

2009 HOUSE POLITICAL SUBDIVISIONS

HB 1050

2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1050

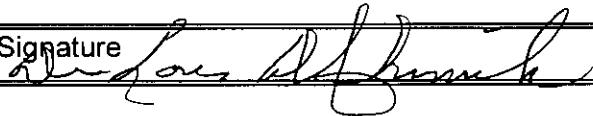
House Political Subdivisions Committee

☐ Check here for Conference Committee

Hearing Date: January 15, 2009

Recorder Job Number: 7074, 7099

Committee Clerk Signature



Minutes:

Chairman Wrangham opened the hearing on HB 1050.

Greg Wilz: Deputy Director, Department of Emergency Services: (see testimony #1).

Rep. Hatlestad: Is it possible to use cell towers to accommodate your equipment?

Greg: Yes; however the cell phone companies are willing to lease space, but they want a lot of money for it. We might be able to use state towers more reasonable. I think it is reasonable and prudent to use local or private enterprise to get this job done.

Rep. Koppelman: Sounds like you are working with emergency services; are you visiting with others that are more concerned about putting cellular footprints out there?

Greg: Yes, that is the level of discussion that needs to occur with those software venders.

Obviously where we have gaps they have gaps as well. Local responders, if they cannot get on the radio they will try their cell and we are getting gaps reported, which would mean they have a problem in the area. We have not had a discussion with cell phone providers and we need to be talking to them for costs etc. We do not know where these towers will go yet; engineering has to be used.

Rep. Kilichowski: what is the difference in height of these towers?

Greg: Most towers are 199 ft.; after 199 ft. you have to have FDA approval. Most of the cell phone towers are not nearly that tall.

Rep. Jerry Kelsh: Most areas have their own system so does local and law enforcement uses that system.

Greg: Highway patrol gets approval so if they need to get a hold of the sheriff they can switch towers and get that person within the systems since they have that capability.

Rep. Jerry Kelsh: They still need the tower in that area.

Rep. Zaiser: You say this wasn't in your budget or the governor's budget, why not?

Greg: the agency has so many priorities and the decisions were made on all needs throughout the state. The agency said let's have a segmented approach or a base approach and our budget request included a request for new towers this year.

Rep. Klemin: This bill was for \$7,200,000 appropriation. In your testimony you said \$500,000 is included in the executive budget. What is the real total?

Greg: \$7.2 million includes the \$500,000. We don't know except for two locations that we believe have existing towers we had provided \$7.2 million. If we can no leverage more existing towers, we will send it back.

Rep. Klemin: If this one passes and the other one does it seems if you are going to have \$500,000 with this bill more than you were asking for and secondly; if it is going to cost \$300,000 to equip an existing tower; the \$500,000 that is in the Governor's budget isn't enough for two but a lot more than what you need for one. Why is it \$500,000?

Greg: I don't know except if there are some funds available it is to continue on with the project and perhaps conduct an engineering duty in a couple additional priority areas that we need towers for in hopes of getting the money in the next biennium.

Chairman Wrangham: I think we are going to have many questions and Rep. Porter may be able to shed some light on some of the questions that were just asked.

Rep. Porter: We were working with the interim public safety committee and with all the agencies and everyone with a vested interest in public safety throughout the interim. Other than the fact it was a priority from the adjutant general's office to request it also in the Governor's budget; our interim work had nothing to do with the duplication. We were working as a Legislative Interim Committee and felt this was a priority for the emergency responders. You will notice on that map those areas with lack of coverage exists in some of areas that we see a lot of industrial activity; especially in Western ND. The cell phone coverage is a problem because of the terrain out there. Important aspects of this legislation are it is a onetime thing and then it is part of our infrastructure there is no reoccurring expenses other than the normal maintenance that exists out there. When the responders are away from the vehicles at an accident or robbery or inside someone's house they have no communication with their backup system. The portable radio goes nowhere. Discussed lack of backup since cell phones are not able to work in these areas. By 2013 we are suppose to be digital throughout the US. With that we lose some of the power and range that we had in the analog system. Not only are these tower sites to enhance the existing system in those spots where we currently to date do not have coverage, but we are going to have less of a footprint out there for our rural sheriff's department; rural highway patrol, ambulance, fire department and those responders that are out there. If we have a disaster and have multi responders and have no communications what happens to that disaster scene. We are putting allot at risk not to enhance this system.

