Administrative and support services	$2,849,027	$2,942,897	$34,777	$2,977,674	$2,977,674	
Water and atmospheric resources	308,152,371	307,545,203	222,831	307,768,034	307,768,034	
Federal fiscal stimulus funds			12,000,000	12,000,000	12,000,000	
Borrowing Authority					22,000,000	(22,000,000)
Total all funds	$311,001,398	$310,488,100	$12,257,608	$322,745,708	$344,745,708	($22,000,000)
Less estimated income	298,508,200	298,420,123	10,501,686	308,921,809	330,921,809	(22,000,000)
General fund	$12,493,198	$12,067,977	$1,755,922	$13,823,899	$13,823,899	$0
FTE	86.00	86.00	0.00	86.00	86.00	0.00

Department No. 770 - State Water Commission - Detail of Conference Committee Changes

	Restores Funding Relating to Anticipated Salary Savings[1]	Changes Funding Source[2]	Appropriates Federal Fiscal Stimulus Funding[3]	Total Conference Committee Changes
Administrative and support services	$34,777			$34,777
Water and atmospheric resources	222,831			222,831
Federal fiscal stimulus funds			12,000,000	12,000,000
Borrowing Authority				
Total all funds	$257,608	$0	$12,000,000	$12,257,608
Less estimated income	34,761	(1,533,075)	12,000,000	10,501,686
General fund	$222,847	$1,533,075	$0	$1,755,922
FTE	0.00	0.00	0.00	0.00

[1] This amendment restores funding for salaries and wages removed by the House to recognize anticipated savings from vacant positions and employee turnover, the same as the Senate version.

[2] This amendment increases the funding for administrative and support services from the general fund and decreases the funding from the water development trust fund to provide that all administrative and support services are paid by the general fund, the same as the Senate version.

[3] A section is added, as an emergency measure, appropriating federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for the Southwest Pipeline Project, the same as the Senate version.

The conference committee did not include authorization to borrow up to $22 million from the Bank of North Dakota for emergency flood control and other critical water needs included in the Senate version.

This amendment also adds sections to provide:

- Legislative intent that $75 million be committed by the state to match a grant of federal funds for Fargo flood control, the same as the Senate version.
- Of the funds appropriated in the water and atmospheric resources line item in Section 1, $45 million is for Fargo flood control projects and this funding may be continued beyond the 2009-11 biennium. The Senate version provided legislative intent that $45 million be allocated for Fargo flood control.

- Legislative intent that the State Water Commission provide funding for the following projects during the 2009-11 biennium, the same as the Senate version:

Digital elevation mapping project	$300,000
Renwick Dam	$100,000
Evaluation, in conjunction with state, local, and federal officials, of long-term flood control solutions in the Red River Valley	$500,000
Michigan Spillway	$500,000

- Legislative intent that the State Water Commission assist the Nelson County Water Resource District by providing engineering and permitting services during the 2009-11 biennium, the same as the Senate version.

REPORT OF CONFERENCE COMMITTEE

HB 1020, as engrossed: Your conference committee (Sens. Fischer, Holmberg, Warner and Reps. Skarphol, Wald, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ pages 1601-1603, adopt amendments as follows, and place HB 1020 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1742 and 1743 of the House Journal and pages 1601-1603 of the Senate Journal and that Engrossed House Bill No. 1020 be amended as follows:

Page 1, line 2, replace "an exemption; to provide a line of credit" with "exemptions"

Page 1, line 3, replace "provide an appropriation for repayment of the line of credit" with "declare an emergency"

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Page 1, after line 24, insert:

"**SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** There is appropriated out of any federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, the sum of $12,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for the southwest pipeline project, for the period beginning with the effective date of this Act and ending June 30, 2011.

The state water commission may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available."

Page 2, after line 17, insert:

"**SECTION 7. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION.** Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, $45,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2009, and ending June 30, 2011. Any funds not spent by June 30, 2011, are not subject to section 54-44.1-11 and must be continued into the

next or subsequent bienniums and may be expended only for Fargo flood control projects. These funds may be used only for land purchases and construction; may not be used for administration, engineering, legal, planning, or other similar purposes; and are not subject to the sixty-five percent funding requirement contained in Senate Bill No. 2316 (2009).

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SECTION 11. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT - LC 98020.0208 FN 1

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

Engrossed HB 1020 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

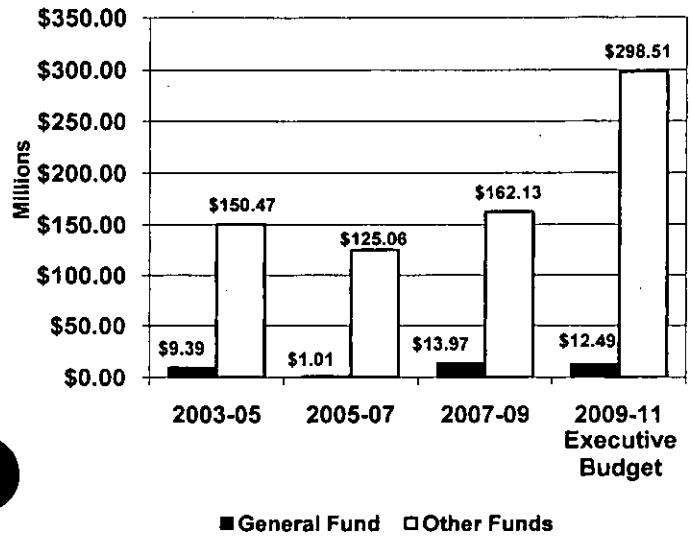
HB 1020

Department 770 - State Water Commission
House Bill No. 1020

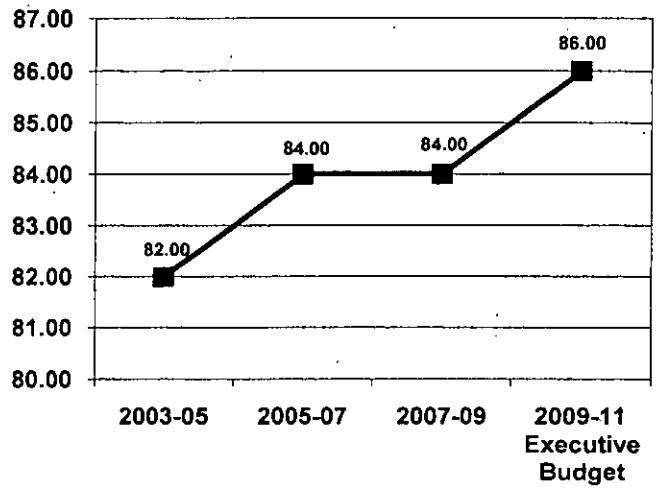
	FTE Positions	General Fund	Other Funds	Total
2009-11 Executive Budget	86.00	$12,493,198	$298,508,200	$311,001,398
2007-09 Legislative Appropriations	84.00	13,970,649	162,129,918	176,100,567[1]
Increase (Decrease)	2.00	($1,477,451)	$136,378,282	$134,900,831

[1]The 2007-09 appropriation amounts include $101,304, $93,402 of which is from the general fund, for the agency's share of the $10 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees. The 2007-09 appropriation amounts do not include $12 million of additional special funds from the resources trust fund authorized pursuant to Section 4 of 2007 Senate Bill No. 2020.

Agency Funding



FTE Positions



Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2009-11 Executive Budget	$12,493,198	$0	$12,493,198
2007-09 Legislative Appropriations	10,970,649	3,000,000	13,970,649
Increase (Decrease)	$1,522,549	($3,000,000)	($1,477,451)

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Adds 1 FTE hydrologist position to work with pending ground water permit applications		$144,370	$144,370
2. Adds 1 FTE engineer technician IV position to operate the Northwest Area Water Supply pipeline		$110,884	$110,884
3. Provides funding to address salary equity issues, including $21,700, of which $19,161 is from the general fund, for the related second year salary increase	$402,374	$53,316	$455,690
4. Removes one-time funding for the 2007-09 biennium relating to the Red River Valley Water Supply Project	($3,000,000)		($3,000,000)
5. Removes prior funding for capital assets for the 2007-09 biennium	($30,000)	($65,512,936)	($65,542,936)
6. Provides funding for capital payments, including equipment ($20,000), bond payments ($16,866,625), and water projects ($75,748,072)		$92,634,697	$92,634,697
7. Provides funding for information technology equipment	$45,000		$45,000

8. Provides an increase in grants funding for water projects to provide a total of $189,643,392		$94,604,528	$94,604,528
9. Provides base budget changes to operating expenses, including inflationary increases and increases necessary to operate the Northwest Area Water Supply pipeline	($632,560)	$2,535,248	$1,902,688

Other Sections in Bill

Section 3 of House Bill No. 1020 - Provides that any additional amount in the resources trust fund and any additional amount in the water development trust fund that become available are appropriated to the State Water Commission for the purpose of defraying the expenses of the commission for the 2009-11 biennium.

Section 4 of House Bill No. 1020 - Authorizes the State Water Commission to continue unexpended funding authority for grants or water-related projects to the 2011-13 biennium.

Continuing Appropriations

No continuing appropriations for this agency.

Major Related Legislation

At this time, there is no major legislation affecting this agency.

NORTH DAKOTA STATE WATER COMMISSION TESTIMONY RELATIVE TO HOUSE BILL 1020

PRESENTED TO THE EDUCATION AND ENVIRONMENT DIVISION OF THE HOUSE APPROPRIATIONS COMMITTEE

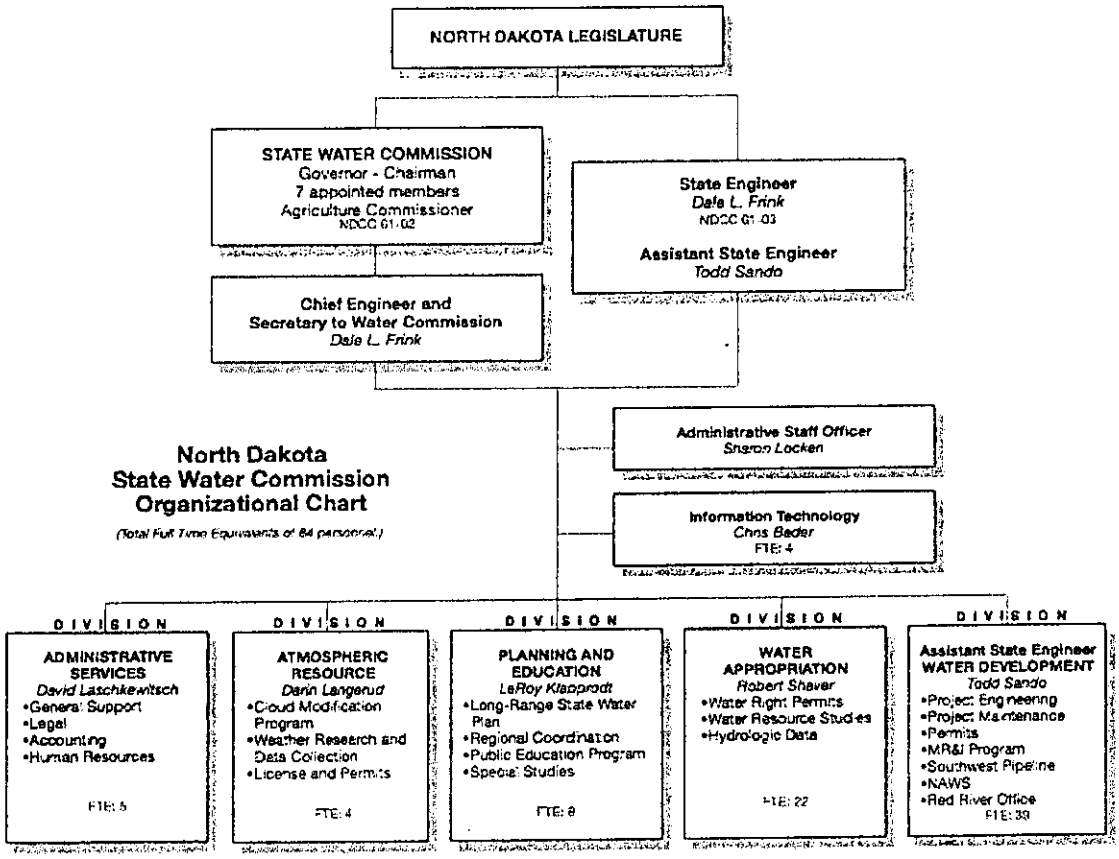
JANUARY 21, 2009

Mr. Chairman, members of the Education and Environment Division of the House 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 House Bill 1020. My testimony will be presented in three main parts. First, I will provide a brief organizational overview; second, a status report on major projects and programs, as well as our current budget; and finally, a discussion of other priority issues for the upcoming biennium.

ORGANIZATIONAL OVERVIEW

As illustrated by our organizational chart, the State Water Commission is separated into five divisions, with 84 Full Time Employees (FTEs).



The Administrative Services Division, directed by Dave Laschkewitsch, provides support services for the agency.

The Water Appropriations Division, directed by Bob Shaver, is responsible for the processing of water permit applications; water rights evaluations; hydrologic data collection; water supply investigations; and economic development support activities.

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

The Planning and Education Division, directed by Lee Klapprodt, develops and maintains the State Water Management Plan and the agency Strategic Plan; manages the agency's information and education programs, including Project WET; and administers the Drought Disaster Livestock Water Supply Project Assistance Program.

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

PROJECT AND PROGRAM OVERVIEW

In looking back on the 2007-2009 biennium so far, great progress has been made in all facets of water management and development – including flood control, water supplies, cloud modification, and numerous general water management projects. As such, I would like to take a few moments to outline some of our activities from this biennium, along with a brief overview of efforts we intend to pursue in the future.

Flood Control

In flood control efforts, I am pleased to report that all aspects of construction on the long-awaited Maple River Dam project were completed in 2007. Maple River Dam is a 70-foot-high earthen embankment, capable of temporarily retaining 60,000 acre-feet of floodwater in southwest Cass County. This Cass County Joint Water Resource District project is designed to provide flood protection along the Maple, Sheyenne, and Red Rivers.

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

In August 2005, construction on the state's emergency Devils Lake outlet was completed, and it was operated in 2005, 2007, and 2008. Eighty days of outlet operation occurred last summer from April into November – removing 1,240 acre-feet of floodwater from Devils Lake.

With regard to upper basin water management, the Water Commission has continued to provide assistance to the Devils Lake Joint Water Resource Board, including the implementation of a test project that uses basin water for irrigation. In addition, the Commission has continued to fund the Extended Storage Acreage Program that stores floodwater in the upper portions of the basin.

Infrastructure protection and relocation efforts continue to be an issue throughout the Devils Lake basin. The city of Devils Lake, Minnewaukan, and the Spirit Lake Nation are once

again facing a threat from the swelling lake. The U.S. Army Corps is estimating that there is a 24 percent chance that by 2040, the city's levee system will be compromised by rising lake levels. And with the region experiencing a wet fall, followed by excessive snowfall this winter, we may see a substantial rise in the lake's elevation this year. Local officials are working with the U.S. Army Corps, the Water Commission, and other state and federal agencies to identify solutions.

Moving our attention to other flood control efforts in the Red River basin, I am very happy to report that one of the largest flood control projects ever developed in our state, the Grand Forks flood control project, is now completed. And, we are pleased that the project is now recognized as a permanent flood protection feature by the Federal Emergency Management Agency.

In Wahpeton, Phase I construction on their large-scale flood control project has been completed, which includes interior pumping stations, detention ponds, and other interior flood control features. A large diversion channel has been completed in Minnesota, as well. Phase II plans and specifications for a portion of the in-town levees were also completed, and construction began in 2008. Phase III plans and specifications, which are for the second of three in-town levee reaches, have been initiated. However, both Phase II and Phase III levee construction efforts must be completed in concert with levee constructions on the Breckenridge, Minnesota side of the Red River to avoid project-induced impacts.

Another large-scale flood control effort that continues to advance is the Fargo Southside Flood Control Project [*See Map Appendix*]. Following a lengthy public involvement process,

the city of Fargo has chosen the Wild Rice River Levee Alternative as their preferred project. The total cost of the project is estimated at $161 million, with a requested state contribution of $75 million.

We have also made important progress in recent years on another flood management effort involving our digital floodplain mapping. The purpose of this effort is to convert many of North Dakota's paper floodplain maps to a digital format, and to revise existing digital maps to include recent study information. This will enhance map availability and usefulness to a broader spectrum of users. Contracts are currently underway to complete this effort in 20 North Dakota counties, with three more contracts to be added this year.

Water Supply

In water supply efforts, last Friday the Record of Decision for the Northwest Area Water Supply (NAWS) project [*See Map Appendix*] was signed by the Regional Director of the U.S. Bureau of Reclamation. This was a major step for NAWS, and we now will go back to federal District Court to seek approval to move water from Lake Sakakawea to northwestern North Dakota.

The alternative that the Bureau identified as the preferred alternative involves a combination of treatment processes that will cost an estimated $17.5 million. This alternative will provide a greater level of treatment than what was determined to be necessary in the original Environmental Assessment. It should also be noted that there still remains a strong possibility that the Province of Manitoba will continue their opposition to the project.

In major NAWS progress to date, construction on the 45 miles of pipeline between Minot and Lake Sakakawea has been completed. In August 2008, construction was also completed on 24 miles of pipeline, four pump stations, and two storage reservoirs that provide water service to Berthold, Minot's South Hill region, and North Prairie Rural Water District, with an interim water supply from Minot's treatment plant. This fall, the Kenmare-Upper Souris contract was awarded for completion of 53 miles of pipeline and a pump station to address arsenic issues in Kenmare, and to provide an additional water supply to the Upper Souris Water Users rural water system.

In the upcoming 2009-2011 biennium, NAWS project efforts will entail design work on a biota treatment plant and intake, and remaining contracts to move Missouri River water from Lake Sakakawea to Minot. Completion of the High Service Pump Station, the Kenmare-Upper Souris pipeline, and Mohall-All Seasons pipeline are also planned.

The last decade has seen substantial progress on the Southwest Pipeline Project [*See Map Appendix*]. The number of rural water users has increased from just under 1,600 to about 3,700. And, the number of cities and other bulk water users increased from 25 to 53 during that same time period. By the end of the 2007-2009 biennium, we estimate that the total population served by Southwest will be about 35,000.

Southwest Pipeline efforts this biennium include the completion of the Trotters pocket and South Fryburg service areas, which together added 160 users. The Fairfield, Grassy Butte, and Killdeer Mountain service area portions of the project are currently under construction; and, when completed next summer, will add another 425 users. In addition, the final sign-up

campaign and preliminary engineering for the Oliver, Mercer, North Dunn service area was completed, along with a pilot study for the Oliver, Mercer, North Dunn water treatment plant.

In the 2009-2011 biennium, Southwest Pipeline efforts will include completion of the Oliver, Mercer, North Dunn water treatment plant, a pipeline from the treatment plant to Hazen and Stanton, and completion of a rural water distribution system in the Zap service area.

State Water Supply Program funds were invested in 14 design and/or construction projects involving several systems across the state, including: All Seasons Rural Water; North Central Rural Water Consortium; South Central Regional Water; Traill Rural Water; Tri-County Rural Water; Walsh Rural Water; and the cities of Devils Lake, Parshall, and Williston.

Thanks to North Dakota's Water Supply Program, regional and rural water systems have continued to expand throughout the state. As a result of this added financial assistance, there are now 32 regional water systems in North Dakota, providing water to over 160,000 residents, including 312 cities, and over 90,000 rural residents. Currently, all or part of 47 counties are served by regional water systems, and most have plans to expand to cover additional areas.

For the city of Devils Lake, progress continues to be made on a new water supply for the community, where previously, a significant portion of the city's 45-year old water transmission line was submerged under Devils Lake – making it inaccessible for maintenance and repair.

The Water Commission has worked in cooperation with the Garrison Diversion Conservancy District, and the U.S. Bureau of Reclamation toward the completion of an EIS for the Red River Valley Water Supply Project. The purpose of the EIS, completed in December 2007, is to evaluate alternatives to meet the long-term water needs of the Red River Valley in North Dakota, and the cities of East Grand Forks, Moorhead, and Breckenridge in Minnesota.

As part of the Final EIS, the U.S. Bureau of Reclamation, and the Garrison Diversion Conservancy District, identified the Missouri River Import to the Sheyenne River Alternative as the preferred alternative [*See Map Appendix*]. The project still needs two major steps to occur before construction can start: 1) Congress must authorize the use of Missouri River water for the project; and 2) a Record of Decision must be signed.

In an effort to support North Dakota's agricultural producers and rural economies, the State Water Commission reinstated the Drought Disaster Livestock Water Supply Project Assistance Program in response to widespread drought conditions. In 2008, the Water Commission allocated $1.2 million toward that program. Over 570 applications were received, and 691 projects were approved, with an average cost of $2,452 per project.

Management of the state's often scarce water resources requires the establishment of a comprehensive monitoring program. In a 2007 state survey of ground water monitoring networks prepared by the Association of American State Geologists, Ground Water Protection Council, Interstate Council on Water Policy, and the National Ground Water Association, North Dakota ranked 4th in the nation with the most observation wells (3,800), and 5th in the nation for the most wells that were sampled (1,027) for chemical analysis. The collection

and storage of extensive water resource data is an on-going process, and provides the basis for allocating and managing the state's water resources.

During 2007 and 2008, five conditional water permits were issued to provide water for four new ethanol plants located in, or near, the cities of Lakota, Casselton, Hankinson, and Trenton. Computer ground water models were developed to evaluate the permit requests for the ethanol plants in the Hankinson aquifer and McVille aquifer near the city of Lakota.

The following table summarizes actions taken in water permits from January 1, 2007, through January 1, 2009.

Permit Action	Number
Conditional Water Permits	119
Perfected Water Permits	35
Permit Attachments	35
Permit Extensions	16
Permit Assignments	187
Permits Cancelled	25
Permits Denied	6
Temporary Permits	448

Weather Modification

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, and increases rainfall by 5-10 percent, or nearly an inch of additional rainfall, resulting in increased wheat yields of 6 percent. A 1998

study showed a benefit-to-cost ratio, for just agricultural production, of 35:1 at current program costs. North Dakota State University is currently working on an update to this study, with results due in February.

This past summer was the 32nd year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 763 active volunteer observers throughout the state, and precipitation data charts and maps can now be easily accessed on the Water Commission website.

General Water Management and Planning

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 too numerous to mention here.

It should be noted that dam repairs continue to be a high priority in North Dakota and across the nation. The need for these repairs have come to the forefront because dams that were constructed during the 1960s are approaching the end of their design life, and those that were constructed in the 1930s, have in many cases, fallen into serious disrepair. An inventory of North Dakota's 15 highest priority dam repairs suggests that costs could be as high as $14 million.

Advances to improve management of our state's sovereign land areas also evolved when the Office of the State Engineer completed a North Dakota Sovereign Land Management Plan. The new plan was developed in response to a 2005 Attorney General Opinion that suggested

the need for a guiding document. Sovereign land includes those areas below the ordinary high water mark of navigable lakes and streams. More recently, the Water Commission has been working with the Game and Fish Department to develop a memorandum of understanding that would allow that agency to assist us with enforcement issues in the field. With the Water Commission having no enforcement staff, and Game and Fish already having enforcement officers in the field, this type of arrangement should work out well.

2007-2009 Funding Summary

To cap off our discussion of activities in the current biennium, I would like to provide a brief summary of 2007-2009 project expenditures. The State Water Commission spent $53.5 million on water projects through December 2008. It is anticipated that an additional $18 million will be spent through June 2009. About $37.5 million of the $71.5 million will come from the Contract Fund, which is made up of a combination of the Resources Trust Fund and the Water Development Trust Fund.

The State Water Commission currently has five bond issues outstanding on the Southwest Pipeline Project. These have provided the project with $21 million, of which $18.3 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by the pipeline, which include water user fees.

We also have three bond issues outstanding for statewide water development projects. The proceeds were used to fund various projects from March 2000 through June 2005. Major projects receiving funding included Grand Forks and Wahpeton's flood control projects; Southwest Pipeline; the Devils Lake outlet; and Municipal, Rural, and Industrial water supply projects. These issues totaled $94.3 million, of which $83.3 million remains outstanding. The

Water Development Trust Fund provides the funding to make these payments. Payments for the 2009-2011 biennium will total $16.9 million.

HOUSE BILL 1020

House Bill 1020 contains the executive budget recommendation for the State Water Commission for the 2009-2011 biennium. The recommendation totals $311,001,398.

Administrative and Support Services	$2,849,027
Water and Atmospheric Resources	308,152,371
Total	$311,001,398
General Funds	$12,493,198
Federal Funds	55,080,945
Other Funds	243,427,255
Total	$311,001,398

Our agency budget contains two line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriations, Water Development, and Atmospheric Resources Divisions, as well as all project funding. In the 2007-2009 biennium, general funds totaling $14 million were included in the budget. The 2009-2011 budget recommendation contains $12.5 million, a reduction of $1.5 million from the 2007-2009 budget. This decrease is a combination of the elimination of a $3 million one-time appropriation for the Red River Valley Water Supply project, and a $1.5 million increase in general fund dollars for agency salaries and other expenses.

Federal funds totaling $55 million have been included in the executive budget recommendation. This is an increase of $27.5 million from the 2007-2009 biennium. This

increase is due to the anticipation of additional federal funding becoming available through the Municipal, Rural, and Industrial water supply program for the Southwest Pipeline and Northwest Area Water Supply projects.

The Resources Trust Fund is projected to provide $98.2 million in new revenue this biennium. This includes $94.7 million of oil revenues, and $3.5 million from other sources. While these projections provide the basis for our budget, OMB also provided an alternate projection. The alternate projection assumed a $40 price per barrel for oil through fiscal year 2011, and reduces the revenue by $74.7 million to $23.5 million for the 2009-2001 biennium. The higher projection assumes prices ranging from $56 to $65 for fiscal year 2010, and $58 to $68 for fiscal year 2011. Because of this large potential variance, the Commission will have to closely monitor revenues, and adjust our project expenditures throughout the 2009-2011 biennium.

The other large funding source for the Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in $19.7 million in new revenue this biennium. This is a decrease of $12.4 million as a result of Measure 3.

Measure 3 was passed by the voters on November 4, 2008. This measure redirects a portion of the tobacco settlement, known as the Strategic Contribution Fund, toward a statewide tobacco cessation program. The Commission, with authorization from the Legislature, issued bonds that use future Water Development Trust Fund revenues to make the payments. With the 2009-2011 biennium's bond payments totaling $16.9 million, and $1.5 million designated

for agency operations, there is only $1.3 million left for water projects from the Water Development Trust Fund.

I would also like to mention that the executive budget includes $456,000 for salary adjustments. The Water Commission has had to replace 18 employees in the past two years. These funds will help us become more competitive in the job market, and makes it possible to move long-term employee salaries to a point in their salary range that is consistent with their time in the position.

The new 2009 State Water Management Plan has been provided for your reference. The new plan provides a substantial amount of information regarding issues affecting water management in North Dakota. In addition, other important purposes of the 2009 Water Plan are 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 2009 Water Plan, the total estimated project and program funding needs submitted by water project sponsors total over $563 million, with state funding needs of about $137 million for the upcoming biennium. Thus, prioritization requires very close coordination with the Governor's Office, State Water Commission members, and the North Dakota Water Coalition.

The following table represents the Water Commission's funding priorities, including estimated expenditures, for the 2009-2011 biennium.

Priority Projects	Potential Allocations 09-11 (in millions)
Cloud Modification Project	$0.7
Devils Lake Outlet Operation	$2.0
Fargo Southside Flood Control	$20.0
General Water Management	$11.3
Irrigation	$1.0
Northwest Area Water Supply	$12.0
Northwest Oil Impact Water Supplies	$5.0
Red River Valley Water Supply	$30.0
Southwest Pipeline Project	$12.0
State Water Supply Program	$10.0
Project Totals	$104.0

The above allocations assume that revenues from the Resources Trust Fund will total $98 million, and $6 million from carryover and other sources. However, if revenues are lower, i.e. $30 million, substantial reductions to project funding would be necessary.

AGENCY SPECIFICS AND ISSUES: 2009-2011 BIENNIUM

The executive recommendation includes two new positions for the Commission.

The first position is a hydrologist in the Water Appropriations Division. During the past few years, a large backlog of water permit applications has developed, totaling 356, and we hope this new employee will help reduce the backlog.

Three relatively recent trends have created this large water permit application backlog. First, the demand for ethanol has increased the demand for ground water development. In the past two years, the Water Appropriations Division has issued four ground water permits for ethanol plants (two 50 million gallon and two 100 million gallon facilities). Second, oil production from the Bakken Formation in the western part of the state requires that the formation be hydraulically fractured to more efficiently extract the oil. Each oil well "hydrofracing" process requires about one million gallons of water. The State Industrial Commission estimates there will be another 12,000 oil wells drilled into the Bakken Formation. The total water demand for this amount of drilling is estimated to be about 12.6 billion gallons, with much of this demand to come from ground water. Third, some crop prices have increased dramatically in the last two years. As a result, numerous landowners have withdrawn or not extended Conservation Reserve Program contracts in order to put more acreage into crop production. This has also generated increased interest in irrigation from ground water sources. In addition, many of our water sources are already fully allocated to existing uses. This increases the complexity and time requirements of our evaluations.

The issuance of water permits has also become more contentious as water users become concerned about protecting their water supplies. During the past two years, the number of requests for adjudicative hearings has increased significantly. These actions commonly

require more detailed technical analysis that further increases the time it takes to issue a permit.

The second position is an engineering technician in the Northwest Area Water Supply section. As mentioned before, the NAWS project started delivering water to the community of Berthold, Minot South Hill, and North Prairie Water District in August 2008. And, planned construction this next biennium will expand water service to Kenmare, Mohall, Sherwood, and turnouts for Upper Souris Water District and All Seasons Water Users. This position's duties will include general operation functions for the project. Operation and maintenance costs are paid for by the water users.

Lawsuits continue to demand a tremendous amount of staff time and resources. As such, I would like to briefly overview the current status of two important lawsuits – one concerning NAWS, and the other, Devils Lake.

As mentioned previously, the Record of Decision for the NAWS project was signed last Friday, however, a lawsuit still could impact advancement of the project. In *Manitoba v. Norton*, the adequacy of the NAWS project Environmental Assessment was challenged in federal court by Manitoba in October 2002. Then, a judge ruled in April 2005 that additional environmental studies were required, but allowed construction to continue in areas that would not affect treatment. Because of that decision, we must obtain approval from the judge for each new construction feature.

The Final EIS was released on December 5, 2008. And, now that the Record of Decision has been signed, the state will make a request to the federal court to lift the injunction of the project.

In *Aasmundstad v. State of North Dakota*, approximately 90 landowners from the Devils Lake area brought a lawsuit in May of 1999 claiming damages from Devils Lake floodwater. The landowners asserted that the state and local water resource districts are responsible for the lake's increase because of projects they, in one way or another, contributed toward the development of. On Oct. 25, 2007, the District Court issued its decision in favor of the state and local water resource districts.

The plaintiffs later appealed the District Court's decision to the North Dakota Supreme Court. On November 19, 2008, the Supreme Court affirmed the decision of the District Court, dismissing the lawsuit against the state and water resource districts. However, a Petition for Rehearing was filed by the plaintiffs, and the state and districts have responded. The Supreme Court has not yet made a decision on the Petition.

And finally, I would like to draw your attention to our newly developed State Water Commission and Office of the State Engineer Strategic Plan for the 2009-2011 biennium. The purpose of this new plan is to clearly document agency direction and expectations that we have set for ourselves through our strategic planning timeframe.

In closing, the State Water Commission has made significant advancements on numerous water projects across the state. However, much remains to be accomplished, as you will hear from many of our partners in water management that are also here to testify before you today.

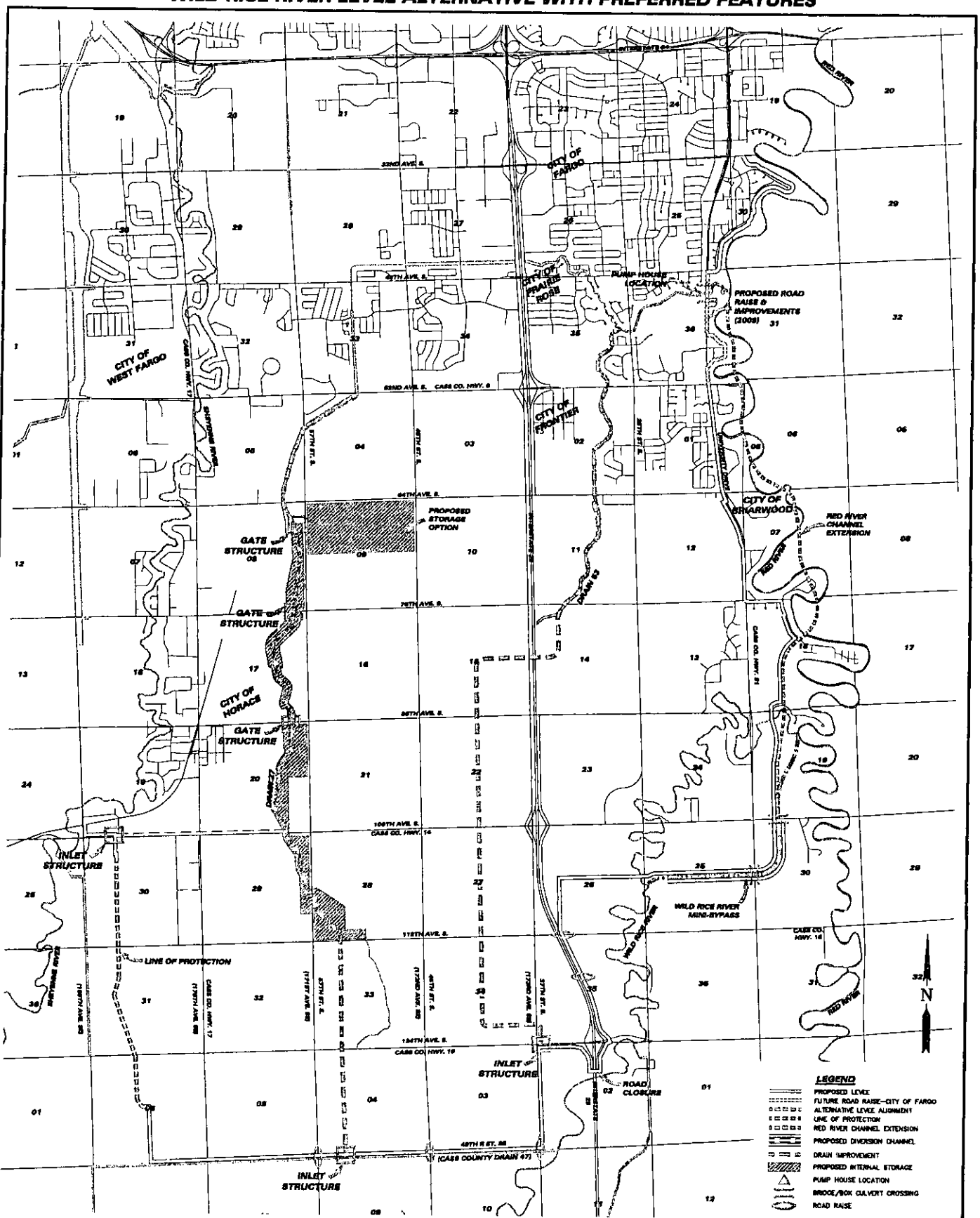
This concludes my testimony on House Bill 1020, and I would be happy to answer any questions that you might have.

MAP APPENDIX

Zone maps sent to the Senate

A

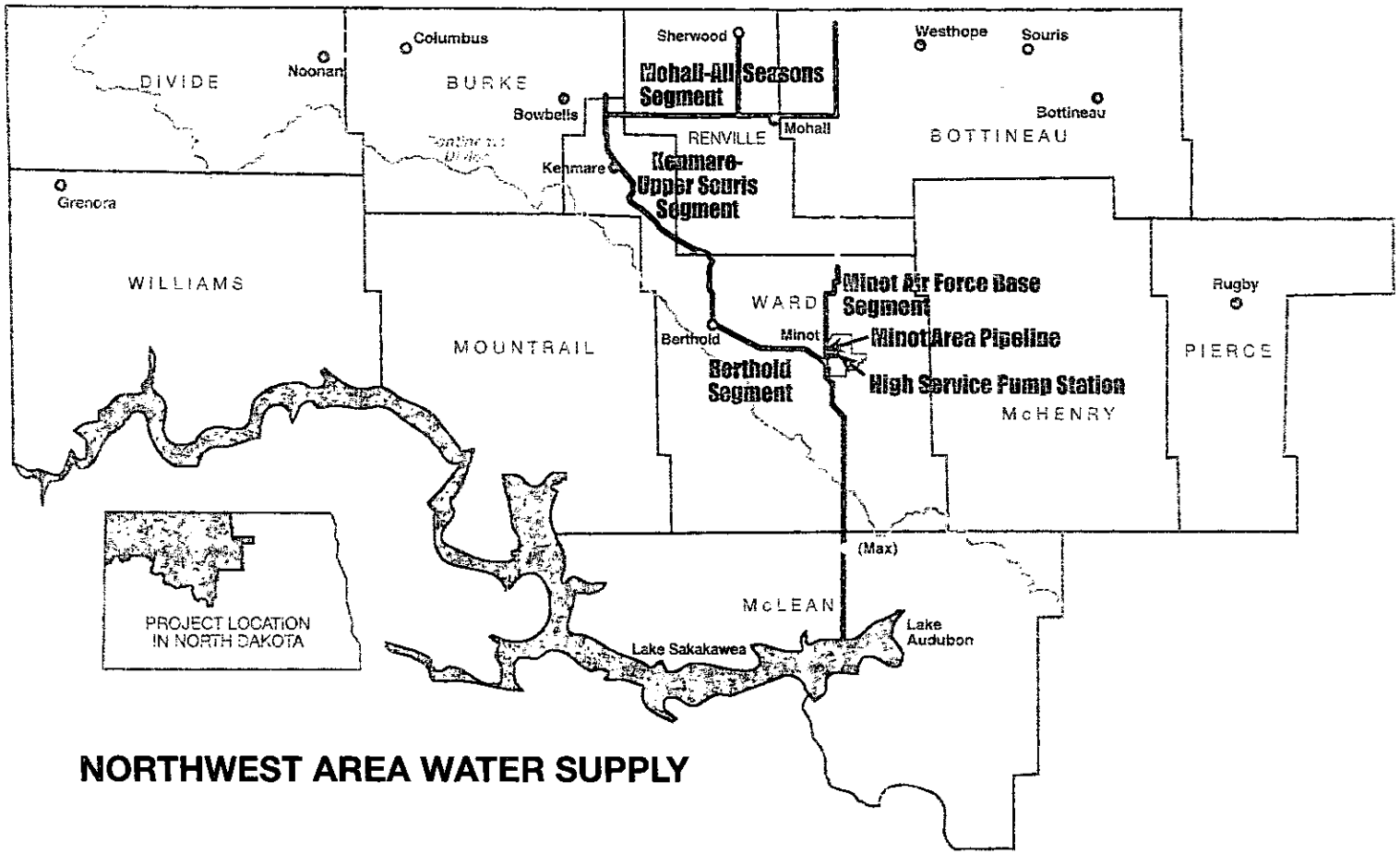
WILD RICE RIVER LEVEE ALTERNATIVE WITH PREFERRED FEATURES



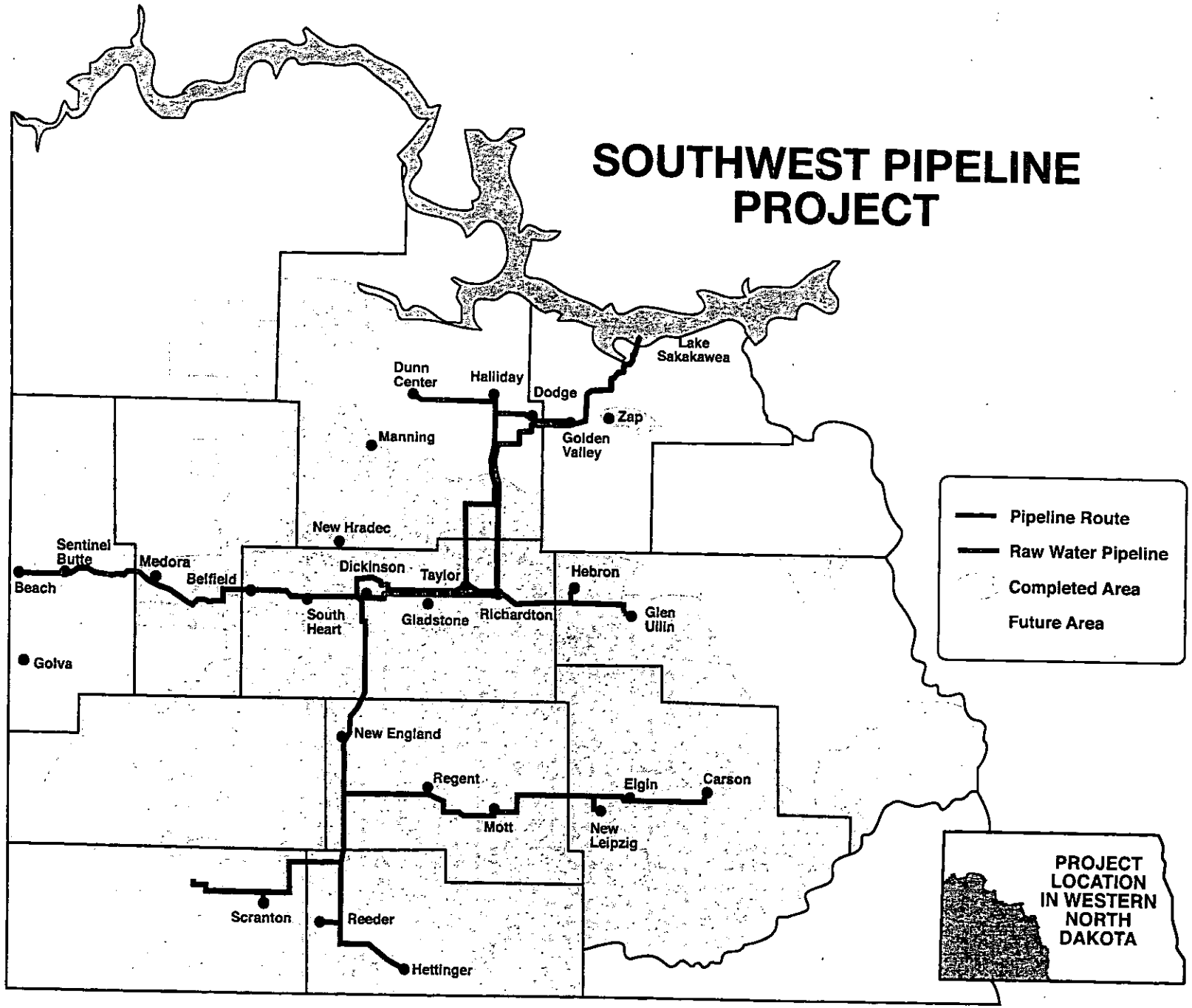
moore engineering, inc.
Consulting Engineering • Land Surveying
West Fargo • Fergus Falls

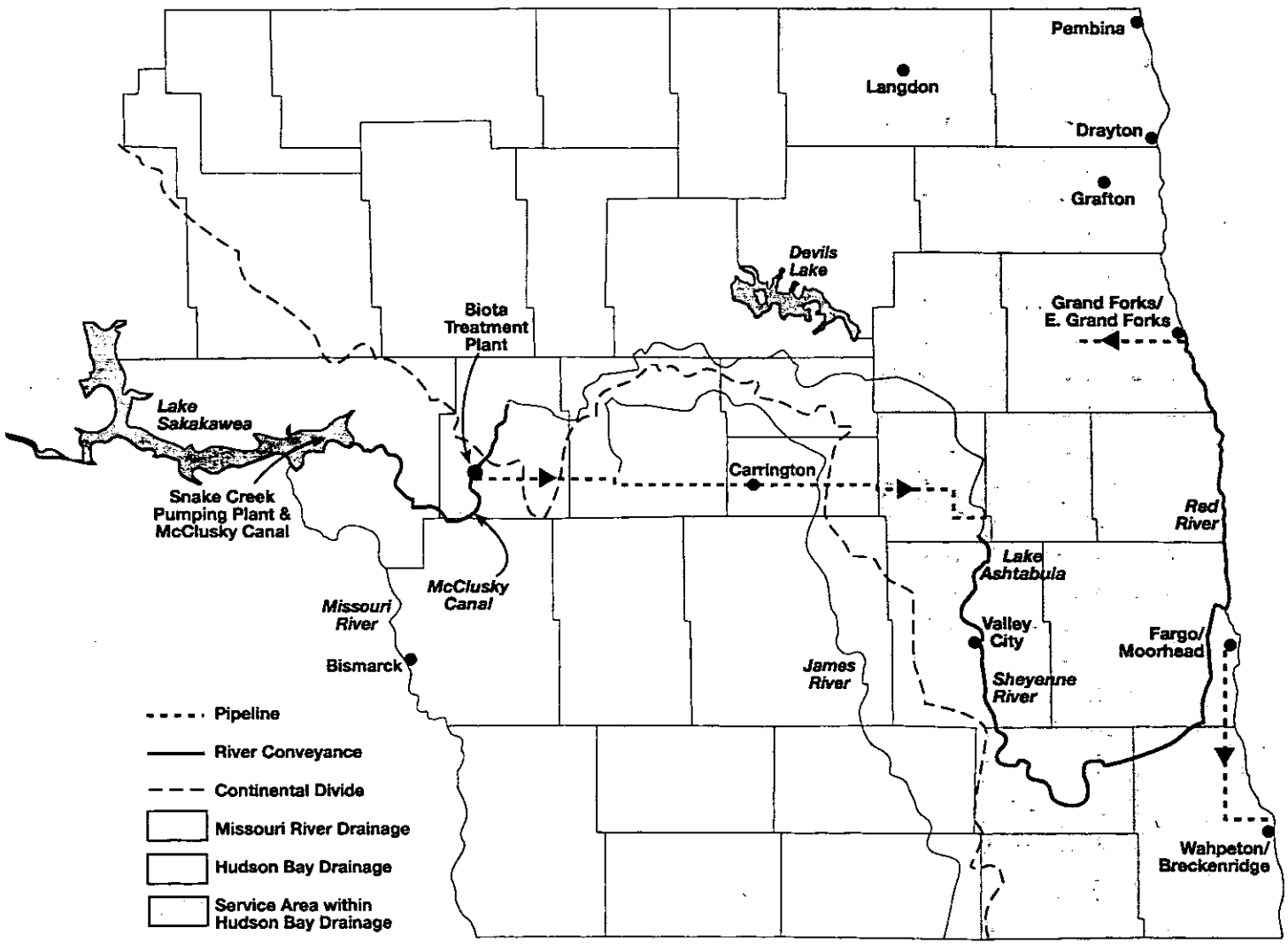
WILD RICE RIVER LEVEE ALTERNATIVE
SOUTHSIDE FLOOD CONTROL PROJECT
FARGO, NORTH DAKOTA

DATE	REVISED	CH'D BY	DRAWING
01/04/08	09/30/08		1
DRAWN BY	PROJ. NO.	SCALE	OF
JWW/KMV	9902-06	1" = 6000'	1



NORTHWEST AREA WATER SUPPLY


SOUTHWEST PIPELINE PROJECT
Lake Sakakawea
Dunn Center
Halliday
Dodge
Zap
Golden Valley
Manning
New Hradec
Sentinel Butte
Medora
Beach
Belfield
Dickinson
Taylor
Hebron
South Heart
Gladstone
Richardton
Glen Ullin
Golva
New England
Regent
Elgin
Carson
Mott
New Leipzig
Scranton
Reeder
Hettinger
Pipeline Route
Raw Water Pipeline
Completed Area
Future Area
PROJECT LOCATION IN WESTERN NORTH DAKOTA



RED RIVER VALLEY WATER SUPPLY PROJECT
Preferred Alternative

HB 1020 Attachment H 18 January 20, 2009

WATER SUMMARY: 2009 Legislative Session

Water Governance

A. State: State Water Commission and State Engineer
B. Regional: Southwest Water Authority and Garrison Diversion Conservancy District
C. Local: Water Resource Districts/Joint Water Boards/Rural Water Systems

II. Functions/Duties

A. State Water Commission/State Engineer
   1. Water Development/Water Infrastructure
   2. Water Permits
   3. Drainage Permits
   4. Weather Modification
B. Water Resource Districts (Water Managers)
   1. Surface Water
   2. Local Contracts/Projects
C. Rural Water Systems
D. Southwest Water Authority
   1. Southwest Pipeline
   2. Other Water Supplies (Energy)
   3. Local Representation (County Directors)
E. Garrison Diversion Conservancy District
   1. Maintain Federal Facilities
   2. Irrigation
   3. Oakes Test Area
   4. Recreation Facilities
   5. Federal Contracts/Bureau of Reclamation
   6. M,R&I Funding/Contracts
   7. Red River Valley Water Supply
   8. Devils Lake Outlet Maintenance
   9. Wildlife Features
   10. Local Representation (LAWA and County Directors)

II. Funding (HB 1020)

A. Resources Trust Fund, Water Development Trust Fund, General Fund, Federal
B. Water Infrastructure Needs

Devils Lake	NW Oil Impact MR&I
Flood Control (Fargo)	Northwest Area Water Supply (NAWS)
General Water Management	Red River Valley Water Supply
Irrigation	Southwest Pipeline
Missouri River Management	Weather Modification
MR&I	

C. Water Coalition
D. Local Contribution
   1. Water Resource Districts: 4 mills/Special Assessments
   2. Joint Water Boards: 2 mills
   3. GDCD and SWA: 1 mill

IV. Water Legislation Issues

A. Funding (Additional Funds?)
B. Red River Valley Water Supply/Garrison
   1. Funding Plan Revision
   2. Bonding Authorization/GDCD (SB 2298)
C. Southwest Water Authority (SB 2193/HB 1278)
   1. Mill Levy Extension/Mandan
   2. Energy Water Issues
D. Energy Issues
   1. HB 1322/1352
E. Water Resource Districts
   1. Compensation: $45 to $100 (SB 2251)
   2. Mill Levy: 4 to 8 mills (SB 2252)
   3. Indemnity (SB 2256)
   4. Quick Take (SB 2255)
   5. Flood prone areas (SB 2253)
   6. Maintenance of federal projects (SB 2254)
F. Irrigation
   1. Irrigation Repair Parts (HB 1289)

NORTH DAKOTA STATE WATER COMMISSION TESTIMONY RELATIVE TO ENGROSSED HOUSE BILL 1020

PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE

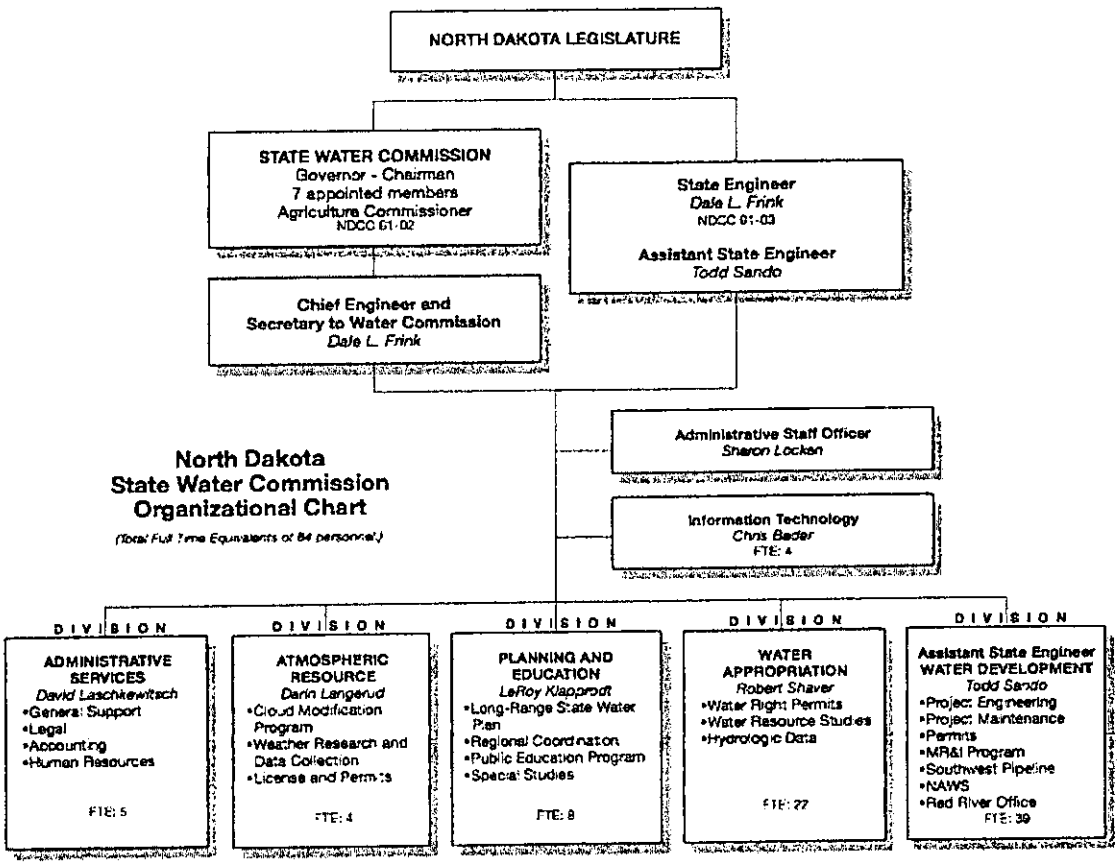
MARCH 11, 2009

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 Engrossed House Bill 1020. My testimony will be presented in three main parts. First, I will provide a brief organizational overview; second, a status report on major projects and programs, as well as our current budget; and finally, a discussion of other agency-specific issues for the upcoming biennium.

ORGANIZATIONAL OVERVIEW

As illustrated by our organizational chart, the State Water Commission is separated into five divisions, with 84 Full Time Employees (FTEs).



The Administrative Services Division, directed by Dave Laschkewitsch, provides support services for the agency.

The Water Appropriations Division, directed by Bob Shaver, is responsible for the processing of water permit applications, water rights evaluations, hydrologic data collection, water supply investigations, and economic development support activities.

The Water Development Division, directed by Todd Sando, is responsible for project engineering and maintenance; State Water Supply Program administration; Southwest Pipeline and Northwest Area Water Supply project management; floodplain and sovereign land management; dam safety; Devils Lake outlet operations; and the processing of dam, dike, and drainage permits.

The Planning and Education Division, directed by Lee Klapprodt, develops and maintains the State Water Management Plan and the agency Strategic Plan; manages the agency's information and education programs, including Project WET; and administers the Drought Disaster Livestock Water Supply Project Assistance Program.

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

PROJECT AND PROGRAM OVERVIEW

In looking back on the 2007-2009 biennium so far, great progress has been made in all facets of water management and development – including flood control, water supplies, cloud modification, and numerous general water management projects. I would like to take a few moments to outline some of our activities from this biennium, along with a brief overview of efforts we intend to pursue in the future.

Flood Control

In flood control efforts, I am pleased to report that all aspects of construction on the long-awaited Maple River Dam project were completed in 2007. Maple River Dam is a 70-foot-high earthen embankment, capable of temporarily retaining 60,000 acre-feet of floodwater in southwest Cass County. This Cass County Joint Water Resource District project is designed to provide flood protection along the Maple, Sheyenne, and Red Rivers.

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

In August 2005, construction on the state's emergency Devils Lake outlet was completed, and it was operated in 2005, 2007, and 2008. Eighty days of outlet operation occurred last summer from April into November – removing 1,240 acre-feet of floodwater from Devils Lake.

With regard to upper basin water management, the Water Commission has continued to provide assistance to the Devils Lake Joint Water Resource Board, including the implementation of a test project that uses basin water for irrigation. In addition, the Commission has continued to fund the Extended Storage Acreage Program that stores floodwater in the upper portions of the basin.

Infrastructure protection and relocation efforts continue to be an issue throughout the Devils Lake basin. The cities of Devils Lake and Minnewaukan, the Spirit Lake Nation, and several

rural areas are once again facing a threat from the swelling lake. The National Weather Service is predicting record lake levels in 2009 due to an extremely wet fall, and above normal snowfall in November and December.

In response, local officials have been working with the U.S. Army Corps of Engineers, the Water Commission, and other state and federal agencies to identify solutions. In addition, the Corps is fast-tracking a feasibility study to identify a preferred alternative that would involve a raise and extension of the Devils Lake city levee. If necessary, the Corps has indicated that they could begin construction on existing sections of the alignment later this summer – while they work out details on new alignment segments. The Corps estimates the embankment extension and raise will cost between $70 million and $100 million, depending upon which alignment is ultimately chosen. The non-federal share will be 25 percent.

Moving our attention to other flood control efforts in the Red River basin, I am very happy to report that one of the largest flood control projects ever developed in our state, the Grand Forks flood control project, is now completed. And, we are pleased that the project is now recognized as a permanent flood protection feature by the Federal Emergency Management Agency.

In Wahpeton, Phase I construction on their large-scale flood control project has been completed, which includes interior pumping stations, detention ponds, and other interior flood control features. A large diversion channel has been completed in Minnesota, as well. Phase II plans and specifications for a portion of the in-town levees were also completed, and construction began in 2008. Phase III plans and specifications, which are for the second of

three in-town levee reaches, have been initiated. However, both Phase II and Phase III levee construction efforts must be completed in concert with levee constructions on the Breckenridge, Minnesota side of the Red River to avoid project-induced impacts.

Another large-scale flood control effort that continues to advance is the Fargo Southside Flood Control Project [*See Map Appendix*]. Following a lengthy public involvement process, the city of Fargo has chosen the Wild Rice River Levee Alternative as their preferred project. The total cost of the project is estimated at $161 million, with a requested state contribution of $75 million.

We have also made important progress in recent years on another flood management effort involving our digital floodplain mapping. The purpose of this effort is to convert many of North Dakota's paper floodplain maps to a digital format, and to revise existing digital maps to include recent study information. This will enhance map availability and usefulness to a broader spectrum of users. Contracts are currently underway to complete this effort in 20 North Dakota counties, with three more contracts to be added this year.

Water Supply

In water supply efforts, the Great Plains Regional Director of the U.S. Bureau of Reclamation signed the Record of Decision for the Northwest Area Water Supply (NAWS) project [*See Map Appendix*] on January 15.

The alternative that the Bureau identified as the preferred alternative involves a combination of treatment processes that will cost an estimated $17.5 million. This alternative will provide

a greater level of treatment than what was determined to be necessary in the original Environmental Assessment.

It should also be noted that the Province of Manitoba and the State of Missouri have filed lawsuits in federal District Court in Washington, D.C. Manitoba is concerned with biota transfer, and Missouri with depletions from the Missouri River. The lawsuits have been combined, and it will take most of 2009 to get a decision.

In major NAWS progress to date, construction on the 45 miles of pipeline between Minot and Lake Sakakawea has been completed. In August 2008, construction was also completed on 24 miles of pipeline, four pump stations, and two storage reservoirs that provide water service to Berthold, Minot's South Hill region, and North Prairie Rural Water District, with an interim water supply from Minot's treatment plant. This fall, the Kenmare-Upper Souris contract was awarded for completion of 53 miles of pipeline and a pump station to address arsenic issues in Kenmare, and to provide an additional water supply to the Upper Souris Water Users rural water system.

The last decade has seen substantial progress on the Southwest Pipeline Project [*See Map Appendix*]. The number of rural water users has increased from just under 1,600 to about 3,700. And, the number of cities and other bulk water users increased from 25 to 53 during that same time period. By the end of the 2007-2009 biennium, we estimate that the total population served by Southwest will be about 35,000.

Southwest Pipeline efforts this biennium include the completion of the Trotters pocket and South Fryburg service areas, which together added 160 users. The Fairfield, Grassy Butte, and Killdeer Mountains service area portions of the project are currently under construction; and, when completed next summer, will add another 425 users.

In the 2009-2011 biennium, Southwest Pipeline efforts will include completion of the Oliver, Mercer, North Dunn water treatment plant, a pipeline from the treatment plant to Hazen and Stanton, and completion of a rural water distribution system in the Zap service area.

State Water Supply Program funds were invested in 14 design and/or construction projects involving several systems across the state, including: All Seasons Rural Water; North Central Rural Water Consortium; South Central Regional Water; Traill Rural Water; Tri-County Rural Water; Walsh Rural Water; and the cities of Devils Lake, Parshall, and Williston.

Thanks to North Dakota's Water Supply Program, regional and rural water systems have continued to expand throughout the state. There are now 32 regional water systems in North Dakota, providing water to over 160,000 residents, including 312 cities, and over 90,000 rural residents. Currently, all or part of 47 counties are served by regional water systems, and most have plans to expand to cover additional areas.

For the city of Devils Lake, progress continues to be made on a new water supply for the community, where previously, a significant portion of the city's 45-year old water transmission line was submerged under Devils Lake – making it inaccessible for maintenance and repair.

The Water Commission has worked in cooperation with the Garrison Diversion Conservancy District, and the U.S. Bureau of Reclamation toward the completion of an EIS for the Red River Valley Water Supply Project. The purpose of the EIS, completed in December 2007, is to evaluate alternatives to meet the long-term water needs of the Red River Valley in North Dakota, and the cities of East Grand Forks, Moorhead, and Breckenridge in Minnesota.

As part of the Final EIS, the U.S. Bureau of Reclamation, and the Garrison Diversion Conservancy District, identified the Missouri River Import to the Sheyenne River Alternative as the preferred alternative [*See Map Appendix*]. The project still needs two major steps to occur before construction can start: 1) Congress must authorize the use of Missouri River water for the project; and 2) a Record of Decision must be signed.

In an effort to support North Dakota's agricultural producers and rural economies, the State Water Commission reinstated the Drought Disaster Livestock Water Supply Project Assistance Program in response to widespread drought conditions. In 2008, the Water Commission allocated $1.2 million toward that program. Over 570 applications were received, and 691 projects were approved, with an average cost of $2,452 per project.

Management of the state's often-scarce water resources requires the establishment of a comprehensive monitoring program. In a 2007 state survey of ground water monitoring networks prepared by the Association of American State Geologists, Ground Water Protection Council, Interstate Council on Water Policy, and the National Ground Water Association, North Dakota ranked 4th in the nation with the most observation wells (3,800), and 5th in the

nation for the most wells that were sampled (1,027) for chemical analysis. The collection and storage of extensive water resource data is an on-going process, and provides the basis for allocating and managing the state's water resources.

During 2007 and 2008, five conditional water permits were issued to provide water for four new ethanol plants located in, or near, the cities of Lakota, Casselton, Hankinson, and Trenton. Computer ground water models were developed to evaluate the permit requests for the ethanol plants in the Hankinson aquifer and McVille aquifer near the city of Lakota.

The following table summarizes actions taken in water permits from January 1, 2007, through January 1, 2009.

Permit Action	Number
Conditional Water Permits	119
Perfected Water Permits	35
Permit Attachments	35
Permit Extensions	16
Permit Assignments	187
Permits Cancelled	25
Permits Denied	6
Temporary Permits	448

Weather Modification

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, and increases rainfall by 5-10 percent. A

2009 NDSU study shows the program creates $12 million to $19.7 million annually in direct agricultural benefits, or $5.16 to $8.41 on a per acre basis. Gross business volume ranges from $37 million to $60 million, annually.

This past summer was the 32nd year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 763 active volunteer observers throughout the state, and precipitation data charts and maps can now be easily accessed on the Water Commission website.

General Water Management and Planning

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 too numerous to mention here.

It should be noted that dam repairs continue to be a high priority in North Dakota and across the nation. The need for these repairs have come to the forefront because dams that were constructed during the 1960s are approaching the end of their design life, and those that were constructed in the 1930s, have in many cases, fallen into serious disrepair. An inventory of North Dakota's 15 highest priority dam repairs suggests that costs could be as high as $14 million.

Advances to improve management of our state's sovereign land areas also evolved when the Office of the State Engineer completed a North Dakota Sovereign Land Management Plan. The new plan was developed in response to a 2005 Attorney General Opinion that suggested

the need for a guiding document. Sovereign land includes those areas below the ordinary high water mark of navigable lakes and streams. More recently, the Water Commission has been working with the Game and Fish Department to develop a memorandum of understanding that would allow that agency to assist us with enforcement issues in the field. With the Water Commission having no enforcement staff, and Game and Fish already having enforcement officers in the field, this type of arrangement should work out well.

2007-2009 Funding Summary

To cap off our discussion of activities in the current biennium, I would like to provide a brief summary of 2007-2009 project expenditures. The State Water Commission spent $53.5 million on water projects through December 2008. It is anticipated that an additional $18 million will be spent through June 2009. About $37.5 million of the $71.5 million will come from the Contract Fund, which is made up of a combination of the Resources Trust Fund and the Water Development Trust Fund.

The State Water Commission currently has five bond issues outstanding on the Southwest Pipeline Project. These have provided the project with $21 million, of which $18.3 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by the pipeline, which include water user fees.

We also have three bond issues outstanding for statewide water development projects. The proceeds were used to fund various projects from March 2000 through June 2005. Major projects receiving funding included Grand Forks and Wahpeton's flood control projects; Southwest Pipeline; the Devils Lake outlet; and Municipal, Rural, and Industrial water supply projects. These issues totaled $94.3 million, of which $83.3 million remains outstanding. The

Water Development Trust Fund provides the funding to make these payments. Payments for the 2009-2011 biennium will total $16.9 million.

ENGROSSED HOUSE BILL 1020

Engrossed House Bill 1020 contains the executive budget recommendation for the State Water Commission for the 2009-2011 biennium. The recommendation totals $310,488,100.

Administrative and Support Services	$2,942,897
Water and Atmospheric Resources	307,545,203
Total	$310,488,100
General Funds	$12,067,977
Federal Funds	55,042,851
Other Funds	243,377,272
Total	$310,488,100

Our agency budget contains two line items. The line item titled Administrative and Support Services contains costs associated with the Administrative and Support Services Division. The line item titled Water and Atmospheric Resources contains costs associated with operation of the Planning, Water Appropriations, Water Development, and Atmospheric Resources Divisions, as well as all project funding. In the 2007-2009 biennium, general funds totaling $14 million were included in the budget. The 2009-2011 budget recommendation contains $12.1 million, a reduction of $1.9 million from the 2007-2009 budget. This decrease is a combination of the elimination of a $3 million one-time appropriation for the Red River Valley Water Supply project, and a $1.1 million increase in general fund dollars for agency salaries and other expenses.

Federal funds totaling $55 million have been included in the executive budget recommendation. This is an increase of $27.5 million from the 2007-2009 biennium. This increase is due to the anticipation of additional federal funding becoming available through the Municipal, Rural, and Industrial water supply program for the Southwest Pipeline and Northwest Area Water Supply projects.

The budget was prepared using $98.2 million in new Resources Trust Fund revenue for the 2009-2011 biennium. This included $94.7 million of oil revenues, and $3.5 million from other sources. While these projections provided the basis for our budget, OMB also provided an alternate projection. The alternate projection assumed a $40 price per barrel for oil through fiscal year 2011, and reduced revenues by $74.7 million to $23.5 million for the biennium. A revised projection was prepared in February, which estimates the oil extraction revenue will be $71.5 million for the 2009-2011 biennium. This is a reduction of $23.2 million from the figure we used to prepare our budget. This projection assumes prices ranging from $40 to $63 per barrel for fiscal year 2010, and $63 to $69 per barrel for fiscal year 2011. The most recent oil extraction deposit into the Resources Trust Fund, which was received in February, totaled only $1,069,193. The Commission will have to closely monitor revenues and adjust our project expenditures throughout the 2009-2011 biennium.

The other large funding source for the Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in $19.7 million in new revenue this biennium. This is a decrease of $12.4 million as a result of Measure 3. The Commission, with authorization from the Legislature, issued bonds that use future Water Development Trust Fund revenues to make the payments. With the 2009-2011 biennium's bond payments

totaling $16.9 million, and $1.5 million designated for agency operations, there is only $1.3 million left for water projects from the Water Development Trust Fund. In addition, any drop in tobacco settlement revenues could jeopardize our ability to make bond payments.

As you are aware, the House reduced our equity salary adjustments and the funds for salary increases during the next biennium. We would like to visit with you about this subject in the future.

The new 2009 State Water Management Plan has been provided for your reference. The new plan provides a substantial amount of information regarding issues affecting water management in North Dakota. In addition, other important purposes of the 2009 Water Plan are to: provide up-to-date information regarding North Dakota's current and future water development project needs; 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 2009 Water Plan, the total estimated project and program funding needs submitted by water project sponsors total over $563 million, with state funding needs of about $137 million for the upcoming biennium. Thus, prioritization requires very close coordination with the Governor's Office, State Water Commission members, and the North Dakota Water Coalition.

The following table represents the Water Commission's funding priorities, including estimated expenditures, for the 2009-2011 biennium.

Priority Projects	Potential Allocations 09-11 (in millions)
Cloud Modification Project	$0.7
Devils Lake Outlet Operation	$2.0
Devils Lake Levee	$10.0
Fargo Southside Flood Control	$22.0
General Water Management	$11.3
Irrigation	$1.0
Missouri River Management	$0.5
Northwest Area Water Supply	$5.0
Northwest Oil Impact Water Supplies	$2.0
Red River Valley Water Supply	$4.0
Southwest Pipeline Project	$8.0
State Water Supply Program	$5.0
Project Totals	**$71.5**

AGENCY SPECIFICS AND ISSUES: 2009-2011 BIENNIUM

The executive recommendation includes two new positions for the Commission.

The first position is a hydrologist in the Water Appropriations Division. During the past few years, a large backlog of water permit applications has developed, totaling 356, and we hope this new employee will help reduce the backlog.

Three relatively recent trends have created this large water permit application backlog. First, the demand for ethanol has increased the demand for ground water development. In the past two years, the Water Appropriations Division has issued four ground water permits for ethanol plants (two 50 million gallon and two 100 million gallon facilities). Second, oil production from the Bakken Formation in the western part of the state requires that the formation be hydraulically fractured to more efficiently extract the oil. Each oil well "hydrofracing" process requires about one million gallons of water. The State Industrial Commission estimates there will be another 12,000 oil wells drilled into the Bakken Formation. The total water demand for this amount of drilling is estimated to be about 12.6 billion gallons, with much of this demand to come from ground water. Third, some crop prices have increased dramatically in the last two years. As a result, numerous landowners have withdrawn or not extended Conservation Reserve Program contracts in order to put more acreage into crop production. This has also generated increased interest in irrigation from ground water sources. In addition, many of our water sources are already fully allocated to existing uses. This increases the complexity and time requirements of our evaluations.

The issuance of water permits has also become more contentious as water users become concerned about protecting their water supplies. During the past two years, the number of requests for adjudicative hearings has increased significantly. These actions commonly require more detailed technical analysis that further increases the time it takes to issue a permit.

The second position is an engineering technician in the Northwest Area Water Supply section. As mentioned before, the NAWS project started delivering water to the community of

Berthold, Minot's South Hill region, and North Prairie Water District in August 2008. And, planned construction this next biennium will expand water service to Kenmare, Mohall, Sherwood, and turnouts for Upper Souris Water District and All Seasons Water Users. This position's duties will include general operation functions for the project. Operation and maintenance costs are paid for by the water users.

And finally, I would like to draw your attention to our newly developed State Water Commission and Office of the State Engineer Strategic Plan for the 2009-2011 biennium. The purpose of this new plan is to clearly document agency direction and expectations that we have set for ourselves through our strategic planning timeframe.

In closing, the State Water Commission has made significant advancements on numerous water projects across the state. However, much remains to be accomplished, as you will hear from many of our partners in water management that are also here to testify before you today.

This concludes my testimony on Engrossed House Bill 1020, and I would be happy to answer any questions that you might have.

attachment #2

Testimony of
Dennis Hill, Chairman
North Dakota Water Coalition
HB 1020
January 21, 2009

Mr. Chairman and members of the House Appropriations Education and Environment Subcommittee:

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.

The Water Coalition has been in existence for nearly 15 years and in that time we have worked to develop rural and urban flood control, water supply for cities, farms, and industrial opportunities, value-added irrigation, water management, and many other critical water needs. Over the years there have been some monumental projects developed that at times seemed as if they would never be finished. However, large projects such as Grand Forks and Devils Lake flood control are complete. As we look to the future we have enormous obligations still ahead.

Efforts to protect south Fargo from overland flooding are moving forward. Water supply projects throughout the state include large regional projects such as NAWS, the Southwest Pipeline and the Red River Valley Water Supply-each in various stages of development. We have projects such as South Central Regional Water District and North Central Rural Water Consortium that are bringing smaller systems together to consolidate in order to provide service to unmet areas that couldn't afford it otherwise. Our recent oil boom brings many infrastructure challenges and impacts, and the water supply needs for this industry must be addressed as well.

The Water Coalition asks for your continued support for a budget that allows for adequate funding to meet the critical water needs of North Dakota.

Thank you.

Water Funding

I. Proposed Funding Plan: Red River Valley Water Supply Project

A. **Federal**	**$220 million**
B. **State** (Combination of Resources Trust Fund and) General Fund)	**$220 million**
C. **Local**	**$220 million**
a. Revenue Bonds (Based on water service contract with Garrison Diversion Conservancy District and project water users)	
Total Cost (Per EIS, 2005 Dollars)	**$660 million**

II. Estimated 2009-11 Revenues: Resources Trust Fund--$97,000,000 ($7 million carryover)

III. Proposed Water Project Allocations: 2009-2011 Biennium (ND Water Coalition)

	Resources Trust Fund	Plus federal funds	Total
Devils Lake	**$2,000,000**		**$2,000,000**
Outlet O&M	$1,500,000		
Basin Development	$500,000		
Flood Control	**$20,000,000**		**$20,000,000**
Wahpeton	0		
Fargo	$20,000,000*		
General Water Management	**$10,500,000**		**$10,500,000**
Irrigation	**$ 1,000,000**		**$ 1,000,000**
Missouri River Management	**$ 500,000**		**$ 500,000**
MR&I	**$10,000,000**	**$10,000,000****	**$20,000,000**
NW Oil Impact MR&I	**$ 5,000,000**		**$ 5,000,000**
Northwest Area Water Supply (NAWS)	**$12,000,000**	**$ 8,000,000**	**$20,000,000**
Red River Water Supply	**$30,000,000**		**$30,000,000**
Southwest Pipeline	**$12,000,000**	**$ 8,000,000**	**$20,000,000**
Weather Modification	**$ 700,000**		**$ 700,000**
Total	**$104,000,000**	**$ 26,000,000**	**$130,000,000**

**Water Coalition supports additional $20 million for each of the next two bienniums.*

***Includes Federal FY 2009 funding only, does not include estimates for Federal FY 2010 funding.*

Meeting the Challenge VII

We have made great strides in meeting many of our water development goals in recent years. Grand Forks flood control is complete. The Devils Lake outlet is constructed and is adapting to meet the necessary requirements to become operational. MR&I projects across the state have received funding. Sheyenne River and Souris River flood control are complete and successful. The Southwest Pipeline Project serves 28 cities; Northwest Area Water Supply is working on an EIS and will be serving Berthold and Kenmare; and the Red River Valley Water Supply Project is moving forward.

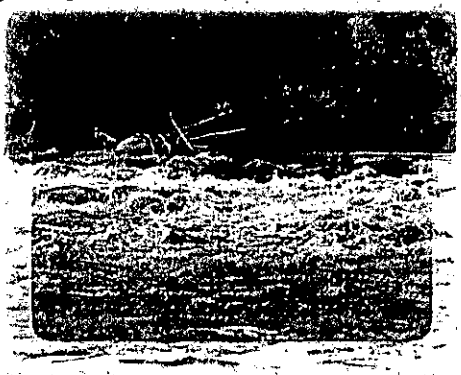
While we are pleased with what has been accomplished, we have enormous obligations still ahead. State and federal funding are key components toward the completion of remaining water infrastructure in North Dakota.

After learning about these critical water priorities, we hope you'll join the North Dakota Water Coalition in supporting the completion of North Dakota's water infrastructure for economic growth and quality of life.

Dennis Hill
Chairman, North Dakota Water Coalition

Fargo Diversion Project

Efforts to protect south Fargo from overland flooding are moving forward, with the Wild Rice River Levee alternative identified by the City Commission the preferred choice for flood control. This alternative aims to harness flooding of the Wild Rice and Red rivers with a combination of channels, water holding areas, drain improvements and levees.



The plan would:

- remove areas from the flood plain and prevent additional areas from being added;
- eliminate the need for flood insurance many property owners will face if Fargo does nothing;
- protect undeveloped land and **increase** its value, allowing Fargo's growth to continue.

Fargo is seeking 45 percent of the project's $100 million price tag from the state, with another 45 percent coming from the city itself via an infrastructure sales tax, storm sewer utility funds and special assessments. Those paying special assessments will include Fargo residents, those living in the city's extraterritorial area and other Cass County residents. City leaders expect federal funds to cover the remaining cost. The city hopes to complete the project in the fall of 2011. Fargo will be the last major North Dakota city on the Red River to construct a flood protection system.

Fargo's flood control efforts won't be limited to the city's south side. Work has begun in north Fargo on a floodwall system to protect the Ridgewood neighborhood, and a feasibility study is planned to examine options for downtown flood protection.

General Water Management

In addition to the many large-scale water development projects being developed across North Dakota, there are also hundreds of smaller general water management projects that benefit individuals and local communities. 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 play a key role in these local water management projects. Water resource district managers are appointed by county commissioners and are the local entities responsible for water management in North Dakota. Examples of general water management projects that typically receive cost-share assistance from the state include: rural flood control, snagging and clearing, channel improvements, recreation projects, dam repairs, planning efforts and special studies.

Missouri River

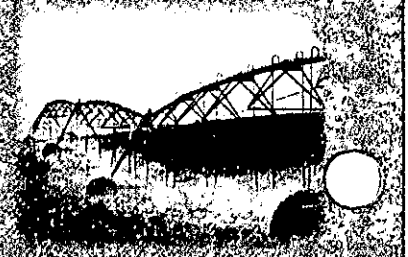
Six mainstem dams and reservoir projects make up the reservoir system on the Missouri River. Each of the projects were constructed by the federal government, and are operated and maintained by the U.S. Army Corps of Engineers for the purpose of flood control, water supply, recreation, irrigation, hydropower, water quality, fish and wildlife habitat and navigation.

The dams along the Missouri River were constructed with the goal of bringing substantial economic, environmental and social benefits to North Dakota and nine other states. However, this has not come without controversy. Competition between water users, loss of valuable habitat, endangered species impacts, bank erosion and delta formation are just a few of the complex issues related to the Missouri River management today.

In 2005, water resource districts along the Missouri River entered into a joint powers agreement creating the Missouri River Joint Water Board. It is the intent of the water boards to jointly exercise their powers to provide a cooperative and coordinated effort in addressing the management, conservation, protection, development and control of water resources in the Missouri River Basin.

Irrigation

North Dakota has approximately 250,000 acres of irrigated land. Irrigation provides increased job opportunities, tax revenues, personal income and economic benefits to the state. Revenue from irrigated production results in approximately $4 for each dollar of dryland crop production. Even more acres of land in the state could be developed for irrigation, utilizing ground and surface water sources without an impact to existing water uses.



The North Dakota Irrigation Association (NDIA) is a statewide organization composed of irrigators, potential irrigators and other supporters of irrigation and economic development in North Dakota. In 2008, the NDIA developed a Comprehensive Strategic Plan for Irrigation in North Dakota, which identifies specific accomplishments and needs, as well as the actions required to accomplish NDIA's mission, *to strengthen and expand irrigation to build and diversify North Dakota's economy.*

The expansion of the biofuels industry, along with increased markets for irrigated malt barley, alfalfa, vegetables, corn, potatoes, edible beans and oilseeds all provide additional irrigation opportunities. Irrigation development requires a partnership of federal, state and local support as well as new private initiatives. State support of irrigation initiatives will provide new opportunities for value-added agriculture across North Dakota.

Weather Modification

Cloud seeding has been conducted over parts of western North Dakota for more than 50 years. The North Dakota Cloud Modification Project (NDCMP) currently includes Bowman, McKenzie, Mountrail, part of Slope, Ward and Williams counties, encompassing approximately 6.7 million acres. NDCMP goals include the enhancement of rainfall and suppression of hail from convective clouds each summer from June through August.

Participating counties fund two-thirds of project costs with the state cost-sharing one-third. Independent evaluations indicate the NDCMP has reduced crop hail damage by 45 percent and increased rainfall by approximately 10 percent, resulting in increased wheat production of nearly six percent. NDCMP costs for the 2007-09 biennium are estimated at $1.4 million. A 1998 economic evaluation by Leistritz and Sell at NDSU showed additional annual economic activity of $24 million from increased production to the most common crops grown in the region, a benefit-to-cost ratio of 34 to 1.

Statewide Water Supply

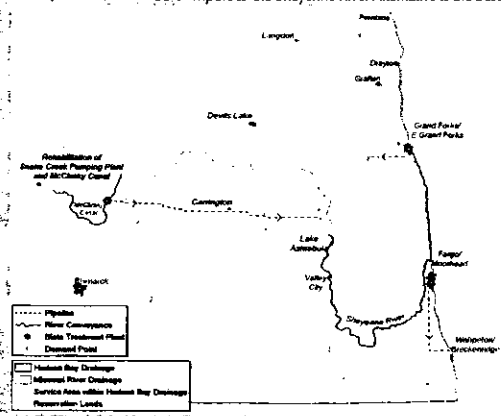
Red River Valley Water Supply

The Red River Valley faces a potential water supply crisis. Most residents of the region rely on the drought-prone Red River, or its tributaries, for their primary water supply. During the devastating drought of the 1930s, there were months of no flow in the river.

Preparing for the *lack* of water is critical. A collaborative team of researchers, water experts, state and federal officials have studied the Valley's water supply needs. They agree a drought similar to the 1930s is inevitable. During this type of water shortage, it would take 1,200 truckloads of water per day just to supply Fargo's basic indoor household water needs. With the predicted population growth in the Valley, water shortages will become even greater.

A solution has been chosen to counter this devastating loss. The Red River Valley Water Supply Project will supplement existing water supplies during times of need. Fourteen years of studies, backed by sound data and scientific research, concluded the GDU Import to the Sheyenne River Alternative is the best solution. It is the most reliable, the most flexible, the least costly of all Missouri River alternatives to build, the least costly to operate, and provides the most environmental benefits.

This plan is the best opportunity to sustain the Valley's population and to retain and attract new businesses. Keeping this plan moving forward is critical to the Valley's future.



Northwest Area Water Supply (NAWS)

During 2008, construction continued on a pipeline from Minot's water treatment plant to Berthold, two storage reservoirs, four pump stations, a high service pump station and the completion of 45 miles of pipeline between Lake Sakakawea and Minot. In August, the NAWS Celebration at Berthold recognized completion of facilities that can now provide water service to Berthold, Minot's south hill region and North Prairie Rural Water District from an interim supply with Minot's water treatment plant. This interim supply is only a short-term solution until the Environmental Impact Statement (EIS) is completed, and water can be supplied from Lake Sakakawea.

The federal court overseeing the biota transfer lawsuit with Manitoba approved construction on the distribution features north of the continental divide, as long as the features do not affect treatment decisions being made in the EIS. Reclamation expects to complete the EIS by the end of 2008. Construction of pipeline to Kenmare-Upper Souris Water Users, Mohall-All Seasons Water Users will begin in fall 2008 and spring 2009. Once the EIS is completed, design and construction activities will focus on the intake, pumping and treatment facilities needed to move water from Lake Sakakawea to Minot. The estimate of remaining construction costs is contingent on the required level of biota treatment identified in the EIS, and is roughly estimated at $170 million. The project receives federal funding and a 35 percent cost-share from Minot's local sales tax.

MR&I

The state Municipal, Rural and Industrial (MR&I) program helps provide a reliable, high quality and affordable water supply to North Dakota residents, farms, schools, hospitals and industries. In order to meet the growing statewide water needs, the Garrison Diversion Conservancy District, the State Water Commission, and the four Tribal Nations are working cooperatively to solve water quality and quantity problems.

State MR&I current construction involves Tri-County Rural Water (City of Lakota), and Walsh Rural Water. Also in different phase of design and construction are All Seasons Water Users (City of Upham), Barnes Rural Water (City of Wimbledon), City of Garrison, and City of Parshall. Other systems requesting funding for project construction include Dakota Rural Water District, McKenzie County Rural Water, R&T Water Supply Association, Traill Rural Water District and seven others. Much more than a matter of convenience, clean, reliable water can mean the difference between success and failure for much of North Dakota.

Tribal MR&I

The tribal MR&I program is administered under the Bureau of Reclamation. Reclamation must concur and approve feasibility studies, plans, and specifications; take the lead in complying with the National Environmental Policy Act; and oversee the operation and maintenance of each reservation's rural water system. The tribes carry out the day-to-day activities related to construction, operation and maintenance through 638 contracts and agreements with Reclamation.

Currently, the Standing Rock Sioux Tribe is working on construction of a new lake intake and water treatment plant. The intake will be located on the west bank of the Missouri River across from Mobridge. This new intake location will not be affected by silt loads and low water levels in Lake Oahe.

The Three Affiliated Tribes of the Fort Berthold Indian Reservation are beginning work on distri pipeline systems located in and around the comm es of New Town, White Shield, Mandaree, Twin Buttes, and the north and northeast segments of the reservation; and have signed water development and water use agreements with the cities of Parshall and New Town. With the tribes and the communities working together, water service costs will be lower for everyone.

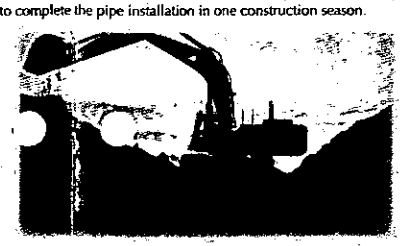
Fort Totten Indian Reservation projects include the west Fort Totten tank, Fort Totten backfeed pipeline project and additional service pipelines to the northeast area of the reservation. Potential projects on the Turtle Mountain Indian Reservation include a new reservoir and pipeline upgrades to several housing areas around the reservation. The Trenton Indian Service Area is planning a new rural water office building and several system improvements to its distribution system.

Devils Lake Water Supply

Currently, six miles of the city of Devils Lake's 46-year-old drinking water supply pipeline is covered by Devils Lake and is inaccessible for repairs or maintenance. The existing water source has nearly 3.5 times the Safe Drinking Water Act's allowable limit for arsenic content.

Thirty-two miles of water supply line were installed from a new well field to the city in 2007. The contractor worked long hours in order to complete the pipe installation in one construction season.

The city now must install wells and pipelines to move the water from the wells to the main pipeline and construct a meter control station at the well field. The contract for this portion of the project has been awarded. It is expected construction will begin in July and be completed by March 30, 2009. Design of the treatment plant facility will take place in late 2008, with a bid opening expected to take place in the spring of 2009.



Southwest Pipeline Project

The Southwest Pipeline Project (SWPP) is the first large multi-county regional rural water project developed in the state. For 23 years, the SWPP has been constructing an efficient network of pipelines, pump stations, reservoirs and treatment facilities to bring southwest North Dakota an adequate supply of quality water. To date, 28 communities, 3,300 rural service locations and many other contract customers are served by the pipeline.

Current construction includes completing the Medora, Beach Service Area and providing water service to an area west of the Killdeer Mountains in Dunn County.

Looking to the future, the ultimate goal is to reach those who patiently wait for project completion. The last regional phase of construction, the Oliver, Mercer, North Dunn (OMND) Service Area includes Zap (Hazen) Service Area, Center Service Area, Dunn Center Service Area and the Halliday Service Area. The estimated remaining cost of the project, including deferred construction, is $95 million.

Signups for cities, power plants and rural customers are complete, giving way to design of this final stage of the SWPP. Design of transmission lines, rural service and the water treatment plant for the OMND Service Area is underway and construction will continue in this region in 2009.

North Central Rural Water Consortium

The North Central Rural Water Consortium II (NCRWC) was formed through a Joint Powers Agreement between North Prairie Rural Water District and Central Plains Water District. NCRWC also works collaboratively with the Three Affiliated Tribes and Spirit Lake Nation. This collaboration across district and tribal borders brings quality water to rural North Dakota in an efficient and cost-effective manner.

More than 1,800 residents throughout the 14-county area participated in the feasibility study conducted in 2004. Of those participants, approximately 400 are now being served by NCRWC, as are two communities and four governmental agencies. NCRWC expects to serve more than 1,100 customers plus the communities of Esmond, Benedict and Anamoose by the end of 2009.

The NCRWC is committed to the spirit of working together to bring a reliable source of potable water to the remaining six communities and approximately 700 individual homes still awaiting service.

The NCRWC plans to continue to utilize existing infrastructure to its maximum potential. The NCRWC will seek funding of approximately $21 million for its upcoming project areas, which include northwestern Ward County through a partnership agreement with the Northwest Area Water Supply Project (NAWS), northern McHenry, Wells and Sheridan counties.

South Central Regional Water

South Central Regional Water District (SCRWD) is constantly expanding and is currently providing water to nearly 4,150 households/farms in Burleigh County, and small areas within Mclean, Kidder and Emmons counties. A preliminary and feasibility report, completed in 2002, identifies unmet water needs to 10 cities and more than 1,600 rural hookups in the five county area of Burleigh, Emmons, McIntosh, Logan and Kidder. This proposed project area includes more than 10,500 people in these communities who signed an application of interest and paid a good intention fee to receive quality water from a regional water supply.

A reliable quality water supply would correct the shortage of water and the predominant poor quality, including local arsenic concerns. This area is one of the few areas in the state that does not have a rural water supply available and has experienced extreme drought conditions in recent years, depleting stock dams and some of the ground water supplies.

SCRWD needs $17 million over the next biennium for a new water source and treatment facility in Emmons County, which will provide quality water to Braddock, Hazelton, Linton, Strasburg, Hague, Ventura, Ashley, Wishek, Napoleon and rural users in Emmons, McIntosh, and Logan counties.

Attachment #2

March 11, 2009

PROPOSED
NORTH DAKOTA WATER COALITION
FUNDING PLAN

1. Fargo's short-term priority is flood control.

2. Red River Valley Water Supply Project must move forward.
   a. Tasks: Operational Plan, Permits, Pre-final Design, Financial Planning, Right of way Options

3. Funding Objective for Fargo Flood Control Project

2009-2011	$55 million
2011-2013	$20 million
	$75 million

4. 2007-2009 Carryover

a. Red River Valley Water Supply	$ 9 million
b. Fargo Flood Control	$14 million
	$23 million

5. Allocation of Estimated 2009-2011 Revenues

Devils Lake	$ 2,000,000	$ 2,000,000	$ 2,000,000
Devils Lake Flood Control			$10,000,000
Flood Control - Fargo	$20,000,000	$17,000,000	$22,000,000
General Water Management	$10,500,000	$ 6,000,000	$11,300,000
Irrigation	$ 1,000,000	$ 1,000,000	$ 1,000,000
Missouri River	$ 500,000	$ 500,000	$ 500,000
M,R&I	$10,000,000	$ 5,500,000	$ 5,000,000
NW Oil Impact M,R&I	$ 5,000,000	$ 3,500,000	$ 2,000,000
NAWS	$12,000,000	$ 6,000,000	$ 5,000,000
RRVWSP	$30,000,000	$ 4,000,000	$ 4,000,000
Southwest Pipeline Project	$12,000,000	$ 6,000,000	$ 8,000,000
Weather Modification	$ 700,000	$ 700,000	$ 700,000
	$104,000,000	$52,200,000	$71,500,000

6. Additional Funding*
   a. State Water Commission Operation - General Fund
   b. Tobacco Funding SB 2063
   c. General Fund - $3 million Carryover? Other?
   d. Permanent Oil Tax Trust Fund

7. Red River Valley Water Supply Project Long-Term Funding Plan**

a. 2011-2013	$110 million
b. 2013-2015	$110 million
	$220 million

*HB 1305 appropriates additional $2.1 million for R&T Water Supply

** Resources Trust Fund not sufficient.

North Dakota
WATER
COALITION

PO Box 2254
Bismarck, ND 58502
(701) 223-4330
FAX (701) 223-4645

MEMO: April 8, 2009
TO: Senate Appropriations Committee
FROM: Jean Schafer, Executive Director, North Dakota Water Coalition
SUBJECT: Fargo Flood Control

Sometimes communication is not always clear, so I want to clearly communicate to you that the North Dakota Water Coalition strongly supports the Fargo Flood Control Project. At the beginning of this session, the City of Fargo indicated flood control was the foremost priority at this time. After several meetings early in the session, we proposed a plan, with Fargo's support, to provide $75 million of state cost sharing over two bienniums. We proposed that the carryover from the Red River Valley Water Supply Project be allocated to the Fargo Flood Control, providing a total of $23 million of carryover, and proposed new funding based on projected resources trust fund revenues. Our most recent working document to provide funding for the Fargo Flood Control Project and other critical water needs is attached.

While there are many critical water needs in North Dakota, we have recognized for some time the need to provide permanent flood control for the City of Fargo, and have had a consensus for several bienniums that this is a critical priority that must be funded when the final project has been adopted at the local level.

We have, and will continue, to support the necessary funding for the Fargo Flood Control Project. It does seem like a good idea to consider adding additional funds for water projects at this time from the general fund or the permanent oil tax trust fund, so that the entire Fargo Flood Control Project state cost share of $75 million can be appropriated this session, and some funding can also be provided to other critical water needs. We believe water infrastructure is one of the best investments that our state can make to provide economic growth and quality of life.

HB1020 attachment #10

Testimony of Melody Kruckenberg

Executive Director - ND Rural Water Systems Association

House Bill 1020

House Appropriations Education and Environment Committee

Sakakawea Room - January 21, 2009

Chairman Skarphol and members of the committee, my name is Melody Kruckenberg. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA) which serves a membership of more than 250 cities, 28 rural water systems, and four tribal systems.

As a member of the North Dakota Water Coalition, the NDRWSA is committed to completing North Dakota's water infrastructure for economic growth and quality of life. Today I am submitting written comments and testimony in support of HB 1020.

In addition to the three large state owned projects; Southwest Pipeline Project, Northwest Area Water System, and the Red River Valley Water Supply Project, there currently are many smaller rural and regional projects in various stages of development. These projects include the expansion of South Central Regional Water District (SCRWD) into Emmons County, the further development of the North Central Rural Water Consortium, Traill Rural Water District's joint project with the communities of Mayville and Hillsboro, and upgrading the City of Washburn's treatment plant to become a regional supplier, in addition to many others – most of them located in the oil impacted areas of our state. The total cost of these smaller regional projects is nearly $170 million. (Please see attached spreadsheet).

These projects are designed to meet similar needs. Those needs include water quality and quantity. On the water quality side, the projects will help communities comply with non-funded

federal mandates required by the Safe Drinking Water Act, including arsenic levels, nitrates, uranium, and radon. Quality issues also include water very high in sodium, sulfates, iron, and manganese. On the quantity side, many families do not have a potable source of water and even in this day and age must haul water for their families and livestock.

Meeting the demands of repairing and replacing aging infrastructure is taking its toll on many small and rural water systems. Another major challenge facing rural and small water systems is the ever increasing rural to urban migration, which continues to decrease the population base and which adds to the cost to the individual consumer. Are people living in these sparsely populated areas any less deserving of quality water? Of course not, but it does offer a challenge in finding affordable ways to bring that water to them. I won't lie, these projects are expensive to fund and without any state funding the cost to the consumer is just too much for the average family to afford.

The money spent on water projects in the past has been an investment in the future of North Dakota. Every rural water system that has been built in our state is still operating. They are providing safe, clean water to their customers, reducing their debt, putting money in reserve, complying with every state and federal regulation, and doing so with a stable prudent rate structure. Not only do rural water systems serve rural customers, they also provide water to more than 300 communities and numerous subdivisions, campgrounds, and mobile home parks throughout the state.

With that said, the NDRWSA fully supports HB 1020 and urges a "do pass" recommendation. Thank you for giving me the opportunity to testify and provide written testimony on behalf of the members of the NDRWSA in support of HB 1020.

Project	Approx. Cost	Project Description
Rural/Regional Water Systems		
BDW Rural Water	$16,200,000	Crosby water plant improvements and service to approximately 8 communities
McKenzie County Rural Water	$12,830,000	Expand existing facilities to include additional 300 rural users and 20 industrial users
North Central Rural Water Consortium	$33,130,000	6 broad service areas which includes several rural users and small communities
North Prairie Rural Water District	$900,000	Improvements for service to Surrey
R&T Water Supply Association	$13,800,000	Increase water supply and transmission capacity; regional expansion
South Central Regional Water District	$50,000,000	Expansion into Emmons, Logan, Kidder, and McIntosh counties
Southeast Water Users District	$1,068,400	System expansion in north Richland County
State Line Water Cooperative	$325,000	Water storage expansion
Stutsman Rural Water District	$3,800,000	Expansion and transmission upgrade
Traill Rural Water District	$25,180,000	TRWD, Mayville, and Hillsboro regional project
Washburn Regional Water System	$4,164,000	Regional water treatment facility improvements
Williams Rural Water District	$8,525,000	Service to Wild Rose and Powers Lake areas and rural service in the Ray/Tioga area
TOTAL	**$169,922,400**	

Submitted by: Melody Kruckenberg, Executive Director
melkruck@ndrw.org

HB 1020
attachment # 19

Rural Water System Rates
January 21, 2009

SYSTEM	# of Users	Minimum Cost	Minimum Gal.	$/1000 Gal.	$/6000 Gal.	
Agassiz Water Users District	1330	$15.00	0	$4.50	$41.50	**
All Seasons Water Users System 1-4	722	$32.00	0	$5.00	$62.00	
All Seasons Water Users System 4 Phase 1&2	107	$42.00	0	$5.00	$72.00	
All Seasons Water Users System 5	480	$42.00	0	$5.00	$72.00	
Barnes Rural Water District	1380	$22.00	0	$4.00	$46.00	
Cass Rural Water District	3355	$24.00	0	$3.30	$43.80	
Central Plains Water District	756	$25.00	0	$3.50	$46.00	
Dakota Rural Water District	599	$30.00	0	$4.25	$55.50	
Dakota Rural Water District Expansion	188	$40.00	0	$4.25	$65.50	
Garrison Rural Water Association	466	$25.00	1000	$3.00	$40.00	
Grand Forks Traill Water District	2380	$24.50	0	$4.60	$52.10	
Greater Ramsey Water District	792	$30.00	0	$3.00	$48.00	
Greater Ramsey Water District Expansion Eddy/Foster	238	$42.00	0	$3.00	$60.00	
Greater Ramsey Water District Expansion	450	$42.00	0	$3.00	$60.00	
Greater Ramsey Water District Expansion Carrington	138	$42.00	0	$3.00	$60.00	
Langdon Rural Water District Phase I, II & III	680	$36.00	0	$4.50	$63.00	
Langdon Rural Water District Phase IV	263	$49.00	0	$4.50	$76.00	
Langdon Rural Water District Phase Cando Expansion	21	$45.00	0	$4.50	$72.00	
McKenzie Water Resource District	120	$42.00	0	$1.90	$53.40	
McLean Sheridan Rural Water	428	$41.00	0	$4.90	$70.40	
Missouri West Water System	1230	$35.00	0	$3.85	$58.10	
North Central Rural Water Consortium	340	$49.00	0	$4.60	$76.60	
North Prairie Rural Water District	1960	$37.00	0	$4.50	$64.00	
North Valley Water District	1375	$30.00	0	$4.70	$58.20	
R&T Water Supply Association	30	$17.00	0	$7.00	$59.00	
South Central Regional Water District	4133	$38.00	0	$5.00	$68.00	
Southeast Water Users District West	510	$45.00	0	$2.80	$61.80	
Southeast Water Users District Central	770	$45.00	0	$5.00	$75.00	
Southeast Water Users District East	1335	$26.00	2000	$4.00	$42.00	
Southwest Water Authority	2738	$39.45	2000	$3.65	$54.05	
State Line Water Cooperative	138	$25.00	0	$3.50	$46.00	
Stutsman Rural Water District	1200	$32.00	0	$3.50	$53.00	
Traill Rural Water District	744	$51.00	0	$5.00	$81.00	
Tri-County Water District	780	$33.00	0	$5.50	$66.00	
Tri-County Water District Expansion	97	$44.00	1000	$5.50	$71.50	
Upper Souris Water District	550	$24.00	0	$6.10	$60.60	
Walsh Rural Water District R1	1181	$31.00	0	$5.00	$61.00	
Walsh Rural Water District R2	11	$45.00	0	$5.00	$75.00	
Walsh Rural Water District R3	137	$48.00	0	$5.00	$78.00	
Walsh Rural Water District R4	15	$55.00	0	$5.00	$85.00	
Walsh Rural Water District C1	25	$42.00	0	$5.00	$72.00	
Walsh Rural Water District C2	3	$68.00	0	$5.00	$98.00	
Williams Rural Water District	1064	$35.00	0	$8.40	$85.40	
	35259					
Median		$38.00		$4.50	$61.80	
Average		$36.86		$4.45	$62.99	
** $4.50/1000 for 1st 5000 gallons & then $4.00/1000						

Testimony of Melody Kruckenberg, Executive Director

ND Rural Water Systems Association

House Bill 1020

Senate Appropriations Committee - Harvest Room – March 11, 2009

Chairman Holmberg and members of the committee, my name is Melody Kruckenberg. I am the executive director of the North Dakota Rural Water Systems Association (NDRWSA) which serves a membership of more than 250 cities, 28 rural/regional water systems, and four tribal systems.

As a member of the North Dakota Water Coalition, the NDRWSA is committed to completing North Dakota's water infrastructure for economic growth and quality of life. Today I am submitting written comments and testifying in support of a budget that allows for adequate funding to meet the critical water needs of North Dakota.

In addition to the three large state owned projects; Southwest Pipeline Project, Northwest Area Water System, and the Red River Valley Water Supply Project, there currently are many smaller rural and regional projects in various stages of development. Some examples of these projects are the expansion of South Central Regional Water District, the further development of the North Central Rural Water Consortium, Traill Rural Water District's joint project with the communities of Mayville and Hillsboro, and upgrading the City of Washburn's treatment plant to become a regional supplier, in addition to several others – many of them located in the oil impacted areas of our state. The total cost of these smaller regional projects for the next biennium is more than $207 million. (Please see attached spreadsheet and project summaries).

These projects are designed to meet similar needs. Those needs include water quality and quantity. On the water quality side, the projects will help communities

comply with non-funded federal mandates required by the Safe Drinking Water Act, including arsenic levels, nitrates, uranium, and radon. Quality issues also include water very high in sodium, sulfates, iron, and manganese. On the quantity side, many families do not have a potable source of water and even in this day and age must haul water for their families and livestock.

Meeting the demands of repairing and replacing aging infrastructure is taking its toll on many small and rural water systems. Another major challenge facing rural and small water systems is the ever increasing rural to urban migration, which continues to decrease the population base and which adds to the cost to the individual consumer. Are people living in these sparsely populated areas any less deserving of quality water? Of course not, but it does offer a challenge in finding affordable ways to bring that water to them. I won't lie, these projects are expensive to fund and without any state funding the cost to the consumer is just too much for the average family to afford.

The money spent on water projects in the past has been an investment in the future of North Dakota – an investment in economic development and quality of life for our citizens. Every rural water system that has been built in our state is still operating. They are providing safe, clean water to their customers, reducing their debt, putting money in reserve, complying with every state and federal regulation, and doing so with a prudent rate structure; albeit higher than most municipalities charge (see attached rate survey). Rural folks are willing to pay higher rates for clean safe water. Not only do rural water systems serve rural customers, they also provide water to more than 300 communities and numerous subdivisions, campgrounds, and mobile home parks throughout the state.

I am fairly new to the water development funding process, and perhaps naïve, however; I am frustrated to see that water development funding in ND is completely dependent on oil extraction taxes and tobacco settlement funds. Here we are with a surplus of more than $1 billion, but due to the drop in oil prices, water development is set to receive fewer dollars than in recent past bienniums. The infusion of stimulus package funding for water will of course be helpful, but even that is just a drop in the bucket compared to the actual need we have in our state.

With that said, the NDRWSA supports a budget that allows for adequate funding to meet the critical water needs of North Dakota. Thank you for giving me the opportunity to provide written testimony on behalf of the members of the NDRWSA.

Project	Approx. Cost	Project Description
Rural/Regional Water Systems		
Barnes Rural Water District	$5,750,000	Water treatment plant expansion and reservoir upgrades
BDW Rural Water	$16,200,000	Crosby water plant improvements and service to approximately 8 communities
Cass Rural Water Users District	$12,200,000	Well field and treatment plant expansion; elevated storage tank
Central Plains Water District	$2,800,000	Reservoir improvements
McKenzie County Rural Water	$13,100,000	Expand existing facilities to include additional 300 rural users and 20 industrial users
North Central Rural Water Consortium	$27,400,000	7 broad service areas which includes several rural users and small communities
North Prairie Rural Water District	$7,200,000	Reservoir improvements to serve the NCRW Consortium and a line to Surrey
North Valley Water District	$2,000,000	Pipeline and meter replacement
R&T Water Supply Association	$18,500,000 **	Regional water transmission pipeline from Williston
South Central Regional Water District	$50,000,000	Expansion into Emmons, Logan, Kidder, and McIntosh counties
Southeast Water Users District	$1,068,400	Pump station modification and additional storage
State Line Water Cooperative	$325,000	Water storage expansion
Stutsman Rural Water District	$12,800,000	Expansion and transmission upgrade
Traill Rural Water District	$25,180,000	TRWD, Mayville, and Hillsboro regional project
Washburn Regional Water System	$4,164,000	Regional water treatment facility improvements
Williams Rural Water District	$8,525,000	Service to Wild Rose and Powers Lake areas and rural service in the Ray/Tioga area
TOTAL	**$207,212,400**	

** an alternative plan would upgrade the current water treatment plant and would cost $7.6 million

Submitted by: Melody Kruckenberg, Executive Director
melkru[illegible]rw.org

Rural Water System Rates
March 9, 2009

SYSTEM	# of Users	Minimum Cost	Minimum Gal.	$/1000 Gal.	$/6000 Gal.	
Agassiz Water Users District	1330	$15.00	0	$4.50	$41.50	**
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Langdon Rural Water District Phase IV	263	$53.00	0	$4.80	$81.80	
Langdon Rural Water District Phase Cando Expansion	21	$49.00	0	$4.80	$72.00	
McKenzie Water Resource District	120	$42.00	0	$1.90	$53.40	
McLean Sheridan Rural Water	428	$41.00	0	$4.90	$70.40	
Missouri West Water System	1230	$35.00	0	$4.27	$60.62	
North Central Rural Water Consortium	340	$49.00	0	$4.60	$76.60	
North Prairie Rural Water District	1960	$37.00	0	$6.00	$73.00	
North Valley Water District	1375	$30.00	0	$4.70	$58.20	
R&T Water Supply Association	35	$17.00	0	$4.00	$41.00	
South Central Regional Water District	4133	$38.00	0	$5.00	$68.00	
Southeast Water Users District West	510	$45.00	0	$2.80	$61.80	
Southeast Water Users District Central	770	$45.00	0	$5.00	$75.00	
Southeast Water Users District East	1335	$26.00	2000	$4.00	$42.00	
Southwest Water Authority	3228	$41.10	2000	$3.65	$55.70	
State Line Water Cooperative	138	$25.00	0	$4.00	$49.00	
Stutsman Rural Water District	1200	$32.00	0	$3.50	$53.00	
Traill Rural Water District	744	$51.00	0	$5.00	$81.00	
Tri-County Water District	780	$33.00	0	$5.50	$66.00	
Tri-County Water District Expansion	97	$44.00	1000	$5.50	$71.50	
Upper Souris Water District	550	$24.00	0	$6.10	$60.60	
Walsh Rural Water District R1	1181	$31.00	0	$5.00	$61.00	
Walsh Rural Water District R2	11	$45.00	0	$5.00	$75.00	
Walsh Rural Water District R3	137	$48.00	0	$5.00	$78.00	
Walsh Rural Water District R4	15	$55.00	0	$5.00	$85.00	
Walsh Rural Water District C1	25	$42.00	0	$5.00	$72.00	
Walsh Rural Water District C2	3	$68.00	0	$5.00	$98.00	
Williams Rural Water District	1064	$35.00	0	$8.40	$85.40	
	35754					
Median		$40.00		$4.70	$61.80	
Average		$37.18		$4.46	$63.21	
** $4.50/1000 for 1st 5000 gallons & then $4.00/1000						

RURAL/REGIONAL WATER PROJECTS
SUBMITTED BY
NORTH DAKOTA RURAL WATER SYSTEMS ASSOCIATION

Barnes Rural Water District

Barnes Rural Water is located in the Valley City area and provides service to nearly 1400 users. This system has plans for numerous projects including a water treatment plant expansion and upgrades to several reservoirs. These projects could be ready to go within 90-120 days since no further environmental studies need to be done due to the fact that they are located in prior disturbed areas (categorical exclusion). The cost of these system improvements is approximately $5.75 million.

Burke-Divide-Williams Water System or BDW Water

This area is rich in natural resources such as oil, coal, and coal bed methane; however it has been difficult to attract new industry since they are in dire need of quality water. BDW was formed under a joint powers agreement between the communities of Crosby, Noonan, Fortuna, and Columbus. Additional communities and rural customers will be added as the opportunity arises. Phase I of this project involves upgrading the existing Crosby water treatment plant, which will be the water source for the area. The projected cost of this entire project is $16.2 million. The system feels this project would be ready to go within 180 days.

Cass Rural Water Users District

Cass Rural Water is one of the largest rural water systems in the state serving approximately 3350 users in eastern ND. They have several upcoming projects that could be done in a short time frame, including a transmission line from Kindred to Casselton, well field and water treatment plant expansion, and a new elevated water storage tank. Total projected cost is $12.2 million.

Central Plains Water District

Central Plains Water District is located mainly in Wells County and serves approximately 760 users. They are also one of the major suppliers of water for the North Central Rural Water Consortium. This system is in need of numerous reservoir improvements totaling $2.8 million. These improvements are shovel-ready within 90-120 days.

McKenzie County Rural Water

McKenzie County Rural Water is located in the Watford City area where they are experiencing tremendous growth countywide. This is a small rural water system that currently serves approximately 120 users. However, with the large new workforce moving into the area they have the opportunity to immediately expand their Watford City service area and have received requests for more than 50 new users in the past 8 months alone. They also have expansion plans for the Keene, Charlson, and Johnson's Corner Service Area and to the rural area surrounding the community of Alexander. All told, their expansion would add approximately 300 domestic use connections and 20 industrial and commercial users. Estimated project cost that could be ready to go within 180 days is close to $8.6 million, with another $4.5 million ready to go within a year.

North Central Rural Water Consortium II

The NCRWC was formed under a joint powers agreement between Central Plains Water District and North Prairie Rural Water District to develop the expansion of rural water service in the areas surrounding and between their respective districts. They currently serve close to 400 users with that number expected to more than double in 2009. Their targeted service area spans from the Ft. Berthold reservation on the west to the Spirit Lake Nation on the east. They currently have several projects in various stages of development and estimate that projects totaling approximately $3.1 million could be shovel-

ready within 45 days, $10.8 million within 120 days, $4.3 million within 145 days and $9.2 million within 180 days.

North Prairie Rural Water District

NPRWD is one of the oldest rural water systems in ND and as is the case with most of the older systems, their infrastructure is deteriorating and needs replacing and/or upgrading. They serve close to 2100 individual connections, 4 bulk users in the Minot area and are one of the major suppliers to the North Central Rural Water Consortium. They are currently seeking funding for system improvements for their service line to the City of Surrey in the amount of $900,000 and also have numerous reservoirs that are in dire need of upgrading. These improvements total $6.3 million and could be ready to go within 90-120 days as they are in prior disturbed areas.

North Valley Water District

North Valley Water District is located in the far northeastern part of the state and serves 1350 customers. This system is over 35 years old and would like to undergo a pipeline and meter replacement project that would cost approximately $2.0 million. This project could be ready to go within 180 days.

R & T Water Supply Association

R & T was originally created in the late 1970s to meet the water needs of the cities of Ray and Tioga and the surrounding region. In 1988 they began service to the Hess Tioga Gas Plant and then expanded their service area to the city of Stanley in 1993. In addition to these 4 bulk users, they provide service to 37 rural users. The past few years they have had to frequently implement water rationing measures due to limited water supply, treatment, and transmission capacity. Over the next year or so, the City of Stanley is expecting energy companies to bring in nearly 1000 new residents and Ray and Tioga are also

expecting a large influx of new residents. This project would construct a regional water transmission pipeline from the City of Williston which would enable R & T to better serve their existing users as well as provide service to additional nearby communities such as Wild Rose, Ross, Powers Lake, and White Earth. This project is in the preliminary design phase and it is probably closer to a year before it is ready to go. The total cost is estimated at $18.50 million. An alternative plan is to upgrade the current plant and transmission lines at a cost of about $7.6 million.

South Central Regional Water District

SCRWD, which was formerly known as Burleigh Water Users Cooperative was originally formed to provide water service to the rural areas surrounding Bismarck. They currently serve over 4150 rural connections and 12 bulk users. In 2002, South Central's visionary board made a decision to expand and serve the unmet water needs in south central ND. They began implementing their project in 2005 and have been going full speed ahead ever since. They are currently expanding in Burleigh and Emmons Counties and plan to move into Logan, McIntosh, and Kidder Counties. Their targeted completion date is in 2014. So, as you can see, this is a long-term ongoing project. The projected remaining total cost is $50 million; however, projects totaling approximately $30.7 million could be ready to go within 180 days. 7 additional communities as well as 1900 individual connections will be added.

Southeast Water Users District

Southeast Water is a large regional system that serves over 2700 rural users and 27 bulk connections. They need to modify two pump stations and add more storage capacity due to increased requests for water service by concerned rural residents since many wells in the area are exceeding the current MCL of

10 ppb for arsenic. The cost of this is around $1.0 million and could be ready to go within 180 days.

Stateline Water Cooperative

Stateline is a small rural water provider that currently serves 135 connections. Due to the prolonged drought in this part of the state and increasing demands throughout the system, insufficient water supply is available during peak demand periods. They are looking for funding for a 50,000 gallon storage tank near Hague as well as a new booster station. The projected cost is $325,000 and this project could be ready to go within 90 days.

Stutsman Rural Water District

SRWD provides rural water service to 1200 individual connections and 2 bulk users in the area surrounding Jamestown. They currently have the opportunity to add service to 3 housing developments and a campground. They are also in need of some general system improvements. The total cost is approximately $12.8 million, with about $3.8 million ready to go within 180 days.

Traill Regional Water Supply Project

This is a project involving Traill Rural Water District and the communities of Hillsboro and Mayville. All three of these water systems are experiencing challenges that need to be addressed soon. This project involves the development of a new well field, the construction of a new regional water treatment plant at Hillsboro, and the optimization of Mayville's existing water treatment plant. Due to Senator Dorgan's help, funding has been secured for the 1st phases of this project; however, the total remaining cost of this project is nearly $20.0 million of which nearly half could be spent within 180 days and the remaining half of the project could be shovel-ready within about a year.

Washburn Regional Water System

The city of Washburn's water system currently serves its 1400 residents as well as the McLean-Sheridan Rural Water District which in turn serves the communities of Coleharbor, McClusky, and Turtle Lake as well as 600 rural households in the area. This project is to rehabilitate and expand the capacity of their existing water treatment facility that is fast approaching the end of its functionality. The city now needs approximately $4.0 million to complete this project and it could be ready to go within 180 days.

Williams Rural Water District

Williams Rural Water District was originally formed to provide rural water service to the Williston area and since that time they have gone through several expansion projects. They currently serve close to 1100 connections. This area is experiencing significant growth and has recently received requests for water service to over 200 new homes in its western service area. This portion of the system cannot handle that type of expansion without significant distribution and pump system improvements. They also have plans to expand service to Wild Rose, Powers Lake and rural Ray/Tioga. This project would cost approximately $8.53 million with about $1.0 million ready to go within 180 days.

HB1020 attachment 6

Education and Environment Division of the House Appropriation Committee - House Bill 1020 - January 21, 2009

Testimony of Bob Schempp, Chairman of the NAWS Advisory Committee appearing in favor of House Bill 1020

Mr. Chairman and members of the Committee:

I'm Bob Schempp from Minot and I'm appearing on behalf of the NAWS Advisory Committee in favor of House Bill 1020.

Last Friday, the Bureau of Reclamation completed the final step of their NAWS Environmental Impact Statement by signing a Record of Decision which lists the Bureau's preferred method of treatment for Missouri River water and which describes the distinct lack of adverse impact NAWS water will have upon Canada.

Bureau approval came almost 50 years after the City of Minot decided not to construct a $12 million pipeline to the Garrison Reservoir. Rather than build the 47 miles of what was then thought to be a very expensive pipe, the City Council accepted a consultants recommendation to develop well sites upstream in the Souris River valley.

Needless to say, that recommendation didn't work and the City continued to mine and over develop the Minot aquifer.

In the late 60's the Sundre aquifer was discovered and in 1975 the City contracted with the Bureau for in "interim" transmission line from the Sundre as a part of the Garrison Diversion project. That system was designed to connect to an irrigation canal and a man made lake that would provide water to Minot.

Eleven years later, our water supply direction was changed by adoption of the Garrison Reformulation Act. So, in 1987 we again began looking south for our ultimate water supply solution.

In 1999 Minot and the ND State Water Commission approved an agreement for payment of the local share of the NAWS project by the City of Minot.

And, on April 5, 2002 ground was broken.

Now, a half century after we first considered use of the abundant water supply of Lake Sakakawea, pipe is in the ground between Minot and the reservoir, Berthold is being served by NAWS -with City of Minot water, through a NAWS pipeline - and a contract has been awarded to serve Kenmare and the Upper Souris Rural Water District.

In fact, much of the pipe necessary to serve NAWS communities and Rural Water Districts will have been built or will be under construction by 2010.

But we aren't out of the woods yet.

NAWS next step will be to request that a federal judge lift a court injunction that has been holding up construction on the treatment portion of the project. When the injunction is lifted, work on design of the intake structure, storage reservoir and treatment plant at Max will begin immediately.

None of the work on NAWS would have been possible without the assistance and direction of the ND State Water Commission.

The Commission-and its employees-are extremely important to water management and development throughout the state of North Dakota.

It follows that adequate funding for the Water Commission is also extremely important.

On behalf of the NAWS Advisory Committee, I'm pleased to support adoption of House Bill 1020.

Thank you for the opportunity. If you have any questions, I'll try to answer them.

HB 1020 attachment # 7

HOUSE APPROPRIATIONS-EDUCATION and ENVIROMENT
HOUSE BILL 1020
JANUARY, 21 2009

Good afternoon. My name is Alan Lee. I am the Mayor of Berthold as well as one of the original members of the NAWS advisory steering committee.

I am here to speak in support of continued funding of the NAWS project. First I would like to thank the Legislature for their past strong support of this much needed service for our communities. The North Dakota legislature and Governor have long been strong proponents of helping to get water to our rural communities. For that I thank you.

The City of Minot has put in place a dedicated 1 percent sales tax to fund the local share of the NAWS project. This dedicated money is critical to the project and being able to demonstrate local support and a means of debt service. I also am extremely grateful to the citizens of Minot and the Minot City council for this strong support.

We are extremely fortunate to also have a very dedicated and active delegation in the US Congress. They also have been and are working very hard to not only get but to increase the money for water projects. They also deserve our total thanks for their long term efforts.

The bottom line is that this is like a three legged stool and without the full support of all three legs, the State, the Federal, and the Local this project will stop.

Berthold had the honor of being the first community to be hooked up to the NAWS system. We had the ribbon cutting in September of 2008. It has been a really good experience. In my being Mayor for over 20 years, I have never had anything that increased the local cost, and yet never received a single complaint over that event. I have had a lot of residents say thanks and none saying no-thanks.

This was so important a very important step for our rural community, because until there was a transmission line in place there would never be an opportunity to get water to our rural area. A project that many of us have been working on since 1976, and finally see a glimmer of hope that it too can come to completion.

Right now on my farm, my well is over 700 feet deep, a new well, and it will not pump enough water to take care of a household without having a surge tank. I have two neighbors with cattle (one has two wells each over 700 feet deep) that are presently hauling water from Berthold for their cattle. As well we have many rural people haul water year round from Berthold for their home use.

Berthold is not any exception, and all the communities in the Northwest North Dakota that are signed up for NAWS water will tell you similar stories.

With that I would like to thank you for your past support and urge your strong future support. It is critical and one of the best economic development tools you can put out there.

Alan Lee
Berthold N. Dak.
701-453-3636

Senate Appropriation Committee - House Bill 1020 – March 11, 2009
Testimony of Bob Schempp, Chairman of the NAWS Advisory Committee in favor of House Bill 1020.

Last month, the Bureau of Reclamation completed their NAWS Environmental Impact Statement, which described the distinct lack of adverse impact that NAWS will have upon Canada. Bureau approval came almost 50 years after the City of Minot decided not to construct a water pipeline to the Garrison Reservoir. Rather than build what was then thought to be a very expensive pipe, the City continued to mine and over develop the Minot aquifer.

In 1975 the City contracted with the Bureau for in "interim" transmission line from the Sundre aquifer as a part of the Garrison Diversion project. The 1987 the Garrison Reformulation Act again changed our water supply direction and we began looking south for our ultimate water supply solution. In 1999 Minot and the ND State Water Commission agreed upon payment for the local share of NAWS. And, on April 5, 2002 ground was broken.

Now, pipe is in the ground between Minot and the reservoir, Berthold is being served by NAWS and a contract has been awarded to serve Kenmare and the Upper Souris Rural Water District. In fact, much of the pipe necessary to serve NAWS communities and Rural Water Districts will have been built or will be under construction within the next two years.

The next step will be to remove the injunction that has been holding up construction on the treatment portion of the project. And, based upon the number of attorneys that have taken notice of NAWS, we must be getting close to success.

NAWS would not have been possible without the assistance and direction of the ND State Water Commission. The Commission, and its employees, are extremely important to water management and development throughout the state of North Dakota. It follows that adequate funding for the Water Commission is also extremely important.

On behalf of the NAWS Advisory Committee, I'm pleased to support adoption of House Bill 1020. Thank you for the opportunity to file this testimony on behalf of continued water development in North Dakota.

TESTIMONY BY ALAN LEE
SENATE APPROPREATIONS COMMITTEE
SENATE BILL 1020
MARCH 11, 2009
CHAIRMAN HOLMBERG-VICE CHAIRMAN BOWMAN

Good morning. MY name is Alan Lee. I am the Mayor of Berthold as well as one of the original members of the NAWS advisory steering committee.

I am here to speak in support of continued full funding of the NAWS project. The North Dakota legislature and Governor have long been strong proponents of helping to get water to our rural communities.

The City of Minot has put in place a dedicated 1% sales tax to fund the local share of the NAWS project. This dedicated money is critical to the project and enables it to demonstrate not only local support; but also a means of debt service for the local share. The citizens of Minot and the Minot City council have signaled their strong continuing support for completing this project.

We are extremely fortunate to also have a very dedicated and active delegation in the US Congress. They also have been and are working very hard to not only get but to increase the money for water projects.

You all deserve and have our thanks for this much appreciated financial commitment.

Water projects such as the NAWS that I am testifying in support are like three legged stools. The bottom line is that without the full support of all the legs of this stool; the State, the Federal, and the Local this project will be forced to stop.

Berthold recently had the honor of being the first community to be hooked up to the NAWS system. We had the ribbon cutting in September of 2008. It has been a really good experience. In my being Mayor for over 20 years, I have never had anything that increased the local cost, and yet never received a single complaint over that event. I have had many of the residents stop me and say thanks.

This was so important for our community, because until there is a transmission line in place there will never be an opportunity to get a distribution system to supply our rural farms and homes. A project that many of us have been working on since 1976.

Right now on my farm, my well is over 700 feet deep, it is a new well, and yet it will not pump enough water to take care of a household without having a storage tank. I have two neighbors with cattle that are presently hauling water from Berthold for their cattle. As well we have many rural people haul water year round from Berthold for their home use.

Berthold is not any exception, and all of the communities in Northwestern North Dakota can tell you similar stories. The point I want to make here is that there are several water projects under way. They are all important and with full funding they can be brought closer to completion.

Water is one of the most basic economic development tools the state has at its discretion. I would urge you to make sure the necessary funding is in place for these projects that are so important to the states continued economic growth and well being.

With that on behalf of the NAWS Advisory Committee and all of the communities in North West North Dakota I would like to thank you for your past support and urge your strong future support.

Alan Lee
Berthold N. Dak.
701-453-3636

HB 1020 attachment # 13
January 21, 2009

Testimony of Delmar Schramm to House Appropriations
Education and Environment Subcommittee
Delmar Schramm, Mayor of Hazen

Good morning Mr. Chairman and members of the committee. My name is Delmar Schramm. June will mark my third year as the mayor of Hazen. Hazen has voted to contract with the Southwest Water Authority for Southwest Pipeline Project water and is anticipating the arrival of water soon. This decision was made by the city council after several public meetings were held, which were open to the community. Most of Hazen's citizens are very happy with the decision to receive Southwest Pipeline Project water, and they are anticipating a better quality of life.

Right now, the city of Hazen carries a huge liability for the water supply we are providing. Hazen's water treatment plant is relatively new and has been updated in recent years to keep up with the regulations and requirements outlined by the Environmental Protection Agency. By making the decision to change our water supply, we are also choosing to get out of the water treatment business. It will be more efficient in the long run if everyone in Mercer County receives their water from one water treatment plant. It will also be less expensive, as more upgrades to the water treatment plant will need to be made and new wells will have to be dug.

Receiving water from the Southwest Pipeline Project means Hazen will no longer have to pump water, which will save electricity and pump wear. This is a benefit to cities that receive water from the Project. Rural distribution networks need sufficient pressure to serve all the rural areas, and as a result, the cities will have enough pressure to fill their reservoirs. Also, we will no longer have to budget or reserve money for water treatment plant upgrades, and the city's fire protection will be improved.

Hazen's treatment plant does not soften the water and our water is much harder than we would like to see. Therefore, we soften the water in our homes to keep our toilets, sinks and bathtubs clean. The city water is filtered when it first comes into the house, then it is softened and run through a final filter before we drink it. We really do not like drinking distilled water or reverse osmosis water.

We use several chemicals to keep our fixtures clean, and all of those chemicals ultimately go into the lagoon. Environmentally, we will be "greener" with our new water supply.

We will all need to learn how to manage the new water once it becomes available. If we take everything into consideration, like our health, less wear-and-tear on our homes and water heaters and improving the environment, changing our water supply is truly what's best for our future. Please support House Bill 1020.

HB 1020 attachment # 14
January 21, 2009

Testimony of Don Albers to House Appropriations
Education and Environment Subcommittee
Don Albers, Former Oliver County Commission Chairman

Good morning Mr. Chairman and members of the committee. My name is Don Albers. I am a retired Rural Mail Carrier. I spent 15 years on the Center Public School Board, many of those years as the President of the Board and 16 years on the Oliver County Commission, again many of them as the Chairman of the Commission. I have been active in the community and county promoting economic development and growth of our rural county.

My wife and I live in Center, North Dakota. We use water the City of Center provides, which comes from wells. The water is very hard and we have a considerable amount of lime build-up on fixtures.

We own and rent grazing land that doesn't have access to a sufficient source of quality water. In fact, many of the rural areas near and around Center have a difficult time getting a sufficient amount of water at all!

My daughter, Carla Anderson, lives in rural Oliver County, less than a mile from the City of Center. Carla and her family experience, every day, a difficult time getting sufficient water for basic needs. Imagine showering or bathing with a very limited amount of water flowing from the faucet. Imagine pulling laundry from your dryers in which you have used detergent, fabric softeners, Clorox and Bounce and it still smells like rotten eggs.

Carla and her neighbor have seen dermatologists for issues they have with dry and cracking skin. The dermatologists believe their skin problems are largely due to the poor quality of their water. They struggle to keep their skin from extreme

dryness and cracking. Carla uses expensive soaps and special creams but still experiences pain and soreness on her face and skin. In addition, special shampoos and cream rinses are required to maintain hair color. The two families have water softening systems and filters, but the systems are not enough to counteract the harshness of the water.

According to my daughter, their well has to be treated with Clorox several times a year to prevent a rotten egg smell in their homes and on their clothes. All the fixtures in their homes, like the toilets, sinks, showers, bathtubs, dishwasher and washing machine are scaled and yellowed and have to be replaced more often than those of us who have treated water. If they buy white or light colored clothing, they have to find other means to wash it because their water discolors and spots anything that is light colored. Features like ice makers and ice water dispensers on refrigerators are things one doesn't even consider using. The water that is humanly consumed in my daughter's home is bottled water. Their guests have to be informed that they <u>should not</u> drink water from the tap.

When our daughter waters her yard, shrubbery and flowers, high potency chemicals need to be used to clean the discoloration off the surrounding structures. The lack of water pressure does not provide means to adequately water the lawn, a garden or even wash a car.

My daughter, Carla, and I worked very hard to encourage the City of Center to agree on the Southwest Pipeline Project through a vote of our citizens. We designed and presented a brochure to the residents which gave factual information about the Southwest Pipeline Project, outlining cost comparisons between rural water and city water.

We would really like to have, and really need, safe, consumable drinking water. We are not alone. Rural water would enhance the economic growth of rural communities and counties. If we want to promote growth in rural America, namely North Dakota, we need to have the basic systems in place that will attract people to our great State. Good quality and safe drinking water is the most basic essential we could offer.

Please Support Developing Statewide Water Infrastructure and House Bill #1020.

10

Testimony by Mary Massad, Manager/CEO
Southwest Water Authority
to the
Senate Appropriations Committee
Hearing on House Bill 1020

Bismarck, ND
March 11, 2009

Good morning Mr. Chairman and members of the committee. My name is Mary Massad. I am the Manager/CEO of the Southwest Water Authority. I am speaking in favor of providing adequate funding for critical water infrastructure needs throughout North Dakota.

The Southwest Water Authority manages, operates and maintains the Southwest Pipeline Project for the people of the state of North Dakota. The Southwest Pipeline Project (SWPP) is the first large multi-county regional rural water project developed in the state. We serve more than 3,300 rural customers, 28 communities, 14 small businesses, 13 raw water contract customers and Perkins County Rural Water System. The current North Dakota population served by our system is approximately 35,032.

Construction is now being completed on Phase III of the Medora Beach Service Area. There are currently five contracts under construction in this area. These five contracts will provide water service to an additional 487 customers through more than 480 miles of pipeline, two booster pump stations and a potable water reservoir.

The legislature created the Southwest Water Authority to provide for the supply and distribution of water to the people of southwestern North Dakota and to provide for the future economic welfare and prosperity of the people of the state. Water infrastructure is critical to the meet those needs.

You heard from Don Albers about both the city of Center's needs as well as rural needs in the Oliver, Mercer, North Dunn Regional Service Area. I also have written testimony for you from the Mayor of Hazen speaking on behalf of that community's needs.

The need for an adequate supply of quality water is still out there.

Looking to the future, the ultimate goal is to reach out to those who patiently wait for project completion. This includes the last regional phase of construction, the Oliver, Mercer, North Dunn (OMND) Regional Service Area. The Authority saw the completion of sign up campaigns for cities, power plants and rural customers in this region. The Preliminary Engineering Report of the OMND Regional Service Area was completed this past December.

The scope of work for the OMND project will include construction of:

- A new membrane water treatment plant 7 miles north of Zap.
- 5 new water storage tanks & 4 booster stations.
- 1,000+ miles of pipe varying in size from 1½" to 18" diameter & associated appurtenances.
- The design flow rate which is based on current signups and future signups is 3,350 gpm.

The OMND project will serve:

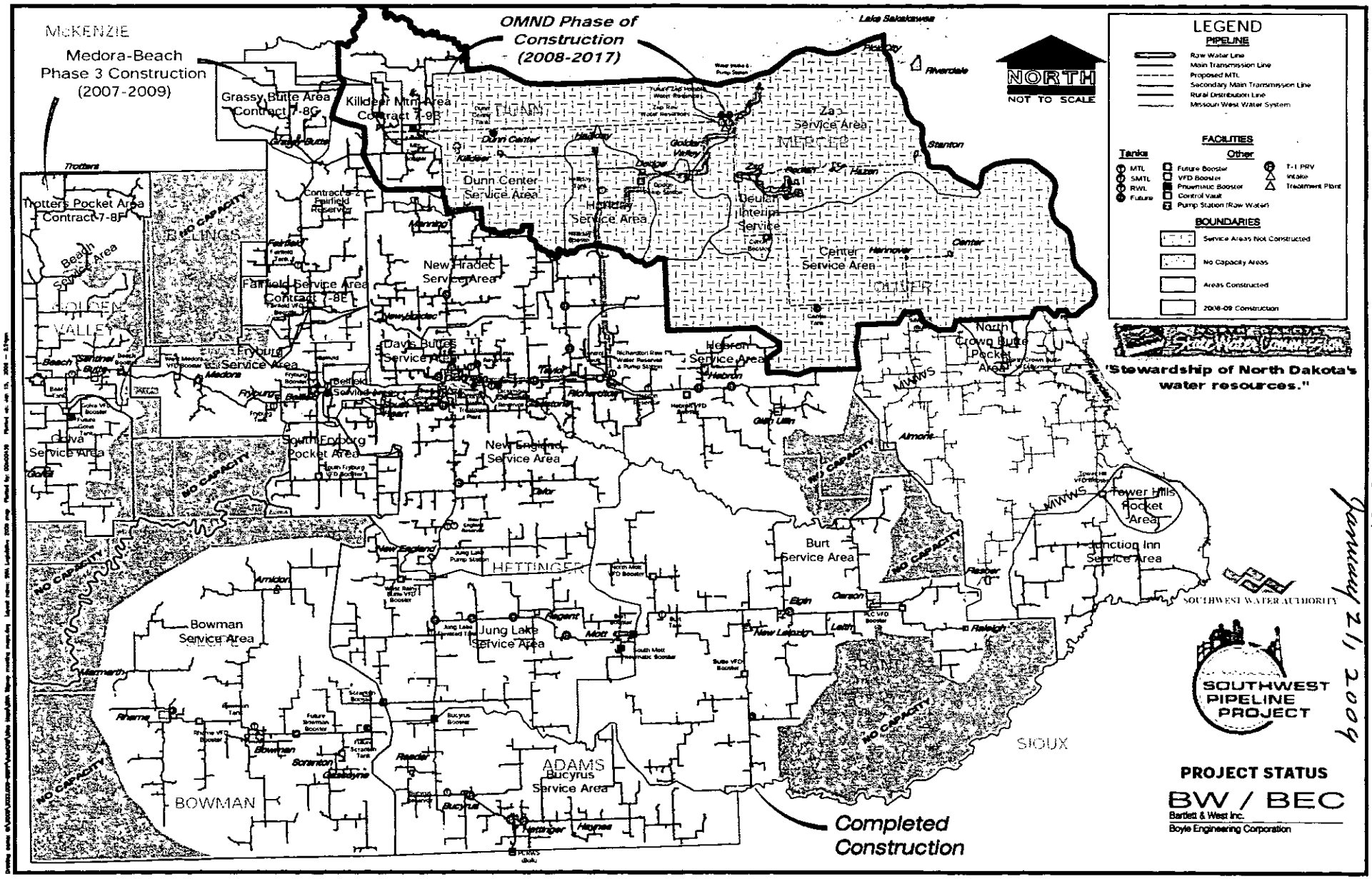
- 1,100+ rural residences.
- Cities of Hazen, Stanton, Center, Pick City and Zap.
- Possible inclusion of capacity for Killdeer and Beulah.

- 7 energy sector users which include: Dakota Gasification, Coteau Mine, Antelope Valley Station, Leland Olds, Coyote, Minnkota and Great River Energy power plants.
- 5 bulk users which include: Lakeshore Estates, Ole Johnson Dairy, Sakakawea Casino, Beulah Park and the Missouri West Water System.

The cities of Golden Valley, Dunn Center, Halliday and Dodge are currently being served by the SWPP from the Dickinson water treatment plant but will be switched over to the new OMND water treatment plant once the necessary facilities have been constructed.

Total estimated project costs to complete the Oliver, Mercer, North Dunn Regional Service Area are approximately $95 million.

The needs are still out there and they are no less important than those who already are provided water service through our system. To meet both present and future needs for vital water infrastructure, please adequately fund water projects state wide. Thank you.



HB 1020
Attachment #13a
January 21, 2009

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Testimony by Don Albers
to the
Senate Appropriations Committee
Hearing on House Bill 1020

Bismarck, ND
March 11, 2009

Good morning Mr. Chairman and members of the committee. My name is Don Albers. I am a retired Rural Mail Carrier. I spent 15 years on the Center Public School Board, many of those years as the President of the Board and 16 years on the Oliver County Commission, again many of them as the Chairman of the Commission. I have been active in the community and county promoting economic development and growth of our rural county.

My wife and I live in Center, North Dakota. We use water the city of Center provides, which comes from wells. The water is very hard and we have a considerable amount of lime build-up on fixtures.

We own and rent grazing land that doesn't have access to a sufficient source of quality water. In fact, many of the rural areas near and around Center have a difficult time getting a sufficient amount of water at all!

My daughter, Carla Anderson, lives in rural Oliver County, less than a mile from the city of Center. Carla and her family experience, every day, a difficult time getting sufficient water for basic needs. Imagine showering or bathing with a very limited amount of water flowing from the faucet. Imagine pulling laundry from your dryers in which you have used detergent, fabric softeners, Clorox and Bounce and it still smells like rotten eggs.

Carla and her neighbor have seen dermatologists for issues they have with dry and cracking skin. The dermatologists believe their skin problems are largely due to the poor quality of their water. They struggle to keep their skin from extreme dryness and cracking. Carla uses expensive soaps and special creams but still experiences pain and soreness on her face and skin. In addition, special shampoos and cream rinses are required to maintain hair color. The two families have water softening systems and filters, but the systems are not enough to counteract the harshness of the water.

According to my daughter, their well has to be treated with Clorox several times a year to prevent a rotten egg smell in their homes and on their clothes. All the fixtures in their homes, like the toilets, sinks, showers, bathtubs, dishwasher and washing machine are scaled and yellowed and have to be replaced more often than those of us who have treated water. If they buy white or light colored clothing, they have to find other means to wash it because their water discolors and spots anything that is light colored. Features like ice makers and ice water dispensers on refrigerators are things one doesn't even consider using. The water that is humanly consumed in my daughter's home is bottled water. Their guests have to be informed that they <u>should not</u> drink water from the tap.

When our daughter waters her yard, shrubbery and flowers, high potency chemicals need to be used to clean the discoloration off the surrounding structures. The lack of water pressure does not provide means to adequately water the lawn, a garden or even wash a car.

My daughter, Carla, and I worked very hard to encourage the city of Center to agree on the Southwest Pipeline Project through a vote of our citizens. We designed and presented a brochure to the residents which gave factual information

about the Southwest Pipeline Project, outlining cost comparisons between rural water and city water.

We would really like to have, and really need, safe, consumable drinking water. We are not alone. Rural water would enhance the economic growth of rural communities and counties. If we want to promote growth in rural America, namely North Dakota, we need to have the basic systems in place that will attract people to our great State. Good quality and safe drinking water is the most basic essential we could offer.

Please support a budget that allows for adequate funding to meet the critical water needs for the entire state of North Dakota.

Testimony by Delmar Schramm
to the
Senate Appropriations Committee
Hearing on House Bill 1020

Bismarck, ND
March 11, 2009

Good morning Mr. Chairman and members of the committee. My name is Delmar Schramm. June will mark my third year as the mayor of Hazen. Hazen has voted to contract with the Southwest Water Authority for Southwest Pipeline Project water and is anticipating the arrival of water soon. This decision was made by the city council after several public meetings were held, which were open to the community. Most of Hazen's citizens are very happy with the decision to receive Southwest Pipeline Project water, and they are anticipating a better quality of life.

Right now, the city of Hazen carries a huge liability for the water supply we are providing. Hazen's water treatment plant is relatively new and has been updated in recent years to keep up with the regulations and requirements outlined by the Environmental Protection Agency. By making the decision to change our water supply, we are also choosing to get out of the water treatment business. It will be more efficient in the long run if everyone in Mercer County receives their water from one water treatment plant. It will also be less expensive, as more upgrades to the water treatment plant will need to be made and new wells will have to be dug.

Receiving water from the Southwest Pipeline Project means Hazen will no longer have to pump water, which will save electricity and pump wear. This is a benefit to cities that receive water from the Project. Rural distribution networks need sufficient pressure to serve all the rural areas, and as a result, the cities will have

enough pressure to fill their reservoirs. Also, we will no longer have to budget or reserve money for water treatment plant upgrades, and the city's fire protection will be improved.

Hazen's treatment plant does not soften the water and our water is much harder than we would like to see. Therefore, we soften the water in our homes to keep our toilets, sinks and bathtubs clean. The city water is filtered when it first comes into the house, then it is softened and run through a final filter before we drink it. We really do not like drinking distilled water or reverse osmosis water.

We use several chemicals to keep our fixtures clean, and all of those chemicals ultimately go into the lagoon. Environmentally, we will be "greener" with our new water supply.

We will all need to learn how to manage the new water once it becomes available. If we take everything into consideration, like our health, less wear-and-tear on our homes and water heaters and improving the environment, changing our water supply is truly what's best for our future.

Please support a budget that allows for adequate funding to meet the important water needs for the entire state of North Dakota.

HB1020 attachment #8

Testimony on HB1020
Hearing Date: January 21, 2009
By: Doug Neibauer, Executive Director- South Central Regional Water District (SCWD)

I am Doug Neibauer, I manage the regional water system in South Central North Dakota, which provides quality water to part of Burleigh County and a small service areas in Emmons, Kidder, Mclean Counties and I ask for your support on HB1020. South Central Regional Water District is a constantly growing regional water system and at present is providing quality water to over 6000 households. In 2007, with the help of the State & Federal MR&I funding, the district extended service to the City of Wilton and 51 rural households in North Burleigh County. The District secured loans for 69 % of the cost and is very thankful for the 31% grant funds from MR&I program for this $16.8 million project. The project included a new water source from the Missouri River and a new surface water treatment plant. The water intake is utilizing a new technology developed that draws water from beneath the riverbed through angled drilled wells, this procedure was preferred to eliminate the current low water intake problems being experienced on the Missouri River system. The new water treatment plant that went online in May of 2008 uses Membrane Filtration to purify the water to meet EPA water quality standards. In the fall of 2008, phase two construction of the North Burleigh Project got started, which is providing service to a small segment of SE Mclean County and the remainder of Burleigh County, when completed it will provide service to more than 500 additional rural properties. The funding is 53% grant funds from MR&I and 47% loan from the State Revolving Loan Fund (SRF). Once more, we are very thankful for the funding through the MR&I program and SRF.

This is the start of the South Central Regional Water District's goal adopted in December 2000, which is to satisfy the unmet water needs for the cities, rural residences, and bulk commercial-industrial uses in south central North Dakota. This involves the five county area of Burleigh, Emmons, McIntosh, Logan and Kidder Counties, which has support of over 1600 rural residents and 10 cities that deposited a good intention fees to be part of regional water system that will supply an abundant quality water. When completed we can all witness the many benefits quality water will bring to this area. In closing, water development is wise investment for ND's future quality of life and economic stability. Thank you for the opportunity to testify in support of HB1020.

Testimony on HB 1020
Hearing Date: March 11, 2009
By: Doug Neibauer, Executive Director- South Central Regional Water District (SCWD)

I am Doug Neibauer, I manage the regional water system in South Central North Dakota, which provides quality water to part of Burleigh County and a small service areas in Emmons, Kidder, Mclean Counties and I ask for your support of a budget that allows adequate funding to meet the critical water needs of North Dakota. SCWD is a constantly growing regional water system and at present is providing quality water to over 6000 households. In 2007, with the help of the State & Federal MR&I funding, the district extended service to the City of Wilton and 51 rural households in North Burleigh County. The District secured loans for 69 % of the cost and is very thankful for the 31% grant funds from MR&I program for this $16.8 million project. The project included a new water source from the Missouri River and a new surface water treatment plant. The water intake is utilizing a new technology developed that draws water from beneath the riverbed through angled drilled wells, this procedure was preferred to eliminate the current low water intake problems being experienced on the Missouri River system. The new water treatment plant that went online in May of 2008 uses Membrane Filtration to purify the water to meet EPA water quality standards. In the fall of 2008, phase two construction of the North Burleigh Project got started, which is providing service to a small segment of SE Mclean County and the remainder of Burleigh County, when completed it will provide service to more than 500 additional rural properties. The funding is 53% grant funds from MR&I and 47% loan from the State Revolving Loan Fund (SRF). Once more, we are very thankful for the funding through the MR&I program and SRF. This is the start of the SCWD's goal adopted in December 2000, which is to satisfy the unmet water needs for the cities, rural residences, and bulk commercial-industrial uses in south central North Dakota. This involves the five county area of Burleigh, Emmons, McIntosh, Logan and Kidder Counties, which has still has over 1600 rural residents and 9 towns waiting to be part of regional water system that will supply an abundant quality water. When completed we can all witness the many benefits quality water will bring to this area. In closing, water development is wise investment for ND's future quality of life and economic stability. Thank you for the opportunity to testify on HB 1020.

HB 1020 attachment #9

Testimony on HB 1020
Hearing Date: January 21, 2009
By: Jerome Olson, Manager of Traill Rural Water District and Coordinator of the Traill Regional Water Project

Good morning Mr. Chairman and committee members. I am Jerome Olson, manager of Traill Rural Water District, a regional water system in eastern North Dakota. We provide water service to a large portion of Traill County, five townships in Steele County and a small area of Cass County, and I ask for your support on House Bill 1020.

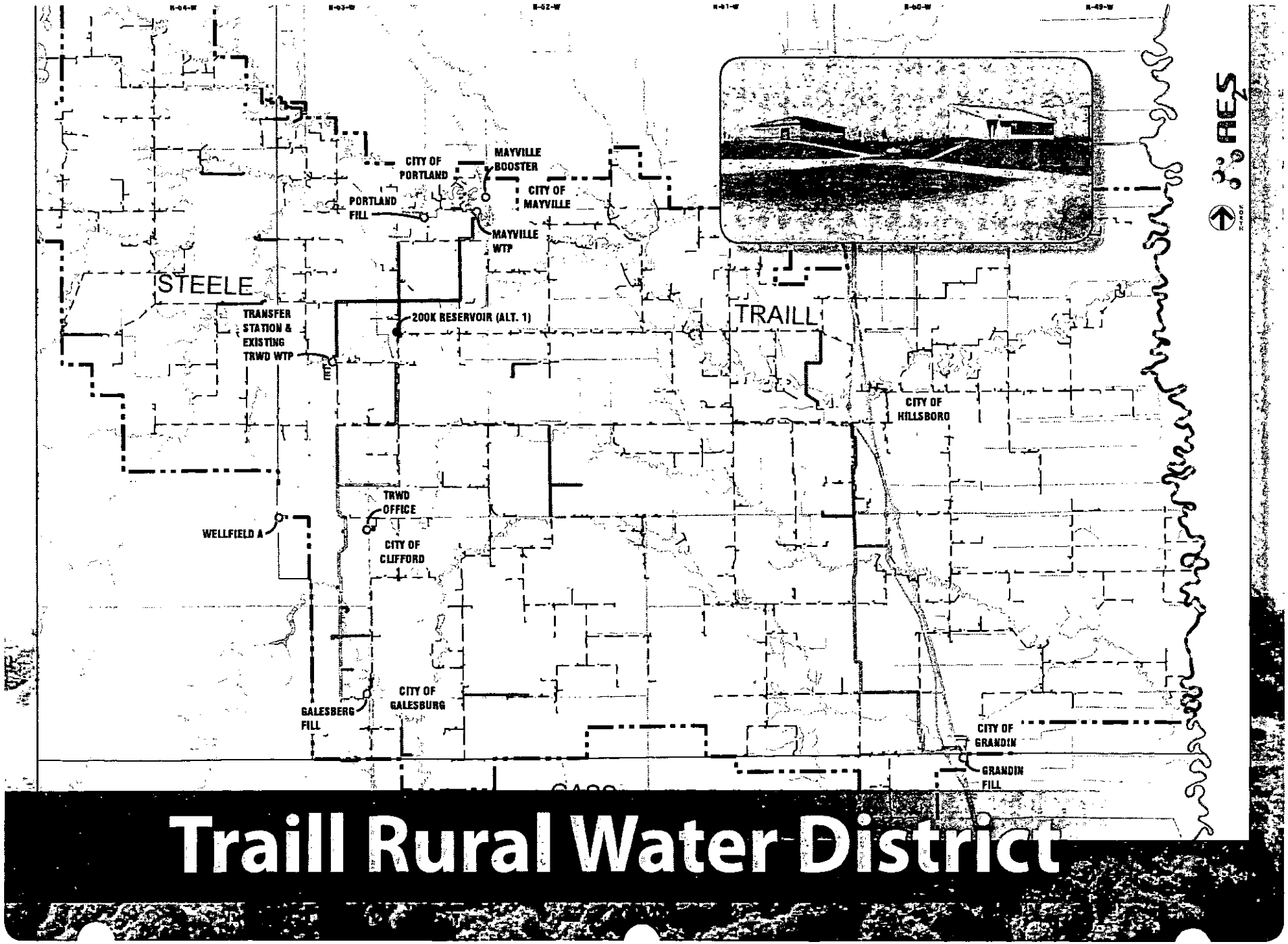
Traill Rural Water System is unlike any other system in North Dakota. We have been devastated by river bank erosion, causing many of our river crossings to fail, some as many as seven times. Over the years, we have had over 200 farm accounts lost to the bull dozer. With the help of the MR&I funding program, the first two phases of our proposed regional supply project will be bid and start construction this spring. Phases 1 and 2 of the project includes a new well field, raw water supply pipelines and raw water service to the City of Mayville, along with improved potable water supplies to the Cities of Galesburg and Grandin, and the addition of 30 new farm accounts.

Phase 3 of the regional project will consist of building a new water treatment plant in the City of Hillsboro and renovations to the existing water treatment plant in the City of Mayville, which will allow the two cities to treat all of the water for the regional water system. Phase 3 will allow for the consolidation of the treatment facilities in the region while meeting any new regulatory requirements and provide a better quality of water for the entire region. Traill Rural Water District and the Cities of Mayville and Hillsboro look forward to the approval of the additional MR&I funding required in moving forward with the final phase of this project during the upcoming year.

Traill Rural Water District with the cooperation of the Cities of Mayville and Hillsboro has worked for years trying to jointly solve the water needs of the region. This partnership is so badly needed to maintain affordable water rates to everyone receiving water from the regional system. Even with the help of the MR&I funding, Traill Rural Water District's water rates will be one of the highest in the state with average monthly water bills of over $100.

Please support HB 1020 in order to allow us the opportunity to continue to build the infrastructure needed to bring a reliable and affordable source of potable water to our communities.

Thank you for the opportunity to testify in support of HB 1020.



Traill Rural Water District

Need[redacted] Project

TRWD
- Raw water supply (wellfield) capacity and operational issues;
- System deficiencies related to providing full service to the Cities of Grandin and Galesburg;
- Meeting primary and secondary treatment standards (arsenic, sulfate (SO_4), total dissolved solids (TDS), corrosivity, and hardness); and
- Insufficient finished water storage capacity.

Hillsboro
- Raw water supply (wellfield) capacity and overall system infrastructure issues;
- Treatment facility deficiencies related to operations, controls, age, and redundancy;
- Meeting secondary treatment standards (manganese, SO_4, TDS, and hardness); and
- Insufficient finished water storage capacity.

Mayville
- Unreliable and problematic water source (Goose River) related to quantity and quality;
- Meeting primary and future required treatment standards (turbidity, disinfection, and disinfection by-products); and
- Meeting secondary treatment standards (SO_4, TDS, and pH).

Regional Water Supply Project Summary for [redacted] Rural Water District (TRWD), City of Hillsb[redacted], and City of Mayville

Given the similar system challenges of TRWD, Hillsboro, and Mayville, participation in a Regional Water Supply Project would provide each system access to a reliable water supply through a long-term planning period. The regional system would involve the phased development of one major water supply in the Galesburg Aquifer and the phased construction of a new regional water treatment plant (WTP) at Hillsboro, and optimization of Mayville's existing WTP. The recommendation for phasing of the project includes:

Phase 1: Wellfield Development, Transfer Station, and Transmission Pipeline Installation: Development of a new Galesburg Aquifer wellfield, transmission pipeline construction (from wellfield to new transfer station, and from transfer station to existing Mayville WTP whereby Mayville could initiate treatment of the groundwater supply and distribute to its users, as well as provide partial finished water to the existing TRWD distribution system), and minor improvements at the TRWD WTP.

Phase 2: TRWD Distribution System Improvements: Distribution improvements within the existing TRWD system associated with providing full service to Galesburg and Grandin, as well as rehabilitations associated with other distribution system deficiencies.

Phase 3A: Regional WTP Construction - Optimization of Mayville WTP: Construction of a new reservoir/pumping station, optimization of the existing Mayville WTP, and construction of necessary distribution system pipelines.

Phase 3B: Regional WTP Construction - New Hillsboro WTP: Construction of a new membrane WTP at Hillsboro, wellfield expansion to include raw water for the Hillsboro WTP, associated raw water transmission pipeline, and construction of necessary distribution system pipelines.

Traill Rural Water District

FY09 FUNDING REQUIRED: $3,190,000 ($2,233,000 Grant Funding)

FY10 FUNDING REQUIRED: $3,800,000 ($2,660,000 Grant Funding)

FY11 FUNDING REQUIRED: $12,300,000 ($8,610,000 Grant Funding)

Project Phase	Opinion of Probable Project Costs (2008 Dollars)	Proposed Year of Construction - Indexed Project Costs		Funding Secured or Proposed (Assuming 70% Grant Funds Secured)*		
				GRANT		LOAN
				Federal MR&I**	State Contract Fund	Local (DWSRF) Loan
Phase 1	$3,560,000	2008	$3,560,000	$984,000	$1,508,000	$1,068,000
Phase 2	$2,170,000	2008	$2,170,000	--	$1,519,000	$651,000
Phase 1 & 2 Updates	N/A	2009	$2,000,000	--	$1,400,000	$600,000
Phase 3 Design	$17,034,000	2009	$1,650,000	--	$1,155,000	$495,000
Phase 3A		2010	$3,500,000	--	$2,450,000	$1,050,000
Phase 3B		2011	$12,300,000	$8,610,000		$3,690,000
Total	$22,764,000		$25,180,000	$9,594,000	$8,032,000	$7,554,000

Secured Grant Funds

Unsecured Grant Funds (2009-2011 funding needed to be completed within timelines)

*Based on EPA guidelines, even with 70% funding, the local cost share of project participants would result in medium to high levels of financial burden for all phases

**Municipal, Rural, and Industrial (MR&I) Program, Drinking Water State Revolving Fund (DWSRF)

HB1020 attachment # 15
January 21, 2009

House Appropriations Committee Hearing

House Bill 1020

Testimony by Kenneth Vein, Board Member

Garrison Diversion Conservancy District

Bismarck, North Dakota

January 21, 2009

Mister Chairman, members of the committee, thank you for this opportunity to testify in support of House Bill 1020. My name is Ken Vein; I am the Grand Forks County representative on the Garrison Diversion Conservancy District. I am Vice Chairperson for the District and I Chair the District's Public Relations/Red River Valley Water Supply Committee. Prior to being a Garrison Diversion Conservancy District Board Member, I worked for the City of Grand Forks as Director of Public Works/City Engineer. For more than 25 years I have been working on water issues in the Red River Valley.

Most people know that in the 1930's the Red River Valley experienced a severe drought. What some may not know is that we also experienced drought conditions in the late 1980's and again in 2006 where there was no water flowing in the Red River of the North. Fortunately these were not prolonged droughts as the consequences could have been severe.

The need for water in the Red River Valley was specifically identified through federal legislation in the Garrison Diversion Reformulation Act of 1986 and the Dakota Water Resources Act (DWRA) of 2000. DWRA directed the Department of the Interior, Bureau of Reclamation to conduct a comprehensive study of the water quality and quantity needs of the Red River Valley of North Dakota and possible options for meeting those needs. The Bureau of Reclamation completed the Red River Valley Water Needs and Option Report in November, 2005. In that report the 'Do Nothing' alternative was

studied, the Valley's water needs were identified, and alternatives to address those needs were studied. This report identifies that today there would be a state wide negative economic impact of $2B a year if a 1930's type drought occurred in the Red River Valley.

The final environmental impact statement Red River Valley Water Supply Project was released December 2007, and was jointly prepared by the U.S. Department of the Interior, Bureau of Reclamation and the State of North Dakota to the Garrison Conservancy District. This report identified the Preferred Alternative (GDU Import to Sheyenne River) the cost of the Preferred Alternative is estimated to be $660 million. Environmental impacts of the Preferred Alternative were addressed in the report. The findings were that the Preferred Alternative was reliable, flexible, least costly to construct, least costly to operate and maintain, and most environmentally beneficial of all the alternative studies.

On December 5, 2008 the Bureau of Reclamation sent the Comprehensive Report on the Red River Valley Water Supply Project to Congress as required by the Dakota Water Resources Act. The report describes the proposed Project as the GDU Import to the Sheyenne River Alternative, summarizes issues evaluated in the Project's Final Environmental Impact Statement, discusses the likely effects of the Project on other states and explains how the proposed Project feature complies with the Boundary Waters Treaty Act of 1909.

We now have the opportunity to transition from the study phase to the implementation phase. The funds in this bill are critical for this transition. Federal, state and local resources are coming together to ensure continued progress. Keeping this project moving forward is important because it will be at least 5 years before this project can start delivering water to the Red River Valley and ensuring an adequate water supply for eastern North Dakota.

Thank you for allowing my testimony to be heard today.

HB 1020 attachment # 17

Testimony by Dave Koland, General Manager
Garrison Diversion Conservancy District

To the

House Education and Environment Appropriations Committee Hearing on HB 1020

Bismarck, North Dakota
January 21, 2009

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 water supply needs of the Red River Valley.

We have expended a significant amount of money to determine the water needs and evaluate the impacts of a severe drought in the Red River Valley. The studies clearly show that with our current population, and a drought similar to what western North Dakota is experiencing right now, the major cities that rely on a surface water source, such as Fargo and Grand Forks, will face devastating water shortages.

The proposed solution relies on three elements to meet the projected water shortages: drought management plans, water conservation measures and a supplemental water supply from the Missouri River.

The Missouri River accounts for 95% of North Dakota's available surface water. North Dakota consumes slightly over 1% of what flows through the state on its way to the Gulf of Mexico. Another way to measure the impact on the Missouri River is to look at the amount of water in acre-feet that the Southwest Pipeline Project (6,800 ac-ft), the Northwest Area Water Supply (15,000 ac-ft) and the Red River Valley Water Supply Project (80,000 ac-ft) each use in comparison to the average annual Missouri River flows available at Bismarck (16,700,000 ac-ft). That leaves 99.67% in the river system for other uses. Our studies show that the change in storage due to the Red River Valley Water Supply Project would lower the level of Lake Sakakawea about an inch a year. That study assumed the lake was half full and that there was a 1930s type drought in both the Missouri and Red River Basins.

The Missouri River Basin has a drainage area of 529,000 square miles and the complex of six dams, including Garrison Dam, built on the river as part of the Missouri River Basin Project provide the nation's largest water storage system. If North Dakota is to claim its rightful share of Missouri River water, it must first put that water to beneficial use. The Red River Valley Water Supply Project will do that.

Mr. Chairman, members of the committee; Thank you for your time, I will be happy to answer any questions you might have.

Testimony by Dave Koland, General Manager
Garrison Diversion Conservancy District

To the

Senate Appropriations Committee
Hearing on HB 1020

Bismarck, North Dakota
March 11, 2009

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 to compensate North Dakota for the permanent flood created by the Garrison Dam. Garrison Diversion is 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 (RRVWSP) to meet the water supply needs of the Red River Valley.

The proposed solution relies on three elements to meet the projected water shortages. Drought management plans, water conservation measures and a supplemental water supply from the Missouri River.

The Missouri River accounts for 95% of North Dakota's available surface water. North Dakota consumes slightly over 1% of what flows through the state

on its way to the Gulf of Mexico. Another way to measure the impact on the Missouri River is to look at the amount in acre-feet that the Southwest Pipeline Project (6,800 ac-ft), the Northwest Area Water Supply (15,000 ac-ft), the Red River Valley Water Supply Project (80,000 ac-ft) each use in comparison to the average annual Missouri River flows available at Bismarck (16,700,000 ac-ft). That leaves 99.67% in the system for other water uses. Our studies show that the change in storage due to the RRVWSP would lower the level of Lake Sakakawea about an inch a year. That study assumed the lake was half full and that there was a 1930's type drought in both the Missouri and Red River basins.

The Missouri River basin has a drainage area of 529,000 square miles and the complex of six dams, including Garrison Dam, built on the river as part of the Missouri River Basin Project provide the nation's largest water storage system. If North Dakota is to claim its rightful share of Missouri River water it must first put that water to beneficial use and the Southwest Pipeline Project, the Northwest Area Water Supply Project and the Red River Water Supply Project do exactly that.

Mr. Chairman, members of the committee; Thank you for your time, I will be happy to answer any questions you might have.

14

Testimony by Kenneth Vein, Board Member
Garrison Diversion Conservancy District

Senate Appropriations Committee Hearing
House Bill 1020

Bismarck, North Dakota
March 11, 2009

Mister Chairman, members of the committee, thank you for this opportunity to testify in support of House Bill 1020. My name is Ken Vein; I am the Grand Forks County representative on the Garrison Diversion Conservancy District. I am Vice Chairperson for the District, and I chair the District's Public Relations/Red River Valley Committee. Prior to being a Garrison Diversion Conservancy District board member, I worked for the city of Grand Forks as Director of Public Works/City Engineer. For more than 25 years, I have been working on water issues in the Red River Valley.

Most people know that in the 1930s the Red River Valley experienced a severe drought. What some may not know is that in the late 1980s and again in 2006, we also experienced drought conditions. Fortunately, these were not prolonged droughts as the consequences could have been severe.

The need for water in the Red River Valley was specifically identified through federal legislation in the Garrison Diversion Reformulation Act of 1986 and the Dakota Water Resources Act of 2000. The Dakota Water Resources Act directed the Department of the Interior Bureau of Reclamation to conduct a comprehensive study of the water quality and quantity needs of the Red River Valley of North Dakota and possible options for meeting those needs. The Bureau of Reclamation completed the Red River Valley Water Needs and Option Report in November 2005. In that report, the 'Do Nothing' alternative was studied, the Valley's water needs were identified, and alternatives to address those needs were studied. This report identified that there would be a statewide negative

economic impact of $2 billion each year if a 1930s-type drought occurred in the Red River Valley today. I equate this to having a 1997 flood disaster every year during a drought.

The Final Environmental Impact Statement Red River Valley Water Supply Project was released December 2007 and was jointly prepared by the U.S. Department of the Interior Bureau of Reclamation and the State of North Dakota through the Garrison Diversion Conservancy District. This report identified the Preferred Alternative (GDU Import to Sheyenne River). The cost of the Preferred Alternative is estimated to be $660 million. Environmental impacts of the Preferred Alternative were addressed in the report. The findings were that the Preferred Alternative was reliable, flexible, least costly to construct, least costly to operate and maintain, and most environmentally beneficial of all the alternatives studied.

On December 5, 2008, the Bureau of Reclamation sent the Comprehensive Report on the Red River Valley Water Supply Project to Congress as required by the Dakota Water Resources Act. The report describes the proposed Project as the GDU Import to the Sheyenne River Alternative, summarizes issues evaluated in the Project's Final Environmental Impact Statement, discusses the likely effects of the Project on other states, and explains how the proposed Project features comply with the Boundary Waters Treaty Act of 1909.

Today, this project is getting closer and closer to being a reality. Federal, State and local resources are coming together. It is important to keep this project moving as it will be at least five years before the first phase can deliver water to the Red River Valley. The $5.8 million included in this bill are critical to continuing to move this project forward.

Thank you for allowing my testimony to be heard today.

HB 1020 attachment H 16

Testimony by Clark Cronquist, Board Member
Lake Agassiz Water Authority

House Appropriations Committee Hearing, HB 1020
January 21, 2009

Mister Chairman and members of the committee:

My name is Clark Cronquist; I serve on the board of directors of Agassiz Water Users District at Gilby, ND and also on the board of the Lake Agassiz Water Authority.

I have been involved in rural water issues since the formation of our local system, 37 years ago. I have also been involved in State and National rural water associations since their formation in 1974 and 1976 respectively

I am fully aware of the growing need for a stable supply of water for Eastern ND, at this time the ground water resources are fully allocated.

The Lake Agassiz Water Authority has worked closely with state agencies in developing a plan for the use of Missouri River water by the cities, small towns and rural water systems of Eastern ND.

The proposed project is known as the GDU import to the Sheyenne River Alternative and of the 6 alternatives studied; it is deemed the most affordable and reliable.

The 1930's drought was a significant event in the water history of Eastern ND, as well as the rest of the state, but as late as the drought of 1980, our system, Agassiz Water Users experienced a dangerously low level in our aquifer, so we are ever aware of the need for an affordable, stable supply of water. For us this is not a wish list, but rather a priority.

Time is of the essence as it will be several more years before this supply solution becomes a reality.

I thank the committee for allowing me to appear before you today.

If you have any questions, I would be pleased to try to answer them.

Thank You

The [RIGHT] Plan

Delivering water from the Missouri River to the Sheyenne and Red Rivers is the best plan for the Red River Valley and all of North Dakota.

It's flexible.

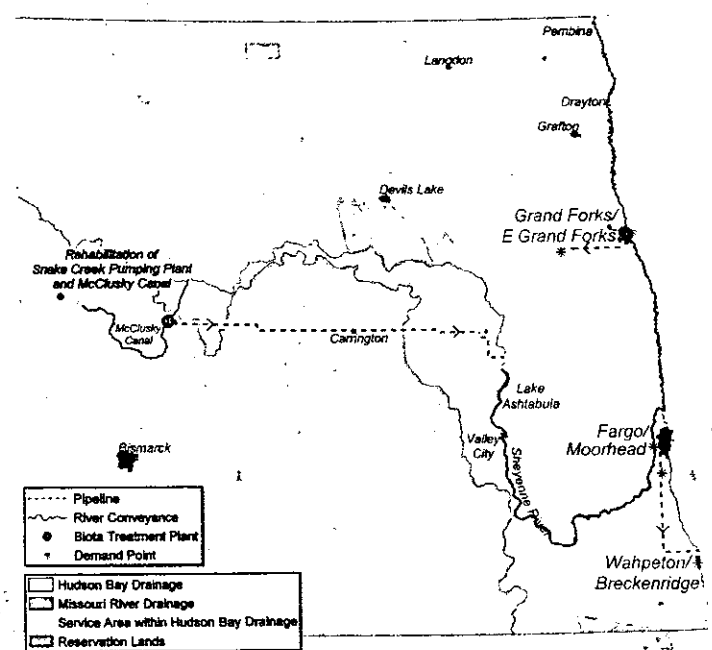
- This is a supplemental water supply; not replacement water. It's used only when needed.
- The plan is adaptable to different growth patterns in the Valley.

- **It's reliable**
  - Stored water is delivered by gravity (no pumps).
  - Using Lake Ashtabula provides 22.4 billion gallons of storage.
  - State-of-the-art water treatment plants currently exist in the Valley and will continue to be used.

Lake Ashtabula holds 22.4 billion gallons of water.

It would take 22,400 million-gallon water towers to hold as much water as Lake Ashtabula.

- **It's cost-effective.**
  - Using the Snake Creek Pumping Plant and the McClusky Canal saves approximately $150 million in construction costs.
  - Gravity does most of the work. The plan includes using 113 miles of gravity flow pipeline and 475 miles of river channel to convey the water.
  - It's the least costly to operate and maintain.
- **It's environmentally friendly.**
  - Using Lake Ashtabula and the Sheyenne and Red Rivers to convey water provides significant benefits to the aquatic environment, including fish, mussels and riparian habitat.
  - Minimally impacts the Missouri River; a maximum of 0.5% of flows are needed, and Missouri River water is used only when needed.



A [SMART] Choice

The Missouri River accounts for 95% of North Dakota's surface water, but we currently utilize about one percent of that water flowing through our state. We send one of our most valuable natural resources downstream to other states.

Only a small amount of Missouri River water is needed to help secure the future of the Red River Valley. This plan supplements the local water supply by delivering Missouri River water to the Sheyenne and Red Rivers, but only in times of need.

The Project would lower Lake Sakakawea by about one-inch per year during a severe drought.

Putting the Missouri River, one of North Dakota's greatest natural resources, to beneficial use will help ensure the Red River Valley's future.

Lake Agassiz Water Authority

Planning today for tomorrow's water

The [RIVER] Valley...
...rtile. Vital.

Its sustainability is essential to the health and well-being of the people and businesses of the region, the state and the nation.

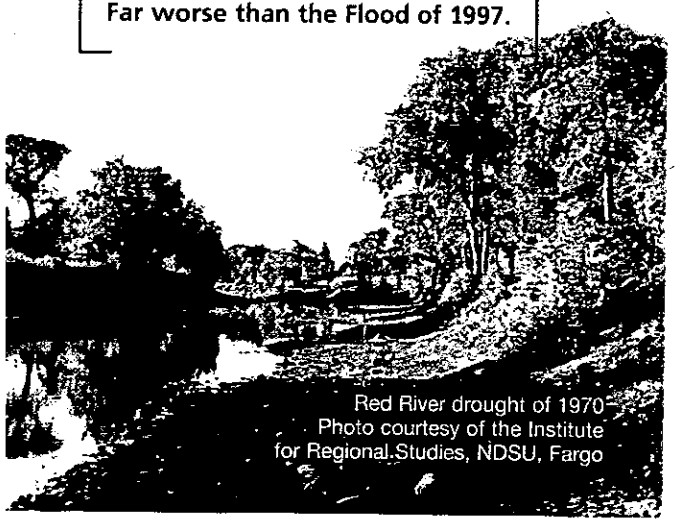
Water is key to keeping this region flourishing, but it will not always be so abundant. Studies show a severe drought will occur again in the future.

The Lake Agassiz Water Authority proposes a plan to supplement the water supply for the Red River Valley in times of need.

- Rooted in research
- Backed by sound data
- Supported by unbiased experts
- Approved through an extensive process of federal and state requirements

This plan benefits not only the Valley, but the state as a whole.

A 1930s-type drought in the Red River Valley would result in a $2.4 billion economic impact annually. Far worse than the Flood of 1997.



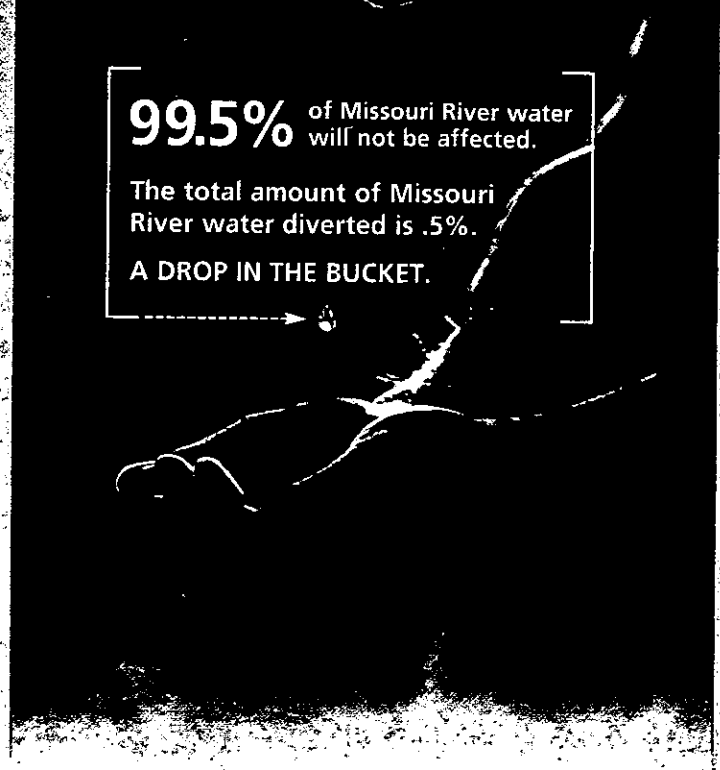
Red River drought of 1970
Photo courtesy of the Institute for Regional Studies, NDSU, Fargo

[MISSOURI] River

99.5% of Missouri River water will not be affected.

The total amount of Missouri River water diverted is .5%.

A DROP IN THE BUCKET.



Lake Agassiz Water Authority is a unified voice representing local city and rural water systems in the quest to provide a reliable water supply for the Red River Valley.

Lake Agassiz Water Authority

Planning today for tomorrow's water

(800) 532-0074
P.O. Box 140 Carrington, ND 58421
www.lakeagassiz.org

The Red River [V]alley Water Supply Project

Securing Our [FUTURE] Today

HB 1020 attachment # 11
January 21, 2009

McKenzie County Water Resource District Testimony for HB1020

You may notice a lot of apologizing from the Northwest part of the State lately asking for help. Our infrastructure is being taxed due to increased oil exploration. The bright side of course is that it feels like a gold rush. The dark side of course is that it feels like a gold rush. Tremendous growth and progress due to oil development has a price. One of my reasons for being here today is to explain how critical our needs are in the Northwest and since I am from Mckenzie County I will primarily focus on issues there. McKenzie County is in a sense an island due to not necessarily the rivers that surround most of the county but more significantly the Badlands that surround and isolate the area. Our goal is to provide water throughout the county in whatever avenue seems the most expeditious and sustainable.

We have some serious water supply issues in Mckenzie County. This region of the state has a more arid climate with limited water resources. One of the primary resources is the Fox Hills Aquifer, which has seen significant increase in demand which is resulting in the aquifer being depleted at an alarming rate. The production of oil is not the only reason but it is certainly a primary user. A number of permits have been issued for industrial use that has caused a lot of controversy with some of the residents as many use this same formation for household and livestock needs. If this budget is approved we can begin mitigating a significant part of this issue by providing Missouri River Water for energy development as well as the residential usage for most of Mckenzie County.

In 2000 the Bureau of Reclamation, Three Affiliated Tribes, the State Water Commission, Hess Corporation and Mckenzie County entered into a historic agreement to provide Missouri River Water to Hess Corporation to increase the production of oil, with the intent that this would be the onset of a larger project to bring Missouri River water to the residents of eastern Mckenzie County. The Three Affiliated Tribes was installing several miles of pipeline and McKenzie County needed the size increased

for a water supply project to local residents. The intent was that when water became available from Three Affiliated Tribes through a plant expansion, the infrastructure would be in place to continue this project. Three Affiliated Tribes has a plant expansion project to commence in 2009. We need available funding to complete our portion of this project which will bring much needed and long awaited water to an area that has not only residential needs, but also industrial needs.

In both of these situations, we are using or expanding existing water production facilities, and not starting from the ground. We are replacing the use of ground water and substituting river water. Both projects are timely. Three Affiliated Tribes is expanding their water production facility. We have a serious need for water to alleviate the pressure on our natural resources. The oil economy relies on a tremendous amount of fresh water. At one location, Hess Corporation is requesting 2.5 million gallons per month. Both projects have advanced as far as we can locally and substantial previous commitments have been made by McKenzie County, Three Affiliated Tribes, Hess Corporation and the State Water Commission. These previous commitments have a shelf life.

Williams Rural Water is facing the same problems as the rest of us. They have 200 additional requests west of Williston that cannot be granted due to storage capacity and lack of pipelines. This includes 3 subdivisions and multiple businesses.

An investment in our water needs in McKenzie County as well as Northwest North Dakota will be returned to the state through increased oil production from the Gross Production Tax, Oil Extraction Tax, Public Domain Royalties and Lease revenues on State owned land, Increased Sales Taxes, Payroll Taxes and Gas Taxes. For these reasons we respectfully urge you to pass this important legislation that would significantly assist McKenzie County and other portions of the Northwest part of North Dakota being impacted by energy development.

9

McKenzie County Water Resource District Testimony for HB1020

You may notice a lot of apologizing from the Northwest part of the State lately asking for help. Our infrastructure is being taxed due to increased oil exploration. The good news is it feels like a gold rush. The bad news it feels like a gold rush. Tremendous growth and progress due to oil development has a price. Our needs are critical in the Northwest. I am from McKenzie County which is an island due to the rivers and more significantly the Badlands that surround and isolate the area. Our goal is to provide water throughout the county in whatever avenue seems the most expeditious and sustainable.

This region of the state has a more arid climate with limited water resources. One of the primary resources is the Fox Hills Aquifer which has seen significant increase in demand resulting in the aquifer being depleted at an alarming rate through the production of oil and residential and agricultural use. Permits have been issued for industrial use that has caused a lot of controversy with some of the residents as many use this same formation for household and livestock needs. If the water budget is approved we can mitigate a significant part of this issue by providing Missouri River Water for energy development as well as the residential usage for most of Mckenzie County.

In 2000 the Bureau of Reclamation, Three Affiliated Tribes, the State Water Commission, Hess Corporation and Mckenzie County entered into a historic agreement to provide Missouri River Water to Hess Corporation to increase the production of oil, with the intent that this would be the onset of a larger project to bring Missouri River water to the residents of eastern Mckenzie County. The Three Affiliated Tribes was installing several miles of pipeline and McKenzie County needed the size increased for a water supply project to local residents. The intent was that when water became available from Three Affiliated Tribes through a plant expansion, the infrastructure would be in place to continue this project. Three Affiliated Tribes has a plant expansion project to commence in 2009. We need available

funding to complete our portion of this project bringing much needed and long awaited water to an area that has residential and industrial needs.

In both situations, we are using or expanding existing water production facilities and replacing the use of ground water with river water. Both projects are timely as Three Affiliated Tribes is expanding their water production facility and we have a serious need for water to alleviate the pressure on our natural resources. The oil economy relies on a tremendous amount of fresh water. At one location, Hess Corporation is requesting 2.5 million gallons per month. Both projects have advanced as far as we can locally and substantial previous commitments have been made by McKenzie County, Three Affiliated Tribes, Hess Corporation and the State Water Commission. These commitments have a shelf life.

Williams Rural Water has 200 additional requests west of Williston that cannot be granted due to storage capacity and lack of pipelines. This includes 3 subdivisions and multiple businesses.

Ray, Tioga and Stanley are dealing with many of the same problems including requests for water for 300 to 500 occupant man camps for oil companies. There system is at its limit and without some emergency funding they received recently, it would have been a serious crisis. It is extremely hard to manage when you have deal with everything on an emergency basis. We need to get ahead of these problems with some serious long range planning that only money can provide.

An investment in our water needs in Northwest North Dakota will be returned to the state through increased oil production from the Gross Production Tax, Oil Extraction Tax, Public Domain Royalties and Lease revenues on State owned land, Increased Sales Taxes, Payroll Taxes and Gas Taxes. For these reasons we respectfully urge you to pass this important legislation that would significantly assist McKenzie County and other portions of the Northwest part of North Dakota being impacted by energy development.

WATER SYSTEM AND SEWER SYSTEM RATES - JUNE, 2006
CITIES UNDER 1,000

City	Min. Water Charge Res.	Comm.	Minimum Gallons Res.	Comm.	Additional Gallon Rate	Meter Charge	Connect Charge	How Billed	Min. Sewer Charge Res.	Comm.	Sewer Rate	Connect Charge	How Billed
Bold = 2008													
Italic = 2006													
Arthur	$15	$15	3000	3000	$4.25/1000	$20 deposit	none	Monthly	$13	$13	$13/mo		Monthly
Ashley	$13.25	$13.25			3.80/1000 gal	$75	$50	Monthly	$3.75	0			Monthly
Barney	$20	-	2000	-	$2.00/1000		$45	Monthly	$10.00	-			Monthly
Belfield	$4.50	$4.50	1000	1000	$4.50 4.50	$3	$0	Monthly	$1.50	$1.50	$1.50/1000	none	Monthly
Carson	$18	$18	1500	1500	$4.00/1000	$75	$10	Monthly	$7.50	$7.50	Cost/lift upkeep etc	none	Monthly
Center	$1.50	$1.50	1000	1000	$1.50/1000 to 6K, $2.00			Monthly	$4	$5.70		none	Monthly
Christine	$27	$27				no meter	$100 new	Monthly	$23	$46	flat fee		Monthly
Dunseith	$7.50	$7.50	2000	6000	$1.50/1000			Monthly	$8	$8			Monthly
Elgin	$9	$11.50			$6./1000		$25	Monthly	$3.50	$3.50	by water usage		Monthly
Finley	$44	$44	6000	6000	$3.25/1000 to 6K, $2.75	$100 deposit	$20	Quarterly	$9	$9	flat fee		Quarterly
Gackle	$20	$20			$3.50/1000	$59.20		Monthly	$5.10	510/10.20/15.30	Comm/by water usage		Monthly
Glenburn	$10	$10	1000	1000	$6/1000	actual price	$75	Monthly	$8	$8	$8/connection	$75	Monthly
Golden Valley	$4	$4	1000	1000	$4/1000	$55.00	$10	Monthly	$2	$2	flate rate		Monthly
Goodrich	$0	-		2000	$1/1000	$95	$25	Monthly	$5	$5			Monthly
Granville	$30	-			$2.25/1000	$25		Monthly	$17.60	$17.60			Monthly
Hannaford	$14	$15						Monthly	$6	$6	$6/month		Monthly
Harwood	$11	$11	2000	2000	$5.40-1000/$4.35-1000/$3.85-1000		$350 w/s	Monthly	$20.60	$43.25	flat rate	$350 w/s	Monthly
Hazelton	$6	$6			$2 $2			Monthly	$3	$4			Monthly
Kenmare	$23	$23	2000	2000	$1.25/500 gal.	$0	$25	Monthly	$15	$15	$15/mo		Monthly
Killdeer	$5	$5	1000	1000	$1.85/1000		$65	Monthly	$4	$4			Monthly
Kindred	$26.38	-						Monthly	$5.31	-			Monthly
Lakota	$20	$34			$3.50/1000	none	$50	Monthly	$12	$12	$1/1000	0	Monthly
Larimore	$25	$25			$4.50/1000		$30	Monthly	$5	$5	flat rate		Monthly
Lisbon	$46.83	$56.79	1122	1122	.03/c.f.	$180	$25	Monthly	$6.65	$6.65	water usage	392-half trench	Monthly
Maddock	$15	$17	1000	1000	$4/1000		$150	Monthly	$5.50	$5.50	5.50to 10M/.50 after		Monthly
McVille	$15.50	$15.50			$4.50/1000	none	$25	Monthly	$7	$12	$2/1000		Monthly
Medora	$14	$14	2000	2000	$3.15		$40	Monthly	$4	$15			Monthly
Napoleon	$20	$20	7500	7500	$1.50/1000			Quarterly	$20.50	$20.50	$20.50		Quarterly
Petersburg	rural water								$45	$45		$25	Annual
Pick City	$20	$20	1000	1000	$2.50/1000	$70	$100deposi	Monthly	$7	$7			Monthly
Portland	$13	$13			$2.30/1000	$50 deposit	$30	Monthly	$18.50	$18.50	$10/1000 gal. water		Monthly
Relles Acres									$45	.			Monthly
Richardton	$13	$13	2000	2000	$7/1000		$10	Monthly	$3	$3			Monthly
Riverdale	$15	$15	3000	3000	$1.25/1000 after 34,000 gal			Monthly	$6	$6			Monthly
Rolette	$7	$7	3000	3000	$1/1000	none	$750	Monthly	$6	$6	flat rate	included w/water	Monthly
Rutland	$11	$11	3000	3000	$2/1000		$20	Monthly	$5.34	$5.34			Monthly
Strasburg	$26	$26			$2.50	$1		Monthly	$10	$10			Monthly
Streeter	$34.25	$36	unlimited			.75 res .50bus	$25hookup	Monthly	$6	$6	set rate		Monthly
Surrey	$20	$20	2000	2000	$4.50/1000 gal	$1/mo	varies	Monthly	$15	$15	flat rate	$500 new	Monthly
Underwood	$12	$12	2000	2000	$1.75		$40	Monthly	$5	$5	water usage		Monthly
Zap	$17	$17	1000	1000	$5/1000	$50	$20-$30	Monthly	$15	$15			Monthly

WATER SYSTEM AND SEWER SYSTEM RATES - JULY, 2008
CITIES OVER 1,000

City	Min. Water Charge		Minimum Gallons		Additional Gallon Rate	Meter Charge	Connect	How Billed	Min. Sewer Charge		Sewer Rate	Connect	How Billed
	Res.	Comm.	Res.	Comm.			Charge		Res.	Comm.		Charge	
Bold = 2008													
Italic = 2006													
Bismarck	$3.90	$3.90	100cu.ft.	100cu.ft.	$1.56 to 400, then $1.84	125% of cost	$30	Monthly	$5.90	$5.90	$1.23 - 100,then 1.42		Monthly
Bottineau	$7	$7	2000	2000	$2.45/1000 to 20,000	$7.50/mo		Monthly	$5	$6	flat fee		Monthly
Bowman	$3	$3	1000	1000	$3.00/1000		$75	Monthly	$6	$6	.40/1000 after 7000	$75	Monthly
Burlington	$9	$9	1000	1000	$2.20/1000			Monthly	$7.50	.95/1000			Monthly
Cando	$7	$7			$7/1000 gal			Monthly			$3.25/1000 gal water		Monthly
Carrington	$10.50	$10.50	350 cu.ft.	350 cu.ft.	$2.20/100 cu.ft.			Monthly	$8.50	$8.50	$1.00/100 cu.ft.		Monthly
Casselton	$14.55	$14.55	2000	2000	$5.90/1000		$300 new	Monthly	$13.46-$22.76		$13.46/3000, $22.76	$300	Monthly
Cavalier	$10	$15			$3.52/1000		$25	Monthly	$6.50	$8.50	.60/1000 gal. Water		Monthly
Crosby	$10	$10	1000	1000	$4.00/1000			Monthly	$3	$3	$2 plus 10% water		Monthly
Devils Lake	$10-15	$10-15			$1.40cu.ft. to 15,000 gal		$15	Monthly	$6.25	$6.25	$1.25/100 cu.ft.		Monthly
Dickinson	$8	$8			$3.88/1000 gal.		$500 +	Monthly	$2.20	$11	$1.60/1000 gal.	$100-500	Monthly
Ellendale	$9	$9	1000	1000	$3.75/1000	$1		Monthly	$8	$8			Monthly
Fargo	$7.80	$7.80	2000	2000	$3.90/1000, 3.65, 3.30	$7.80 - $660		Monthly	$15.10	$15.10	$1.60/1000		Monthly
Garrison	$32.25	$32.25	1000	1000	$3.00/1000		$300	Monthly	$5.75	varies	Comm. - water usage	$50	Monthly
Grafton	$8	$8	1000	1000	$3/1000 to 23,000, 2.55	$50 deposit	$20	Monthly	$4.50	$4.50	$2.25/1000 gal.		Monthly
Hankinson	$9	$9			$4/1000	1st free, $80		Monthly	$10	$10	$10/20,000 gal, $7		Monthly
Hazen	$4.50	$4.50	0	0	$3.00/1000	.50-$5/mo	$50	Monthly	$6	$6	$1/1000		Monthly
Hettinger	$4.70	$4.70	1000	1000	$4.70/1000	0	$125	Monthly	$6	$6			Monthly
Hillsboro	.0093	.0093	0	0	.0093/cu.ft.	$6.60	$50 re-cnt	Monthly	0	0	.01 over 900 cu. Ft.	$4.50	Monthly
Jamestown	$11	$11	400 cu.ft.	400 cu.ft.	1.13/100	varies - size		Monthly	$10	$10	.75/100 cu.ft.		Monthly
Langdon	$16	$16			$3.25/1000		$25	Monthly	$7.50	$7.50	water usage		Monthly
Lincoln	$21	$21			$3.12/1000			Monthly	$10	$10	flat rate		Monthly
Lisbon	$42.90	$51.90	150 cu.ft	150 cu.ft	.035 cents/cu.ft.	$207	$25	Monthly	$6.65	$6.65/6.70	.009 cu.ft after 600	$392	Monthly
Mandan	$2.30	$2.30	100 cu.ft	100 cu.ft		$466	none	Monthly	$1.75/100 cu.ft		1.75/100 cu.ft	none	Monthly
Mayville	$26.50	$26.50	1500	1500	.0449/cu.ft.	.60/month	$100	Monthly	$5.50	$5.50	water usage	$100	Monthly
Minot	$6.14	varies	0	0	$1.68/100 cu.ft.		$15 - $50	Monthly	$3.32	$3.32	$1.25/100 cu.ft.	$15-$50	Monthly
New Rockford	$17.60	$17.60	1000	1000	$3.00/1000		$50	Monthly	$6	$6	$1.50/1000 over 10K	$50	Monthly
New Town	$26	$26	1000	1000	$5/1000		$125	Monthly	$4.25	$4.25			Monthly
Oakes	$21	varies			$1.50/1000	$5		Quarterly	$30	varies	flat rates		Quarterly
Park River	$20.40	$20.40	0	0	$4.75/1000	$0	$25	Monthly	$1	$1	$1.10/1000 gal.		Monthly
Rugby	$9	$9	1000	1000	$3/1000		$750	Monthly	$4.50	$4.50	per 10,000 of water		Monthly
Stanley	$6	$6					$75	Monthly			$5 + $1.50/1000		Monthly
Thompson									$12	$22	water usage	$250 new	Quarterly
Valley City	$11.91	$14.89	100 cu.ft	100 cu.ft	$2.10/100 cu.ft.		$20	Monthly	$7.13	$7.13	.70/100 cu.ft. water		Monthly
Velva	$7	$7	1000	1000	$3/1000 up to 10,000	$50 deposit	$100	Monthly	$10	$10+	.50/1000 commerc.		Monthly
Wahpeton	$9.95	$9.95	2000	2000	$3.15/1000 gal.		$20	Mo./Qrt.	$6.05	$6.05	5000 gal, then .90	$20	Mo./Qrt.
Watford City	$19.03	$19.03			$1.58/1000		$35	Monthly	$14.28	$14.28	.57/1000, 18.84 max		Monthly
West Fargo	$7	$7	2000	2000	$4/1000	$10	$250 w/s	Monthly	$9	$9	$1/1000 over 10K	$250 w/s	Monthly

WATER SYSTEM AND SEWER SYSTEM RATES - JULY, 2008
CITIES OVER 1,000

City	Min. Water Charge		Minimum Gallons		Additional Gallon Rate	Meter Charge	Connect	How Billed	Min. Sewer Charge		Sewer Rate	Connect	How Billed
	Res.	Comm.	Res.	Comm.			Charge		Res.	Comm.		Charge	
Williston	$4.30	$4.30	0	0	$2.50/100 cu.ft.			Monthly				$2,500	Monthly

attachment #3 HB1020

Fargo Southside Flood Control Project
Testimony to House Appropriations
Education and Environment Division Committee
January 21, 2009
Brad Wimmer
Fargo City Commissioner

Chair and Committee Members:

On behalf of the City of Fargo, this indeed is a pleasure and honor to be here today. Thank you for your consideration of our request for funding assistance for construction of the Fargo Southside flood control (SSFC) project.

As I stand here today, nearly 12 years after the devastating 1997 spring floods in the Red River basin, the City of Fargo stands alone as the only major city in North Dakota without permanent and secure flood protection facilities. The City has waited patiently and supportively as flood protection projects have been constructed in Wahpeton, Devils Lake and Grand Forks. During this waiting period, the City of Fargo, along with numerous engineering and technical consultants, has been working feverishly in project development activities for the SSFC project.

Now after 8 years of analyzing numerous alternatives and options, along with approximately 100 public information meetings, the proposed SSFC plan is moving forward to provide certifiable 100 year frequency flood protection to properties south of I-94. The SSFC project affords protection to properties in the cities of Fargo, Frontier and Prairie Rose along with numerous rural unincorporated residential subdivisions in Stanley and Pleasant Townships. Technical engineering analysis has shown that this 100 year flood protection can be accomplished without raising flood levels for upstream or downstream rivers and tributaries.

With a current cost estimate of $161 million, the project scope has grown since original concepts. An independent benefit/cost analysis conducted by Goettel and Associates in California calculated a benefit to cost ratio ranging from 1.4 to 1.6. Although not an engineer or a cost benefit expert, as a third generation retail business owner I recognize the benefit of receiving a $1.50 benefit for every $1.00 invested.

We are requesting state funding in the amount of $75 million based on 50% of non-federal cost share. The state previously has committed $14.5 million for the project. We respectfully request a state funding commitment of an additional $60.5 million for the period from 2009 thru 2012.

Thank you again for your consideration of Fargo's request for state funding assistance for this extremely important project. I will now ask Fargo City Engineer, Mark Bittner to briefly describe the need for the project and outline details of the proposed improvements.

Thank you.

HB1020 attachment # 4

Fargo Southside Flood Control Project
Testimony to House Appropriations
Education and Environment Division Committee
January 21, 2009
Mark Bittner
Fargo City Engineer

Same Given to Senate

Chair and Committee Members, Thank you for the opportunity to discuss the need for flood protection for south Fargo and the project proposed to provide secure and permanent protection.

Project Need

The need for the Southside Flood Control (SSFC) project is summarized as follows:

1. Need for real protection against flood waters entering homes and businesses. When people think of flooding in Fargo, they normally think of the Red River. Although the Red River, the east border of Fargo is obviously a flood threat, we have found that in major flood events such as 1997, Fargo's greatest flood threat comes from the Wild Rice River in south and southwest Fargo. Excessive flows in the Wild Rice River breakout from the river banks at a number of locations. These breakout waters then flow northerly uncontrolled overland approximately four miles and enter Fargo via Drain 27 or Drain 53. In 1997, approximately 2,000 CFS (12% of total Wild Rice River flows) flowed uncontrolled into Fargo causing flooding in southwest Fargo and Prairie Rose. Damage was limited to a small area because of massive emergency response efforts in constructing temporary earth and sandbag levees.

   The SSFC project is intended to prevent and control Wild Rice River flood flows so that the flows will be contained within Drain 27, 53 and diversion channels. These levees and channels will eliminate the need for massive emergency response temporary measures and will provide permanent and secure flood protection facilities.

2. Need to prevent expansion of 100 year floodplain.
   According to preliminary information provided by FEMA, only approximately 300 structures in Fargo are currently covered under the National Flood Insurance Program (NFIP) and carry flood insurance. The preliminary results of the FEMA Flood Insurance Restudy (FIS) indicate an additional 3,000 to 9,000 structures may be mapped into the floodplain resulting in a mandatory requirement to carry flood insurance coverage at costs in excess of the costs to provide permanent flood protection as proposed.

   The proposed SSFC project will minimize the expected expansion of the floodplain, thus eliminating the mandatory requirement to carry flood insurance while significantly reducing the cost of voluntary flood insurance for those structures within the project limits.

3. Need for growth area.
   The expected expansion of the 100 year floodplain as described above will not only impact existing homes and businesses. The floodplain expansion in

undeveloped areas would have a significant impact on the potential for and cost of new development in these areas. The City of Fargo is growth restrained by the Red River to the east, the cities of Horace and West Fargo to the west, and the cities of Harwood and Reile's Acres to the north. Prevention of floodplain expansion in south Fargo will enable continued growth to the south.

Project Features

The proposed SSFC project consists of the following features:

1. Levees along 136th Avenue South from Horace to I-29 and along the north side of the Wild Rice River from I-29 east approximately one mile. These levees will prevent uncontrolled floodwater breakout flows from the Wild Rice River.

2. Levees and/or floodwalls generally along the Red River/Highway 81 from 32nd to 106th Avenue South. These levees will contain Red River flood waters.

3. Full diversion of Wild Rice River with containment levees from Highway 81 to one mile west of Highway 81 to provide protection to existing houses along both sides of the Wild Rice River.

4. Southerly extension of Drain 27 and Drain 53 with containment levees and channel storage to the south project levee. These drain extensions will allow flood flows to be carried through the Drains at controlled rates rather than uncontrolled.

5. Red River channel extensions to increase Red River flow capacity between Rose Coulee and the Wild Rice River.

   The flow capacity and water storage provided from the Drain 27, 53 and Red River channel extensions along with water storage provided along Drain 27, 53 and the diverted section of the Wild Rice River results in Red River stage reductions from Rose Coulee to the City of Oxbow.

6. Pumping station and back flow structure at Rose Coulee and Highway 81.

   For your information, I have attached the following information:
   a) Cost summary along with maps showing proposed project plan.
   b) History of project development.

The project is now being turned over to the South East Cass Water Resource District for final design, right of way acquisition, permitting and construction. Environmental Assessment is also in progress. With a very aggressive schedule, we hope to start construction late in 2009 with completion by the end of 2012.

This concludes my prepared comments. I wish to thank you for your attention and ask for approval of our request for state funding for this important project. Commissioner Wimmer, City Administrator Pat Zavoral and I are available to respond to any questions.

Thank you.

HB1020 attachment #5

Fargo Southside Flood Control Project
Project History

Prepared by: Mark H. Bittner, City Engineer
Date: October 16, 2008

Historic flooding in the Red River basin during the spring of 1997 resulted in unprecedented damages to valley communities and farmsteads. The City of Fargo and outlying rural subdivisions, although extensively flooded, escaped the flood devastation that occurred in other valley communities such as Grand Forks and Wahpeton. Extraordinary efforts in local emergency protection measures in building earth and sand bag levees, combined with an opportunely timed cold weather spell, possibly spared the Fargo area from a Grand Forks level disaster.

Following the 1997 flood, Cass County retained Moore Engineering, Inc. to prepare a flood protection master plan for Cass County, including the areas south of Fargo that experienced significant flooding. Out of this study came recommendations for a flood control project that has evolved into the Fargo Southside Flood Control (SSFC) Project. The intent of this initial project was to provide permanent and secure protection from overland flooding that overran nearly all of Fargo, south of I-94. The project was awarded $9.5 million of FEMA HMGP funds in 1998. As originally proposed in the Cass County study, the SSFC project consisted of an earth levee and paralleling diversion channel along 70th Avenue South from the Red River to the east edge of Horace. A conceptual layout for this project is shown in Figure 1 and had an estimated cost of approximately $30 million.

In 2001, Cass County transferred the SSFC project and HMGP grant funds to the City of Fargo. The City retained Moore Engineering to move forward with project development with the following primary objectives:

1. Maximize to the extent practical the number of existing homes and businesses to receive permanent and secure protection from the overland flooding that occurred in 1997.

2. Set the design standard to a 100 year frequency flood event in order to achieve FEMA accreditation. This objective became a significant issue in view of the FEMA Flood Insurance Restudy (FIS) in progress. The preliminary FIS results showed a potential for massive expansion of the 100 year flood plain covering South Fargo and adjacent rural areas extending from 21st Avenue to 136th Avenue South. The flood plain expansion had the potential to impact as many as 9,500 existing homes and businesses.

3. Make provisions for continued growth of Fargo within areas protected by FEMA accredited facilities.

City of Fargo staff and Moore Engineering, in conjunction with Houston Engineering (FEMA FIS consultant), developed four alternatives for the SSFC using the three objectives listed above. These alternatives are listed as follows:

Reference Figure	Name	Estimated Cost (Millions)
Figure 2.1	Wild Rice River Levee Alternative	$50
Figure 2.2	70th Avenue South Outlet Alternative	$80
Figure 2.3	Rose Coulee Outlet Alternative	$100
Figure 2.4	Wild Rice River Diversion Alternative	$75

The four SSFC project alternatives were presented for review and comment to agency and jurisdictional staff and general public at a series of informational meetings in late 2006 and early 2007. The public response was swift and critical, sending the City and Moore Engineering back to the drawing board to address the concerns summarized as follows:

1. River stage increases of as much as 10" associated with the proposed alternatives were not acceptable.

2. Concerns that the effects of "lost flood water storage" associated with the project had not been adequately evaluated.

3. Concerns that limited effort had been expended in evaluating flood protection options for the large number of existing houses located between Highway 81 (University Drive South) and the Red River and those houses along the Wild Rice River.

In response to the public comments received regarding the four SSFC alternative, the City took the following steps:

1. Retained Houston Engineering to develop an unsteady state hydraulic model of the Red and Wild Rice Rivers to quantify the impacts of lost storage.

2. Added the following project features to reduce river stage impacts to zero or lower:
   a. Red River Channel extension
   b. Drain 27 and 53 Channel extensions
   c. Internal flood storage within the protected area

   These added features resulted in a $50 million dollar cost increase to all base alternatives. The total project costs now ranged from $100 to $150 million depending on alternative.

3. Added a fifth project alternative for consideration (Wild Rice River Bypass Alternative). Figures 3.1 through 3.5 depict the five updated alternatives showing project features, estimated costs and river stage impacts (all now reduced to zero or below).

4. Retained services of Ulteig, Houston, KLJ, and Moore Engineering firms to develop flood protection options east of Highway 81 and along both sides of the Wild Rice River. The following specific project options are under evaluation. Primary protection options have been recommended for inclusion. Secondary protection options are still under evaluation.

   a. <u>Primary Protection</u> – Recommended for Approval - Incremental cost $40 million
      1) Rear yard floodwalls along Red River from 32nd to 40th Avenue South
      2) South Acres levee with acquisition of four houses
      3) Red River Channel Extension – ND alignment option
      4) Chrisan West levee
      5) Maple Prairie levee
      6) Wild Rice Mini-Bypass

   b. <u>Secondary Protection</u> – Not yet approved – Incremental cost $7 million
      1) Chrisan East levee with house acquisition
      2) River Vili and Riverview levee/floodwall

5. Formed a project technical steering committee to review all project items and provide recommendations to the City. The technical committee is comprised of the following:
    - Four consultants (Ulteig, Moore, Houston, and KLJ)
    - City Engineering staff
    - Cass County Engineer
    - Moorhead City Engineer
    - SE Cass Water Resource

The Fargo City Commission has selected the Wild Rice River Levee Alternative with preferred Features shown in Figure 4 as the Alternative to advance. This proposed project is generally described as follows:

1. Levees/Floodwalls

    A continuous series of levees and/or floodwalls that provide flood protection from the Red River, the Wild Rice River and to a lesser extent, the Sheyenne River. These levees begin about a mile south of Horace where they connect with the Sheyenne River Diversion that takes Sheyenne River flood waters around West Fargo. These proposed levees tie into the high ground south of Horace which extends for about 2 ½ miles and then the levees will extend east along Cass County Drain 47 for approximately 3 ½ miles where the levees turn north and follow a route that roughly follows I-29 for about 2 ½ miles and then moves east to approximately US 81 (South University Drive) and continues north for about 6 ½ miles to 32nd Avenue South in Fargo.

2. Red River Channel Extension

    Channel improvements along the Red River to improve the hydraulic efficiency of the Red River from the confluence of the Wild Rice River and the Red River north to where Rose Coulee enters the Red River.

    The Red River Channel improvements would be constructed above the ordinary high water levels in the Red River and would only function when the river flood stages were at approximately 20-25' or higher (Flood stage is designated at approximately 17 feet). These high water channels are similar to a shallow ditch to be cut through the oxbows of the river to provide better flow characteristics that will move the flood water through the area in a more efficient manner.

3. Drain 27 and 53 Channel Extensions

    Drain improvements consist of extending the two existing legal drains to the levees along the south end of the protected area and installing a gate system to allow flood water to enter these deepened and widened drainage channels in a controlled manner. These drains would have levees constructed along the sides to keep the flood water in the drainage channels. These channels are intended to replicate natural conditions by allowing Wild Rice River breakout flows to continue under controlled conditions and returning these flows to the Red River at Rose Coulee either via natural flow or via pump station.

    The Red River high water channel extensions and these two drain improvements actually result in lowering the river stage of the 100 year event anywhere from 0 to approximately 8 inches in certain locations along the Red River from Rose Coulee to Highway 18 and along the Wild Rice River from Red River to I-29.

4. Internal Storage

This internal storage takes the peak off the 100 year event so that there is no negative impact to the river stages north of the end of the project (north of Rose Coulee up to the Interstate and throughout the City).

5. Wild Rice River Mini-Diversion

This proposed channel, similar to the Sheyenne River Diversion around West Fargo, would divert the full flow of the Wild Rice River to the south and east to provide flood protection to the rural housing subdivisions along the Wild Rice River between I-29 and Highway 81. The diversion would operate only during flood events. Normal Wild Rice River flows would continue through the existing natural channel except during flood events.

6. High capacity pumping station and closure structure on Rose Coulee just west of Highway 81(South University Drive)

The preliminary design of the pump station requires three diesel engine drive 400 cubic feet per second (CFS) pumps, three electric motor 200 CFS pumps for a firm total capacity of approximately 1,300 CFS (585,000 gallons per minute) at an estimated cost of $25 million.

7. Cost/funding Summary – See Exhibit 1

Type	Amount (Millions)
Construction	$130
Right of Way	$ 31
Total	$161

Funding	
Federal	$ 11
State	$ 75
Local	$ 75
	$161

III. PRELIMINARY PROJECT SCHEDULE:

A. RFQ and Consultant Selection

Finalize RFQ Document	City of Fargo Engineer & Ulteig Engineers	11/20/08	
Approve RFQ	Fargo PWPEC	12/9/08	
	Fargo City Commission	12/15/08	
	SE Cass WRD	12/12/08	
Advertise RFQ	City of Fargo Engineer	12/22/08	12/29/08
Receive Proposals	City of Fargo Engineer	1/21/09	
Selection Committee Review		1/28/09	
Interviews & Final Selection		2/3/09	
Scope of Work/Cost Proposal Development		2/25/09	
Selection Approval	Fargo City Commission	3/9/09	
	SE Cass WRD	3/13/09	
Notice to Proceed		3/16/09	

B. Project Development Schedule

- City Commission Approves Preferred Base Alternative — July 14, 2008 (Done)
- Approve Joint Powers Agreement with SE Cass — August 11, 2008 (Done)
- Ongoing Public Input Meetings — August, 2008 to October, 2008
- Finalize Project Details and Protection Options — October 6, 2008
    - Protection Options East of Univ. Dr./Hwy 81
    - Wild Rice Mini-Bypass
    - Internal Storage Alternatives
- Draft Preliminary Engineering Report — October 7, 2008
- Submittal of CLOMR to FEMA — February 01, 2009
- Environmental Review / Analysis (URS Engineering)
    - Field Cultural Resource Survey — December, 2008
    - Draft EA — March, 2009
    - FONSI — June, 2009
- Final Preliminary Engineering Report — March 01, 2009
- Permitting — November, 2008 to May, 2009
- Final Design of Project — March, 2009 to April, 2010
- Right of Way Appraisals / Negotiations / Acquisition — June, 2009 to November, 2010
- Establish Special Assessment District (SE Cass) — November, 2008 to April, 2009
- Special Assessment Hearings and Vote (SE Cass) — February, 2009 to April, 2009
- Begin Construction — September, 2009
- Functional Completion — March, 2011/2012
- Final Completion — July, 2012/2013

Cost Summary

Southside Flood Control Project

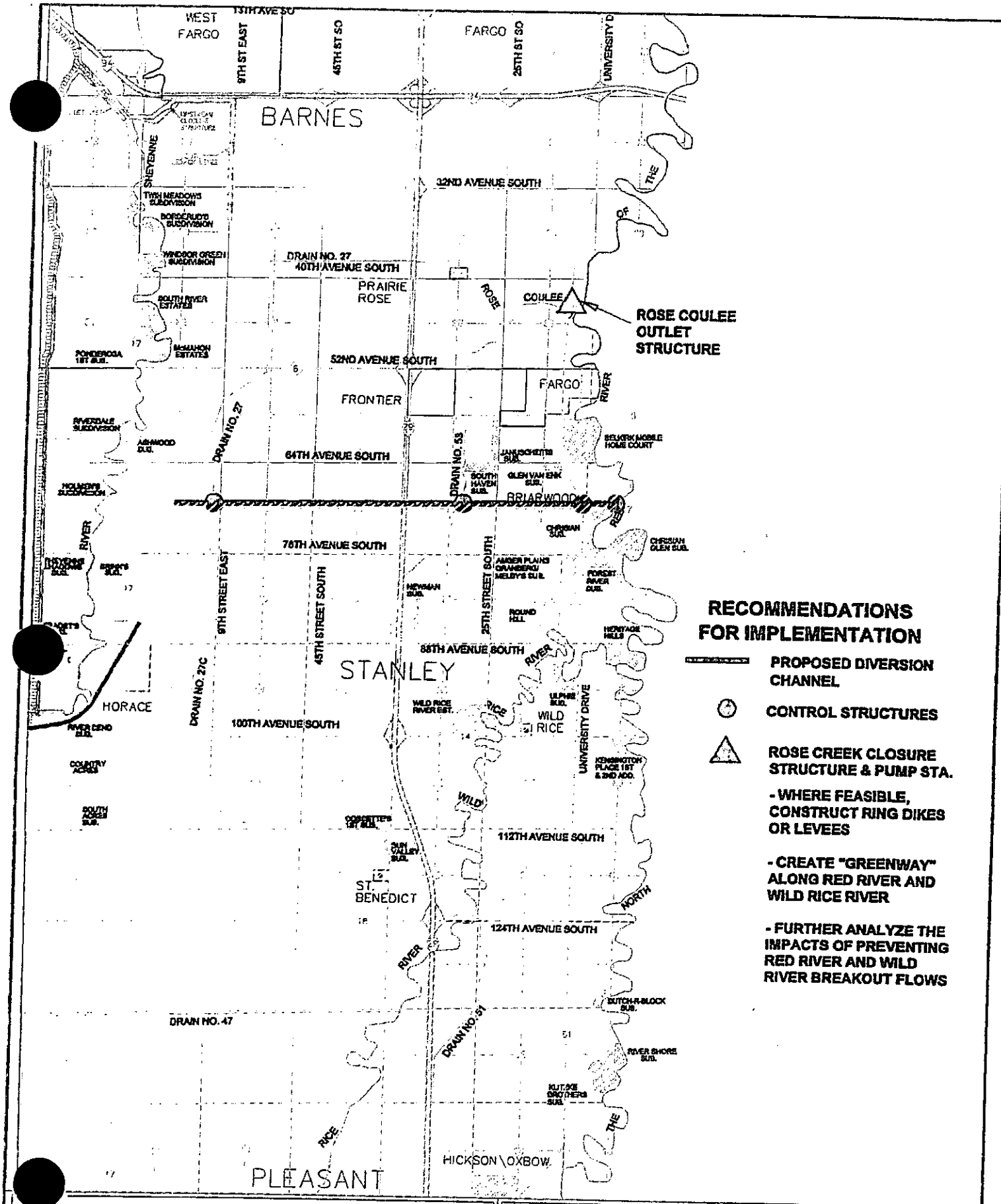
Feature	Location		Description	Estimated Costs						Funding Sources					
				Estimated Cost (Millions)			Incremental Cost Above Base(Millions)						Local Share		
				Construction (Note 1)	Right of Way (Note 2)	Subtotal	Construction	Right of Way	Subtotal	Federal	State (Note 3)	Local	Specials	Fargo (Note 4)	Total Cost
Wild Rice River Levees Alternative	Base Project			$98.00	$16.00	$114.00				$11.00	$51.50	$51.50	$39.50	$12.00	$114.00
Recommended Options - Primary Protection															
1 32nd to 40th Av S	Base	Along Univ Drive	Levees and flood walls (FW)	$6.60	$0.90	$7.50									
	Option 2A	Along Red River	Combo FW with Removable above BFE+1	$20.80	$7.50	$28.30	$14.20	$6.60	$20.80		$10.40	$10.40	$1.84	$8.56	
2 40th to 52nd Av S/ South Acres	Base	Along Univ Dr	Raise Paving on Univ Dr	$0.30	$0.00	$0.30	Base cost included with paving project								
	Option 2	South Acres	Purchase 4 homes and earth levee	$1.00	$1.90	$2.90	$0.70	$1.90	$2.60		$1.30	$1.30	$0.10	$1.20	
3 Red River Channel Extensions	Base	Along Red River	Alternate ND and MN sides	$17.00	$1.40	$18.40									
	ND Plan	Along Red River	ND alignment on south end	$17.40	$1.90	$19.30	$0.40	$0.50	$0.90		$0.45	$0.45		$0.45	
4 Chrisan West	Base	70th to 76th Av S	Earth Levee along backyards	$0.90	$0.50	$1.40									
	Option 1	70th to 76th Av S	Earth levee between frontage road and Univ Dr	$1.60	$0.00	$1.60	$0.70	($0.50)	$0.20		$0.10	$0.10	$0.10	$0.00	
5 Maple Prairie	Base	West & south sides	Earth Levee along south and west sides	$0.30	$0.10	$0.40									
	Option 1	North and east sides	Earth levee on north and east sides	$0.80	$0.50	$1.30	$0.50	$0.40	$0.90		$0.45	$0.45	$0.45	$0.00	
6 Wild Rice River Mini-bypass	Base	88th Av S	WRR closures along 88th Av S	$13.80	$1.70	$15.50									
	Option 3B	106th Av S	Bypass channel 1/2 mile south of Co Rd 14 (100th Av S)	$27.20	$2.20	$29.40	$13.40	$0.50	$13.90		$6.95	$6.95	$1.00	$5.95	
7 Supplemental Storage	Base	Drain 27	Storage along Drain 27 and in Section 9	$19.10	$6.70	$25.80	$0.00	$0.00	$0.00		$0.00	$0.00	$0.00	$0.00	
Totals (Base plus options)				$127.90	$25.40	$153.30	$29.90	$9.40	$39.30	$11.00	$71.15	$71.15	$42.99	$28.16	$153.30
Secondary Protection Projects															
1 Chrisan East	Base		Do nothing	$0.00	$0.00	$0.00									
	Option 1D		Acquire all east side homes, earth lvee	$0.90	$3.10	$4.00	$0.90	$3.10	$4.00		$2.00	$2.00	$0.10	$1.90	
2 River Vill & Riverview	Base		Do nothing	$0.00	$0.00	$0.00									
	Option 1		Earth Levee & FW	$1.20	$1.80	$3.00	$1.20	$1.80	$3.00		$1.50	$1.50	$0.10	$1.40	
Subtotals (Independent Projects)				$2.10	$4.90	$7.00	$2.10	$4.90	$7.00	$0.00	$3.50	$3.50	$0.20	$3.30	
Totals (Base plus options plus independent projects)				$130.00	$30.30	$160.30	$32.00	$14.30	$46.30	$11.00	$74.65	$74.65	$43.19	$31.46	$160.30

Note 1	Included Costs
Contingencies	15%
Preliminary Engineering	5%
Engineering	15%
Quality Control Testing	2%
Legal and Administrative	3%
Interim Financing	8%

Note 2
Real Estate Contingencies 15%

Note 3
$14.5 million committed to date
Assumed state cost share of 50% of non federal costs

Note 4
Possible Sources:
Sales Tax
Special Assessment
Storm Sewer Utility



RECOMMENDATIONS FOR IMPLEMENTATION

- PROPOSED DIVERSION CHANNEL
- CONTROL STRUCTURES
- ROSE CREEK CLOSURE STRUCTURE & PUMP STA.
- WHERE FEASIBLE, CONSTRUCT RING DIKES OR LEVEES
- CREATE "GREENWAY" ALONG RED RIVER AND WILD RICE RIVER
- FURTHER ANALYZE THE IMPACTS OF PREVENTING RED RIVER AND WILD RIVER BREAKOUT FLOWS

STUDY AREAS 2 & 3

moore engineering inc.
fargo - west fargo, north dakota

Figure 1

DRAWING 1 of 1

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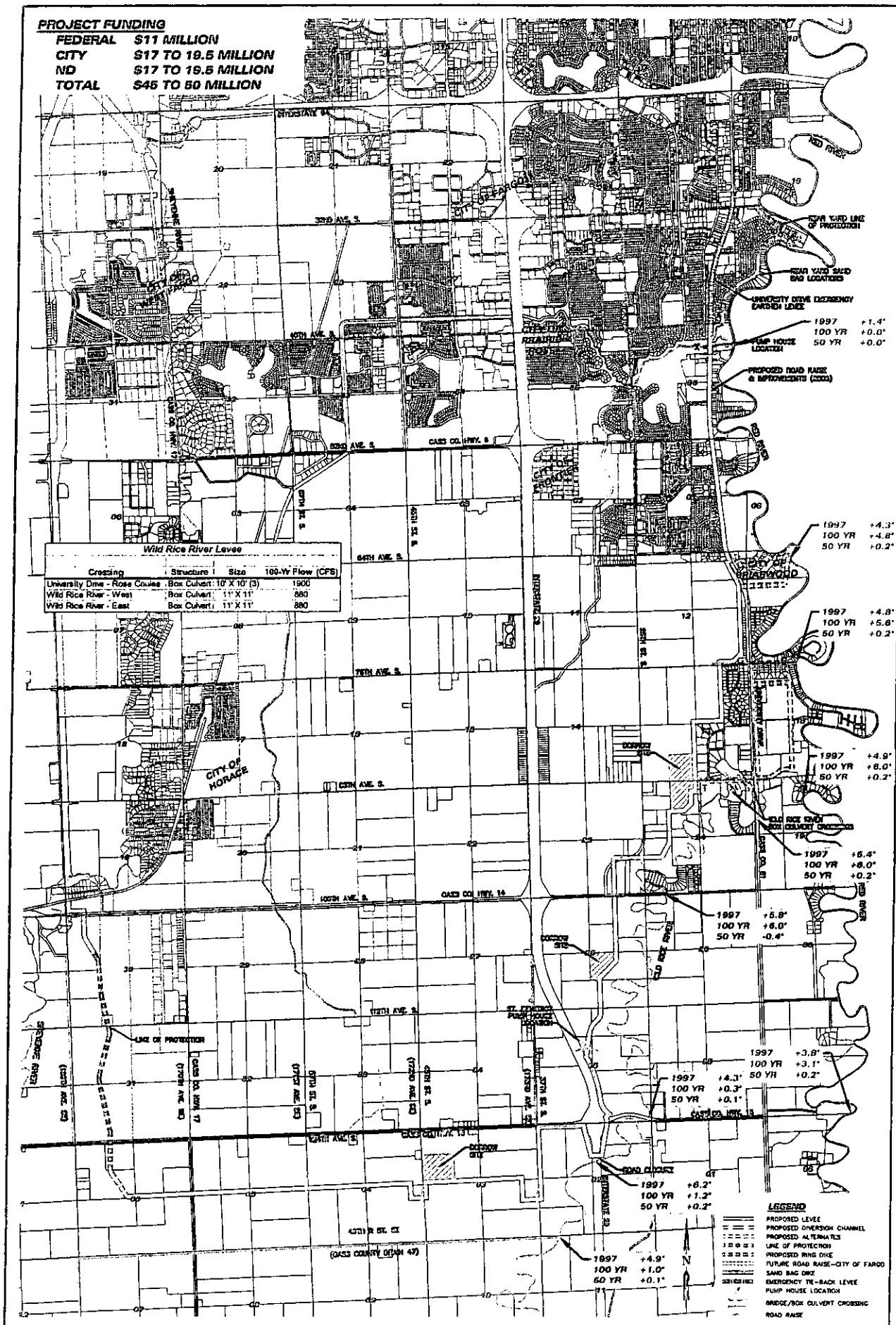
WILD RICE RIVER LEVEE ALTERNATIVE



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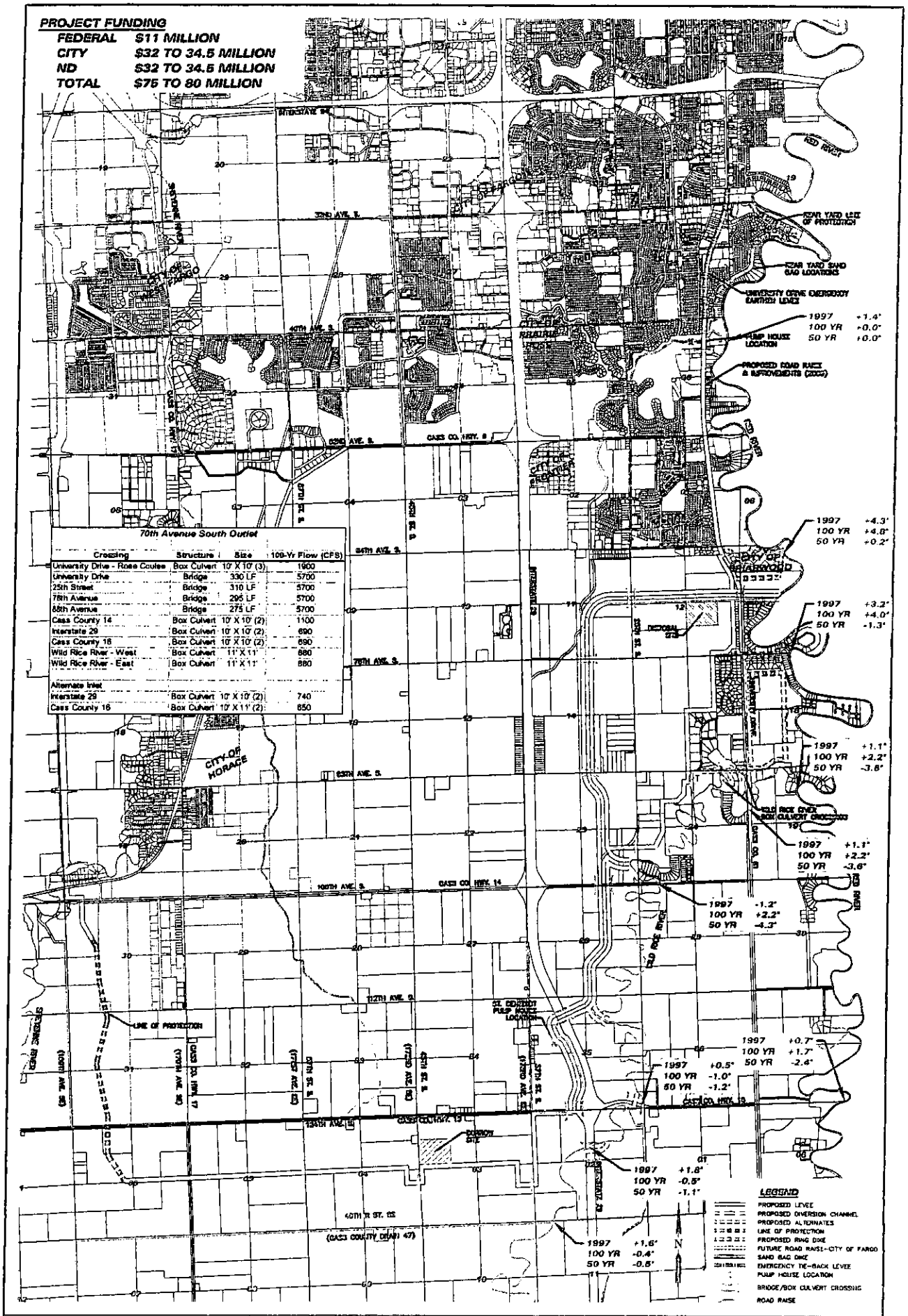
WILD RICE RIVER LEVEE ALTERNATIVE
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 2.1

DRAWING 1 OF 1

70TH AVENUE SOUTH OUTLET ALTERNATIVE



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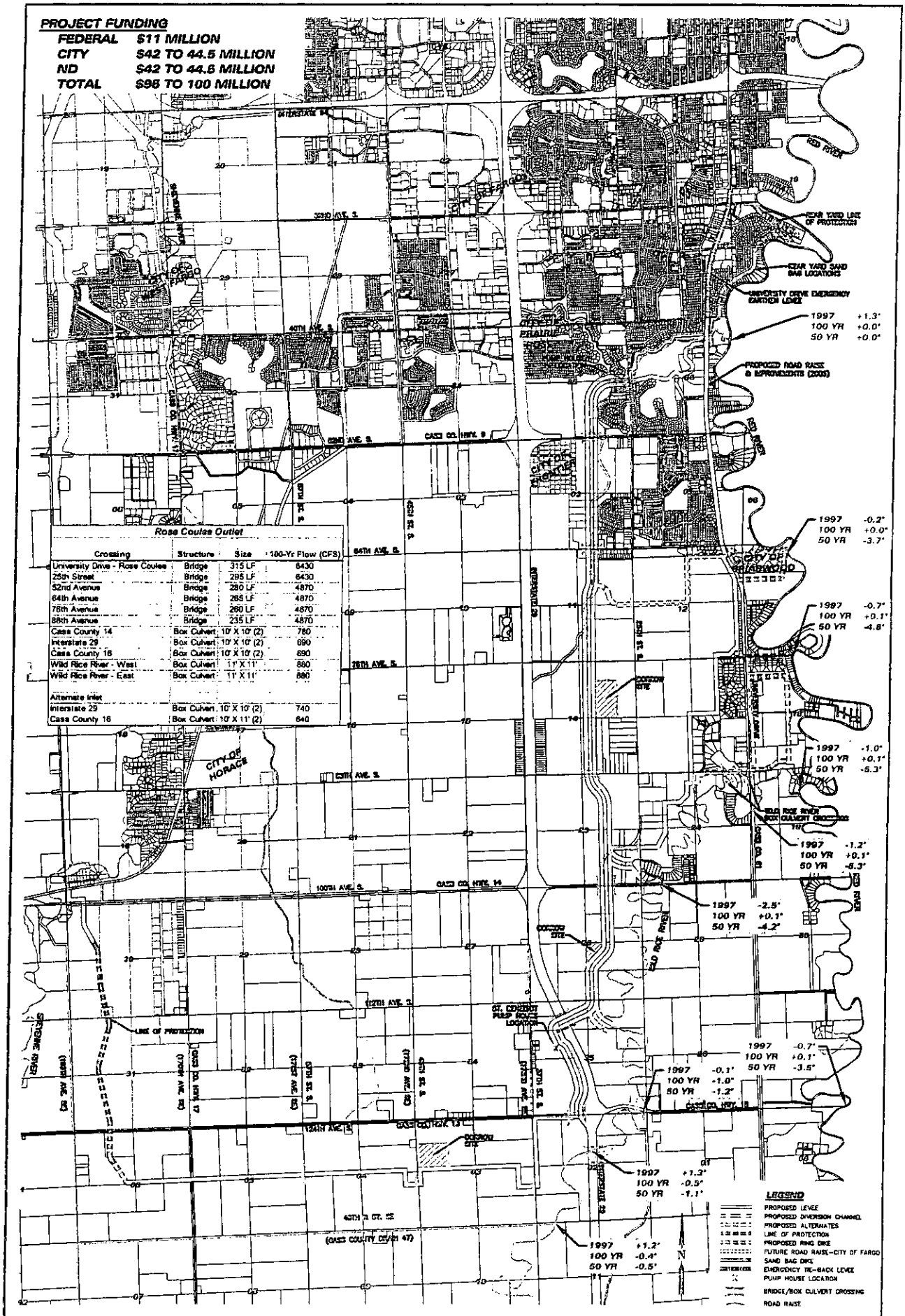
70TH AVENUE SOUTH OUTLET ALTERNATIVE
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 2.2

DRAWING 1 of 1

ROSE COULEE OUTLET ALTERNATIVE



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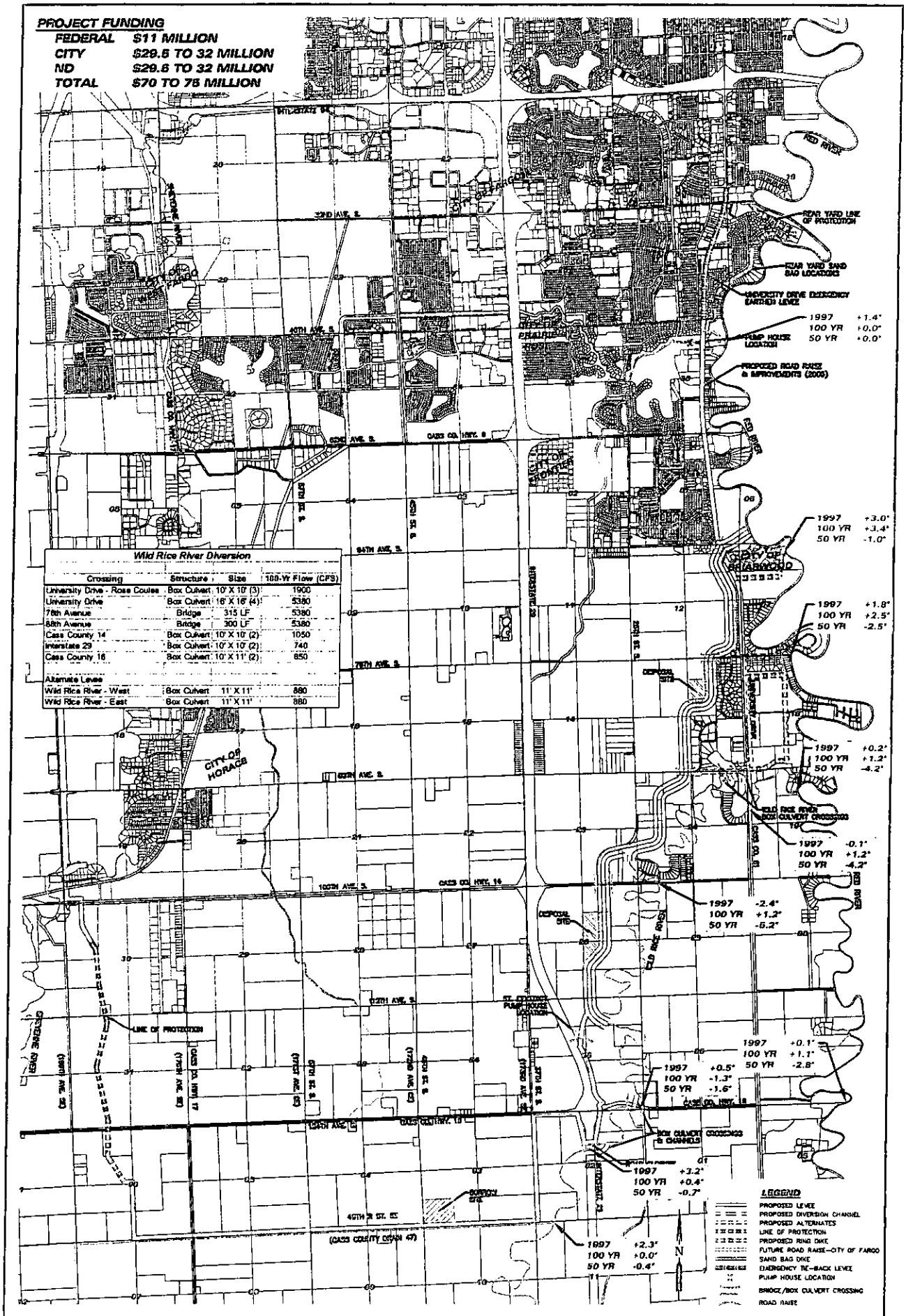
ROSE COULEE OUTLET ALTERNATIVE
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 2.3

DRAWING 1 OF 1

WILD RICE RIVER DIVERSION ALTERNATIVE



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WILD RICE RIVER DIVERSION ALTERNATIVE
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 2.4

DRAWING 1 OF 1

WILD RICE RIVER LEVEE ALTERNATIVE

PROJECT FUNDING

FUNDING SOURCE	
FEDERAL	
CITY	
ND	
TOTAL	

STORAGE TABLE

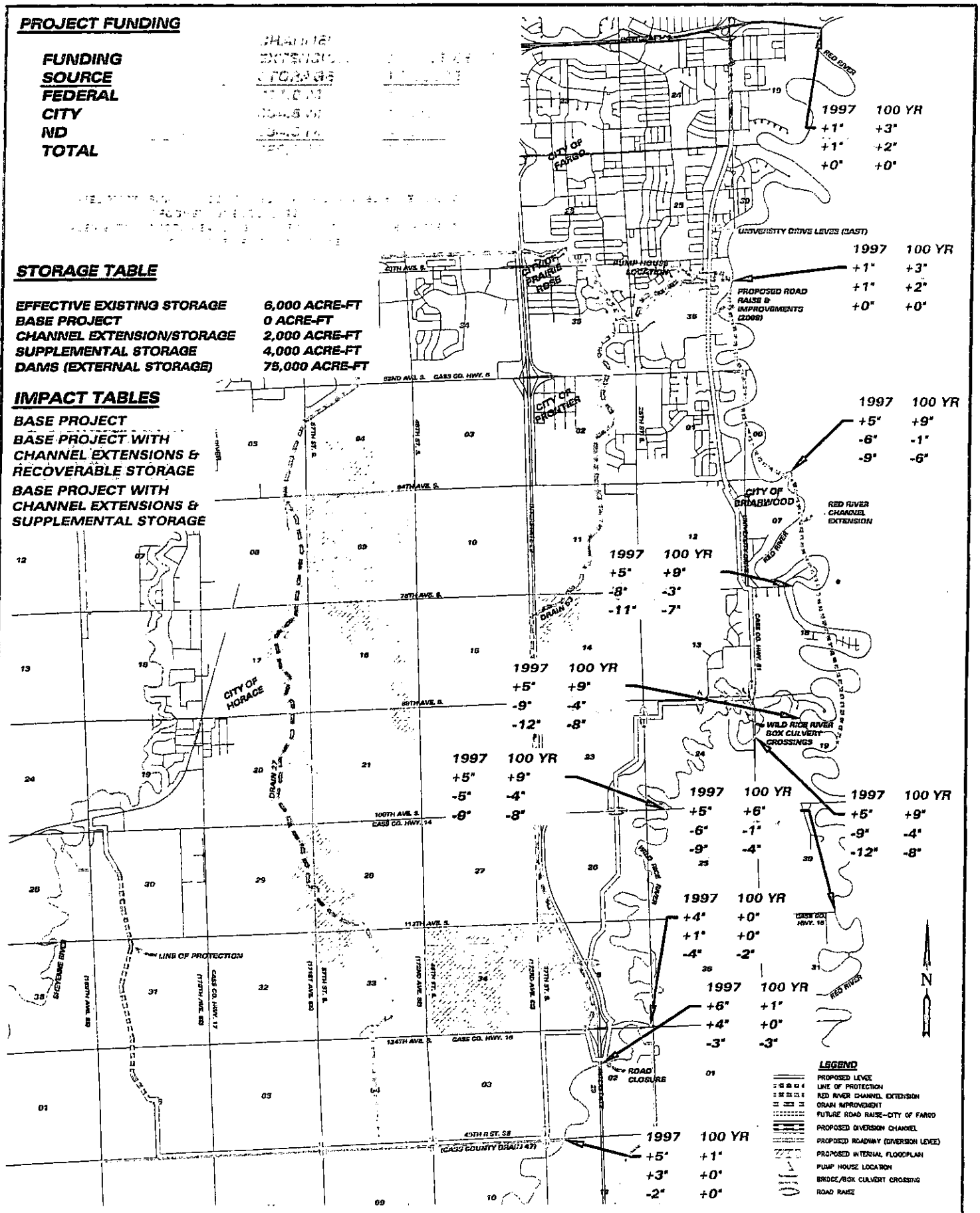
EFFECTIVE EXISTING STORAGE	6,000 ACRE-FT
BASE PROJECT	0 ACRE-FT
CHANNEL EXTENSION/STORAGE	2,000 ACRE-FT
SUPPLEMENTAL STORAGE	4,000 ACRE-FT
DAMS (EXTERNAL STORAGE)	75,000 ACRE-FT

IMPACT TABLES

BASE PROJECT

BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE

BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE



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WILD RICE RIVER LEVEE ALTERNATIVE
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 3.1

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70TH AVENUE SOUTH OUTLET ALTERNATIVE

PROJECT FUNDING

FUNDING SOURCE	
FEDERAL	
CITY	
ND	
TOTAL	

STORAGE TABLE

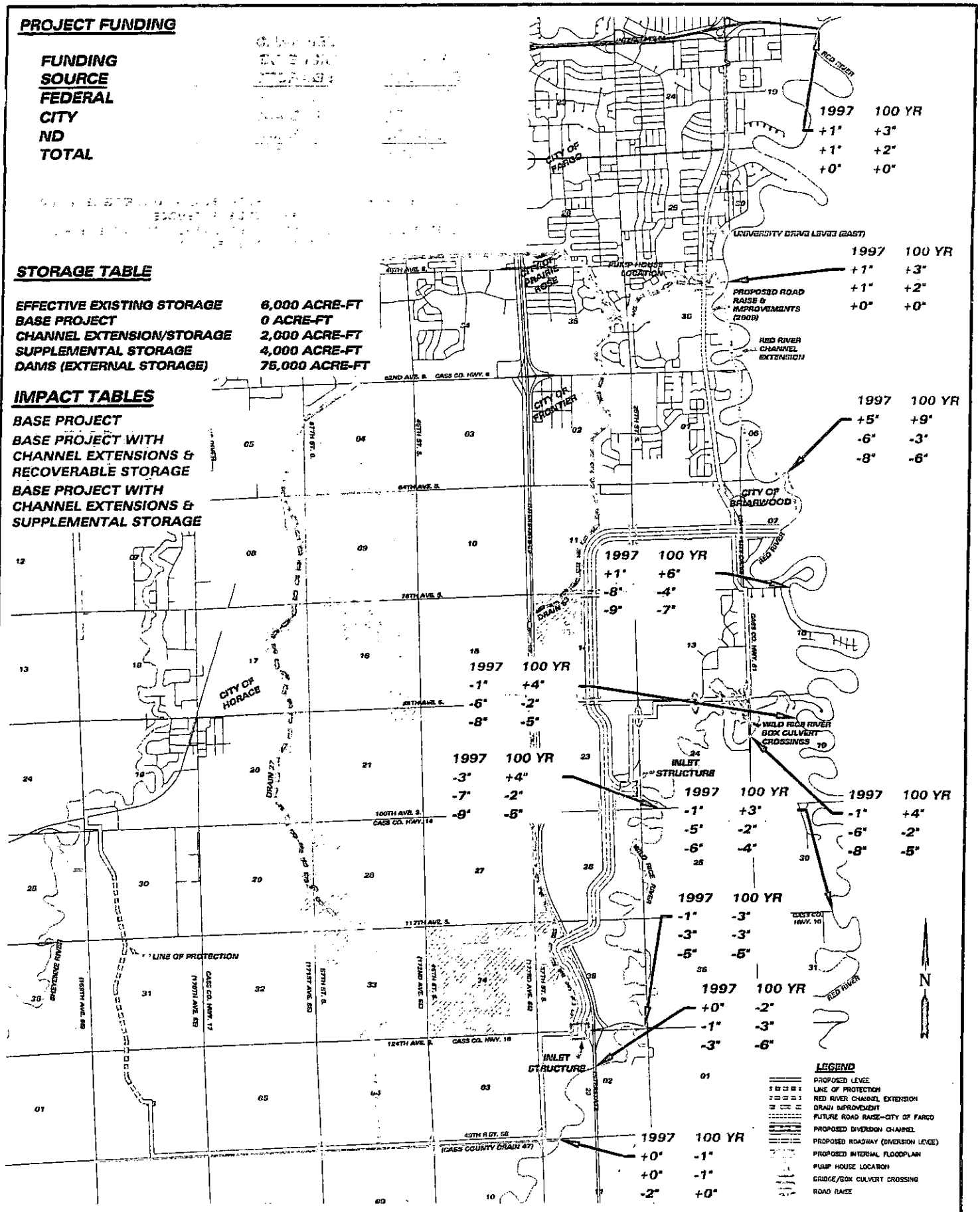
EFFECTIVE EXISTING STORAGE	6,000 ACRE-FT
BASE PROJECT	0 ACRE-FT
CHANNEL EXTENSION/STORAGE	2,000 ACRE-FT
SUPPLEMENTAL STORAGE	4,000 ACRE-FT
DAMS (EXTERNAL STORAGE)	75,000 ACRE-FT

IMPACT TABLES

BASE PROJECT

BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE

BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE



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70TH AVENUE SOUTH OUTLET ALT.
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 3.2

DRAWING 1 OF 1

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ROSE COULEE OUTLET ALTERNATIVE

PROJECT FUNDING

FUNDING SOURCE	STORAGE
FEDERAL	
CITY	
ND	
TOTAL	

STORAGE TABLE

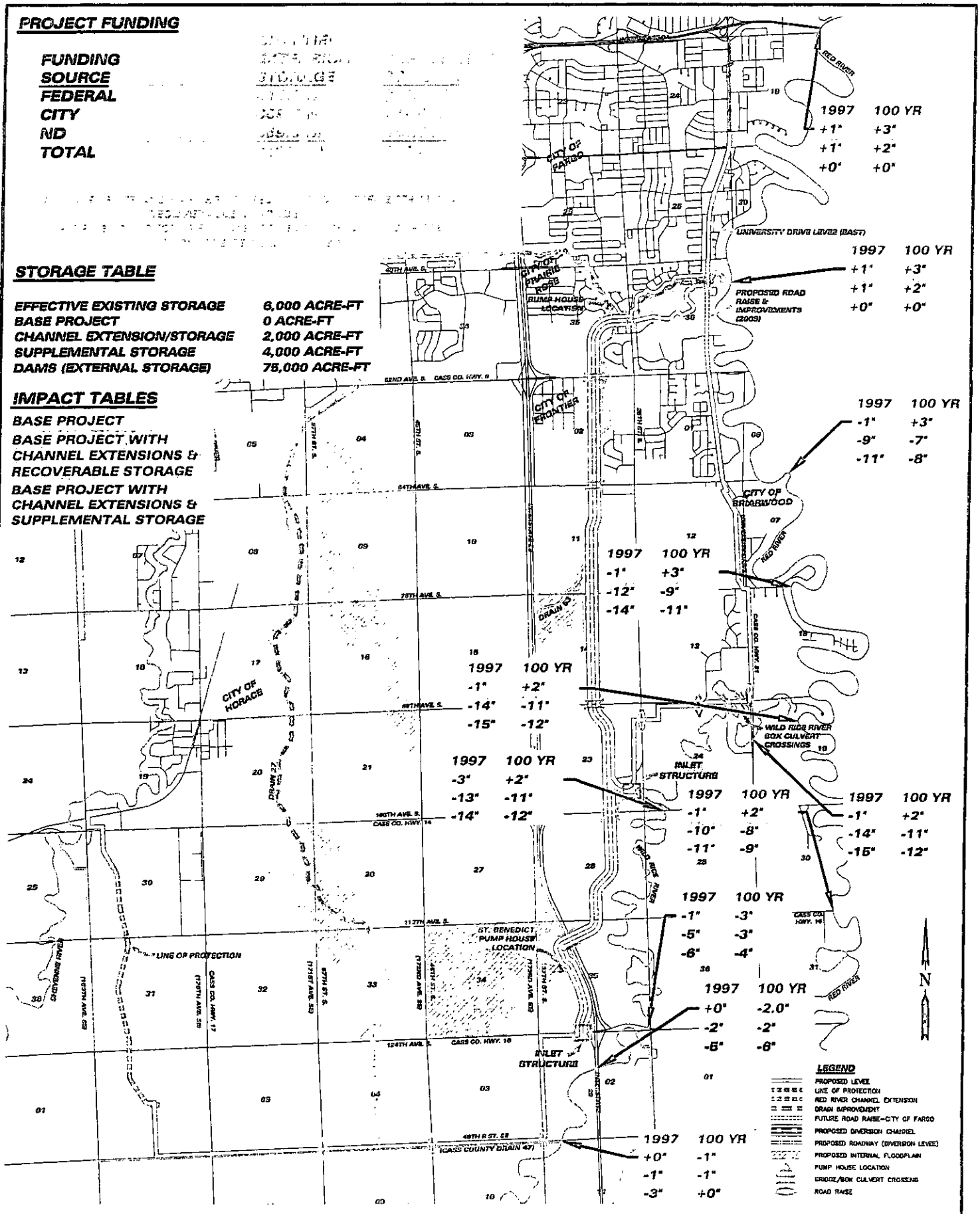
EFFECTIVE EXISTING STORAGE	6,000 ACRE-FT
BASE PROJECT	0 ACRE-FT
CHANNEL EXTENSION/STORAGE	2,000 ACRE-FT
SUPPLEMENTAL STORAGE	4,000 ACRE-FT
DAMS (EXTERNAL STORAGE)	75,000 ACRE-FT

IMPACT TABLES

BASE PROJECT

BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE

BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE



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ROSE COULEE OUTLET ALTERNATIVE
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 3.3

DRAWING 1 OF 1

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WILD RICE RIVER DIVERSION ALTERNATIVE

PROJECT FUNDING

FUNDING SOURCE	STORAGE
FEDERAL	
CITY	
ND	
TOTAL	

STORAGE TABLE

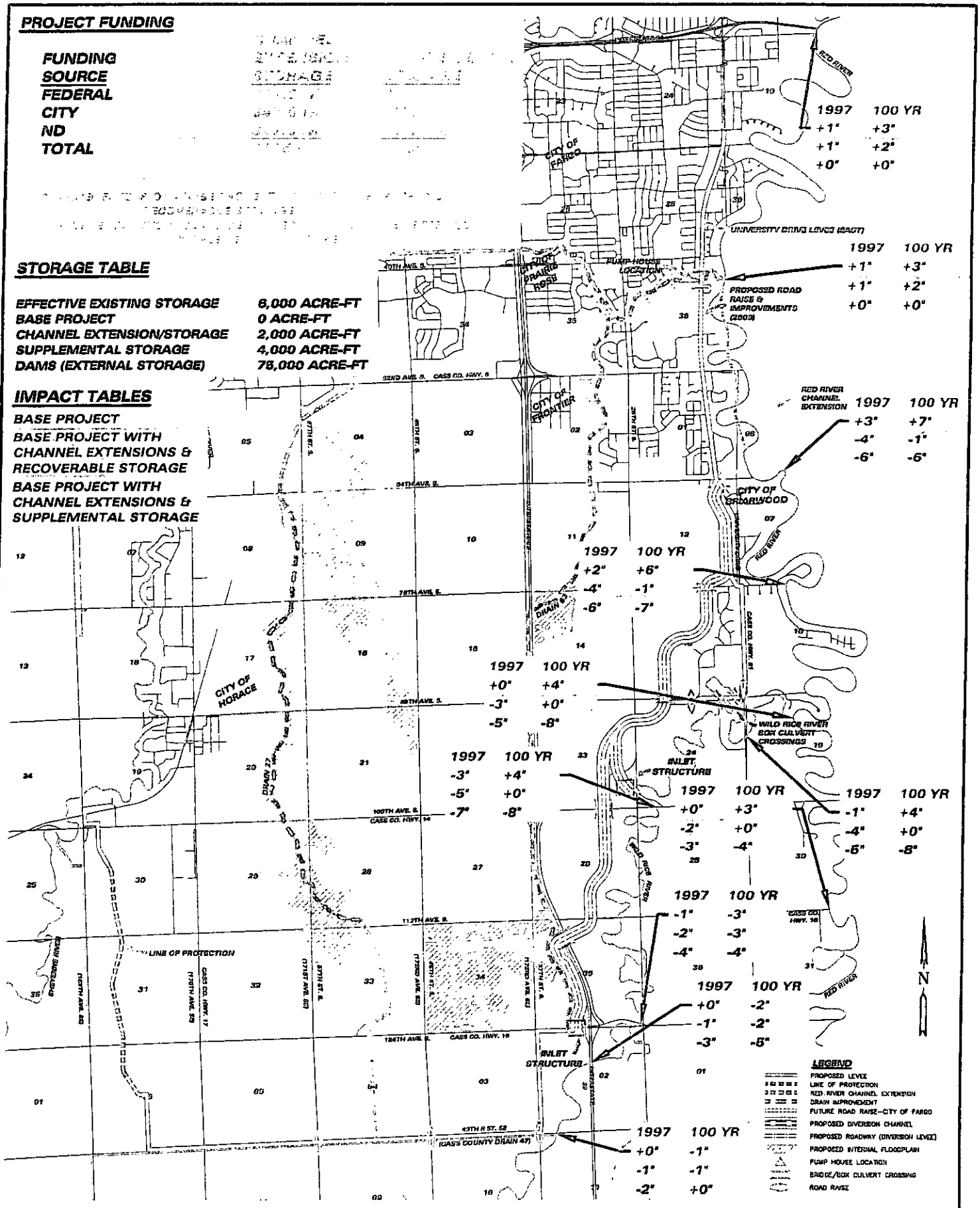
EFFECTIVE EXISTING STORAGE	8,000 ACRE-FT
BASE PROJECT	0 ACRE-FT
CHANNEL EXTENSION/STORAGE	2,000 ACRE-FT
SUPPLEMENTAL STORAGE	4,000 ACRE-FT
DAMS (EXTERNAL STORAGE)	76,000 ACRE-FT

IMPACT TABLES

BASE PROJECT

BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE

BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE



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WILD RICE RIVER DIVERSION ALT.
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 3.4

DRAWING 1 OF 1

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WILD RICE RIVER BYPASS ALTERNATIVE

PROJECT FUNDING

FUNDING SOURCE	STORAGE
FEDERAL	
CITY	
ND	
TOTAL	

STORAGE TABLE

EFFECTIVE EXISTING STORAGE	6,000 ACRE-FT
BASE PROJECT	0 ACRE-FT
CHANNEL EXTENSION/STORAGE	2,000 ACRE-FT
SUPPLEMENTAL STORAGE	4,000 ACRE-FT
DAMS (EXTERNAL STORAGE)	75,000 ACRE-FT

IMPACT TABLES

	1997	100 YR
BASE PROJECT	+1"	+3"
BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE	+1"	+3"
BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE	+0"	+0"

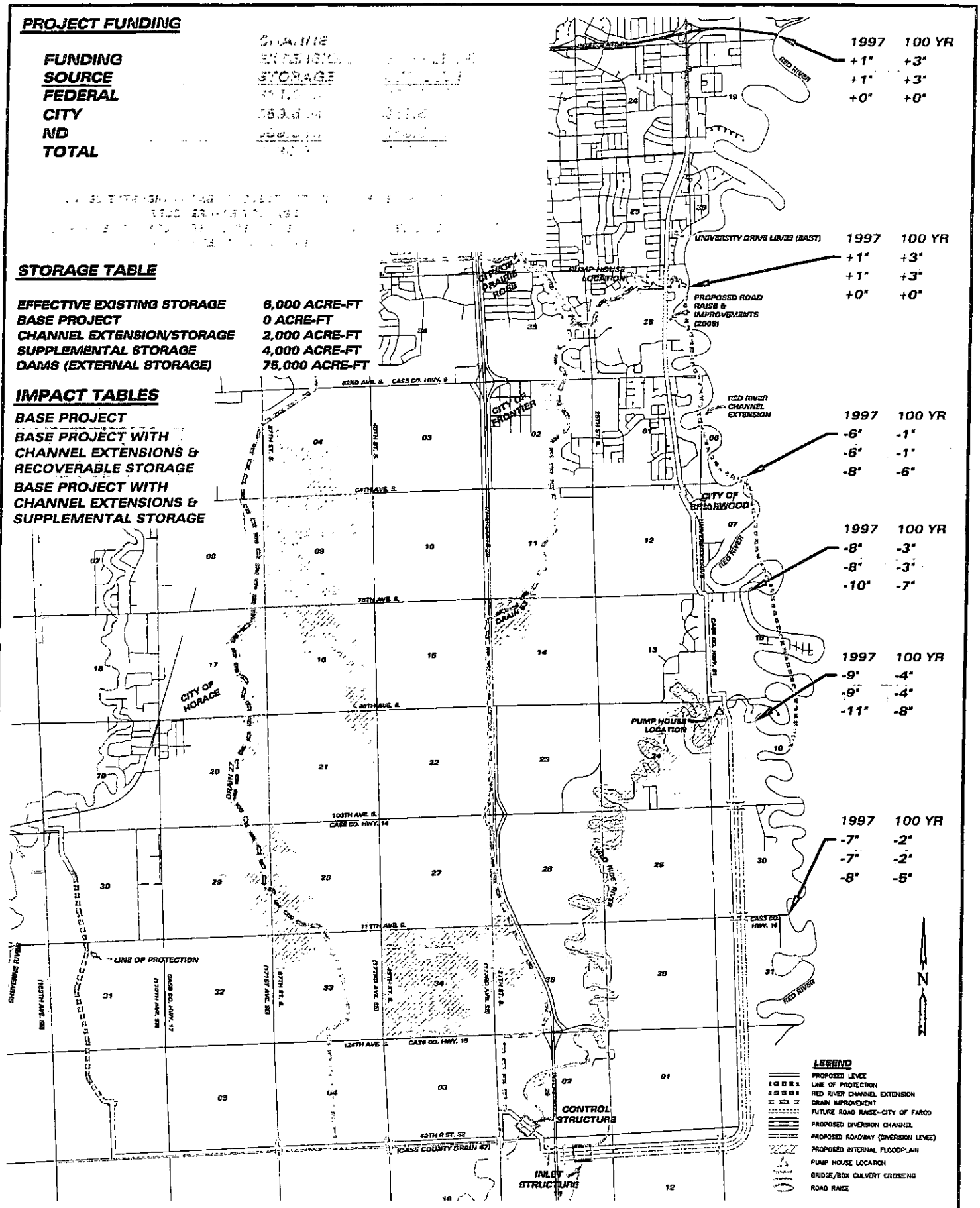
	1997	100 YR
BASE PROJECT	+1"	+3"
BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE	+1"	+3"
BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE	+0"	+0"

	1997	100 YR
BASE PROJECT	-6"	-1"
BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE	-6"	-1"
BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE	-8"	-6"

	1997	100 YR
BASE PROJECT	-8"	-3"
BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE	-8"	-3"
BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE	-10"	-7"

	1997	100 YR
BASE PROJECT	-9"	-4"
BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE	-9"	-4"
BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE	-11"	-8"

	1997	100 YR
BASE PROJECT	-7"	-2"
BASE PROJECT WITH CHANNEL EXTENSIONS & RECOVERABLE STORAGE	-7"	-2"
BASE PROJECT WITH CHANNEL EXTENSIONS & SUPPLEMENTAL STORAGE	-8"	-5"



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WILD RICE RIVER BYPASS ALT.
SOUTH SIDE FLOOD STUDY
FARGO, NORTH DAKOTA

Figure 3.5

DRAWING 1 OF 1

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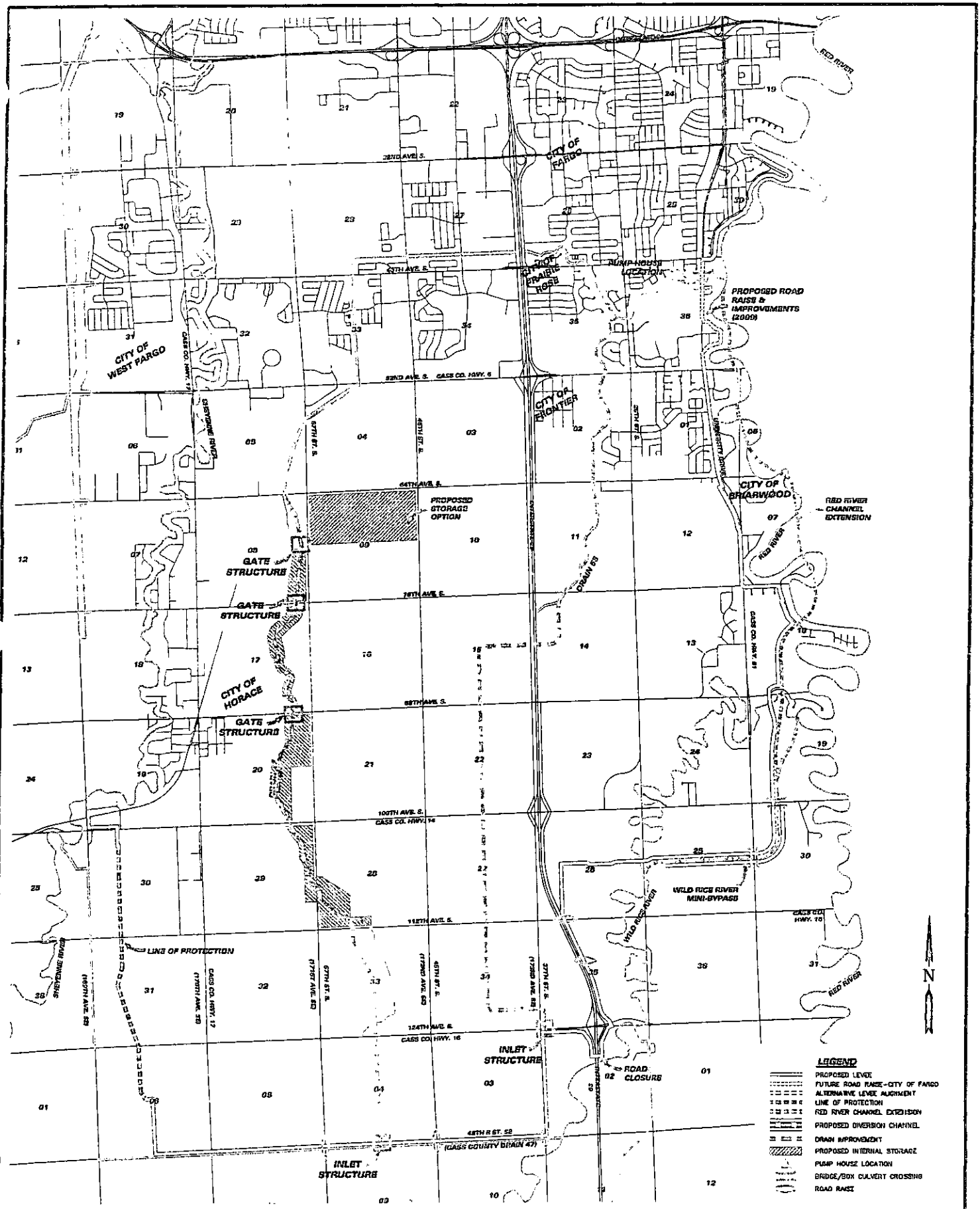
WILD RICE RIVER LEVEE ALTERNATIVE WITH PREFERRED FEATURES



moore engineering, inc.
Consulting Engineering • Land Surveying
West Fargo • Fergus Falls • Pelican Rapids

WILD RICE RIVER LEVEE ALTERNATIVE
SOUTHSIDE FLOOD CONTROL PROJECT
FARGO, NORTH DAKOTA

Figure 4

DRAWING 1 OF 1

Fargo Southside Flood Control Project
Testimony to Senate Appropriations Committee
House Bill 1020
March 11, 2009
Brad Wimmer
Fargo City Commissioner

Chair and Committee Members:

On behalf of the City of Fargo, this indeed is a pleasure and honor to be here today to speak in support of the House Bill 1020. Thank you for your consideration of our request for funding assistance for construction of the Fargo Southside flood control (SSFC) project.

As I stand here today, nearly 12 years after the devastating 1997 spring floods in the Red River basin, the City of Fargo stands alone as the only major city in North Dakota without permanent and secure flood protection facilities. The City has waited patiently and supportively as flood protection projects have been constructed in Wahpeton, Devils Lake and Grand Forks. During this waiting period, the City of Fargo, along with numerous engineering and technical consultants, has been working feverishly in project development activities for the SSFC project.

Now after 8 years of analyzing numerous alternatives and options, along with approximately 100 public information meetings, the proposed SSFC plan is moving forward to provide certifiable 100 year frequency flood protection to properties south of I-94. The SSFC project affords protection to properties in the cities of Fargo, Frontier and Prairie Rose along with numerous rural unincorporated residential subdivisions in Stanley and Pleasant Townships. Technical engineering analysis has shown that this 100 year flood protection can be accomplished without raising flood levels for upstream or downstream rivers and tributaries.

With a current cost estimate of $161 million, the project scope has grown since original concepts. An independent benefit/cost analysis conducted by Goettel and Associates in California calculated a benefit to cost ratio ranging from 1.4 to 1.6. Although not an engineer or a cost benefit expert, as a third generation retail business owner I recognize the benefit of receiving a $1.50 benefit for every $1.00 invested.

We are requesting state funding in the amount of $75 million based on 50% of non-federal cost share. The state previously has committed $14.5 million for the project. We respectfully request a state funding commitment of an additional $60.5 million for the period from 2009 thru 2012 and offer our support for House Bill 1020.

Thank you again for your consideration of Fargo's request for state funding assistance for this extremely important project. I will now ask Fargo City Engineer, Mark Bittner to briefly describe the need for the project and outline details of the proposed improvements.

Thank you.

COST AND FUNDING SUMMARY
SOUTHSIDE FLOOD PROTECTION PROJECT

Total Estimated Cost **$161 Million**

Additional State Funding request **$60.5 Million**

Cost Summary

			Cost (Millions)
Base Project: Wild Rice River Levees Alternative Includes the following: • Red River Channel Extension • Drain 53 Channel Extension • Drain 27 Channel Extension with Storage • Floodwall along University Drive – 32nd to 40th Avenue			$119
Expand Protection Area			
A. Primary Protection Area			
• Rear yard floodwalls – 32nd to 40th Ave.		+ $21	
• Wild Rice Mini-bypass		+ $14	
	Subtotal	+ $35	$154
B. Secondary Protection			
• Chrisan East		+ $ 4	
• Riverview, River Vili		+ $ 3	
	Subtotal	+ $ 7	$161
Total Estimated Cost			**$161**

Requested Funding

FEMA	$ 11
State (Based on 50% of non-federal costs)	**$ 75**
• **$14.5 committed; $60.5 additional requested**	
Fargo Direct (Estimated)	$ 32
Special Assessments (Estimated)	$ 43
Total Funding	**$161**

NORTH DAKOTA Water Users Association

Michael A. Dwyer
Executive Vice President
701-223-4615
701-223-4645 (Fax)

PO Box 2254 • Bismarck, ND 58502-2254

April 8, 2009

Senate Majority Leader Bob Stenehjem
Senate Minority Leader David O'Connell
House Majority Leader Al Carlson
House Minority Leader Merle Boucher
Senate Appropriations Committee
House Appropriations Committee

This is to request that the Legislature consider providing additional funding for water infrastructure this legislative session, to provide the entire state cost share ($75 million) for the Fargo Flood Control Project this session.

In 1999, when the Legislature adopted legislative intent to provide $52 million for Grand Forks Flood Control (SB 2188), it developed an additional source of revenue to meet that need, along with the already ongoing critical water needs, such as rural water, NAWS, Southwest Pipeline Project, Devils Lake Outlet, and other projects.

We are faced with the same crisis as we were back then. The Red River has crested at historic levels in the City of Fargo, and may again, and we must provide permanent flood protection for our largest and very important city. The Governor/State Water Commission and Fargo are seeking 50/50 nonfederal cost share, or $75 million of state funds, for this critical infrastructure.

By providing the entire funding for the Fargo Flood Control this session, we are in a position to tackle eastern North Dakota's other major water issue, which is water supply, in the next and future sessions. We have expressed intent for a one-third state cost share for the Red River Valley Water Supply Project, or about $220 million.

The projected revenues for the Resources Trust Fund could be as low as $30 million, or as high as $70 million. It is speculative, based on oil prices and exemptions that are adopted by the Legislature. Thus, this request would require an additional appropriation from the general fund, the permanent oil tax fund, or some other source of revenue, to provide the entire $75 million at this time and enable some progress on other critical water needs.

Thank you for consideration of this recommendation.

Sincerely,

Kent Vesterso

Kent Vesterso, President, North Dakota Water Users Association

HB 1020 attachment # 12

TESTIMONY FOR HB 1020
HOUSE APPROPRIATIONS - EDUCATION AND ENVIRONMENT
JANUARY 21, 2009

Michael Hynek - Mayor of Stanley

Thank you for allowing me this opportunity to speak on behalf of HB 1020.

The City of Stanley receives its water from the Ray-Tioga Water Plant. Stanley owns the 33 mile pipeline to the Ray-Tioga high point reservoir. The R/T system has provided water to Stanley since 1993.

The R/T water plant is operating at peak capacity, and yet the City of Stanley has had to restrict water use by its residents.

In 2008 there was an additional 82 water hook-ups in the City of Stanley. Water consumption increased 28% from 2007.

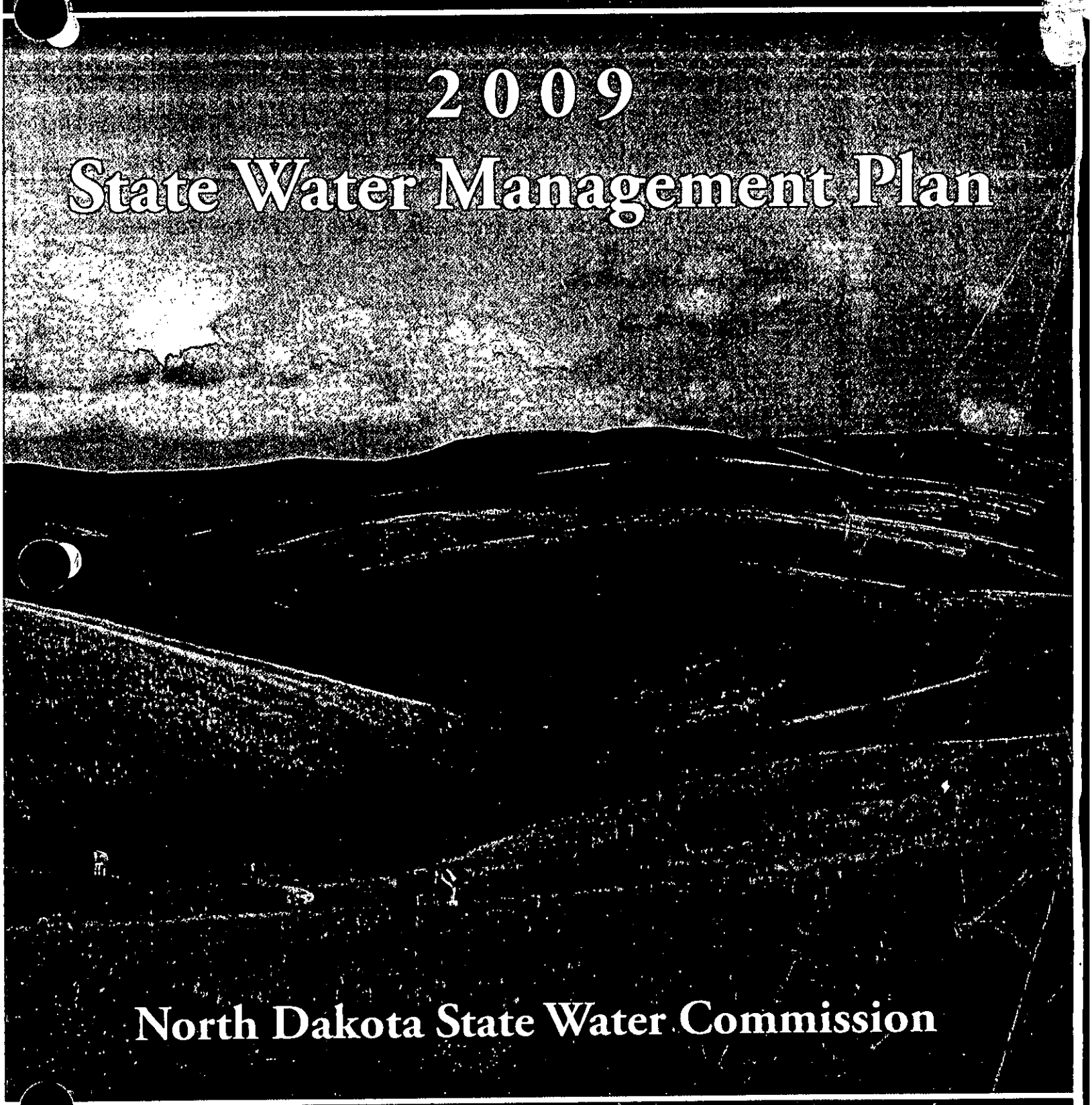
In the fall of 2008, I was approached by EOG Resources for a request to have the City provide water for a 320 person work camp. The company providing the facilities was PTI Group Inc. who had also been contacted to consider setting up a 500 person work camp for another oil company. I had to tell them there was no water available for them from our system.

The R/T Water System, the City of Stanley, and the growing oil industry in our area need expansion of the current system. The cost of the expansion is $6.4 million, which would double the water plant capacity, install larger pipeline to the R/T high point, and also provide a pumping station to pressure the Stanley pipeline.

■

EXECUTIVE SUMMARY

2009
State Water Management Plan



North Dakota State Water Commission

2009 State Water Management Plan

GOVERNOR
John Hoeven

COMMISSIONER
OF AGRICULTURE
Roger Johnson

WATER COMMISSIONERS
Arne Berg, Maurice Foley,
Larry Hanson, Jack Olin,
Harley Swenson, Robert
Thompson, Douglas Vosper

STATE ENGINEER
& SECRETARY
Dale L. Frink, P.E.

STATE WATER COMMISSION
DIVISION DIRECTORS

Administrative Services
Dave Laschkewitsch

Atmospheric Resource
Darin Langerud

Planning & Education
Lee Klapprodt

Water Appropriation
Robert Shaver

Water Development and
ASSISTANT STATE ENGINEER
Todd Sando, P.E.

EXECUTIVE SUMMARY

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A MESSAGE FROM THE STATE ENGINEER

I am pleased to present the 2009 State Water Management Plan to the citizens of North Dakota. This new plan comes at a time of rapid pace changes across the state. Expansion of energy development and changes in agri-business are creating many business opportunities and new jobs that will help secure the state's prosperity. However, these changes are creating unprecedented demands on our most precious natural resource – water.

North Dakota will be challenged in the future with population shifts, increased oil and gas production, expansion of the alternative fuels industry, new value added agricultural processing, and increased agricultural production. All of which will have a significant impact on our surface and ground water resources. The 2009 State Water Management Plan identifies needs that exist across North Dakota and the infrastructure investments that will be required in the next biennium and the next decade. Investments must be made today to provide quality water supplies as well as relief from flood damages in the future.

While this plan is not a strict blue print it does provide important guidance for decision making at all levels. Our goal is to provide the maximum amount of benefit from North Dakota's water resources to meet today's needs while protecting the resource for future generations.

Now, at the beginning of the 21st Century, we must make wise choices that will create the best possible quality of life for our children and future generations.

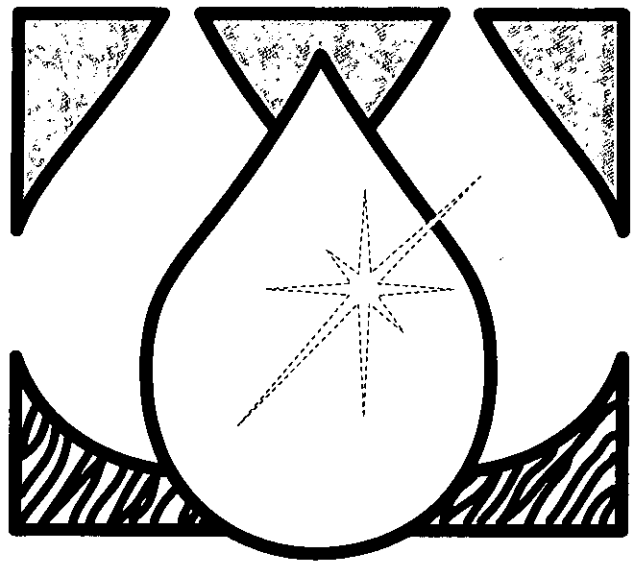
Dale L Frink

Dale L. Frink, P.E.
North Dakota State Engineer

INTRODUCTION

Water is, without question, North Dakota's most precious natural resource. Water is not only critical for life but is required in every human enterprise. North Dakota water law established the foundation for the wise management and development of this precious resource.

The State Legislature has given this very important responsibility to the State Water Commission (SWC or Commission). It is the responsibility of the Commission to develop, protect, and conserve the state's water resources for the benefit of current and future generations of North Dakotans. Part of this responsibility involves facing water resource management challenges with thoughtful insight, determination, and persistence; yet always being mindful of the necessity of the sound stewardship of our most treasured resource. . . water!



Purpose

The purpose of the 2009 State Water Management Plan is to: 1) provide information regarding current and projected water use; 2) identify areas where water is generally available for new beneficial uses; 3) identify goals and objectives for water resource management and development; 4) identify potential water resource management and development projects and programs; 5) provide current information regarding North Dakota's revenue sources for water resource management and development; 6) serve as a formal request for funding from the Resources Trust Fund; and 7) broadly identify water resource management and development opportunities and challenges, and provide recommendations to address them.

One of the most important components of this plan is identifying where water may be available for new development and use. The State Engineer appropriates water for beneficial use in North Dakota. Some aquifers and streams in North Dakota are on the brink of becoming fully appropriated; meaning that much of the state's available water resources have already been permitted for municipal, agricultural, industrial, and recreational purposes. This report will provide general information and assist development interests in identifying potential water sources when locating facilities. It will assist development interests in the very early planning stages of project development. Thus avoiding unnecessary expense and delay in project implementation. Developers should determine early in the planning process that a reliable, quality water source is available close to their proposed project facility. In areas of short supply, the Commission should be contacted early in the planning stages of project development to obtain more detailed information regarding the availability of water in a specific area.

GOALS AND OBJECTIVES

The purpose of the following goals and objectives is to more clearly define where North Dakota's long-term water management and development efforts will be directed in the future. By pursuing and implementing these goals and objectives, North Dakota will meet many of the currently unmet water management and development needs across the state.

GOAL:
To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.

OBJECTIVES:

- Encourage the most efficient use of water by all users.
- Appropriate water resources with consideration of its availability and impacts to exiting permit holders.
- Maintain comprehensive water rights records to ensure that appropriations are based on the best available information.

GOAL:
To develop water resources for the future welfare and prosperity of the people of North Dakota.

OBJECTIVES:

- Implement the Dakota Water Resources Act of 2000 to meet water supply needs of people throughout North Dakota.
- Complete the Northwest Area Water Supply, the Southwest Pipeline, the Red River Valley Water Supply, and other water distribution systems.
- Support the development of structural flood control projects in communities, where appropriate.
- Support the development of ring dikes for farmstead protection.
- Support irrigation development to encourage growth and diversification in the agricultural industry.
- Develop systems to provide sufficient quantities of Missouri River water to meet North Dakota's future demands, and secure water rights to protect those uses.
- Develop small dams where appropriate to retain water for use in times of scarcity.
- Support development of riparian buffer zones where applicable.
- Assist communities and rural water associations in funding and developing water supplies.

GOAL:
To manage water resources for the future welfare and prosperity of the people of North Dakota.

OBJECTIVES:

- Recognize long-term sustainable use of available water resources.
- Encourage best land management practices.
- Coordinate with and assist other state agencies in the protection of water quality.
- Assist the ND Department of Health (Department of Health) in monitoring water quality and wellhead protection.
- Support increased monitoring of water quality to detect pollution sources.
- Encourage and implement a balance of structural and non-structural techniques for reducing flood damages.
- Ensure all cloud seeding projects are conducted in a scientifically sound and environmentally safe manner.
- Develop/refine watershed models and techniques.
- Encourage and assist with the development of a comprehensive state drought mitigation plan.
- Maintain channel flow capacity of rivers and streams.
- Coordinate bank stabilization efforts on public lands.
- Coordinate with federal, state, and local entities to reduce high sediment loads on the Missouri River and other river systems.
- Encourage the recognition of downstream environmental and economic effects of flooding through more comprehensive floodplain management planning.

ND page 2

• Encourage the cosideration of water quality in floodplain management and emergency planning.

• Assist communities with technical evaluations of potential floodplain development.

• Improve coordination and communication between state agencies and local entities to improve management of rural flood control issues.

• Coordinate the development of new Digital Flood Insurance Rate Maps (DFIRMS).

GOAL:
To educate the public regarding the nature and occurrence of North Dakota's water resources.

OBJECTIVES:

• Continue support of the Water Education for Teachers (WET) program.

• Continue public information/ education regarding our atmosphere and how it works, and the capabilities and limitations of cloud seeding.

• Encourage floodplain management efforts in counties and communities.

• Provide incentives through voluntary education programs to encourage private landowners to maintain or enhance environmental quality.

• Enhance public information/ education programs on floodplain management.

• Improve training opportunities for floodplain managers.

• Encourage the implementation of land treatment methods to help control runoff during spring snowmelts.

• Encourage communities and counties to enroll in the National Flood Insurance Program.

• Encourage public knowledge concerning the location of floodways.

• Encourage reuse, reclamation, and conservation of water.

• Continue public information/ education programs on irrigation opportunities.

• Encourage research, best management practices, and high-tech agricultural practices for more efficient application of agricultural chemicals and fertilizers.

• Improve public information/education efforts regarding sovereign lands of the State of North Dakota.

• Improve public information/education efforts on tile drainage.

GOAL:
To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

OBJECTIVES:

• Evaluate quality and quantity of surface and ground water resources and provide public inventories of water availability.

• Continue and improve the statewide observation well network used to gather water level and water quality data.

• Ensure that adequate records are kept of all cloud seeding operations.

• Continue and improve the statewide growing season precipitation reporting network.

• Continue the dissemination of project weather radar and precipitation data via the Internet.

• Continue to implement the Commission's Web-based Map Service.

• Continue to provide and improve the Commission's Web-based Water Resources Information Management Systems.

• Maintain and improve the existing precipitation monitoring network to aid in flood forecasting.

• Maintain or enlarge the existing stream gauge system, particularly in areas subject to overland flooding and around smaller streams in cooperation with the U.S. Geological Survey.

• Support research to determine how, when, and at what rates water can be applied to various soil types and crops to arrive at long-term cost-effective, efficient use of water.

GOAL:
To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

OBJECTIVES:

• Conduct studies of the nature and occurrence of water to optimize its conservation and development throughout the state.

• Evaluate the impacts of cloud seeding on precipitation patterns and the environment.

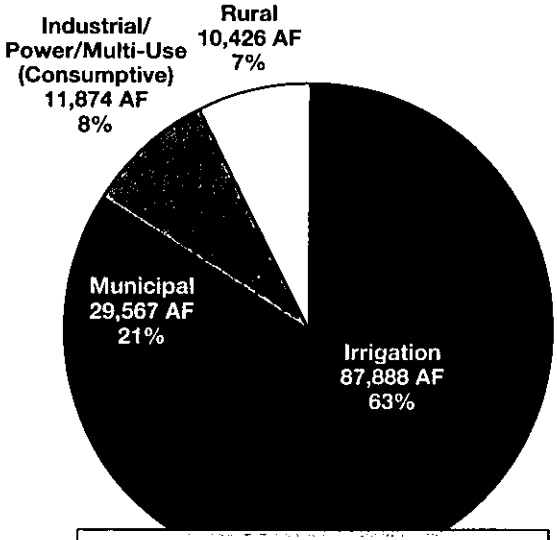
• Define hail climatology for North Dakota.

• Conduct basic storm research in cooperation with universities and federal agencies.

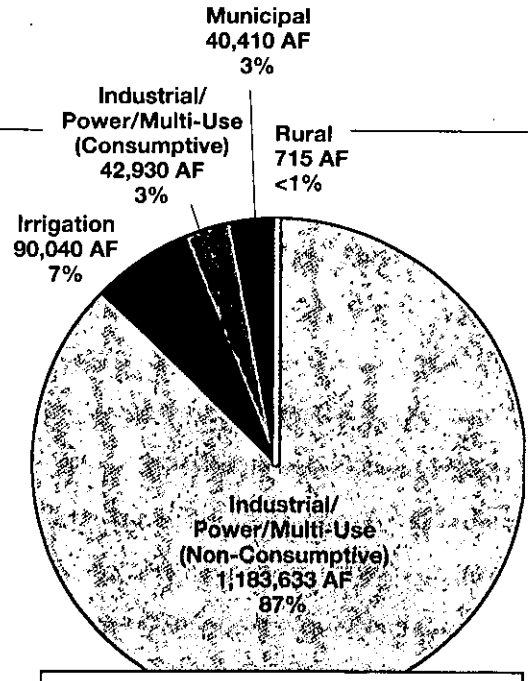
WATER USE NEEDS AND TRENDS

Current Water Use

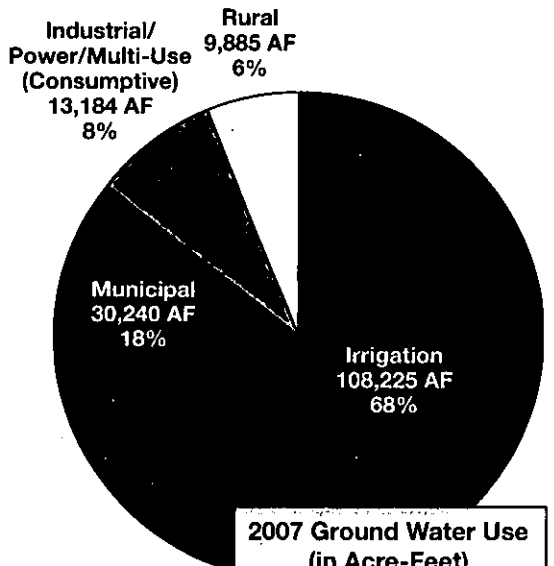
Water in North Dakota is used in a variety of ways. While the traditional uses of "mining, irrigating, and manufacturing" found in the North Dakota Constitution in Article XI, Section 3 still remain prevalent, new diverse uses and needs are continually being created.



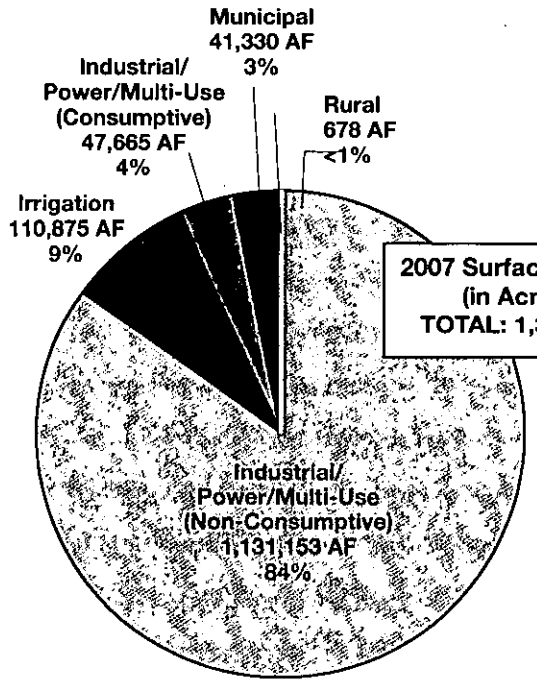
1997-2007 Ground Water Average Use
(in Acre-Feet)
TOTAL: 139,755 AF



1997-2007 Surface Water Average Use
(in Acre-Feet)
TOTAL: 1,357,728 AF



2007 Ground Water Use
(in Acre-Feet)
TOTAL: 161,534 AF



2007 Surface Water Use
(in Acre-Feet)
TOTAL: 1,331,701 AF

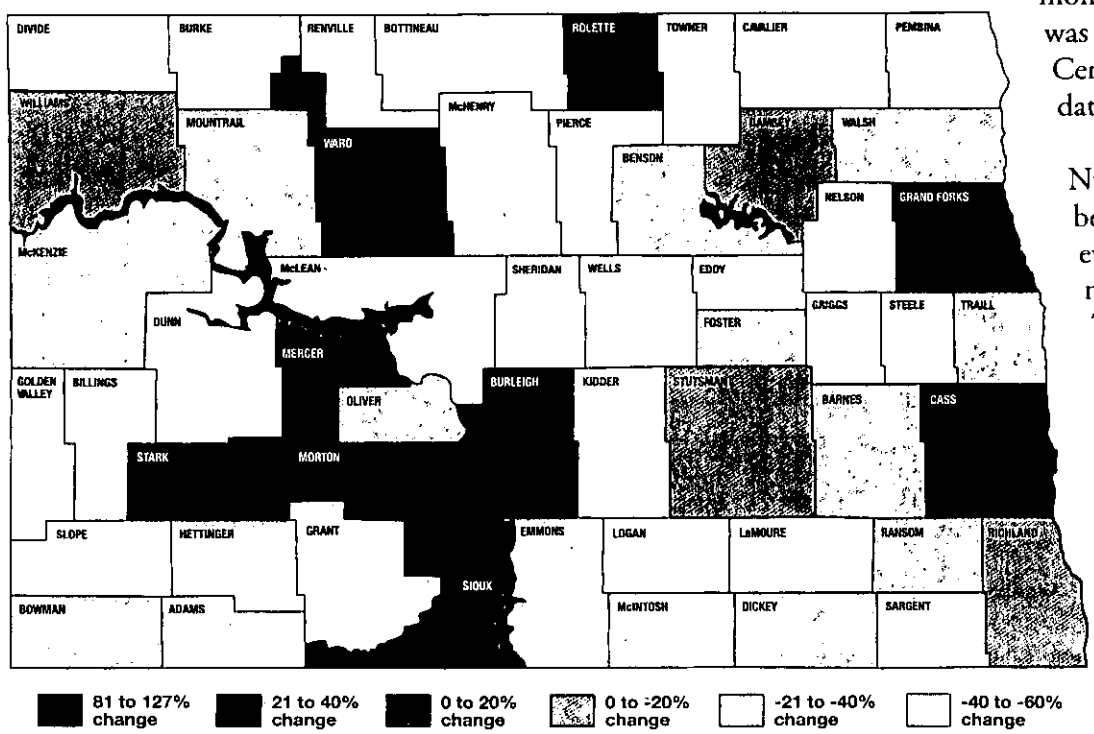
Future Water Needs

North Dakota's future water needs and trends will be influenced by a number of factors. Most importantly, we can expect future trends to be driven primarily by population patterns, and current and expected economic development opportunities. However, it is difficult to predict all of the factors that may lead to the next population shift in our state, or to identify where the next industrial boom might occur, and what it might involve.

Population Trends:
North Dakota's Ten Largest Cities

RANK	CITY	1960 CENSUS	2006 ESTIMATE	CHANGE	% CHANGE 1960-2006
1	Fargo	46,662	90,056	43,394	93%
2	Bismarck	27,670	58,333	30,663	111%
3	Grand Forks	34,451	50,372	15,921	46%
4	Minot	30,604	34,745	4,141	14%
5	West Fargo	3,328	21,508	18,180	546%
6	Mandan	10,525	17,449	6,924	66%
7	Dickinson	9,971	15,636	5,665	57%
8	Jamestown	15,163	14,813	-350	-2%
9	Williston	11,866	12,303	437	4%
10	Wahpeton	5,876	7,907	2,031	35%

Percent Change in Population by County, North Dakota, 1960 to 2007



Water Use Estimates

For future estimates, the year 2020 was used for all water use projections, since this was the most futuristic population projection available for North Dakota from the U.S. Census Bureau. In addition to using population data for making predictions of human consumption of water, the year 2020 was used in making estimates for irrigation, industrial, and thermoelectric water use needs. Mining and aquaculture account for relatively small amounts of water use in North Dakota, so they were grouped within the industrial use category. Livestock water use is not monitored by the SWC, but a general description of current and future trends will be provided in later sections using U.S. Department of Agriculture statistics. Domestic water use is also not monitored by the SWC, but was estimated using U.S. Census Bureau population data.

Numerous studies have been undertaken to evaluate future water needs in North Dakota. The most recent study was completed by the Bureau of Reclamation (BOR) for the Red River Valley Water Supply Project. The BOR study evaluated the water needs for 13 counties within the Red River Valley por-

tion of North Dakota (and the communities of Breckenridge, Moorhead, and East Grand Forks in Minnesota). The BOR report estimated that by the year 2050 there would be an annual water use demand of 68,168 acre-feet for municipal purposes, and 23,890 acre-feet for industrial purposes. The actual municipal water use for all 13 counties peaked in 1991 at 33,000 acre-feet. Based on census data for 2020, the population for the 13 counties in the BOR study would see a 4 percent increase, or 27,000 people, while the central and western 40 counties would experience a 4 percent decrease, or 17,000 people.

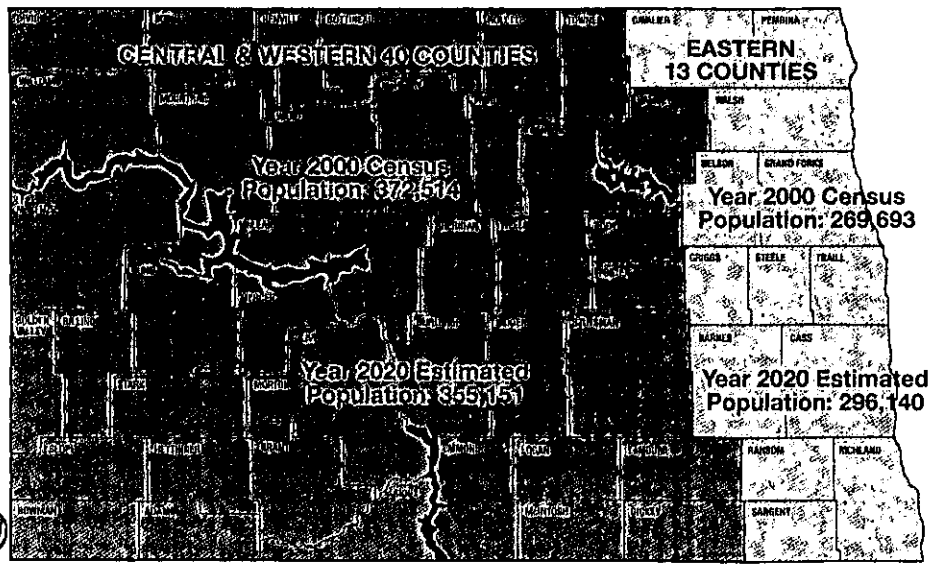
The following water use estimates use the BOR's population segmentation of North Dakota as shown in the map below. The eastern 13 counties were grouped as one water use and population entity, and the remaining 40 central and western counties were grouped as the other water use and population entity.

Public and Domestic Water Use

When historic water use trends for the eastern 13 counties are examined, it is evident that municipal water use for the last 15 years has been fairly constant, between 30,000 to 33,000 acre-feet. Rural water use has increased slightly, from 5,000 acre-feet to 6,500 acre-feet. One of the contributing factors to this trend is that small towns are moving their use to rural water systems to meet new EPA water quality requirements. Using population data, along with historic water use, projections were estimated based on an 8 percent multiplier for human use. This results in an estimated municipal and rural use of 42,600 acre-feet per year (38 MG/Day) by the year 2020 for the 13 Red River Valley counties.

When historic water use trends for the central and western 40 counties are examined, it is evident that municipal water use for the last 15 years has been fairly constant, ranging from 36,000 to 40,400 acre-feet. Rural water use increased by 1,200 acre-feet from 1990 to 1995, and then stabilized at around 4,600 acre-feet. Using population data, along with historic water use, projections were estimated based on a 4 percent multiplier for human use. This results in an estimated municipal and rural use of 46,800 acre-feet per year (41.8 MG/Day) by the year 2020 for these 40 counties.

Bureau of Reclamation's Population Segmentation of North Dakota Counties



Industrial Water Use

Industrial water use in the eastern 13 counties more than doubled in the last 15 years, from 1,500 acre-feet in 1990, to 3,200 acre-feet in 2005. Industrial water use for the 13 counties in eastern North Dakota is estimated to be approximately 12,200 acre-feet per year (10.9 MG/Day) by the year 2020.

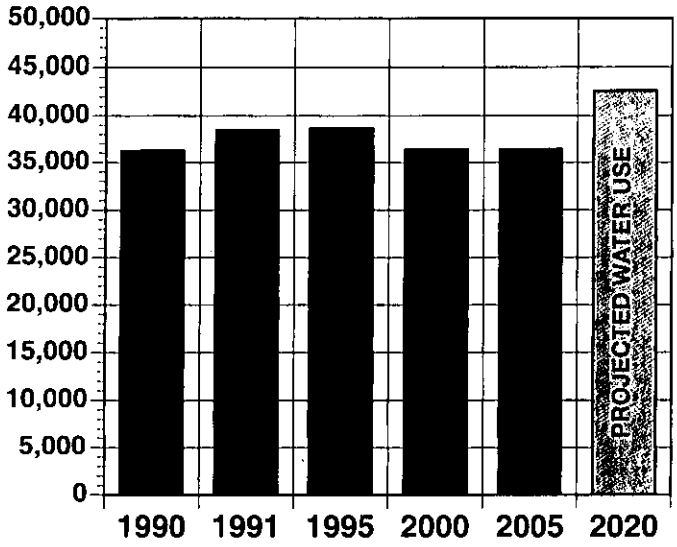
Industrial water use in the central and western 40 counties nearly doubled in the last 15 years, increasing from 12,000 acre-feet in 1990, to 22,000 acre-feet in 2005. Industrial water use for the 40 counties in the central and western counties of North Dakota is estimated to be approximately 26,000 acre-feet per year (23.2

MG/Day) by the year 2020.

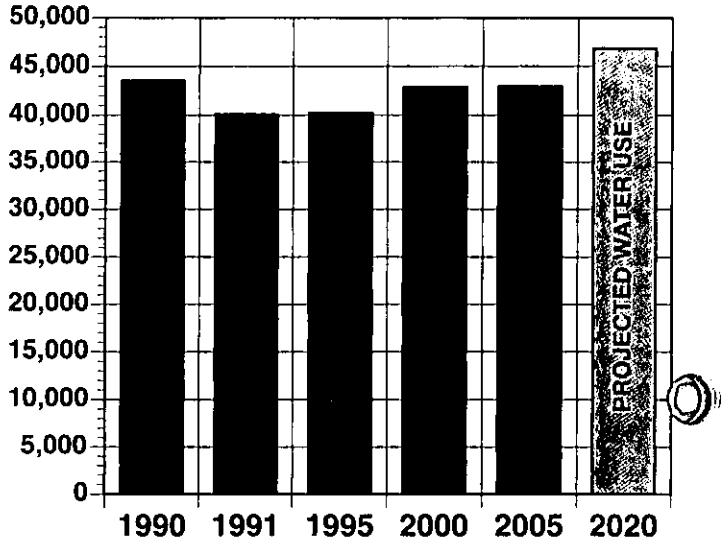
Potential changes within the agricultural processing industry that will have the greatest impact on future water development and appropriation include commodity prices, changes in the Conservation Reserve Program (CRP), and the push for increased ethanol production. Closely related will be potential impacts to future irrigation water use, which is addressed in a separate section.

In terms of ethanol development, it should be noted that in 2007, two industrial permits for 6,200 acre-feet were issued for ethanol plants in southeast North Dakota, which have yet to put water to beneficial use. It is anticipated that

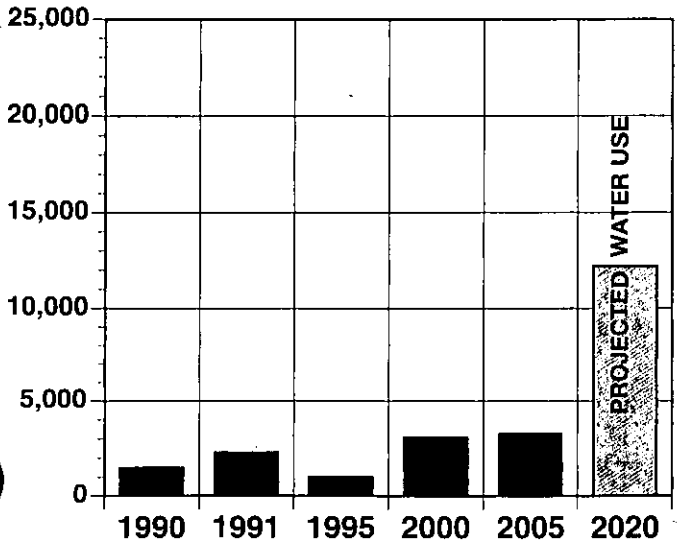
Reported and Projected MUNICIPAL & RURAL WATER USE, Eastern 13 Counties in North Dakota (in acre-feet)



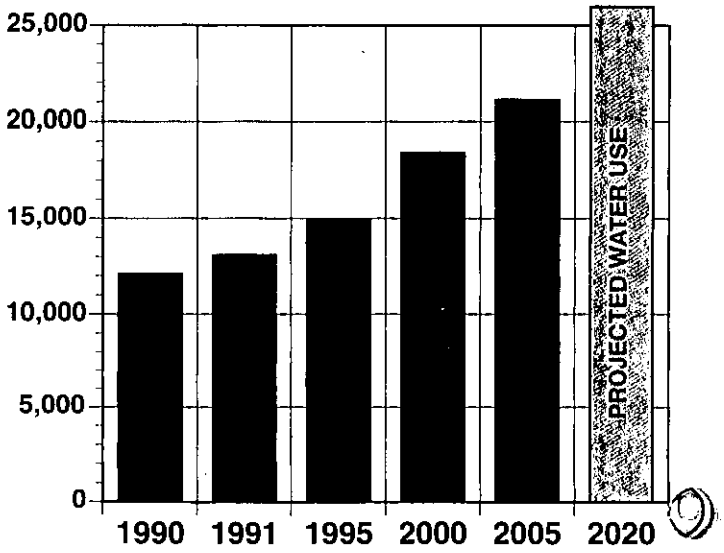
Reported and Projected MUNICIPAL & RURAL WATER USE, Central & Western 40 Counties in North Dakota (in acre-feet)



Reported and Projected INDUSTRIAL WATER USE, Eastern 13 Counties in North Dakota (in acre-feet)



Reported and Projected INDUSTRIAL WATER USE, Central & Western 40 Counties in North Dakota (in acre-feet)

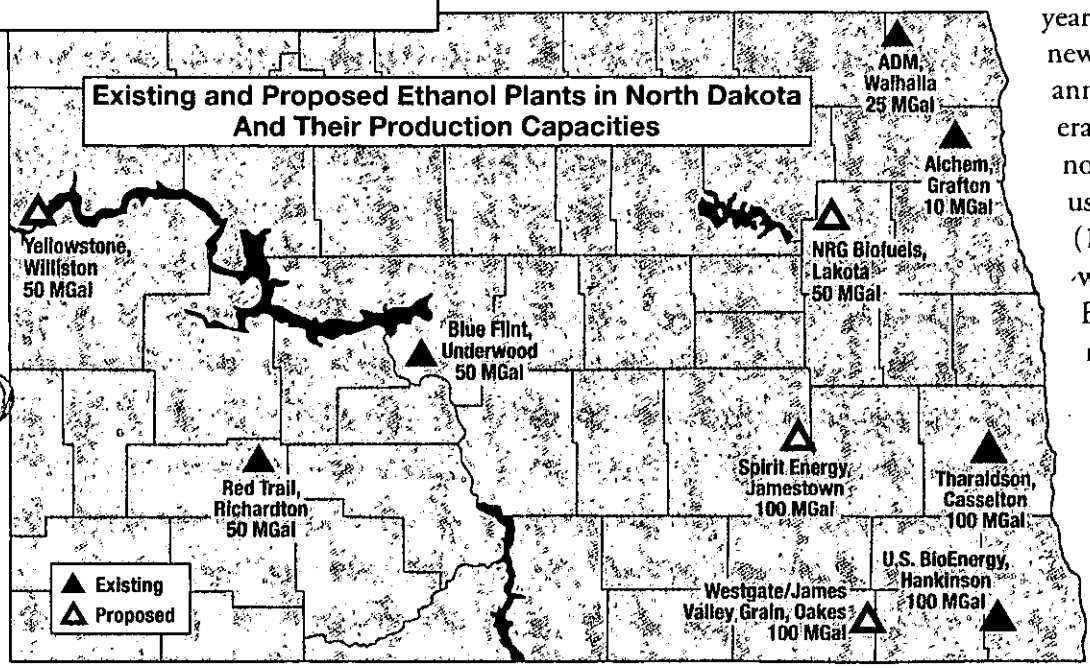


Water Needed For ETHANOL PRODUCTION

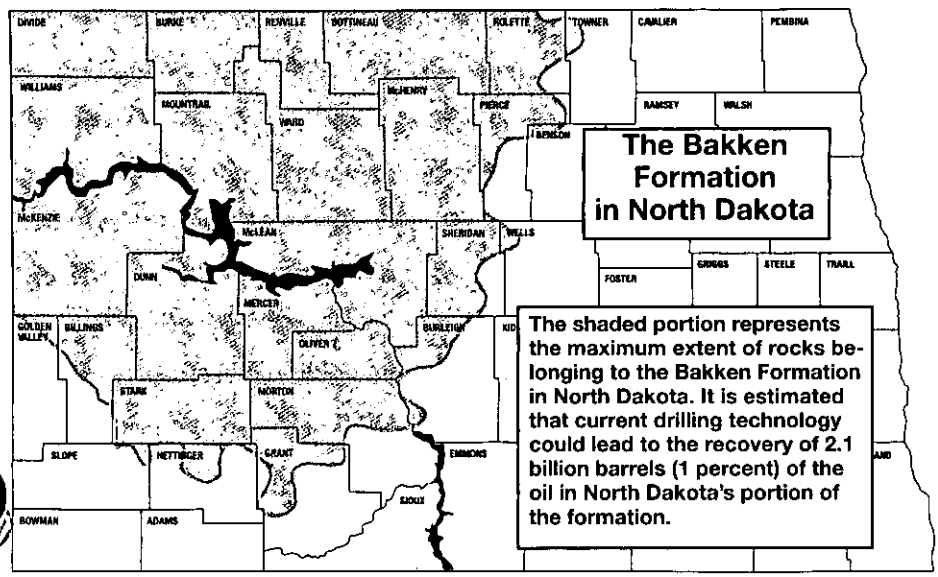
- 3 to 6 gals. of water are needed to produce 1 gal. of ethanol
- 100 Mgal plant requires 900 to 1,850 AF of water
- That's equal to 8 to 16, 135-acre center pivot irrigation systems (based on 10-in. annual application)
- Water use for an average 100 Mgal plant is equal to Devils Lake or Wahpeton's annual water use

by 2020 there will be two more ethanol plants needing a total of 2,800 acre-feet of water per year in the Red River Valley. In western North Dakota, two ethanol plants were built and began putting water to beneficial use during 2007. Each plant has a water permit for nearly 750 acre-feet. It is anticipated that by 2020 there will be two more new ethanol plants, needing a total of 3,400 acre-feet of water per year.

Another important industrial water use that will have an influence on future appropriation is oil well development. According to the North Dakota Department of Mineral Resources' (DMR), Division of Oil and Gas, 15 non-Bakken drilling rigs are expected to drill 10 wells each per year (for a total of 150 new non-Bakken wells annually) for the next several years. Rigs drilling in non-Bakken formations use up to 0.3 acre-feet (100,000 gallons) per well. Therefore, non-Bakken drilling could require as much as 45 acre-feet (15 million gallons) of new water per year.



Bakken wells, however, use a great deal more water as part of the drilling process, requiring just over 3 acre-feet (1 million gallons) of fresh water to drill a single well. According to the DMR, they estimate about 800 new Bakken wells will be drilled from June 2008 to June 2009; 4,600 new wells (2,300 per year) from June 2009 to June 2011; and then 11,200 new wells (1,400 per year) through 2019. If this estimate is accurate, new Bakken wells could require as much as 50,936 acre-feet (16.6 billion gallons) of fresh water through 2019.



Electric Power Water Use

There are currently ten water permits issued for thermoelectric power in North Dakota. The SWC requires reporting of both consumptive water use and non-consumptive water use for this purpose. Consumptive water use for thermoelectric power refers mostly to water that is not returned to its original source because of evaporative losses as part of the power plants' cooling processes. Non-consumptive use for this purpose means power plants are piping water through facilities for cooling purposes or using it to spin turbines, and then all of the water is returned to the original source. According to SWC records, consumptive use ranged from 28,682 acre-feet in 1997, to 38,580 in 2006. Non-consumptive use averages approximately 1,000,000 acre-feet annually.

The SWC estimates a 2020 future water use need of 56,000 acre-feet (50 MG/Day) of consumptive use, and 1,100,000 acre-feet (982 MG/Day) of non-consumptive use for thermoelectric power.

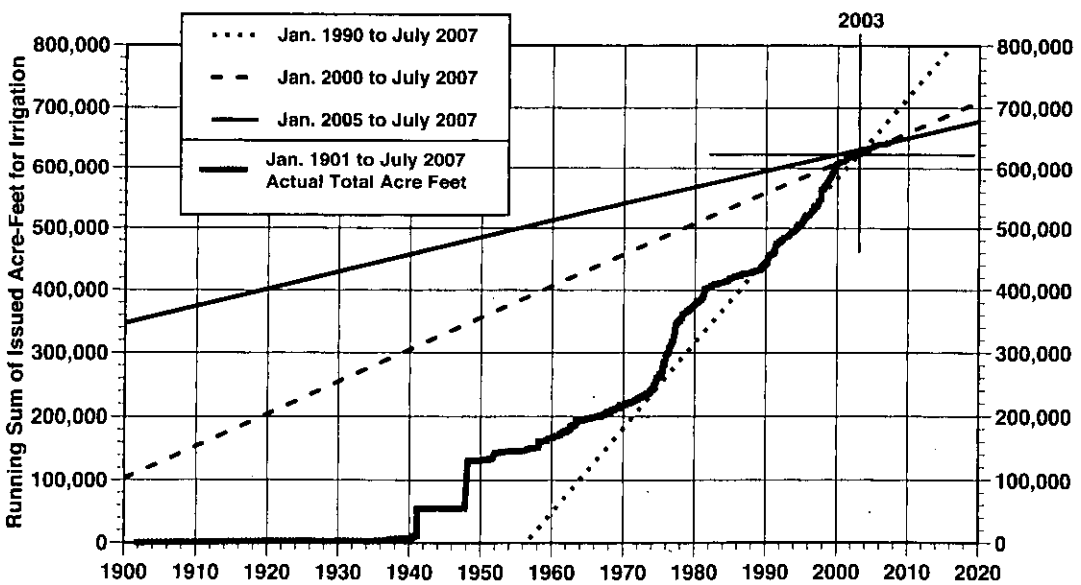
Agricultural Water Use

As mentioned previously, economic factors and development opportunities will greatly influence future water use and availability. And in North Dakota, there is no greater economic driving force than agriculture, with one-quarter of the state's economic base derived from agriculture. In 2006, North Dakota farmers and ranchers produced more than $4 billion in farm commodities, once again making it the state's leading industry. And as of 2007, almost 90 percent of the state's land was dedicated to agriculture, either through cropland or grazing.

Through an analysis of more regionalized climatic factors, the SWC estimates that there will be approximately 55,000 acre-feet of water needed for irrigation development by the year 2020. Previous work at the SWC has shown an approximate 70 percent utilization rate between granted acre-feet of water and consumed acre-feet of water. Based on these numbers, it is estimated that there will be a demand for an additional 35,300 acre-feet of water (34 MG/Day). This results in a total of 264,394 acre-feet of water per year (236 MG/Day) for irrigation water use by 2020.

With regard to livestock, the SWC does not monitor livestock water consumption, however, there is extensive livestock-related data available from the U.S. Department of Agriculture, including their associated water needs. Using this data, the SWC made an estimate of livestock water use for North Dakota. It is estimated that approximately 29,340 acre-feet of water is used for livestock each year (26.2 MG/Day).

Issued Acre-Feet for Irrigation in North Dakota - Past and Projected



Fish, Wildlife, and Recreation

Water use for fish, wildlife, and recreation are generally part of larger multi-purpose projects, such as dams and reservoirs. Although independent uses for these purposes do exist in North Dakota, they are generally small and account for less than 1 percent of

total water use. For that reason, no future water use projections were developed for this current planning effort.

Water Availability

Shifting population concentrations, and increasing numbers of industrial and agricultural developments across the state have resulted in a situation where North Dakota's ground and surface water resources are becoming more fully appropriated. Thus, the presence or absence of water has become one of the primary factors in locating industrial plants, or any other developments requiring large amounts of water. The following section provides an overview of the availability of North Dakota's surface and ground water resources – including a color-coded map of potential future ground water development areas.

Surface Water Resources

North Dakota is a land of extreme climate. This fact is reflected in its water resources, where surface water supplies are linked to the region's highly variable precipitation patterns. During wet years, and throughout much of the 1990s, North Dakota experienced a wet cycle that had rivers flow bank full, and lakes rising to record levels. As was experienced during the 1930s and even more recently, droughts have caused rivers to go dry, and lake beds to become salt flats.

In North Dakota, the Missouri River contains approximately 96 percent of the state's surface water, and Lake Sakakawea and Lake Oahe account for approximately 97 percent of all available water storage. However, the greatest concentration of population in the state is situated in the Red River Valley, where surface water resources have been historically limited during periodic droughts. The reliable availability of surface water is an issue that is currently confronting the state, and will likely drive water management in the future.

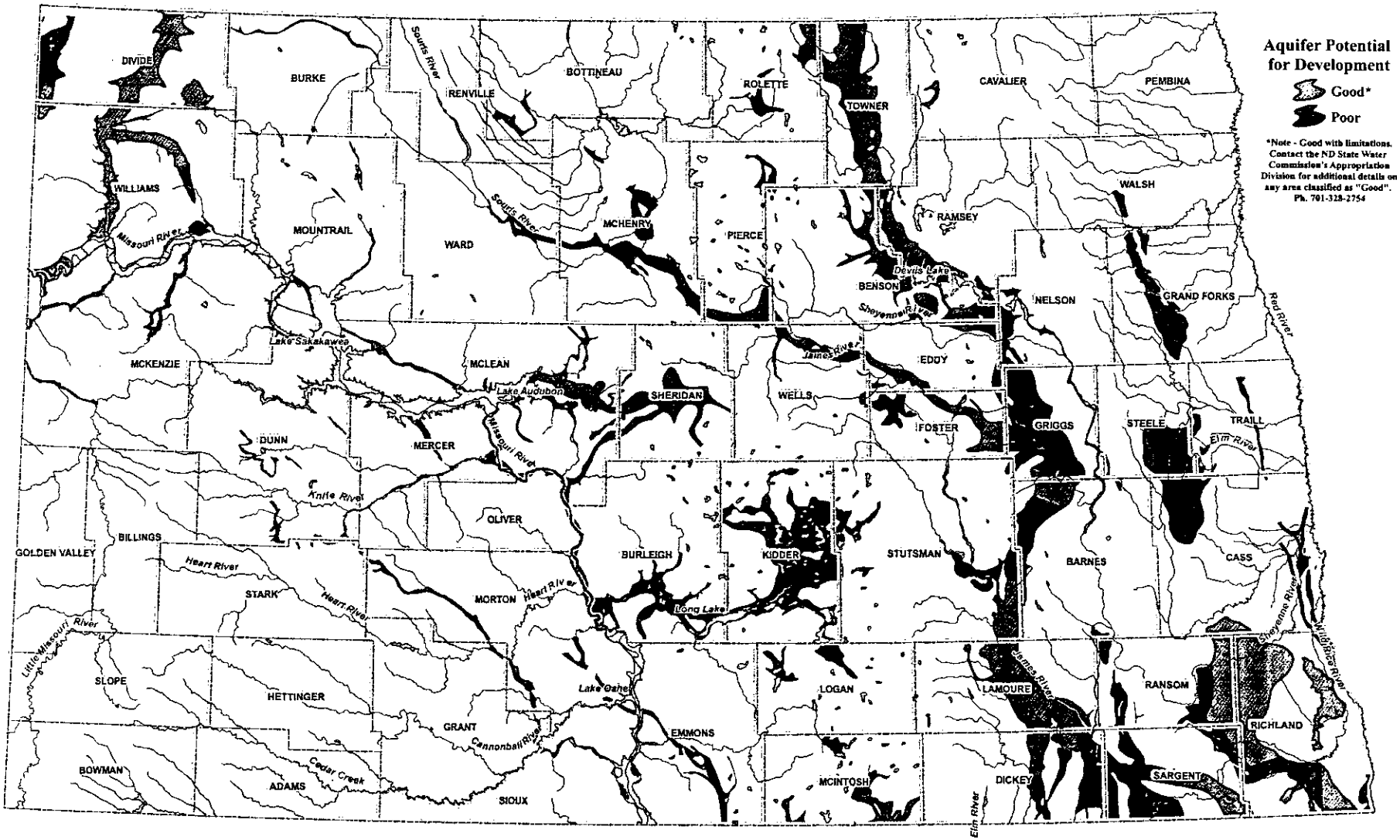
Ground Water Resources

The major glacial drift aquifers in North Dakota are outlined in the Ground Water Availability map on the following page. In addition, the map shows areas in these aquifers where the potential for additional ground water development is good (areas shown in green) or poor (areas shown in red). This map was developed to provide a preliminary basis for considering sites for developing relatively large-scale ground water supplies. The areas in the glacial drift aquifers where the potential for ground water development is poor are characterized by existing large-scale ground water development. These areas are at, or near, full appropriation.

The areas in the glacial drift aquifers where the potential for additional large-scale ground water development is good are generally characterized by little to moderate or no existing ground water development. It is important to understand that in the areas where the potential for additional ground water development is good there may exist complex aquifer geometries and /or poor water quality characteristics that could restrict sustained large-scale ground water withdrawals for a particular use. For example, several areas of the state likely could yield large quantities of ground water where the water quality is unsuitable for irrigating the heavy textured overlying soils. The water quality may be acceptable for other uses. Given the above, this map should be used only as a preliminary guide to identify potentially suitable ground water supplies. Individuals interested in developing a relatively large-scale ground water supply should contact hydrologists in the Water Appropriation Division of the SWC to further identify sites that may meet their specific needs.

Hydrologic data to assess the potential for developing a ground water supply in the form of descriptive geologic logs from test holes, water levels, and water quality analyses can be accessed on the Commission website at www.swc.nd.gov, by clicking on the "Map and Data Resources" link. In addition, scanned versions of reports in the form of County Ground-Water Studies, Water Resource Investigations, and City Ground-Water Studies can be accessed on the same website by clicking the "Reports and Publications" link.

Ground Water Availability in North Dakota
Glacial Drift Aquifers



Aquifer Potential for Development

- Good*
- Poor

*Note - Good with limitations. Contact the ND State Water Commission's Appropriation Division for additional details on any area classified as "Good". Ph. 701-328-2754

NORTH DAKOTA STATE WATER COMMISSION, AUGUST 2008

VISION FOR THE 21ST CENTURY

Present and future generations of North Dakotans will enjoy an adequate supply of good quality water for people, agriculture, industry, and fish and wildlife; Missouri River water will be put to beneficial use through its distribution across the state to meet ever-increasing water supply and quality needs; and successful management and development of North Dakota's water resources will ensure health, safety, and prosperity, and balance the needs of generations to come.

North Dakota's water management vision for the 21st century provides direction for water management and development across the state. It builds on successes of the past, and more importantly, it calls on water managers, decision makers, and members of the general public alike, to seize future opportunities. However, in order to achieve this vision, the state must address several critical water management and development issues, including developing Missouri River water, developing adequate water supplies for eastern North Dakota, financing future water development, and balancing public trust obligations.

Priority Project Updates

Since the completion of the 1999 State Water Management Plan, the State of North Dakota, through the Commission, has seen tremendous progress made in water development in all parts of the state. What is also important to recognize is that many of the state's large-scale water projects progressed despite the many obstacles that often face projects today. The following summary provides an update of progress that has been made, and milestones that have been met on several of the state's priority water development efforts over the course of the last five bienniums.

Grand Forks Flood Control

Since the devastating flood of 1997, the city of Grand Forks has worked in cooperation with the federal government and the State of North Dakota to develop one of the largest flood control projects the state has ever seen. As a result of that cooperation, the Grand Forks flood control project has been completed, and it is recognized as a permanent flood protection feature by the Federal Emergency Management Agency.

The Grand Forks flood control project consists of levees and a floodwall set back from the Red River. In addition, stabilization of an existing dam, removal of a former railroad bridge, interior flood control features, numerous road and railroad closures, extension and expansion of an existing diversion channel, and construction of a new diversion channel with associated structural features, are all part of the project.

Wahpeton Flood Control

Like Grand Forks, the city of Wahpeton was hit hard by the flood of 1997, and as a result, sought a permanent flood protection project that would better protect the community from a 1997-type event. The Wahpeton flood control project consists of a permanent levee system to protect the city, and a flood easement to keep breakout flows from being blocked in the future.

Phase I construction has been completed, which includes interior pumping stations, detention ponds, and other interior flood control features. Phase II plans and specifications for a portion of the in-town levees was also completed, and construction began in 2008. Phase III plans and specifications, which are for the second of three in-town levee reaches, have been initiated. Both Phase II and Phase III levee construction efforts must be completed in concert with levee

constructions on the Breckenridge, Minnesota side of the Red River to avoid project induced impacts.

Maple River Dam

Construction on Maple River Dam began in the fall of 2004, and it was deemed operational only two years later in the fall of 2006. All aspects of construction were officially completed in 2007.

Maple River Dam is located in southeast North Dakota, approximately eight miles north of Enderlin. This dry dam is a 70-foot high earthen embankment, capable of temporarily retaining up to 60,000 acre-feet of floodwater. Maple River Dam is designed to provide flood protection along the Maple, Sheyenne, and Red Rivers, and it was the fourth phase completed as part of the Sheyenne River flood control project. The other completed phases are the West Fargo Sheyenne River Diversion, the Horace to West Fargo Sheyenne River Diversion, and the five-foot flood pool raise at Baldhill Dam.

Southwest Pipeline (SWPP)

Since the development of the 1999 State Water Management Plan, a tremendous amount of progress has been made on the Southwest Pipeline Project. From 1999 to 2009, the number of rural water users will have increased from just under 1,600 to about 3,700. And, the number of cities and other bulk water users will go from 25 to 53 during that same time period. In addition, by the end of the 2007-2009 biennium, it is estimated that the total population served by the SWPP will be about 35,000.

The SWPP also recently contributed to North Dakota's energy development efforts by providing water to Red Trail Energy, an ethanol plant located in Richardton. And because of the high quality water provided by the SWPP, Red Trail was able to amend its contract to reduce their maximum annual usage from 315 million gallons per year, to 252 million gallons per year. With Red Trail's need for that much water, they have become the second largest water user on the SWPP, behind only the city of Dickinson. In comparison, Dickinson currently uses just over 600 million gallons of Missouri River water per year.

Northwest Area Water Supply (NAWS)

In the spring of 2002, construction began on the long-awaited Northwest Area Water Supply project. Since that time, construction on the 45 miles of pipeline between Minot and Lake Sakakawea has been completed. In August 2008, construction was also completed on 24 miles of pipeline, four pump stations, and two storage reservoirs that provide water service to Berthold, Minot's South Hill region, and North Prairie Rural Water District, with an interim supply from Minot's water treatment plant. In fall 2008, the Kenmare-Upper Souris contract was awarded for completion of 53 miles of pipeline and a pump station to address arsenic issues in Kenmare, and provide additional water supply to the Upper Souris Water Users rural water system.

Additional project components that will be constructed along the main transmission line include an intake at Lake Sakakawea, some level of treatment facility at Max, a control structure at the basin divide, and a three million gallon raw water storage reservoir. However, these future facilities along the main transmission line will require completion of the EIS and federal funding.

The EIS was pursued due to the 2002 lawsuit filed by the Province of Manitoba, which argued that NAWS could increase the risk of transferring non-native biota between the Missouri River and Hudson Bay drainage basins, and the project should have additional environmental review. As a result, project construction has been delayed on features between Minot and Lake Sakakawea that affect treatment decisions, however the federal court has allowed construction on the northern tier to proceed.

When completed, NAWS will provide up to 26 million gallons of Missouri River water per day to at least 63,000 citizens in North Dakota. With additional rural development, NAWS could serve as many as 81,000.

Red River Valley Water Supply (RRVWS)

The Commission has worked in cooperation with the Garrison Diversion Conservancy District, and the U.S. BOR toward the completion of an EIS for the Red River Valley Water Supply Project. The purpose of the EIS, which was completed in December 2007, is to evaluate alternatives to meet the long-term water needs of the Red River Valley in North Dakota, and the cities of East Grand Forks, Moorhead, and Breckenridge in Minnesota.

As part of the Final EIS, the BOR, and the State of North Dakota, identified the Garrison Diversion Unit Import to the Sheyenne River Alternative as the preferred alternative. As the State of North Dakota and the federal government pursue the development of the preferred alternative, the SWC will continue to provide technical and financial assistance toward project completion.

Municipal, Rural and Industrial (MR&I) Water Supply Program

Because of North Dakota's Municipal, Rural and Industrial Water Supply Program, regional and rural water systems have continued to expand throughout the state. As a result of this added assistance, there are now 32 regional water systems in North Dakota providing quality drinking water. Over 160,000 residents are served by regional water systems, including 312 cities, and over 90,000 rural residents. Currently, all or part of 47 of North Dakota's 53 counties are served by regional water systems, and most have plans to expand to cover additional areas.

Just since 1999, MR&I projects have been completed for several water supply systems across the state, including: All Seasons Water Users District, Glenfield, LaMoure, Langdon Rural Water, McKenzie County Rural Water, Minot (NAWS), North Valley Water District, Park River, Ramsey County Rural Water, Ransom Sargent Rural Water, Rugby (NAWS), South Central Regional Water District, Stutsman Rural Water District, Tri-County Water District, Underwood, Walsh Rural Water District, Williams Rural Water, and Williston.

Several water supply systems also have projects under construction, including: All Seasons Water Users District, Berthold (NAWS), Devils Lake, Minot (NAWS), North Central Rural Water Consortium, Parshall, South Central Regional Water District, Southwest Pipeline Project, Traill Rural Water District, Tri-County Rural Water, and Wimbledon.

In addition, studies were completed to develop improved water supplies at Carrington, McLean Sheridan Rural Water, Mountrail Rural Water, North Central Rural Water Consortium, South Central Regional Water District, Southeast Water District, Traill Rural Water District, and Williams Rural Water.

Devils Lake Flood Control

Since the early 1990s, flooding in the Devils Lake region has persisted, with an unpredictable future ahead. In response, the state of North Dakota and the SWC have determined that there is no single solution to the flooding problems in that region. Rather, a three-pronged approach, including infrastructure protection, upper-basin water management, and an outlet to the Sheyenne River, together, are the only means of providing some relief.

A great deal of progress has been made on all three fronts. In recent years, the state has provided assistance to the Devils Lake Joint Water Resource Board to help with the implementation of an irrigation test project that is aimed at utilizing upper basin waters for value-added agriculture, while helping to reduce inflow into Devils Lake. At the same time, the Commission has continued to fund the Extended Storage Acreage Program to store floodwater in the upper portions of the basin.

In addition, the Commission completed an outlet to the Sheyenne River in the summer of 2005. Outlet operation has been limited due to low flows and poor water quality in the Sheyenne River.

In infrastructure protection ef-

forts, the levee protecting the city of Devils Lake has provided adequate protection for the community thus far. But, because the threat of increasing lake levels still exists, the city has been working with the U.S. Army Corps of Engineers to identify potential flood protection alternatives, should the lake continue to rise. Because of the tremendous costs that would be involved in any type of levee raise and extension, Devils Lake will likely be looking to the state for cost-share assistance.

In other infrastructure protection efforts, certain Devils Lake area roads are currently acting as dikes, though they were not originally designed for that purpose. As such, a number of solutions are being proposed to minimize future risks.

Devils Lake Water Supply

As Devils Lake continued its infamous rise, it covered six miles of the city of Devils Lake's water supply line with up to 40 feet of water. To make matters worse, the city was also facing new federal Safe Drinking Water Act regulations for arsenic that came into effect in January 2006. With arsenic levels at over three times the allowable concentration under the new regulations, the city was only given an exemption through January 2009. And, because of Devils Lake's population, the Department of Health was not able to grant an exemption beyond that timeframe.

In response, the city of Devils Lake has been working in cooperation with the SWC and the federal government to develop a new water supply.

With regard to project progress, the city's new waterline portion of the project has been completed, and water is expected to be flowing from a new wellfield by spring 2009. Construction on the new water treatment plant is expected to begin during the summer of 2009, with operation starting a year later.

General Water Management

Though larger, higher profile projects get most of the attention across the state, the Water Commission is also constantly cooperating with local sponsors to complete smaller water development efforts. General water management projects include rural flood control projects, snagging and clearing, channel improvements, recreational projects, planning efforts, and special studies. Just since the completion of the 1999 State Water Management Plan, dozens of these projects have been completed each year. And through cooperative efforts with water resource districts and other local entities, the Water Commission will continue to strive to develop relationships and agreements to pursue the development of smaller projects that have big impacts to the communities and regions they benefit.

State Water Development Program

This section will briefly describe the inventory process used by the SWC Planning and Education Division to identify future water project and program funding needs. A discussion will also be provided of current water development activities, as well as project needs for the 2009-2011 biennium and beyond.

The Inventory Process

As part of the SWC's water planning efforts, the Planning and Education Division once again solicited project and program information from potential project sponsors. The results provide the SWC with an updated inventory of water projects and programs that are expected to come forward for SWC cost-share in the upcoming 2009-2011 biennium and beyond. As in the past, the product of this effort becomes the foundation that supports the State Water Commission's budget request to the Governor and Legislature.

To obtain updated and new project and program information from sponsors, the Planning and Education Division sent project information forms to county water boards, joint boards, and communities. The managers of major water projects, including the Municipal, Rural, and Industrial Program; Northwest Area Water Supply Project; and Southwest Pipeline Project, were also sur-

veyed. Information requested on the forms included general project descriptions, location, permit information, and identification of potential obstacles, among other basic aspects of the projects.

More importantly, sponsors were asked to assign the most realistic start dates possible to projects they expected to present to the SWC for cost-share consideration - particularly during the 2009-2011 and later bienniums. As part of that effort, project sponsors needed to take into consideration when a funding commitment from the SWC will be needed, and to identify when state dollars will be necessary for projects or programs to proceed.

As the project information forms were received by the SWC, each project is reviewed to determine if the proposed timeframes for project advancement are reasonable and justified by supporting information. After project reviews were completed, the information was transferred into the Planning and Education Division's water project database. This provides the SWC with updated project information for older projects and an accounting of new projects that have developed since the last inventory process, during the 2005-2007 biennium. The result of this inventory process is a comprehensive list of water projects throughout North Dakota that could come forward for new or additional cost-share in future bienniums. As stated earlier, this is an invaluable tool for budget planning purposes both for the SWC and the Legislature.

In addition to water project information, water managers were also asked to provide information on major water use changes that might be expected within their respective jurisdictions. And, all entities were asked to provide information regarding issues concerning regulations, policies, or legislation that they would like to see the SWC or SE address during future Legislative Assemblies.

Currently Active Projects, 2007-2009

PROJECT OR CATEGORY	BUDGET	SWC/SE APPROVED
GRAND FORKS FLOOD CONTROL	$2,384,557	$2,384,557
WAHPETON FLOOD CONTROL	2,492,560	1,337,957
FARGO SOUTHSIDE FLOOD CONTROL	16,650,000	2,584,750
MR&I WATER SUPPLY	24,038,796	24,038,796
IRRIGATION DEVELOPMENT	2,497,982	613,182
GENERAL WATER MANAGEMENT	14,640,445	10,727,894
MISSOURI RIVER MANAGEMENT	100,000	90,000
BALDHILL DAM FLOOD CONTROL	358,811	358,811
RENWICK DAM REHABILITATION	1,148,520	1,148,520
MAPLE RIVER DRY DAM	611,235	611,235
RED RIVER VALLEY WATER SUPPLY	12,090,000	1,800,000
DEVILS LAKE BASIN DEVELOPMENT	135,550	135,550
DEVILS LAKE DIKE	1,624,202	1,624,202
DEVILS LAKE OUTLET	2,465,477	2,465,477
DEVILS LAKE WATER SUPPLY	4,553,000	4,553,000
DEVILS LAKE OUTLET OPERATIONS	2,000,000	2,000,000
NELSON COUNTY FLOOD RELIEF	203,008	203,008
WEATHER MODIFICATION	600,000	525,000
SOUTHWEST PIPELINE PROJECT	13,409,130	13,409,130
NORTHWEST AREA WATER SUPPLY	8,019,857	8,019,857
TOTALS	$110,023,130	$78,630,926

Water Development Funding Needs, 2009-2011 Biennium

This table contains projects that could move forward and request SWC cost-share in the 2009-2011 biennium. This accounting of projects simply represents a non-prioritized list of needs as submitted by water managers. It does not guarantee, in any way, that all of the projects listed will receive funding.

The list is organized into seven categories based on SWC cost-share policies, including: flood control, rural flood control, snagging and clearing, irrigation, studies and planning, multi-purpose, and water supply projects. The total financial need to implement all of the projects in the 2009-2011 inventory is at least $563 million. The state's share of that total is about $137 million, based on current cost-share requirements. The federal government and local project sponsors would be responsible to make up the balance.

It should be recognized that the 2009-2011 totals do not account for projects that may not seek funding in the current 2007-2009 biennium and will carry over to the next biennium. As a result, the actual need for the upcoming biennium has the potential to be greater than portrayed here. In contrast, it should also be noted that water development projects can be delayed as a result of local or federal funding problems, permits, or environmental issues, which can substantially influence the actual need for any given biennium.

Water Development Funding Needs, Beyond 2009-2011

The potential funding need from the state that was reported by project sponsors beyond the 2009-2011 biennium, through 2017, exceeds $333 million in total project costs. At least $260 million of that total can be attributed to water supply projects, including the Red River Valley Water Supply Project. Projects included in this timeframe were either identified by project sponsors to move ahead beyond June 30, 2011, or they were placed into a later timeframe by SWC staff based on their knowledge of the project.

Water Development Funding Needs 2009-2011

RURAL FLOOD CONTROL

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Cass	Red	Cass County Drain #10	$0	$700,000	$1,300,000	$2,000,000
Cass	Red	Cass County Drain #13	$0	$700,000	$1,300,000	$2,000,000
Cass	Red	Cass County Drain #14	$0	$700,000	$1,300,000	$2,000,000
Cass	Red	Cass County Drain #15	$0	$175,000	$325,000	$500,000
Cass	Red	Cass County Drain #40	$0	$350,000	$650,000	$1,000,000
Cass	Red	Cass County Drain #53	$0	$630,000	$1,170,000	$1,800,000
Cass	Red	Lynchburg/Buffalo Channel Imp.	$0	$1,575,000	$2,925,000	$4,500,000
Cavalier	Red	Cypress Creek Drain #2	$0	$45,787	$85,033	$130,820
Grand Forks	Red	Cole Creek Channelization	$0	$133,000	$247,000	$380,000
Pembina	Red	Auger Coulee	$0	$245,000	$455,000	$700,000
Pembina	Red	Kippen Coulee	$0	$105,000	$195,000	$300,000
Pembina	Red	Pembina County Drain #42 Reconstruction	$0	$71,000	$133,092	$204,092
Pembina	Red	Pembina County Drain #66 New Outlet	$0	$87,500	$162,500	$250,000
Pembina	Red	Pembina County Drain #69	$0	$26,250	$48,750	$75,000
Pembina	Red	Pembina County Drain #73	$0	$122,500	$227,500	$350,000
Pembina	Red	Pembina County Drain #75	$0	$70,000	$130,000	$200,000
Richland	Red	Drain #14 Reconstruction	$0	$175,000	$325,000	$500,000
Richland	Red	Drain #3 Reconstruction	$0	$350,000	$650,000	$1,000,000
Walsh	Red	Channel 3 Lower Forest River	$0	$94,500	$175,500	$270,000
Walsh	Red	Silberger Drain	$0	$210,000	$390,000	$600,000
Walsh	Red	Walsh County Drain #25	$0	$87,500	$162,500	$250,000
Walsh	Red	Walsh County Drain #67A	$0	$350,000	$650,000	$1,000,000
Walsh	Red	Walsh County Drain #70	$0	$140,000	$260,000	$400,000
Walsh	Red	Walsh County Drain #71	$0	$105,000	$195,000	$300,000
Walsh	Red	Walsh County Drain #72	$0	$61,250	$113,750	$175,000
Walsh	Red	Walsh County Drain #73 - Goulet Drain	$0	$61,250	$113,750	$175,000
		Rural Flood Control Total	$0	$7,370,537	$13,689,375	$21,059,912

FLOOD CONTROL

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Cass	Red	Fargo Southside Flood Control	$11,000,000	$30,000,000	$30,000,000	$71,000,00
Cass	Red	Farmstead Ring Dikes	$0	$2,000,000	$3,000,000	$5,000,000
Cass	Red	Swan Creek Diversion Phase II	$0	$1,000,000	$1,000,000	$2,000,000
Cass	Red	Upper Maple River Dam	$0	$2,500,000	$2,500,000	$5,000,000
Cass	Red	Wild Rice R. Floodwater Retention	$0	$20,000,000	$20,000,000	$40,000,000
Griggs	Red	Uland Dam Repair	$0	$75,000	$75,000	$150,000
Nelson	Devils Lake	Michigan Spillway	$0	$440,000	$560,000	$1,000,000
Pembina	Red	Pembina R. Setback Dike System	$0	$350,000	$650,000	$1,000,000
Richland	Red	Wahpeton Flood Control	$1,633,150	$503,950	$503,950	$2,641,050
Sargent	Red	Brummard-Lubke Dam Repair	$0	$100,000	$100,000	$200,000
Statewide	Devils Lake	Devils Lake Oultet Operation	$0	$2,000,000	$0	$2,000,000
Walsh	Red	Grafton Flood Control	$2,681,000	$446,850	$446,850	$3,574,700
Williams	Missouri	Sand Creek Drainage	$0	$450,500	$450,500	$901,000
		Flood Control Total	$15,314,150	$59,866,300	$59,286,300	$134,466,750

MULTI-PURPOSE

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Benson	Red	Bouret Dam Repair	$0	$78,000	$42,000	$120,000
Burleigh	Missouri	Missouri River - Prison Farm Bank Stabilization	$2,970,000	$0	$990,000	$3,960,000
Burleigh	Missouri	Missouri River Protection and Imp. Act of 2000 Projects	$500,000	$0	$167,000	$667,000
Eddy	Red	Warwick Dam Rehabilitation	$33,333	$33,333	$33,334	$100,000
Nelson	Red	McVille Dam Repair	$0	$50,000	$50,000	$100,000
Nelson	Red	Tolna Dam Repair	$0	$30,000	$30,000	$60,000
Pembina	Red	Cart Creek Improvements	$0	$137,500	$118,750	$256,250
Pembina	Red	Drayton Dam Upst. Channel Landslide Remediation	$440,000	$680,000	$120,000	$1,240,000
Multi-County	Missouri/ Souris	ND Cloud Modification	$0	$700,000	$1,421,212	$2,121,212
Walsh	Red	Bylin Dam Repair	$0	$1,300,000	$700,000	$2,000,000
Walsh	Red	Matejcek Dam Repair	$0	$1,300,000	$700,000	$2,000,000
		Multi-purpose Total	$3,943,333	$4,308,833	$4,372,296	$12,624,462

IRRIGATION

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Multi-county	Devils Lake	Devils Lake Basin Water Utilization Pilot Project	$1,100,000	$1,100,000	$800,000	$3,000,000
Statewide	Statewide	Irrigation Development	$0	$2,000,000	$3,000,000	$5,000,000
		Irrigation Total	$1,100,000	$3,100,000	$3,800,000	$8,000,000

WATER SUPPLY (continued)

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Grand Forks	Red	Grand Forks Water Treatment Facility and Residuals Mgmt	$0	$0	$6,086,000	$6,086,000
McHenry	Souris	City of Granville Water Storage Tank Replacement	$75,000	$0	$75,000	$150,000
McKenzie	Missouri	McKenzie County Rural Water: System II	$3,468,500	$0	$1,156,500	$4,625,000
McKenzie	Missouri	McKenzie County Rural Water: System IV	$3,669,000	$0	$1,224,000	$4,893,000
McLean	Missouri	City of Garrison Water Storage Improvements	$2,665,000	$0	$1,435,000	$4,100,000
McLean		City of Max	$50,000	$0	$50,000	$100,000
McLean		North Central Rural Water Consortium	$14,280,000	$0	$6,120,000	$20,400,000
McLean	Missouri	Washburn Regional Water Supply	$3,719,000	$0	$2,931,000	$6,650,000
Morton	Missouri	Mandan South End Reservoir Project	$0	$0	$9,600,000	$9,600,000
Morton	Missouri	Mandan Water Treatment Plant Optimization	$0	$0	$4,511,900	$4,511,900
Mountrail	Missouri	Mountrail Rural Water Expansion	$6,020,000	$0	$2,580,000	$8,600,000
Multi-county	Red	Dakota Rural Water System Improvements	$883,500	$0	$883,500	$1,767,000
Multi-county	Missouri/ Souris	Northwest Area Water Supply	$30,000,000	$16,000,000	$11,000,000	$57,000,000
Multi-county	Missouri/ Red	Red River Valley Water Supply Project	$30,000,000	$30,000,000	$30,000,000	$90,000,000
Multi-county	Missouri	Southwest Pipeline Project	$16,000,000	$16,000,000	$0	$32,000,000
Pembina	Red	Drayton Dam Section 206 Improvement	$400,000	$0	$0	$400,000
Pembina	Red	Drayton Water Treatment Plant Clearwell Imp.	$488,000	$0	$262,000	$750,000
Richland	Red	SEWUD Regional Water Service - East/North	$0	$0	$1,100,000	$1,100,000
Traill	Red	City of Hillsboro Water Tower	$735,150	$0	$395,850	$1,131,000
Traill	Red	Traill Rural Water - Regional Water Supply Project	$13,329,253	$0	$5,712,822	$19,042,075
Walsh	Red	Grafton Intake Improvements (Park River)	$20,000	$0	$11,000	$31,000
Walsh	Red	Grafton Intake Improvements (Red River)	$50,000	$0	$25,000	$75,000
Walsh	Red	Grafton Water Treatment Plant Improvements	$2,949,400	$0	$2,142,600	$5,092,000
Walsh	Red	Park River Water Tower	$693,875	$0	$373,625	$1,067,500
Williams	Missouri	New Williston Pressure Tank and 11th St. Reservoir	$4,200,000	$0	$0	$4,200,000
Williams	Missouri	R & T Water Supply Expansion	$10,503,500	$0	$4,501,500	$15,005,000
Williams	Missouri	Williams Rural Water District Expansion	$2,029,000	$0	$676,000	$2,705,000
		Water Supply Total	$177,066,131	$62,000,000	$146,289,401	$385,355,532
		ALL PROJECTS TOTAL	$197,423,614	$137,309,920	$229,130,122	$563,863,656

STUDIES AND PLANNING

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Cass	Red	Absaraka Dam Reconstruction	$0	$50,000	$50,000	$100,000
Cass	Red	Embden Dam Reconstruction	$0	$50,000	$50,000	$100,000
Cass	Red	Garsteig Dam Reconstruction	$0	$50,000	$50,000	$100,000
		Studies & Planning Total	$0	$150,000	$150,000	$300,000

SNAGGING AND CLEARING

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Cass	Red	Sheyenne River Snagging and Clearing	$0	$100,000	$300,000	$400,000
Cass	Red	Wild Rice River Snagging and Clearing	$0	$50,000	$150,000	$200,000
Grand Forks	Red	Turtle River Snagging and Clearing	$0	$93,750	$281,250	$375,000
Nelson	Red	Sheyenne River Snagging and Clearing	$0	$8,000	$24,000	$32,000
Richland	Red	Antelope Creek Snagging and Clearing	$0	$50,000	$150,000	$200,000
Richland	Red	Sheyenne River Snagging and Clearing	$0	$37,500	$112,500	$150,000
Richland	Red	Wild Rice River Snagging and Clearing	$0	$50,000	$150,000	$200,000
Walsh	Red	North Branch Park River Snagging and Clearing	$0	$125,000	$375,000	$500,000
		Snagging and Clearing Total	$0	$514,250	$1,542,750	$2,057,000

WATER SUPPLY

County	Watershed	Project Name	Federal 2009-2011	State 2009-2011	Local 2009-2011	Total Cost
Barnes	Red	Valley City Water Treatment Plant Improvements	$3,081,870	$0	$2,521,530	$5,603,400
Burke, Divide	Souris	BDW Phase II Expansion	$2,439,500	$0	$1,045,500	$3,485,000
Burke, Divide	Souris	BDW Phase III Expansion	$722,400	$0	$309,600	$1,032,000
Cass	Red	City of Davenport Water Supply Expansion	$198,900	$0	$107,100	$306,000
Cass	Red	Fargo Ground Storage Reservoir #1	$0	$0	$8,741,500	$8,741,500
Cass	Red	Fargo Ground Storage Reservoir #2	$0	$0	$378,974	$378,974
Cass	Red	Fargo Transmission Pipeline	$0	$0	$21,159,300	$21,159,300
Cass	Red	Fargo Water Towers	$0	$0	$3,523,660	$3,523,660
Cass	Red	Fargo Water Treatment Plant Expansion	$0	$0	$154,915	$154,915
Divide	Souris	Crosby Water Treatment Plant	$875,283	$0	$1,625,525	$2,500,808
Emmons	Missouri	South Central Rural Water - Emmons County	$23,520,000	$0	$10,080,000	$33,600,000
Grand Forks	Red	Grand Forks Water Distribution Pipeline Improvements	$0	$0	$2,902,500	$2,902,500
Grand Forks	Red	Grand Forks Water Distribution Storage Improvements	$0	$0	$886,000	$886,000

Water Project Funding

North Dakota funds a majority of its water projects through the SWC. Funding that is funneled through the SWC for water development has come from several sources, including: the state's General Fund; the Dakota Water Resources Act, the Municipal, Rural, and Industrial (MR&I) Water Supply Program; the Resources Trust Fund; and the Water Development Trust Fund. In addition to these sources, the SWC is also authorized to issue revenue bonds for water projects, and the SWC has shared control of the Drinking Water State Revolving Loan Fund. There are also other federal funding sources that will be briefly discussed.

General Fund

The executive budget includes $11.1 million general fund dollars for agency operations. This is significant for statewide water development efforts because it frees-up other trust fund revenue for projects.

Municipal, Rural, and Industrial Water Supply Program

A major source of grant funding for water supply development in North Dakota is the MR&I Water Supply Program. The program's funding was authorized by Congress though the 1986 Garrison Diversion Unit Reformulation Act. Federal funding channels through the BOR, to the state's federal fiscal agent, Garrison Diversion Conservancy District. The program is jointly administered by the Garrison Diversion Conservancy District, and the Commission. The federal agency of Rural Development provides funding through the United States Department of Agriculture for a majority of loans to cover the local share of MR&I projects.

The 1986 Garrison Reformulation Act authorized a federal MR&I grant program of $200 million. All of that funding has been expended. Additional federal funding authorization for the MR&I program resulted from the passage of the Dakota Water Resources Act of 2000. The Act provides resources for general MR&I projects, the Northwest Area Water Supply Project, the Southwest Pipeline Project, and a project to address water supply issues in the Red River Valley. An additional $600 million, indexed for inflation, was authorized; which includes a $200 million grant for state MR&I, a $200 million grant for North Dakota Tribal MR&I, and a $200 million loan for a Red River Valley Water Supply Project.

Annual MR&I funding is dependent upon U.S. Congressional appropriation, and thus, varying annual appropriations result in project delays. As of September 2008, $228 million in federal funds had been approved for North Dakota's MR&I program with $30 million for Federal Fiscal Years 2007 and 2008.

Resources Trust Fund

Section 57-51.1-07.1 (2) of North Dakota Century Code requires that every legislative bill appropriating monies from the Resources Trust Fund (RTF), pursuant to subsection one, must be accompanied by a Commission report. This report, the 2009 State Water Management Plan, satisfies that requirement for requesting funding from the RTF for the 2009-2011 biennium.

The RTF is funded with 20 percent of the revenues from the oil extraction tax. A percentage of the RTF has been designated by constitutional measure to be used for water-related projects and energy conservation. The SWC budgets money for cost-share based on a forecast of oil extraction tax revenue for the biennium, which is provided by the Office of Management and Budget.

Revenues into the RTF for the 2007-2009 biennium are expected to total $87.6 million. Future revenues from the oil extraction tax are highly dependent on world oil prices and production, which make it very difficult to predict future funding levels. The Executive budget includes authority based on the November 2008 forecast of $94.7 million for the 2009-2011 biennium from oil extraction. However, the Executive budget also contains an alternate oil price

forecast for oil extraction revenue that could be as low as $20 million if a $40 price per barrel is used through the entire 2009-2011 biennium.

Additional new revenue into the RTF will come from SWPP reimbursements, State Water Commission water supply program loan repayments (which amount to $1 million per biennium through year 2017), interest, and oil royalties. Therefore, based on the November 2008 projections, RTF revenue available for water development during the 2009-2011 biennium could be $98.2 million.

Water Development Trust Fund

Senate Bill 2188 (1999) set up a Water Development Trust Fund as a primary means of repaying the bonds it authorized. House Bill 1475 allocated 45 percent of the funds received by the state from the 1998 tobacco settlement into the Water Development Trust Fund.

Revenues into the Water Development Trust Fund for the 2007-2009 biennium are expected to total about $26.3 million. The Office of Management and Budget estimates revenues of $19.7 million for the 2009-2011 biennium.

The recent passage of Measure 3 by North Dakota voters will redirect a portion of the tobacco settlement, known as the strategic contribution fund, toward a statewide tobacco prevention program. The strategic contribution fund portion of the settlement is North Dakota's compensation for work done by the state's Attorney General in finalizing the national tobacco settlement agreement. It is this increase in the settlement amount that will be used for the tobacco prevention program. The passage of Measure 3 will not change the 45 percent allocation of tobacco settlement funds into the Water Development Trust Fund. However, it will decrease tobacco settlement receipts destined for the Water Development Trust Fund by $12.4 million per biennium.

Payments into the fund are scheduled through 2025 at a level based on inflation and tobacco consumption.

Bonding

The SWC has bonding authority (NDCC 61-02-46) to issue revenue bonds of up to $2 million per project. The Legislature must authorize revenue bond authority beyond $2 million per project. In 1991, the Legislature authorized full revenue bond authority for the Northwest Area Water Supply Project, in 1997 it authorized $15 million of revenue bonds for the Southwest Pipeline, and in 2001 it raised the Southwest Pipeline authority to $25 million. As of June 30, 2008 the Commission has outstanding bonds totaling $18.7 for the Southwest Pipeline project. There are no outstanding bonds for the NAWS project.

In 1999, the SWC was authorized to issue up to $84.8 million in appropriation bonds under provisions of Senate Bill 2188. The Legislature's intent was to partially fund flood control projects at Grand Forks, Devils Lake, Wahpeton, and Grafton, and to continue funding for the Southwest Pipeline. In March 2000, the SWC issued bonds generating $27.5 million, thus reducing available bonding authority to $57.3 million. Recognizing the need for water development projects in addition to those identified in SB 2188, the 2003 Legislature allowed authority for the unissued $57.3 million to expire, but then authorized $60 million of bonding authority for statewide water development projects. In June 2005, the Commission did issue bonds generating $60 million. As of June 30, 2008, the Commission has outstanding bonds totaling $87.7 million for other statewide water projects.

Because the tobacco settlement dollars were not projected to remain uniform each year, the SWC set up a repayment schedule to correspond with the projected tobacco receipts. Although the repayment amounts are based on the projected receipts, the scheduled repayments must be made regardless of the actual receipts. Payments for existing water development bonds will be $16.9 million for the 2009-2011 biennium, however funds must be available to make the August 1, 2011 pay-

ment. This payment occurs the second month of the new biennium prior to the receipt of any of that biennium's tobacco settlement dollars. That repayment will be $8.4 million.

Drinking Water State Revolving Loan Fund

An additional source of funding for water supply development projects is the Drinking Water State Revolving Loan Fund (DWSRLF). Funding is distributed in the form of a loan program through the Environmental Protection Agency and administered by the Department of Health. The DWSRLF provides below market-rate interest loans of 3 percent to public water systems for capital improvements aimed at increasing public health protection and compliance under the federal Safe Drinking Water Act.

The SWC's involvement with the DWSRLF is two-fold. First, the Department of Health must administer and disburse funds with the approval of the SWC. Second, the Department of Health must establish assistance priorities and expend grant funds pursuant to the priority list for the drinking water treatment revolving loan fund, after consulting with and obtaining the SWC's approval.

The process of prioritizing new or modified projects is completed on an annual basis. Each year, the Department of Health provides an Intended Use Plan, which contains a comprehensive project priority list and a fundable project list. The 2008 comprehensive project priority list includes 91 projects with a cumulative total project funding need of $326.7 million. The fundable list of 18 projects includes $36.4 million in loans from the total federal grants of $100 million for fiscal years 1997 through 2008. Available funding for the DWSRLF program for 2009 is anticipated to be approximately $8 million.

Other Federal Funding

With regard to other federal funding, the U.S. Army Corps of Engineers provides significant assistance to North Dakota for flood control projects. The Environmental Protection Agency, U.S. Bureau of Reclamation, U.S. Geological Survey, and the Natural Resources Conservation Service also contribute to the state's water development efforts in many different ways, including studies, project design, and project construction.

Funding Priorities, 2009-2011 Biennium

This section discusses the state's priority water development efforts and funding for the 2009-2011 biennium. It includes one course of action for water development in North Dakota that is subject to change during the 61st Legislative Assembly and the biennium.

Water Development Priorities & Descriptions

North Dakota's prioritized water development funding needs are grouped into several main categories in the following table. Each of those projects and categories is explained hereafter.

Cloud Modification

State funding in the amount of $700,000 is budgeted for operational cloud seeding costs with counties participating in the North Dakota Cloud Modification Project. The Atmospheric

2009-2011 Water Development Priorities

PRIORITY PROJECTS	2009-2011 (MILLIONS)
Cloud Modification	0.7
Devils Lake Outlet	2.0
Fargo Southside Flood Control	20.0
General Water Management	11.3
Irrigation	1.0
MR&I	10.0
Northwest Area Water Supply	12.0
Northwest Oil Impact MR&I	5.0
Red River Valley Water Supply	30.0
Southwest Pipeline Project	12.0
EXPENDITURE TOTAL	104.0

Resources Board currently cost-shares approximately 35 percent of operational costs, with participating counties paying the remaining 65 percent. This funding level will allow the program to continue its current level of capability for the 2009-2011 biennium.

Devils Lake

Having completed the Devils Lake outlet in the summer of 2005, it is now necessary for the state to provide funding for the operation and maintenance of the project. It is estimated that these costs will total approximately $2 million per biennium.

The state outlet is currently sized for 100 cfs, but could be expanded to 300 cfs in the future with additional work if necessary. The outlet consists of: two pumping plants, one on the Round Lake portion of Devils Lake, and the second near Josephine, North Dakota; approximately 4 miles of pipeline; and 10 miles of open channel.

Fargo Southside Flood Control

After narrowly escaping extensive damages during the 1997 flood, the City of Fargo and Cass County have been working toward the development of a flood control project that would protect south Fargo and areas south of the city that have experienced significant flooding in the past.

The alternative that the City of Fargo has selected, known as the Wild Rice River Levee Alternative, includes a continuous series of levees and/or floodwalls that provide protection from the Red River, Wild Rice River, and to a lesser extent, the Sheyenne River. Channel improvements will also be implemented along the Red River to improve hydraulic efficiency from the confluence of the Wild Rice and Red Rivers north to where Rose Coulee enters the Red. The project will also include internal drain improvements with levees to allow high water breakout flows from the Wild Rice to pass through the protected area in a controlled manner. And, to reduce or eliminate stage increases upstream of Rose Coulee, internal storage will be included in the protected area. In addition, a Wild Rice River mini-diversion, which will be similar to the Sheyenne River diversion, will divert Wild Rice River flows to the south and east to protect rural housing developments along the Wild Rice between Interstate 29 and Highway 81. And finally, a high capacity pump station and closure structure will be constructed on Rose Coulee west of Highway 81.

The total cost of the project is estimated at $161 million, with a requested state contribution of $75 million. The Commission has budgeted $20 million toward the project for the 2009-2011 biennium.

General Water Management

General water management projects include rural flood control, snagging and clearing, channel improvements, recreational projects, dam repairs, planning efforts, and special studies. Funding for dam repairs is quickly becoming a priority in North Dakota and across the nation, with dams that were constructed during the 1960s approaching their design life, and those that were constructed in the 1930s being well beyond their design life, and in many cases, in serious disrepair.

It is estimated that 15 of the most needed dam repairs in North Dakota could total about $19.5 million. The $11.3 million that is budgeted for general water management projects will be used to fund a portion of the state's general projects that are ready to proceed during the 2009-2011 biennium, including some dam repairs. Costs associated with the North Dakota Water Coalition's Missouri River Management project category are also included in this budgeted amount.

MR&I

Because of North Dakota's MR&I water supply program, regional and rural water supply systems have continued to be developed or expand across the state. The $10 million that is budgeted could be used toward a number of MR&I projects across North Dakota. However, until the amount of federal funding available for MR&I projects is more clearly known, state commitments for the advancement of these projects may vary in response.

Northwest Area Water Supply

The Northwest Area Water Supply (NAWS) project is a regional

water supply project that will eventually supply much of northwestern North Dakota with Missouri River water. The 45-mile main transmission line between Minot and Lake Sakakawea has been completed, and NAWS is now providing water service to Berthold, Minot's South Hill region, and North Prairie Rural Water District with an interim supply from Minot's water treatment plant.

State funding of $12 million for the NAWS project will go toward: resolution of the 2002 lawsuit following release of the Record of Decision; the initiation of design work on a biota treatment plant and intake; the remaining contracts to move water from Lake Sakakawea to Minot; and completion of the High Service Pump Station, the Kenmare-Upper Souris pipeline, and the Mohall-All Seasons pipeline.

Northwest North Dakota Oil Impact MR&I

As the oil industry continues to grow in the northwest portion of North Dakota, so does the need for water development projects to support that growth. The drilling alone will require a tremendous amount of water resources, as 1 to 1.5 million gallons of water are required to drill a single Bakken Formation well, and 50,000 to 100,000 gallons of water are needed to drill non-oil shale wells. In total, North Dakota's Oil and Gas Division is estimating that as many as 13,250 new oil wells could be drilled by 2019. And, in addition to the wells themselves, water supply systems in that region will need to provide water to the thousands of workers and their families living in those areas. As such, $5 million has been set aside to assist water supply systems with their support of the oil industry in northwest North Dakota.

Red River Valley Water Supply

With most of the Red River Valley's population relying on the Red River and its tributaries as their sole source of water, the impacts of a prolonged drought would be devastating to that region. And, as the population and economy of the Red River Valley continue to grow, the need for a more reliable source of quality water has become more important than ever before.

The Final EIS has been completed, and the BOR and the State of North Dakota have identified the Garrison Diversion Unit to Sheyenne River alternative as the preferred alternative. This alternative would supplement existing water supplies to meet future water needs with a combination of Red River, other North Dakota in-basin sources, and imported Missouri River water. The primary feature of this alternative will be a 125-mile, 66-inch (122 cfs) pipeline from the McClusky Canal to Lake Ashtabula.

As this project moves closer to fruition, North Dakota will need to support the Red River Valley Water Supply Project with state funding through the SWC of approximately $30 million during the 2009-2011 biennium to advance this critical water development effort when it is ready to proceed.

Southwest Pipeline Project

The Southwest Pipeline Project is a regional water supply system that draws water from Lake Sakakawea and serves 35,000 people in southwest North Dakota, including 28 communities, and 3,100 rural hookups – with plans to expand.

The $12 million budgeted for the Southwest Pipeline Project will be used to complete the main transmission line from Hazen to Stanton, a reservoir at the Zap water treatment plant, and telemetry for the water treatment plant and reservoir. Development of a rural water distribution system in the Zap service area is also a possibility – depending on the availability of funding.

Irrigation

As ethanol plants continue to be developed across the state, the need for increased corn production, supported by irrigation development, will also grow. The $1 million budgeted for irrigation will provide the necessary funding assistance to advance irrigation efforts in areas of need across North Dakota.

WATER MANAGEMENT RECOMMENDATIONS

The following recommendations all require future study and are intended to serve as a starting point to addressing long-term water management issues.

• Funds must be secured to address dam safety issues and dam repairs. Throughout the state there are numerous dams in need of major repair or removal if the dam is deemed no longer needed. The SWC should consider changing the cost-share policy to provide local governments with more state cost-share to either fix or demolish unwanted structures.

• Drought planning, including monitoring, impact assessment, and mitigation planning efforts must be implemented. This will require a multi-agency (local, state, and federal) concerted effort. The state currently has a drought reaction plan that addresses mitigating drought impacts to varying degrees. However, the current plan is reactionary and mostly targeted to initiate federal response and assistance to the agricultural sector.

• Providing reliable quality water to eastern North Dakota during drought conditions is of critical importance to the region and the entire state. There are institutional and funding issues that must be resolved so that this can be accomplished in a timely manner. As such, the state must be diligent in solving the water supply shortage that exists during drought in eastern North Dakota. The consequences of no water supply to this region will result in tremendous social and economic hardship.

• Conservation measures must be evaluated and implemented so that water requirements for all water users and interests can be met.

• The State Engineer will continue to study and collect water resource data that is essential in identifying available water sources for agricultural and industrial users; for meeting municipal demand; and for fish and wildlife and recreation purposes.

• The state must continue to protect and preserve North Dakota's right to use Missouri River water now and for future generations.

• Climate change and the possible effect it may have on the state's water resources is an unknown factor that will have to be monitored and assessed closely in the future.

• The state must continue to work to address the flooding crisis involving the rise of Devils Lake. The uncertainly of predicting what will happen to the lake levels and the social and environmental consequents associated with some of the measures make this a very difficult issue.

• Some counties simply do not have the revenue or the capability of raising revenue to meet their local cost-share requirements in funding many of the much-needed water development projects. The SWC should study the ability-to-pay concept to determine if a more equable cost-share policy can be developed and implemented for local entities that have difficulty in coming up with their cost-share requirement based upon current policy.

• New partnerships involving cooperative and collaborative efforts must be sought to resolve water management problems and issues.

• Water resources managers at all levels are encouraged to partner in efforts not only to educate the public about the potential problems involving aquatic nuisance species (ANS), but also to monitor and mitigate for the occurrence of ANS in North Dakota's waters.

• The Commission should continue to educate potential future industrial water users about the

quality and availability of North Dakota's surface and ground water resources.

• In response to declining water levels in the Fox Hills aquifer, the State Engineer will continue to direct large-scale ground water diversions to other sources.

• A Summer Advanced Watershed Applications Workshop (two credits) could be designed through Project WET to provide up to 20 secondary educators per year the tools they would need to connect their classroom students with practicing watershed scientists and scientific methods and techniques. This could provide a real world application to science currently being taught in their classrooms.

• A Youth Technology and Career Exploration Program could be designed through Project WET for a select group of Grade 9-12 students whose teachers have been involved in the Summer Advanced Watershed Applications Workshop. Students could earn a one-half high school ecology credit and also a one-semester hour of college credit. Students would use learning acquired in the classroom on advanced watershed methods and techniques, and apply that learning in the field on a local water body in their own watershed. Data would be collected and shared with other students involved in the program through distance learning techniques. And, professional scientists would also share career awareness education through the same distance learning techniques.

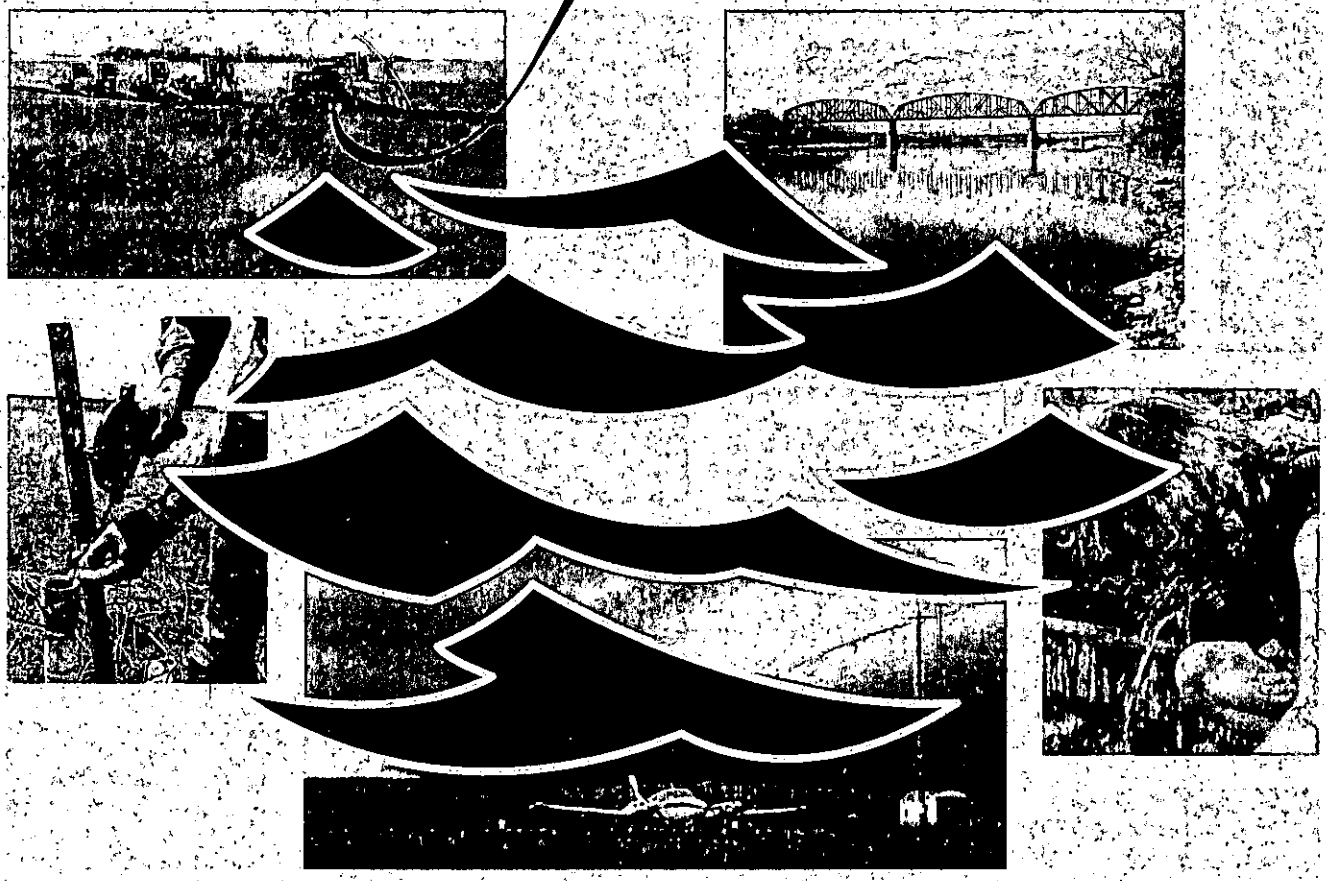
• Project WET, with the cooperative effort of many organizations, associations, and government agencies, will develop water and natural resource education programs that involve individuals in their own communities. This will include increased emphasis on community service learning projects intended to involve educators and students in tackling problems and issues related to water or environmental resources at home, in the school, in the community, or on the farm or ranch.

CONCLUSION

While great progress in water development in North Dakota has been made in the past, much remains to be accomplished now and into the future. The state is faced with ever evolving challenges including shifting population distribution, changes in agriculture and technology, rapid oil and gas development, infrastructure repair needs and the possible reduction in federal funds for water development projects. The state has the responsibility to face these new and changing challenges with determination and a commitment to providing a prosperous future for all North Dakotans.

North Dakota
State Water Commission
and
Office of the State Engineer

Strategic Plan



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**Full-Time Employees (FTEs) have been provided to illustrate relative time and resources devoted to projects/programs.*

A message from the State Engineer:

I am proud to present the North Dakota State Water Commission and Office of the State Engineer's 2009-2011 Strategic Plan. This new plan was completed to incorporate and adjust for new expectations that have evolved since our previous plan was published back in 2004.

As in the past, the primary purpose of our 2009-2011 Strategic Plan is to clearly document agency direction and expectations we have set for ourselves through our strategic planning timeframe. As part of the planning process, we have reevaluated our agency's goals to ensure that we are achieving standards expected by our constituents. In addition, we have laid out objectives for many of our key projects and programs, to help us more effectively meet our goals. And more specifically, we have defined tasks and actions that our divisions and management need to take to achieve desired outcomes.

In having this plan at our disposal, the agency will be better equipped to document the progress it is making in managing North Dakota's water resources. To measure our progress, we will continue to voluntarily publish agency biennial reports, which outline our activities for each biennium – providing an accurate measure of goal achievement. By publishing this plan, I believe we are once again setting a high standard for ourselves that can be monitored by all interests in the water management community.

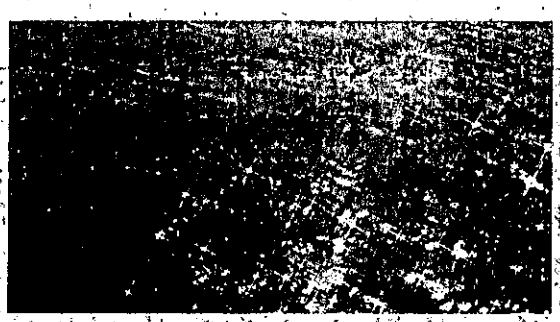
Sincerely,

Dale L. Frink

Dale L. Frink, P.E.
North Dakota State Engineer

VISION

Present and future generations of North Dakotans will enjoy an adequate supply of good quality water for people, agriculture, industry, and fish and wildlife; Missouri River water will be put to beneficial use through its distribution across the state to meet ever increasing water supply and quality needs; and successful management and development of North Dakota's water resources will ensure health, safety, and prosperity, and balance the needs of generations to come.



MISSION

To improve the quality of life and strengthen the economy of North Dakota by managing the water resources of the state for the benefit of its people.

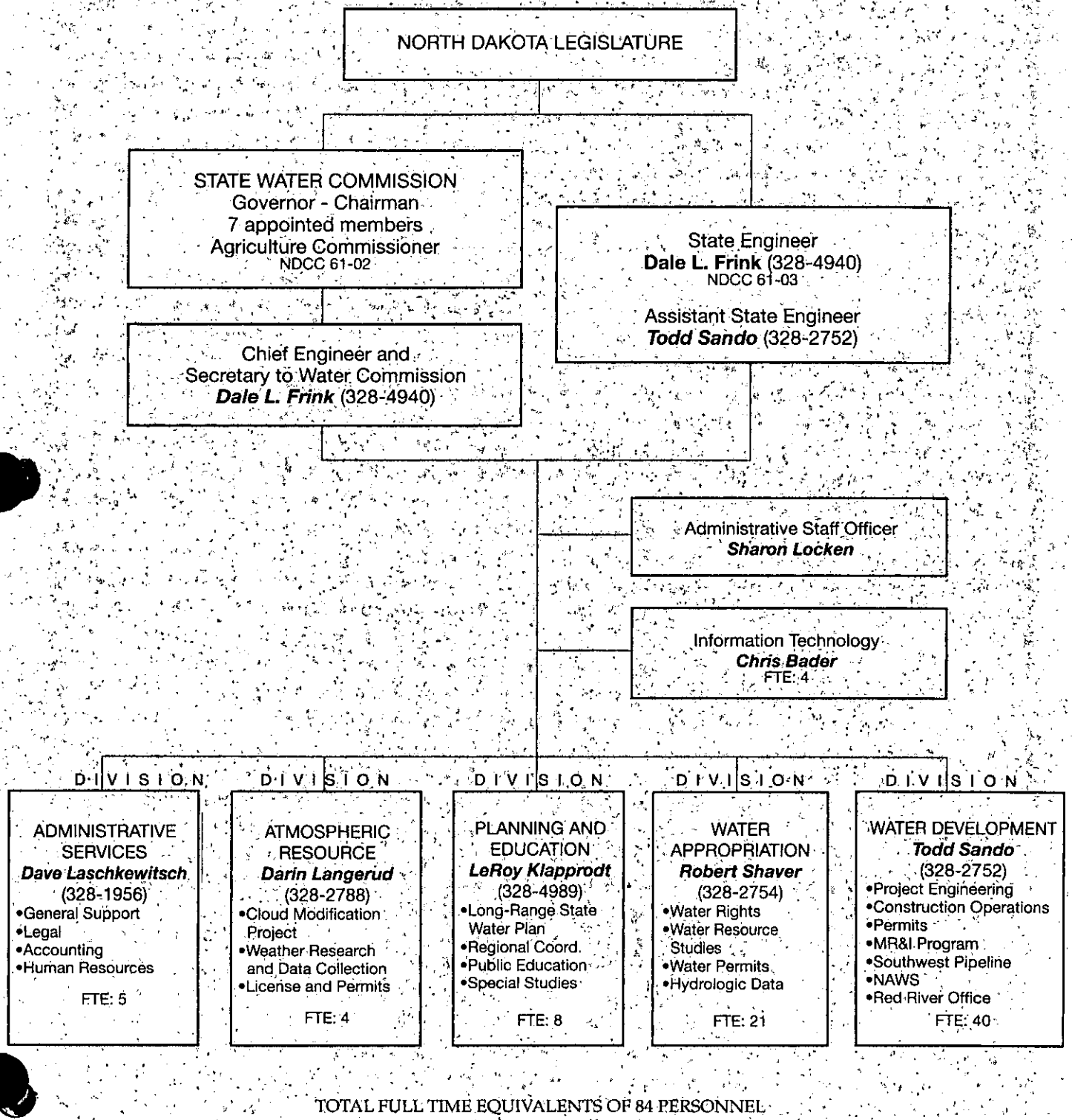
PHILOSOPHY and VALUES

In the delivery of services to the citizens of North Dakota, we the employees of the State Water Commission and the Office of the State Engineer value fairness, objectivity, accountability, responsiveness, and credibility. We pledge to use professional and scientific methods to maintain only the highest of standards in our delivery of services to our constituents.

AGENCY GOALS

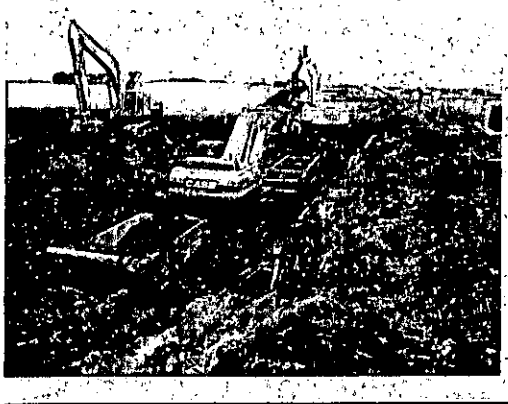
- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

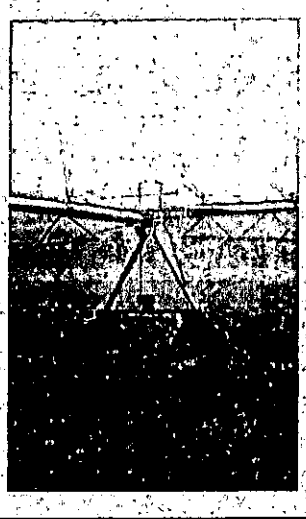
Organizational Chart

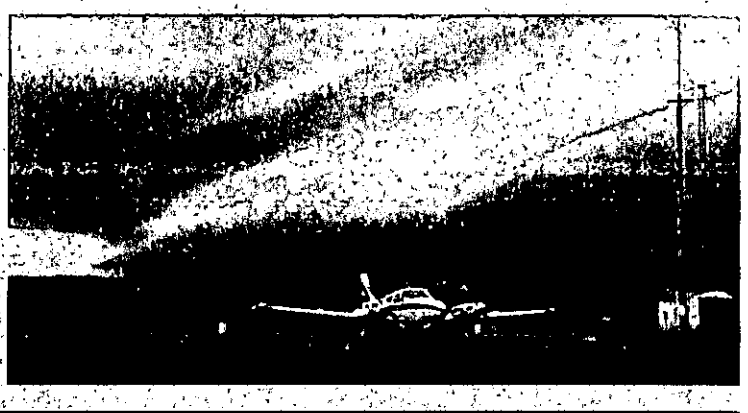


TOTAL FULL TIME EQUIVALENTS OF 84 PERSONNEL

Strategic Planning







While the State Water Commission (SWC) and the Office of the State Engineer (SE) are separate state agencies with different directives, many of their responsibilities are entwined and overlap at several levels. For that reason, the activities of these two agencies have been merged into one strategic plan.

Listed here are the projects and programs that were the focus of our strategic planning process. It should be noted that this is by no means a comprehensive list of all efforts pursued by the SWC and the SE, rather it is simply a collection of those efforts that were deemed appropriate to include in our strategic planning process.

Further, the projects and programs identified here have been separated by the divisions that are *primarily* responsible for their management. However, in several instances, many of our projects and programs require staff contributions from multiple divisions.

Administration

Dave Laschkewitsch, Director

Administration & Support Services

Atmospheric Resources

Darin Langerud, Director

ARB Cooperative Observer Network

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Atmospheric Research & Development Program

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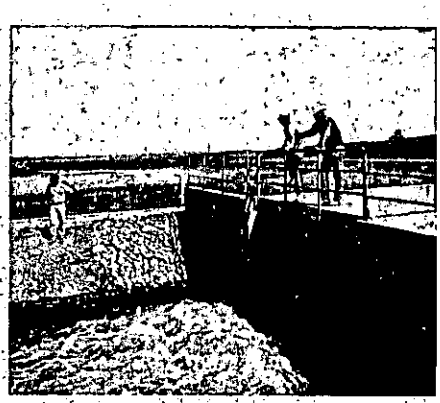
North Dakota Cloud Modification Project

Focus Projects & Programs



Water Appropriations

Robert Shaver, Director

Community Water Supply Studies

•

Water Resource Data Information Dissemination

•

Water Resource Monitoring

•

Water Resource-Related Economic Development

•

Water Resource Research

•

Water Rights Administration & Processing

•

Water Rights Evaluation & Adjudication

Water Development

Todd Sando, Director

Cost-Share Program

•

Dam Safety Program

•

Design and Construction

•

Devils Lake Flood Control

•

Floodplain Management

•

Investigations

•

Municipal, Rural & Industrial Water Supply

•

Northwest Area Water Supply

•

Red River Valley Water Supply

•

Regulatory Program

•

Southwest Pipeline Project

Planning & Education

Lee Klapprodt, Director

Drought Disaster Livestock Program

•

State Water Management Plan

•

Water Education for Teachers

•

Watershed Plan Coordination

Administration & Support Services

Program Overview:

The Administrative Services Division provides the overall direction of agency powers and duties as described in the state's water laws. The activities include both the SE and SWC's operations, as well as accounting, information technology, human resources, records management, legal support, and support services for all agency projects and programs.

Budget and fiscal control work is accomplished within the provisions of statutory law and principles or rules of that law. Agency accounting consists of keeping adequate financial records, preparation of financial statements and reports, project and program cost accounting, preparation of budgets, responding to audit requests and recommendations, and proper control of various funds appropriated by the Legislature.

Human Resources works as a business partner with and for the divisions of the SWC in developing, implementing, and supporting workforce programs that seek to recruit, develop, and retain a qualified, diverse, and engaged workforce.

The division also works on contracts and agreements that are necessary to carry out investigations, planning, and cooperation with various other agencies in water resources management.

Information Technology (IT) supports general agency business operations in areas related to work-flow management and office automation. IT also supports and enhances agency data collection and management functions, and broader engineering and scientific functions.

Agency Goals Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To educate the public regarding the nature and occurrence of the North Dakota's water resources.

Action Plan:

TASKS	TARGET DATES
Prepare and submit the agency's budget to OMB	Aug. 2010
Coordinate the timing of agency bonding	As needed
Coordinate development of agency testimony for legislative appropriations hearings	Dec. 2010
Maintain accounting records, and provide information technology and records management services	Ongoing
Bill federal, state, and local entities for their share of project costs	As needed
Provide legal support, including research and contract development	As needed
Develop a Strategic Career Management Program that facilitates the growth and retention of talent	Summer 2011
Maintain an agency IT strategic plan, and coordinate agency IT efforts with external and statewide initiatives	Ongoing
Support, maintain, and evolve agency IT infrastructure	Ongoing

Program Objective:

- Provide umbrella administrative support services to the projects and programs of the agency.

Assumptions and Obstacles:

Talent shortages, an aging workforce, and a new generation with changing expectations about the contemporary work environment, will challenge our ability to retain and acquire adequate talent in the future.

ARB Cooperative Observer Network

Program Overview:

The Atmospheric Resource Board's (ARB) Cooperative Observer Network has collected growing season rainfall and hail data from volunteer observers statewide since 1977. During those 31 years, participation has ranged between 700 and 1,000 observers annually, making it one of, if not the most dense precipitation observation networks in the U.S. In all, more than three million daily precipitation observations, and better than eleven thousand hail observations have been reported.

Action Plan:

TASKS	TARGET DATES
Manage the program for daily observation of rainfall and hail, including data entry, quality control, and GIS mapping	April-Sept., annually
Conduct growing-season mapping, and manage volunteer renewal for following years	Fall, annually
Recruit new volunteers	Spring, annually
Conduct site visits for gauge placement and quality control	April-Sept., annually
Expand the online reporting program	Winter, annually
Expand snowfall measurements in critical areas	Winter, annually

Agency Goals Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Program Objectives:

- Make high-resolution precipitation and hail data available to counties, states, federal agencies, private organizations, and the public.
- Provide the entire database online for data download or review.
- Increase online reporting and produce value-added products that will be useful to a larger audience.
- Begin snowfall measurements in critical areas to assist with spring flood forecasting.

Assumptions and Obstacles:

Continuation and expansion of existing statewide precipitation observations will require continued funding for agency operations and equipment.

Program Overview:

North Dakota has a long history of research in weather modification. Since the mid-1980s, six field research programs have been conducted in the state, most recently through focused campaigns in 2006 and 2008. The program has previously been funded by the Bureau of Reclamation and the National Oceanic and Atmospheric Administration with the addition of state cost-share.

Atmospheric Research & Development Program

Agency Goals Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To conduct research into processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

Program Objectives:

- Better quantify the physical processes of rainfall and hail formation.
- Improve operational application of cloud seeding technologies.
- Better quantify effects through development and application of improved evaluation techniques.

Action Plan:

TASKS	TARGET DATES
Work with the North American Interstate Weather Modification Council and Weather Modification Association to establish a federally-funded research program	Ongoing
Meet with Congressional and Committee staff in Washington D.C. to gain support for an authorized and funded research program	March 2010 & 2011
Continue the Polarimetric Cloud Analysis and Seeding Test (POLCAST) hygroscopic seeding research program	Summer, annually

Assumptions and Obstacles:

Funding is a primary obstacle for the Atmospheric Research & Development Program. A multi-state effort is underway through the North American Interstate Weather Modification Council to secure federal funding through an authorized program.

Program Overview:

Rural water entities and municipalities in need of help with their water supply can access staff for interpretation of existing data. They can also apply for cost-share assistance from the SWC for water supply studies. Rural water entities and municipalities use the water resource studies to help with their decisions regarding water supply concerns and options.

Agency Goals Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

Community Water Supply Studies

Program Objective:

- Provide interpretation of existing water resource data.
- Conduct studies of potential water resources.
- Publish reports on water resource studies.
- Provide guidance and/or recommendations with regard to water supply concerns.
- Process appropriate paperwork to establish or maintain water rights.

Action Plan:

TASKS	TARGET DATES
Conduct water supply studies	As requested

Assumptions and Obstacles:

As more communities tie in to expanding regional water supply systems, the need for individual community water supply studies has declined in recent bienniums.

Cost-Share Program

Program Overview:

Beginning in 1943, the North Dakota Legislative Assembly appropriated funds to the SWC for cost-share assistance on existing drain channels. Since then, the SWC Cost-Share Program has significantly evolved, and has now developed into a program that adequately meets the SWC's goals, and the needs of our constituents.

The SWC Cost-Share Program identifies types of projects that are eligible for cost-share assistance per the agency policy. Currently, as determined by that policy, the SWC cost-shares on several types of projects, and has existing agreements to fund – flood control, water supply, recreation, snagging and clearing, studies, irrigation, bank stabilization, and technical assistance projects.

Upon determining a proposed project's eligibility and approval of funding, an agreement/contract is entered into with the project's sponsor describing the scope of work, how funds will be disbursed, and insurance and indemnification clauses. Request for payments are processed per the terms of the agreement/contract. At the discretion of the SWC, projects are reviewed and/or inspected prior to final payment.

Agency Goals Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.

Action Plan:

TASKS	TARGET DATES
Review approximately 45 cost-share inquiries/ applications for cost-share eligibility and assistance	June 30, annually
Present 30-40 cost-share proposals for approval and authorization by SWC	June 30, annually
Develop agreements/contracts for 30-40 approved and authorized projects	June 30, annually
Process requests for payment, monitor agreement/ contract compliance, and review and inspect work for approximately 80 active projects	June 30, annually

Program Objective:

- To financially assist federal and state agencies and political subdivisions with eligible flood control, water supply, recreation, snagging and clearing, studies, irrigation, bank stabilization, and technical assistance projects.

Assumptions and Obstacles:

The amount of funds available for the Cost-Share Program is dependent on state appropriations and agency budgeting from the contract fund.

Dam Safety Program

Program Overview:

The National Dam Safety Program was initiated in 1978 through the U.S. Army Corps of Engineers after the failure of Toccoa Falls Bible College Dam in Georgia. The North Dakota Dam Safety Program was initiated to continue this program of inspecting dams and assessing their safety. Dam Safety Program staff inspect 109 high and medium hazard dams on a rotational basis, so that every dam on the list is fully inspected at least once every ten years. High hazard dams are inspected at least once every four years. In addition, each spring, 128 dams are given a partial inspection to check on the status of the dams after the spring runoff season. Other dams in North Dakota are inspected on an "as needed" basis, such as when a dam is built, rehabilitated, or when the public has a concern about a dam.

Agency Goals Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Program Objectives:

- On a rotational basis, conduct full periodic inspections of all non-federally owned high hazard dams and all non-federally owned medium hazard dams greater than 10 feet high.
- Conduct annual partial inspections of all non-federally owned high and medium hazard dams, and selected low hazard dams.
- Report inspection findings to the respective dam owners so they can address problems and improve the safety of their dams.
- Update and maintain an inventory of all dams in North Dakota.
- Assist dam owners with the preparation of emergency action plans (EAPs) for their dams.

Assumptions and Obstacles:

- Federal funding through the National Dam Safety Program is used to improve the SWC's dam safety program by providing annual funding for training, equipment, and one part-time position.
- Updating the North Dakota Dam Design Handbook will require substantial input and time from several staff members, as well as from outside agencies.

Action Plan:

TASKS	TARGET DATES
Conduct partial inspections of 128 dams each spring	June 30, annually
Conduct full inspections of 21 dams per year, and report findings to owners	Dec. 31, annually
Update the North Dakota Dam Design Handbook	June 30, 2011
Maintain and update North Dakota's dam inventory	Ongoing
Submit data to the National Inventory of Dams	As requested
Manage a cost-share program to assist dam owners with developing EAPs using federal grants	Ongoing

Design and Construction

Program Overview:

The Design and Construction Sections are involved with assisting dam owners throughout the state in designing repairs and modifications to existing water facilities. As an example, the section works with the North Dakota Game and Fish Department (Department) to maintain outlet structures and install low-level drawdowns used by the Department to manage fisheries. The section is also involved in directing emergency actions during major dam incidents.

Agency Goals Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Action Plan:

TASKS	TARGET DATES
Assist dam owners with design and repairs of existing water facilities	Ongoing
Repair and maintain North Dakota's stream gauge network through cooperative effors with the U.S. Geological Survey	Summer, annually
Conduct general construction projects	Summer, annually

Program Objectives:

- Maintain water resource facilities within the state to ensure public safety, and enhance quality of life by meeting multiple uses such as flood control, water supply, and recreation.
- Work with the United States Geological Survey to maintain the network of stream gauges throughout the state, thereby ensuring reliable data necessary for managing North Dakota's water resources within the state.

Assumptions and Obstacles:

Weather is the primary obstacle for timely completion of annual construction and repair efforts.

Devils Lake Flood Control

Project Overview:

Since 1993, Devils Lake has risen about 25 feet and quadrupled in volume. And, though the elevation of the lake has receded slightly in recent years, the lake still covers about 138,000 acres, and flooding has caused damages in excess of $400 million. The state's approach to solving the flooding problems in the Devils Lake region has included a three-pronged approach, which includes upper-basin water management, infrastructure protection, and an emergency outlet to the Sheyenne River.

Landowner payments for floodwater retention, which involves the upper-basin water management element of the three-pronged approach, has been ongoing for more than a decade. More recently, the state completed an emergency outlet to the Sheyenne River in 2005 that is sized for a maximum discharge of 100 cubic feet per second (cfs). Since it was completed, the outlet was operated in 2005, 2007, and 2008. It was not operated in 2006 as a result of permit constraints related to water-quality in the Sheyenne River.

Regarding the infrastructure portion of the three-pronged approach, the City of Devils Lake continues to face a threat from the swelling lake. It is estimated that there is a 24 percent chance that by 2040, the city's levee system may be compromised by rising lake levels. In response, the city is working with the U.S. Army Corps, the SWC, and other state and federal agencies to identify solutions that may involve relocations, levee raises and extensions, or a combination of the aforementioned. Since 1996, the city's levee system has been raised and/or extended three other times in response to rising lake levels.

Agency Goal Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.

Action Plan:

TASKS	TARGET DATES
Maintain and operate the Devils Lake Outlet	Ongoing
Develop discharge monitoring reports for outlet operation	As needed
Provide technical assistance toward the completion of the Devils Lake Flood Risk Management Project	Ongoing

Project Objective:

- Reduce the risk of flooding around Devils Lake by implementing a three-pronged approach, which includes, upper-basin water management, infrastructure protection, and operation of an emergency outlet.

Assumptions and Obstacles:

The state's permit to discharge water into the Sheyenne River via the outlet is in place to protect water quality on the Sheyenne River downstream of the outlet. Due to these requirements, operation of the outlet has been fairly limited, and it is possible a similar trend will continue in years to come. With the costs of a future levee raise and extension for the City of Devils Lake estimated as high as $200 million, funding will be a major obstacle for the city.

For a map of North Dakota's Devils Lake emergency outlet project, see the Appendix.

Drought Disaster Livestock Program

Program Overview:

The Drought Disaster Livestock Water Supply Project Assistance Program (Program) was established by the North Dakota Legislature in 1991. Its primary purpose is to provide cost-share assistance to livestock producers with water supply shortages caused by drought. The Program is available to producers living in and adjacent to those counties identified by the Governor as "drought emergency" areas. Any livestock producers with water supply problems caused by drought are eligible.

Eligible items under the Program include: new water wells, rural water system connections, pipeline extensions, pasture taps, pumps, generators, electrical and solar hook-ups, stock water tanks; and labor, materials, and equipment rentals for work completed by the producer.

Agency Goal Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.

Program Objectives:

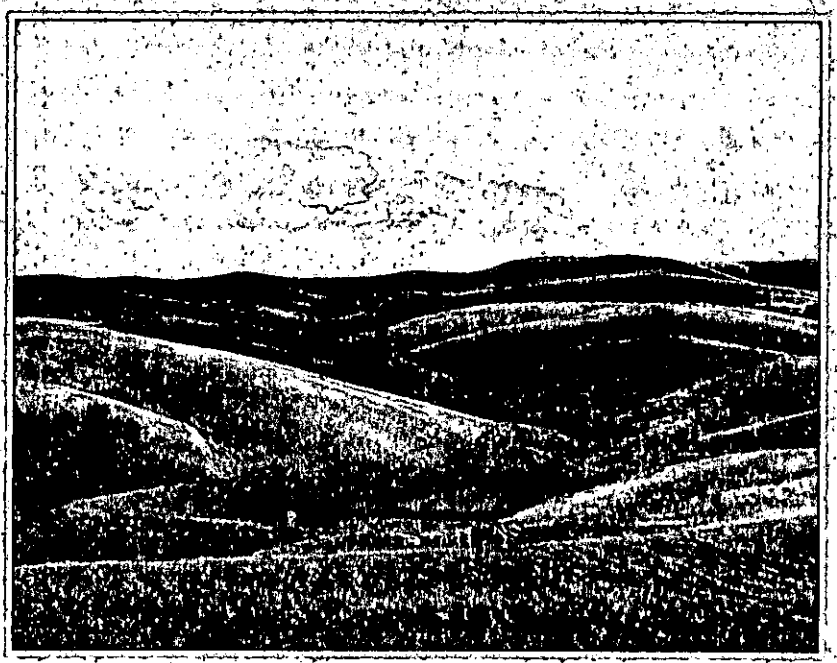
- Provide educational materials to the general public regarding aspects of the Program and eligibility requirements.
- Review applications submitted for assistance under the Program and determine eligibility.
- Monitor available funding and advise applicants on funding availability.
- Manage reimbursements to producers determined as eligible for cost-share assistance.

Action Plan:

TASKS	TARGET DATES
Process 100 percent of applications submitted	Ongoing, through 2011
Provide status reports on Program activities to the SWC	As needed

Assumptions and Obstacles:

The Program is activated in times of drought by SWC action. Thus, the Program will only remain active as long as severe drought occurs in areas of the state, and/or as long as funding is made available through SWC action.



ND TOURISM/GENE KELLOGG

Floodplain Management

Program Overview:

The National Flood Insurance Program (NFIP) works on a partnership formed of federal, state, and local governments. Local governments use state laws concerning planning, zoning and development as a basis to practice floodplain management. The NFIP provides flood insurance for structures in return for participating communities promising to guide development in identified flood hazard areas. The North Dakota Floodplain Management Act of 1981 adopts the NFIP by reference in Chapter 61-16.2 of the North Dakota Century Code. This chapter was amended in 1999 and again in 2003 by the State Legislature, which broadened and refined the duties of the SE.

The Federal Emergency Management Agency (FEMA) provides funding to states for their role in the Community Assistance Program (CAP) and the Map Modernization Initiative (Map Mod).

Action Plan:

TASKS	TARGET DATES
Monitor community floodplain management compliance under CAP and provide technical assistance regarding the NFIP	Sept. 30 annually
Conduct floodplain management training workshops under CAP	Sept. 30 annually
Promote the availability of mapping products produced as part of Map Mod	Sept. 30 annually
Conduct floodplain determinations for the Bank of North Dakota	Quarterly

Agency Goals Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Program Objectives:

- Manage the state's floodplains to reduce flood damages throughout the state.
- Collect and distribute information relating to flooding and floodplain management.
- Coordinate local, state, and federal floodplain management activities.
- Assist communities in their floodplain management activities.
- Fulfill all existing responsibilities under FEMA's CAP.
- Support the digital flood map conversion process as part of FEMA's Map Mod and its successor program Risk Map.

Assumptions and Obstacles:

Successful management of the state's floodplain areas will continue to require active participation and involvement of local communities.

Investigations

Program Overview:

The Investigations Section is responsible for the preliminary engineering of surface water projects throughout the state. These projects include flood control, irrigation development, recreation dams, and bank stabilizations. The Investigations Section also conducts and reviews hydrologic and hydraulic models for floodplain management and dam design and repair. This includes reviewing proposed modifications to existing regulatory floodways that require SE approval. In addition, the Investigations Section provides technical expertise in dealing with the management of the Missouri River, flood response, and other water issues, as well as providing government survey information to the public.

Agency Goals Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Action Plan:

TASKS	TARGET DATES
Develop Pembina County Flood Protection Plan components	June 2011
Provide technical reviews of Missouri River management issues	As needed
Manage government survey information	Ongoing
Conduct other water resource investigations and land surveys	As needed
Cooperate in the development of the Red River unsteady flow model	May 2011
Review proposals for modifications of regulatory floodways	As needed

Program Objectives:

- Conduct land surveys, preliminary engineering, hydrologic and hydraulic studies, and review studies done by others.
- Provide engineering services for surface water projects throughout the state.

Assumptions and Obstacles:

Severe flooding problems in the Red River and Devils Lake basins and concerns over changes to management of the Missouri River system have consumed much of the Investigations Section's time over the course of the last decade. With those issues expected to be in the forefront in the coming years, that trend will likely continue.

Municipal, Rural & Industrial Water Supply Program

Program Overview:

The Municipal, Rural, and Industrial (MR&I) water supply program is one source of federal funding used for public water systems. Funding used for the MR&I program is provided through the U.S. Bureau of Reclamation (USBOR). North Dakota's MR&I program was originally established by the 1986 Garrison Diversion Reformation Act. At that time, Congress authorized $200 million in the form of a maximum grant of 75 percent. The state has since received the original $200 million from the 1986 Act. Later, the Dakota Water Resources Act of 2000 added an additional $200 million for the MR&I program, which is indexed. So far, the state has received $33 million of those funds. The Garrison Diversion Conservancy District signed a cooperative agreement with the USBOR to receive the federal funding. Further, the SWC and Garrison Diversion Conservancy District signed a joint powers agreement to administer the program based on a memorandum of understanding.

Because of North Dakota's MR&I program, regional and rural water systems have continued to expand throughout the state. As a result of this added assistance, there are now thirty regional water systems in North Dakota, providing quality drinking water to over 165,000 people in 312 cities, 50 various water systems, and over 90,000 rural residents. Currently, all or part of 47 of North Dakota's 53 counties, are served by regional water systems, and most have plans to expand.

Action Plan:

TASKS	TARGET DATES
Implement a five-year plan for MR&I project funding requests	Ongoing
Participate in meetings with communities and rural water districts to provide technical and planning assistance	Ongoing
Provide MR&I budget estimates for project development	Ongoing
Coordinate meetings with various funding entities to discuss projects	Ongoing
Work with North Dakota's Congressional Delegation to increase federal MR&I annual appropriations	Ongoing
Coordinate with the Garrison Conservancy District in the prioritization and allocation of MR&I funds to projects	Ongoing

Agency Goal Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.

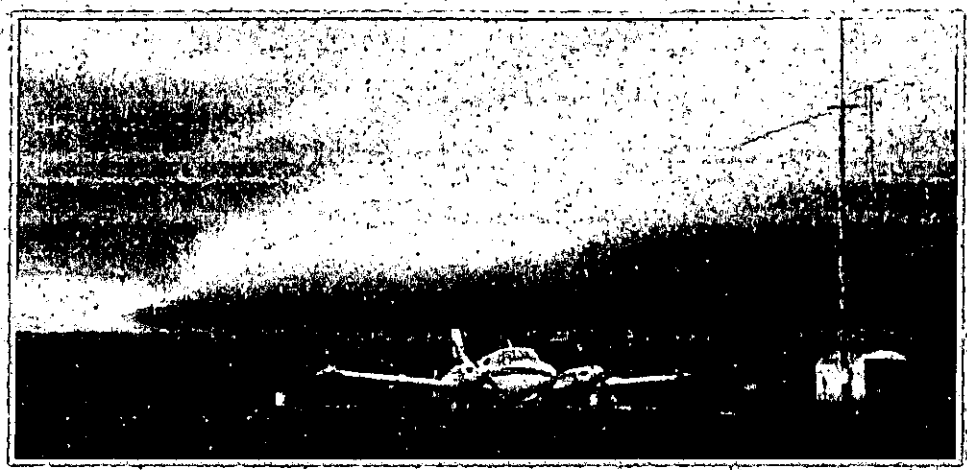
Program Objectives:

- Coordinate alternative funding solutions for water supply and water treatment projects to help water users in cities and rural water areas obtain an adequate supply of quality water for municipal, rural, and industrial purposes.
- Provide planning and technical assistance to water supply systems to promote wise use of water resources throughout the state.

Assumptions and Obstacles:

Adequate federal funding must be received in a manner that does not impede progress.

For a map of North Dakota's Rural Water Systems, see the Appendix.



North Dakota Cloud Modification Project

Project Overview:

The North Dakota Cloud Modification Project (NDCMP) is a long-running, operational cloud seeding program with the dual purposes of hail suppression and rainfall enhancement. The target area covers nearly 10,500 square miles in six western North Dakota counties during the months of June, July, and August. Counties partner with the state through the ARB to employ contractors who provide the aircraft, pilots, seeding equipment, and radar maintenance services. The ARB owns and operates two radar systems and employs the meteorologists to coordinate seeding operations. In addition, the program offers two intern programs; one for students studying meteorology, and another for pilots studying at the University of North Dakota's J.D. Odegaard School for Aerospace Sciences.

Evaluations of the NDCMP indicate that the program reduces hail damage to crops by 45 percent, increases wheat yields by 5.9 percent, increases rainfall on the order of about 10 percent, and boasts a benefit to cost ratio of approximately 40 to 1.

Agency Goal Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.

Project Objectives:

- Reduction of hail damages in NDCMP target area.
- Enhancement of summer rainfall from thunderstorms in NDCMP target area.

Action Plan:

TASKS	TARGET DATES
Conduct a bidding process and award an aircraft service contract	April 2010
Hire NDCMP field personnel	May, annually
Conduct pre-project ground school	May, annually
Conduct NDCMP operations	June-Aug., annually
Conduct data analysis and final reporting to participating counties	Winter, annually
Report cloud seeding activities to the National Oceanic and Atmospheric Administration	Spring, Fall, annually
Respond to inquiries from prospective partner counties	Ongoing
Provide real-time data from Bowman and Stanley Doppler weather radars	May-Sept., annually

Assumptions and Obstacles:

The project assumes continued participation by western North Dakota counties and cost-sharing of one-third of project costs by the state.

For a map of the North Dakota Cloud Modification Project, see the Appendix.

Northwest Area Water Supply

Project Overview:

North Dakota Century Code (NDCC), Section 61-24.6 declares necessary the pursuit of a project "...that would supply and distribute water to the people of northwestern North Dakota through a pipeline transmission and delivery system..."

The SWC has been working to develop the Northwest Area Water Supply (NAWS) project ever since. NDCC 61-24.6 authorizes the SWC to construct, operate, and manage a project to deliver water throughout northwestern North Dakota.

In April 2002, the SWC began construction of the pretreated water pipeline from the Missouri River to Minot. The 45 miles of pipeline between Minot and Lake Sakakawea has been completed, and NAWS is now providing water service to Berthold, Minot's South Hill Region, and North Prairie Rural Water District from an interim supply from Minot's water treatment plant.

In 2002, a lawsuit was filed by the Province of Manitoba, primarily arguing that NAWS could increase the risk of transferring non-native biota between the Missouri River and Hudson Bay drainage basins. Various elements of project construction have been allowed to proceed by court order, despite the pending lawsuit.

When completed, the project is designed to provide up to 26 million gallons of Missouri River water per day to at least 63,000 citizens in northwest North Dakota. With additional rural development, NAWS could serve as many as 81,000.

Action Plan:

TASKS	TARGET DATES
Resolve the 2002 lawsuit following release of the Record of Decision	Summer 2009
Initiate design work on a biota treatment plant and intake, and remaining contracts to move water from Lake Sakakawea to Minot	Fall 2009
Complete the High Service Pump Station	Dec. 2009
Complete the Kenmare-Upper Souris pipeline	Dec. 2009
Complete the Mohall-All Seasons pipeline	Aug. 2010

Agency Goal Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.

Project Objective:

- Finish construction of the pretreated water delivery system to Minot.

Assumptions and Obstacles:

- Adequate federal funding must be received in a manner that does not impede progress.
- Completion of the EIS in the spring of 2009, and decisions on the level of treatment greatly affect funding needs, and design and construction schedules.

For a map of North Dakota's Northwest Area Water Supply project, see the Appendix.

Red River Valley Water Supply Project

Project Overview:

The Red River Valley Water Supply Project was authorized by the Dakota Water Resources Act of 2000, which required that a Needs and Options Report and EIS be completed with joint leadership between the federal government and the State of North Dakota. The purpose of the EIS, which was completed in December 2007, is to evaluate alternatives to meet the long-term water needs of the Red River Valley in North Dakota, and the cities of East Grand Forks, Moorhead, and Breckenridge in Minnesota.

As part of the Final EIS, the U.S. Bureau of Reclamation and the State of North Dakota identified the Garrison Diversion Unit Import to the Sheyenne River Alternative as the preferred alternative.

Since that process began a few years ago, SWC staff members from all divisions have been involved with the Needs and Options Report and EIS as technical advisors, serving on multiple committees. As the State of North Dakota and the federal government continue to pursue the development of the preferred alternative, the SWC will continue to provide technical and financial assistance toward project completion.

Agency Goal Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.

Action Plan:

TASKS	TARGET DATES
Provide technical and financial assistance toward the completion of the Red River Valley Water Supply project preferred alternative	Ongoing

Program Objective:

- Provide technical expertise and financial assistance toward the completion of the Red River Valley Water Supply Project.

Assumptions and Obstacles:

The SWC will be one of the funding agencies involved in financing the preferred alternative, and staff will continue to participate in a technical advisory capacity. However, project management will be under the oversight of the U.S. Bureau of Reclamation and the Garrison Diversion Conservancy District. Thus, overall progress and target dates for project completion will not be controlled by the SWC.

For a map of the Red River Valley Water Supply Project preferred alternative, see the Appendix.

Regulatory Program

Program Overview:

As authorized by NDCC 61-03, 61-04, and 61-16.1, the SE has been responsible for regulating the construction of dams, dikes, and other water control facilities since the 1930s. Since 1957, NDCC 61-32 and NDCC 61-15 have authorized the SE to regulate drainage. And, the SE has been responsible for managing sovereign lands since 1989, as authorized by NDCC 61-33. The SE coordinates these regulatory activities with the county water resource districts (WRDs) across the state.

In addition to these permitting processes, the Regulatory Program provides technical assistance to local water resource districts; makes flow determinations in accordance with NDCC 24-03-08; provides appeal review of WRD decisions; serves as a source of information to the public; handles easement releases for abandoned structures; participates in training workshops; represents the SE on various interagency committees; and provides agency review of Public Service Commission mining permits and U.S. Army Corps' Section 404 permits.

Action Plan:

TASKS	TARGET DATES
Process 100 percent of all incoming construction, drainage, and sovereign land permit applications	June 30, 2011
Provide technical assistance to WRDs as requested	Ongoing
Address 100 percent of all incoming WRD decision appeals	June 30, 2011
Digitally map 100 percent of all permitted assessment drains and dams that are currently in the agency's database	June 30, 2011
Provide 100 percent of flow determinations requested per NDCC 24-03-08	June 30, 2011
Participate in WRD training workshops	April 2010 & 2011
Review 100 percent of incoming Public Service Commission and U.S. Army Corps' Section 404 permits	June 30, 2011
Implement Sovereign Land Management Plan recommendations	Ongoing

Agency Goals Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

Program Objectives:

- Regulate, where appropriate, the construction of dams, dikes, water control facilities, drainage works, and projects on sovereign lands, to ensure proper management of North Dakota's land and water resources and public safety.
- Interact with the public, continue involvement on interagency committees, and participate in training workshops, to facilitate education and information dissemination to other water resource managers – especially at the local level.

Assumptions and Obstacles:

Enforcement of various sovereign land-related regulations will require the development of a memorandum of understanding with the Game and Fish Department.

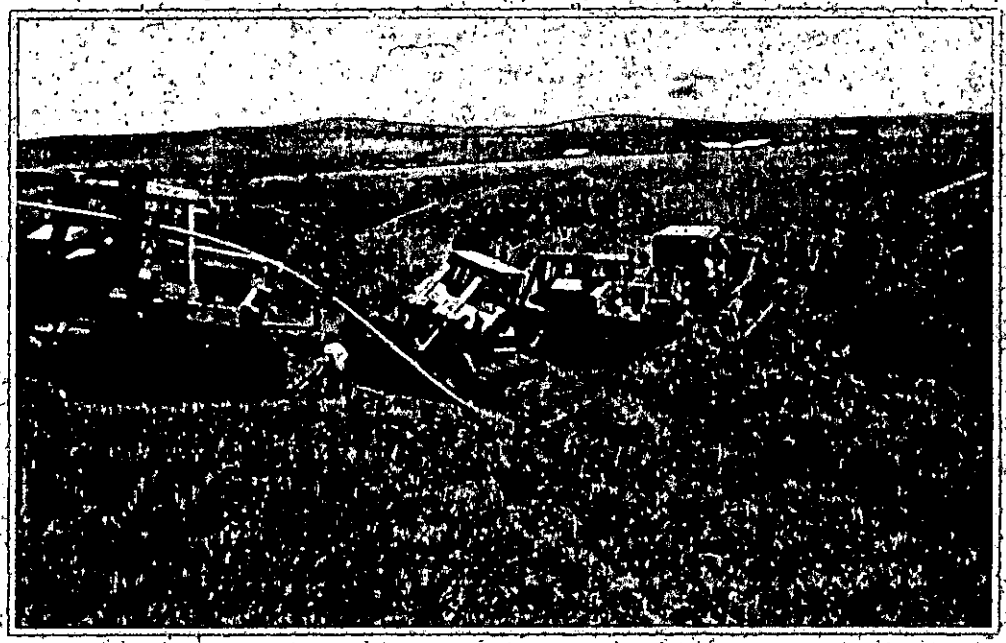
Southwest Pipeline Project

Project Overview:

The Southwest Pipeline Project (SWPP) is a regional water supply system that draws water from Lake Sakakawea and serves 35,000 people in southwest North Dakota, including 28 communities, and 3,100 rural hookups – with plans to expand.

NDCC, Section 61-24.3 declares necessary that the SWPP, "...be established and constructed, to provide for the supplementation of the water resources of a portion of the area of North Dakota south and west of the Missouri River with water supplies from the Missouri River for multiple purposes, including domestic, rural, and municipal uses." The SWC has been working to develop the SWPP ever since – with construction beginning in 1986. NDCC 61-24.6 authorizes the SWC to construct, operate, and maintain the project.

Private contractors are constructing the project according to designs developed by the SWC's engineering contractor. The SWC oversees the design and construction of the project.



Agency Goal Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.

Program Objective:

- Begin construction on the Oliver, Mercer, North Dunn regional service area.

Action Plan:

TASKS	TARGET DATES
Complete the main transmission line from Oliver, Mercer, North Dunn WTP to Hazen and Stanton	July 2010
Complete the Oliver, Mercer, North Dunn WTP	June 2011
Complete the rural water distribution system in the Zap service area	June 2011

Assumptions and Obstacles:

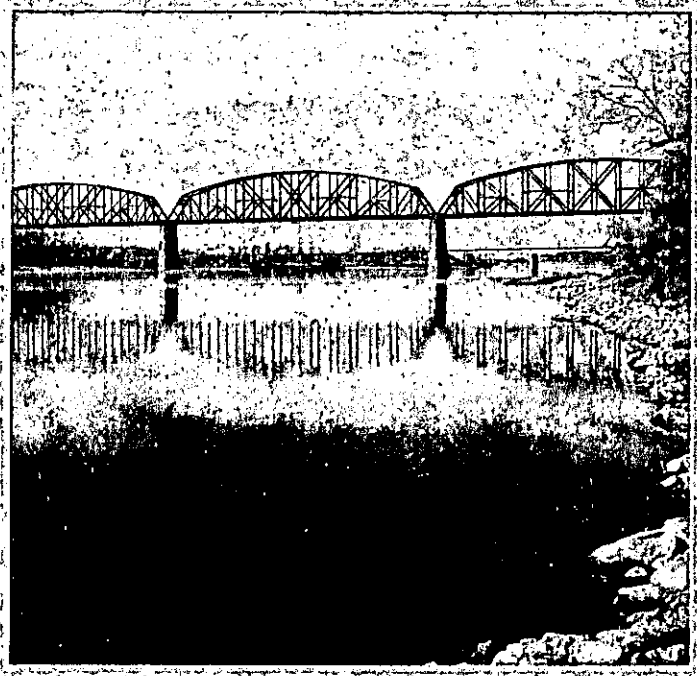
Adequate state and federal funding must be received in a manner that does not impede progress.

For a map of North Dakota's Southwest Pipeline Project, see the Appendix.

Program Overview:

By virtue of North Dakota Century Code, Section 61-02-14, Powers and Duties of the Commission; and Section 61-02-26, Duties of State Agencies Concerned with Intrastate Use or Disposition of Waters, the Commission is required to develop and maintain a comprehensive State Water Management Plan (SWMP) for the sound management of North Dakota's water resources. The most recent comprehensive SWMP was completed in 2009. Following major water plan revisions, water development reports (WDRs) are published on a biennial basis to assist with agency budgeting efforts, and to provide updated project and funding information during Legislative Assemblies.

State Water Management Plan



Agency Goals Satisfied:

- To develop comprehensive plans to meet North Dakota's water resource needs.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources, and water development efforts.

Program Objectives:

- Coordinate implementation of the 2009 SWMP.
- Develop a 2011-2013 Water Development Report to serve as a biennial update to the 2009 SWMP.

Action Plan:

TASKS	TARGET DATES
Coordinate recommendations included in the 2009 SWMP	Ongoing
Contact local water managers to request undated water project/program information, including funding timeframes for the 2011-2013 WDR	Jan. 2010
Review and update the water resource project/program inventory	May 2010
Develop the final 2011-2013 WDR	Dec. 2010
Present the 2011-2013 WDR to the Legislative Assembly– outlining funding needs	Jan. 2011

Assumptions and Obstacles:

Active participation and accurate input from local water managers and project sponsors regarding project funding needs will be critical to successful future statewide water planning efforts.

Project Overview:

Project WET (Water Education for Teachers) is a balanced, supplemental and interdisciplinary water science and water education program for formal and non-formal K-12 educators and students. Project WET facilitates and promotes the learning, awareness, appreciation, knowledge, exploration, and stewardship of North Dakota's water resources. Project WET programs are designed to help youth learn how to think, and not just what to think, while providing means for teachers and students to grasp fundamental concepts related to water resources, watersheds, and the environment. Through Project WET programs, educators and students obtain skills for acquiring and applying knowledge, and to evaluate the results of their actions toward North Dakota's water resources.

Water Education For Teachers

Agency Goal Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources, and water development efforts.

Action Plan:

TASKS	TARGET DATES
Maintain Project WET classroom-ready teaching aids and service contracts in support of educational efforts	As needed
Provide in-service and pre-service credit and non-credit educational programs for K-12 educators	Ongoing
Provide varying educational programs for K-12 students	Ongoing
Complete facilitator leadership training	Feb. 2011
Provide funds for the Keep North Dakota Clean water education poster contest	March 2010 & 2011
Maintain the Project WET facilitator network	Ongoing
Complete two Project WET watershed institutes	July 2009 & 2010

Project Objectives:

Develop, promote, deliver, and provide to K-12 formal and non-formal educators and students:

- Indoor and outdoor water science and water education programs;
- Balanced water resource information and education tools, services, programs, and resource materials;
- Institutes, workshops, in-service and pre-service educational opportunities; and
- Classroom events, youth camps, youth water festivals, community water or environmental awareness, and youth service events.

Assumptions and Obstacles:

Continued funding through EPA's Section 319 Grant is critical to the success and continuation of the WET program.

Water Resource Data Information Dissemination

Program Overview:

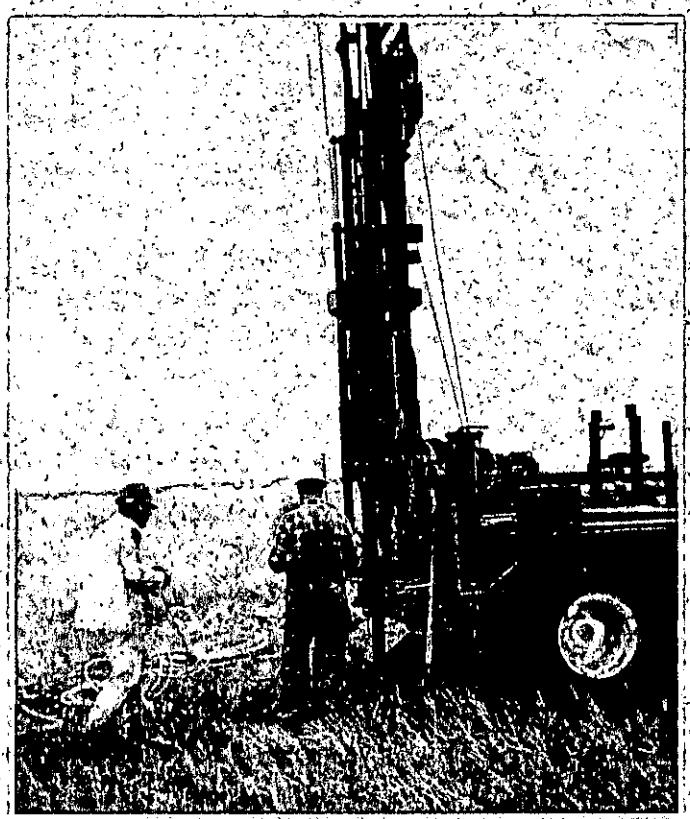
Significant volumes of data are contained in the SWC's Water Resources Information Management Systems (WRIMS). Private individuals and private enterprise, as well as local, county, state, federal, and international entities routinely make use of various portions of these data sets. Staff can facilitate the ability of interested parties to access data of interest to them. A web-based interactive interface is available to allow for direct access to the data on the part of the interested parties. Additionally, numerous interpretive reports are available for various water resources in the state.

Action Plan:

TASKS	TARGET DATES
Anticipate uses for which the data would be needed	Ongoing
Educate staff on the uses of WRIMS as improvements are implemented	As needed
Communicate with interested parties to determine their informational needs	As requested
Write unique programs to meet needs of requests of an unanticipated nature	As requested
Image and store well drilling completion reports	Ongoing

Agency Goals Satisfied:

- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.



Program Objectives

- Maintain quality water resource data.
- Develop and maintain databases for retrieval of data.
- Maintain trained staff to interpret data.
- Develop and maintain web-based integration for the broadest possible access to data.

Assumptions and Obstacles:

The continuation of the in-house and online retrieval system will depend on the ability of the SWC to maintain the 4-D Database.

Program Overview:

Water resource data pertaining to water levels, water quality, and well information is collected on a continuing basis. This data is stored in an Internet-accessible database. The database currently contains about 2.8 million water-level measurements, 31,000 site locations, 58,000 water quality analyses, and 24,000 sites with lithologic descriptions. Additional data acquisition sites are implemented as needed through time. Aquifer parameters and properties are evaluated through an aquifer-testing program.

Water Resource Monitoring

Agency Goals Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

Program Objectives:

- Collect water resource data.
- Organize and store water resource data.
- Evaluate water resource data and future data needs.

Assumptions and Obstacles:

Budget constraints have reduced the number of stream gauges in the USGS Cooperative Program.

Action Plan:

TASKS	TARGET DATES
Install test holes and plug obsolete observation wells	April-Dec., annually
Install 125 to 175 monitoring wells	April-Dec., annually
Install 20 to 30 staff gauges, monitor water levels and flows	April-May, annually
Measure 25,000 to 30,000 water levels in wells and surface water bodies	April-Dec., annually
Collect data from 60 to 70 continuous water level recorders	Jan.-Dec., annually
Collect 1,500 to 2,000 samples from wells and surface water bodies	April-Dec., annually
Analyze samples for various chemical constituents	April-Jan., annually
Repair and maintain 900 to 1,100 measurement and sampling locations	April-Dec., annually
Enter data into the database	Ongoing
Coordinate the USGS cooperative water resource monitoring program	March-Dec., annually
Conduct aquifer tests	As requested/needed

Water Resource-Related Economic Development

Program Overview:

Water utilization is a key ingredient to many potential opportunities for economic development. Numerous studies and reports have documented potential water supplies for economic development. Additionally, existing reports and/or water resource data are interpreted by staff in the form of short reports to aid industries in determining the viability of various water resources with respect to their water needs in their consideration of locating in North Dakota.

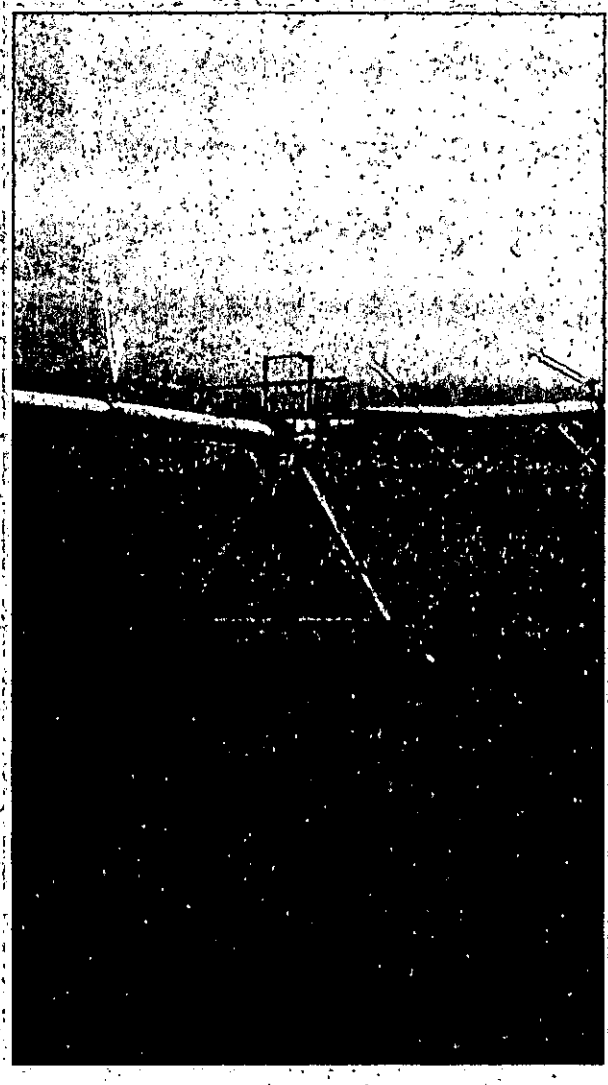
The SWC also provides cost-share support for several activities designed to strengthen the state's economy. The SWC, in conjunction with the Bank of North Dakota, provides cost-share for new irrigation under the auspices of the AgPACE program. The SWC also provides support to the North Dakota Irrigation Association (NDIA).

Agency Goals Satisfied:

- To develop water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.

Program Objectives:

- Identify and evaluate potential water supplies for economic development.
- Support programs to encourage water-using industries.
- Support programs to encourage irrigation.



Action Plan:

TASKS	TARGET DATES
Produce "synopsis" reports on water supplies for interested entities	As requested
Produce or provide water resource interpretive reports	Ongoing/ As requested
Administer the AgPACE program	Ongoing
Support NDIA's efforts to expand irrigation development	July 2009

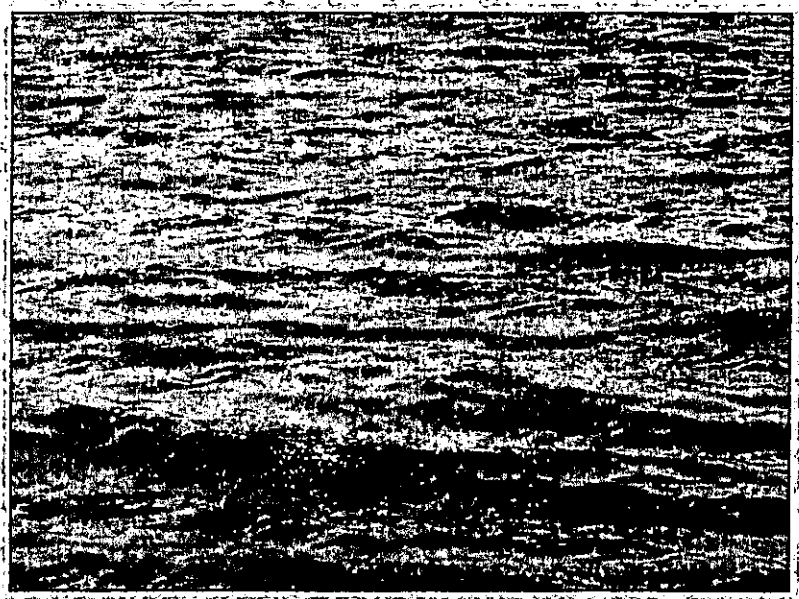
Assumptions and Obstacles:

There is a limited amount of ground water of a quality suitable for irrigation and industry. The one significantly under-utilized water resource in the state, the Missouri River, is not located where most potential water users wish to locate their enterprises.

Water Resource Research

Program Overview:

The SWC's water resource research involvement falls into three categories. The first is where the SWC provides monetary support for water resource related studies. Generally this research is done by the USGS or universities. The second category is where the SWC enters into a cooperative study, again generally with university researchers or the USGS. The third category is when the entire study is conducted by SWC staff.



Agency Goal Satisfied:

- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

Program Objectives:

- Support research into water resources of the state.
- Conduct studies of the nature and occurrence of water to optimize its conservation and development throughout the state.

Assumptions and Obstacles:

Continuing or reformulated research could result from the interpretations that result from these studies.

Action Plan:

TASKS	TARGET DATES
Complete the Water Quality Assessment of National Guard Camp Grafton South Unit	Spring 2011
Complete an annual review and make decisions on graduate Water Resource Investigations (ND Water Resource Institute)	Annually
Cooperate with the USGS to develop a "Stream Stats" website in ND	2011
Cooperate with the USGS to develop a report entitled, "Evaluation of water quality sampling programs and sulfate standards for stream classes and designated uses, ND"	Winter 2009
Conduct an evaluation of nitrate contamination and remediation in the Karlsruhe aquifer	Annually through 2011
Assist with a study of irrigation through tile drains in Richland County	Spring 2011
Assist with a study of denitrification and tile drainage at Oakes, ND	Spring 2011
Prepare a final report on the Forest River Colony artificial recharge project.	Spring 2011
Report on water quality and water levels in the Tolna Coulee (Devils Lake Joint Board)	Annually

Water Rights Administration & Processing

Program Overview:

NDCC 61-04-02 requires all water uses except for domestic, livestock, fish, wildlife, and other recreational uses (unless the aforementioned are greater than 12.5 acre-feet per year) to apply for a water permit before putting water to beneficial use. Set procedures are mandated by NDCC and regulations. Staff guide applicants through this process. In addition, records, documents, and a relational database are meticulously maintained. Upon completion of a water use development, inspections are conducted to verify the ability of the applicant to put the water to beneficial use. Based upon the inspection report, a conditional permit is perfected and filed with the county Register of Deeds as a water right associated with the land. Annual, self-reported water use forms are recorded to document that water is being put to beneficial use and the water right is being maintained.

Agency Goal Satisfied:

- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.

Program Objectives:

- Process water permit applications.
- Maintain meticulous water right records.
- Perfect conditional water rights once developed.
- Document permitted water use.

Action Plan:

TASKS	TARGET DATES
Guide applicants through the water permit application process	Ongoing
Maintain records in each water permit application file	Ongoing
Key appropriate data into the water permit database	Ongoing
Conduct 65-85 inspections of 'completed' conditional permits	Annually
Perfect 50-70 inspected, completed conditional permits	Annually
Send out requests for annual use reports to permit holders	Nov./Jan., annually
Complete the annual water use data collection process	May, annually
Develop a summary report on annual water use in ND	Sept., annually
Measure pumping rates to help establish water rights	Ongoing
Maintain water use records to quantify water rights	Ongoing

Assumptions and Obstacles:

- Water use records are dependent upon encouraged self-reporting of annual water use.
- Some conditional water permits take long periods of time to resolve water and legal complications.

Water Rights Evaluation & Adjudication

Program Overview:

The allocation of water resources for beneficial use can result in competition for those resources. This competition can cross political boundaries. Efforts are continually underway to protect prior rights while maximizing benefits. These efforts are expended externally in other states and provinces, as well as internally with respect to other state agencies having separate regulatory authorities. In the assessment of the degree to which the state's water resources can be utilized beneficially, the rights of prior appropriators need to be assessed and protected. Staff prepares recommendations for the SE on the basis of encouraging beneficial use while protecting prior rights.

Agency Goals Satisfied:

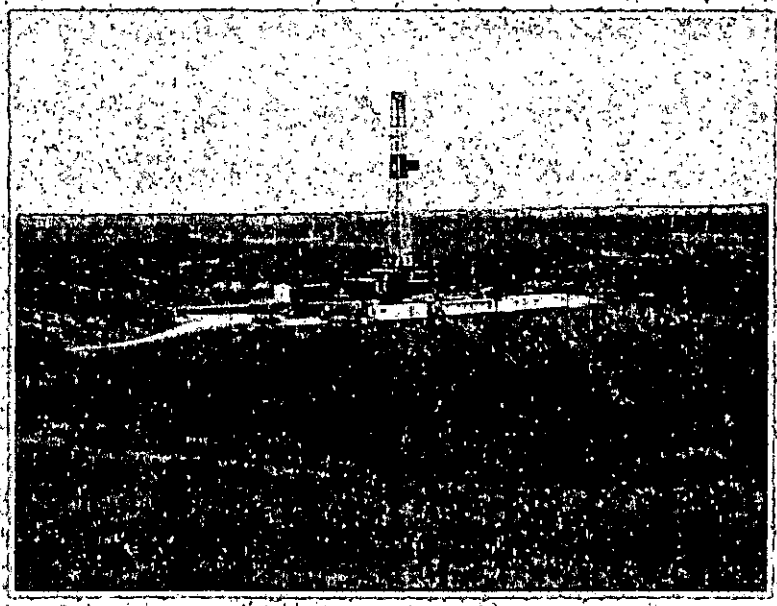
- To regulate the use of water resources for the future welfare and prosperity of the people of North Dakota.
- To manage water resources for the future welfare and prosperity of the people of North Dakota.

Action Plan:

TASKS	TARGET DATES
Gather data on shared resources	As needed
Discuss possible actions regarding water resources	As needed
Negotiate water management decisions	Ongoing
Conduct water resource investigations	As needed
Prepare recommendations for the SE	Ongoing

Program Objectives:

- Pursue cooperative efforts with neighboring states and provinces to plan for beneficial water management of shared water resources.
- Cooperate with agencies that have regulatory authority over North Dakota's water to protect and enhance the quality and quantity of North Dakota's water resources.
- Evaluate water permit applications and recommend decisions to the SE.



Assumptions and Obstacles:

Different organizations and neighboring states and provinces have unique perspectives and laws pertaining to water resources management. In the evaluation of ground water permit applications, the state's ground water resources are becoming more fully appropriated. Thus, the process of allocating additional water while protecting prior water rights is becoming more complex, and thus, more difficult and time-consuming.

Watershed Planning & Coordination

Program Overview:

In addition to water management planning efforts at the state level, the SWC believes that it is also beneficial for stakeholders that live and work within key watersheds of the state to guide the management of water resources in their region through the development of regional water plans. In order for regional planning efforts and studies to proceed and evolve in a productive manner, it is often required that local, state, and federal government officials participate in those planning processes as technical advisors.

In recent years, the SWC has provided technical assistance to the Devils Lake, Upper-Sheyenne, Red, and Missouri River joint water boards toward the development of water management plans and other watershed planning efforts. In addition, in the Red River basin, which is the focus of many projects and planning efforts, the SWC has an office with a full-time engineer in West Fargo.

Beyond participating in regional planning and coordination efforts within the state, SWC staff members are also involved with international and national organizations involved with interjurisdictional water management. Examples include the International Joint Commission, the Red River Basin Commission, the International Red River Board, the International Souris River Board, and the Missouri River Association of States and Tribes.

Action Plan:

TASKS	TARGET DATES
Provide technical assistance toward the implementation of the Red River Basin Commission's Natural Resource Framework Plan	Ongoing
Provide technical assistance toward the implementation of the Devils Lake Basin Joint Water Resource Board's 2009 Water Management Plan	Ongoing
Provide technical expertise to the Upper-Sheyenne River Joint Water Resource Board in their development of a new regional water management plan	Summer 2011
Provide technical expertise to the Red River Joint Water Resource District in their development of an updated water management strategy	Dec. 2010
Continue to participate as board members and technical advisors for international and national watershed planning and coordination efforts	Ongoing

Agency Goal Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.

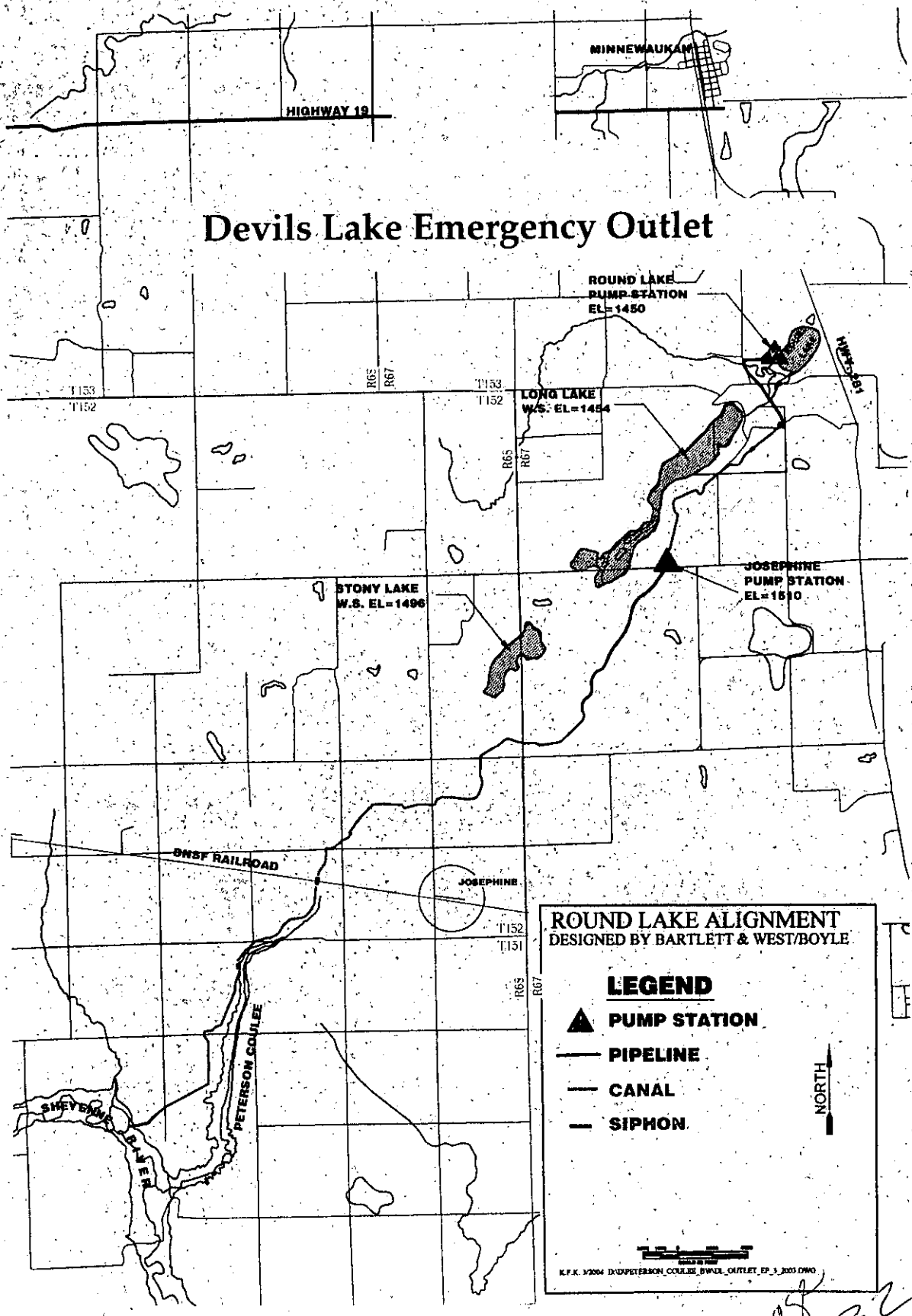
Program Objective:

- Provide technical expertise and assistance toward the development of regional watershed management and planning efforts, and studies.

Assumptions and Obstacles:

In order for all of the above organizations and planning/coordination efforts to succeed in the future, they will require continued commitment and dedication from all stakeholders involved in those processes.

Appendix



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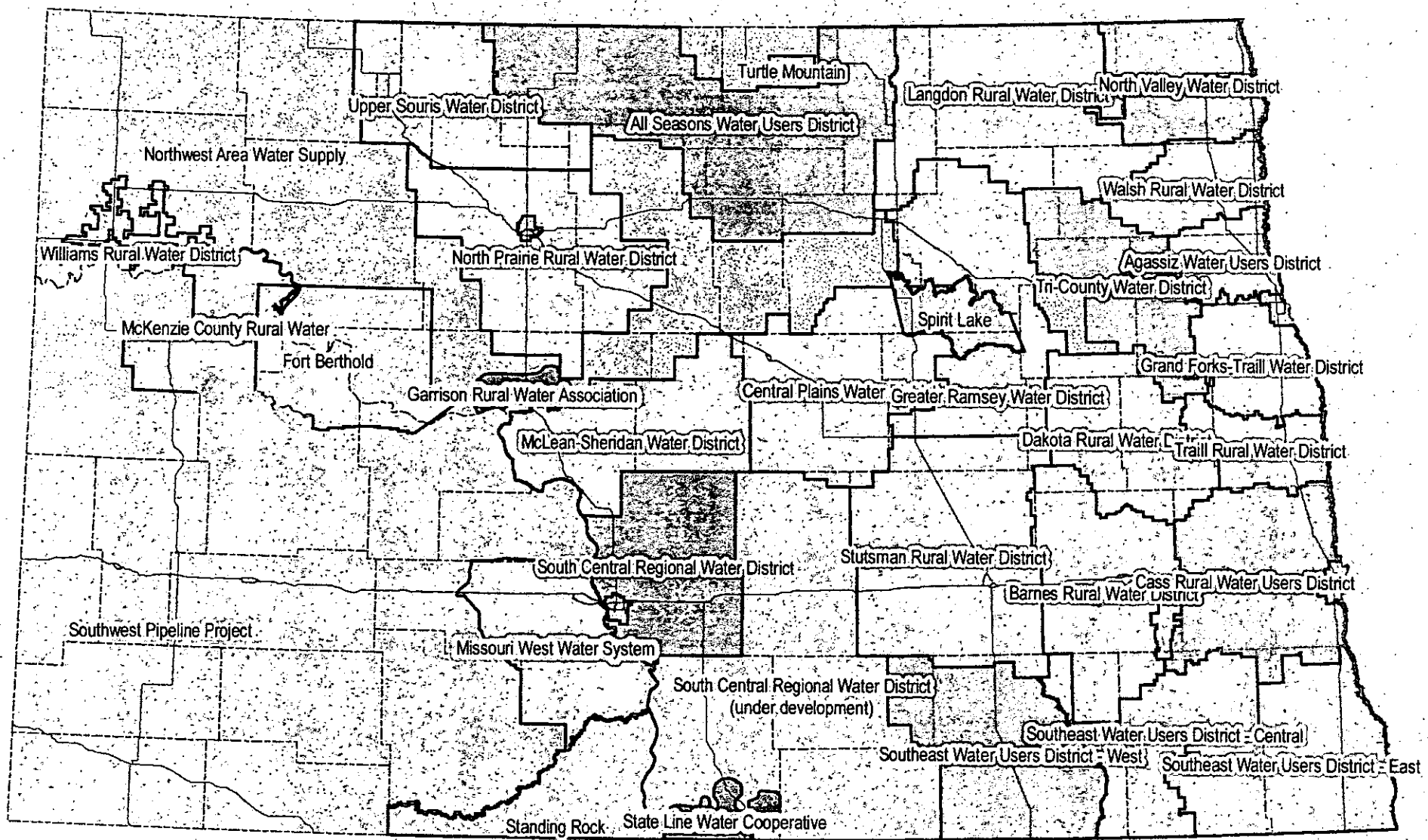
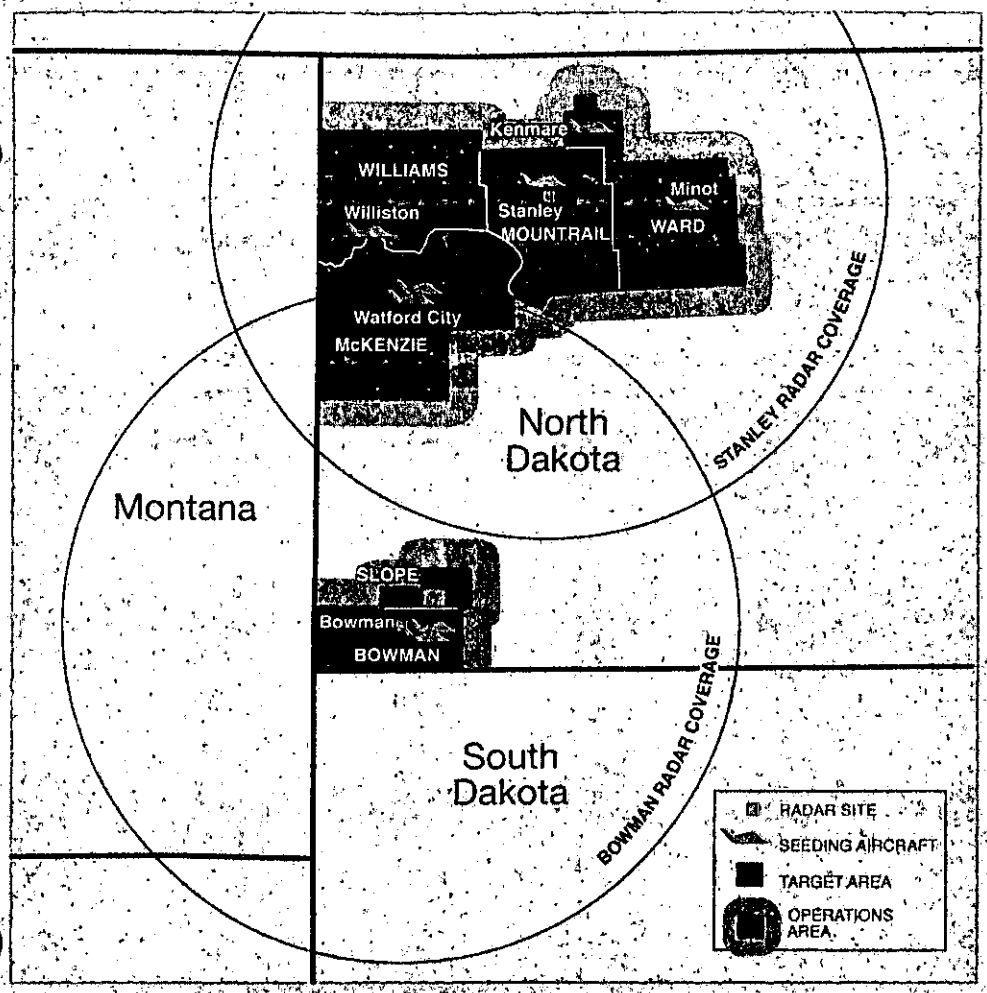
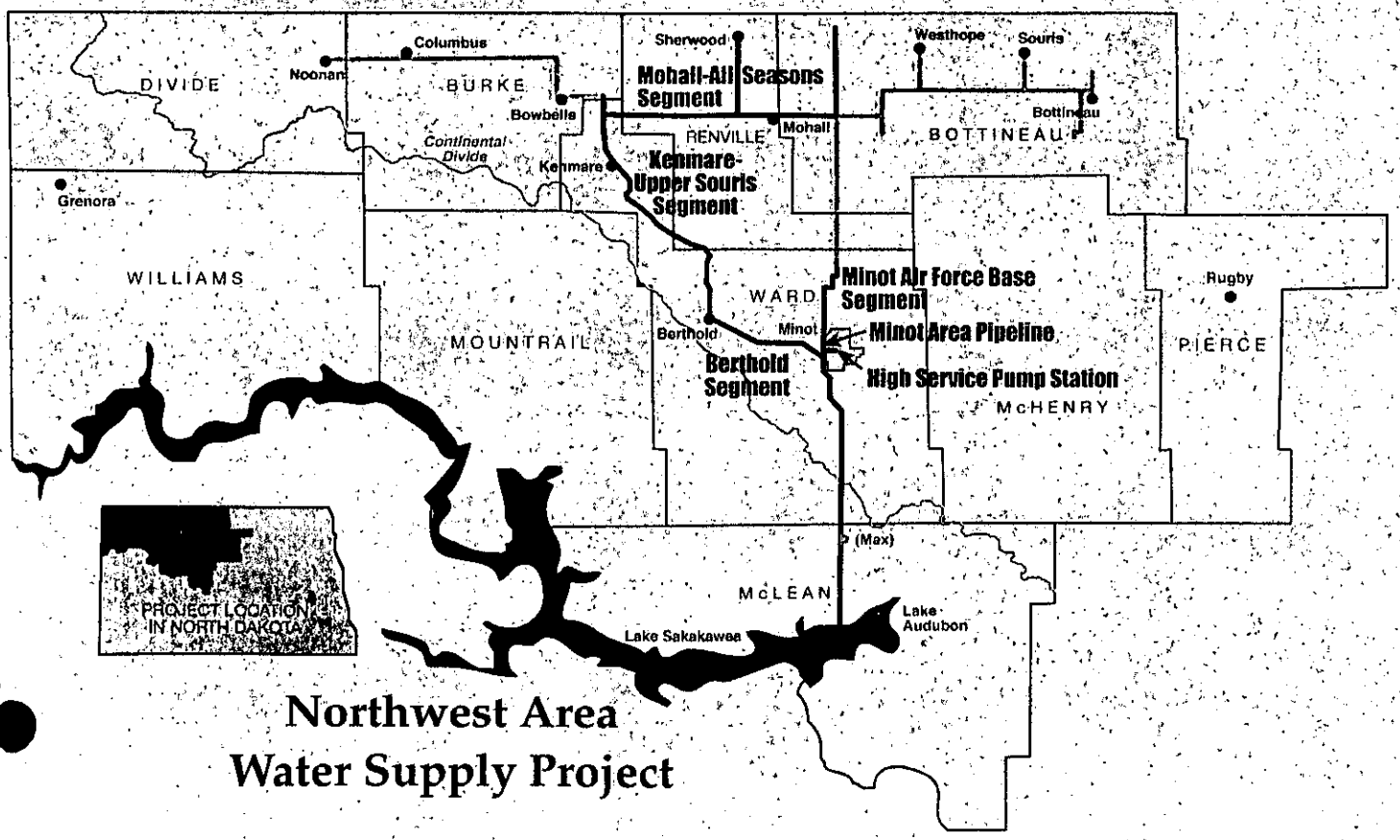
North Dakota Regional Water Systems





North Dakota Cloud Modification Project



Northwest Area Water Supply Project