Rep. Klemin: National Guard the other night had a satellite communication and they had state of the art equipment to communicate from a vehicle. Why don't we just equip some of these people with this kind of a satellite communication?

Rep. Porter: that is a military system owned and operated by the Federal Government and isn't available to us. There are satellite cell phones that are capable of working in these areas, but everyone else is on the system in a disaster so they go down since everyone is one them. They are not a good means of communication except the cell phones that work off a satellite, but it is owned and operated by the military and not available for civilian.

Rep. Klemin: We have national guards that would be available by a call of the governor in case of a big emergency.

Rep. Porter: No they wouldn't for a couple reasons. When you look at those circles in a couple of those regions, by the time you get that unit down to Bowman; it would take at least 3 hours so the main part of the situation would be done. The other aspect is these towers are needed more on a day to day side of the world rather than a disaster side although that lack of coverage is important for the preparedness of a disaster. When the National Guard would respond they are using the same digital and analog radios that we are using.

Rep. Hatlestad: I understand the satellite needs in a disaster but you just indicted most of the situations are day to day; why do you need satellite?

Rep. Porter: The cell phone system is a secondary mode of communication. Discussed example of a traffic stop and needing help by using a microphone and the cell phone would be too hard to use in this emergency case. The cell phone was never designed to be a backup system for first responders.

Rep. Conrad: Many counties are using state radio. If we do this it would be better coverage; not only for state operations, but all the county operations as well; right?

Rep. Porter: State radio serves as a public service answering point for 22 counties so they use that as a mechanism to page and to dispatch and to have ongoing communication to all responders coming out of those 22 counties.

Rep. Zaiser: When you studied this in the interim were there any examples sites in that study that proved that the system we have in place is inadequate?

Rep. Porter: We did not do any private or engineering contract with anybody. We heard from responders in the rural area that you are dead to the world if you are on a portable radio. We did hear from individuals from different agencies but we did not go out and test the range or holes, no.

Rep. Klemin: The study that was conducted indicated that 95% of coverage for mobile coverage. The goal is to reach 95% global coverage so it sounds like they are at that goal right now. Do we need \$7.2 million to reach a few more percentage?

Greg Wilz: There was a study done in 2004-2005 by the Dept. of Transportation. I can provide copies of them to the committee. There is 90-95% coverage now. It is mostly around the state highway network. Discussed lack of coverage is in rural areas. This 95% coverage that we know exists around the state road network into more rural areas. The county sheriff's travel much different road networks than the highway patrol.

Rep. Kilichowski: What is your average maintenance fee per tower?

Greg: I had those numbers, but do not have them today. I think for the 36 towers we have now the budget is \$329,000. Within our budget we are asking for an increase in that because the warranty of the new digital system we put in expired a few months back.

Rep. Kilichowski: What are the maintenance figures now?

Greg: \$123,000, I think.

Rep. Koppelman: Discussed budget figures. What is the difference between the half a million and 7.2 that you can do. I support the idea, but not sure all the information is accurate.

Greg: We are not as far down the road as we want to be. The 7.2 number was based upon a number that it would cost us to build a completely new system so that is the maximum. It has also been adjusted because of the two tower sites that exist out there today can be engineered to work as part of the system.

Rep. Koppelman: Is there any way to get a number before we look at this bill and kick it out?

Greg: Without conducting a localized engineering study there is really no way to know if that tower is there in that gap area can be engineered to work. We really have to do that study and that is the first thing we would do.

Rep. Jerry Kelsh: I think that is basic to law enforcement in the state to have these towers. It does not good to have first responders if they cannot communicate with each other or get to where they need to go. We had that issue down in our area. Unfortunately the state radio tower was out in our area when we had a local robbery. The local sheriff could not get a hold of anybody because the state radio tower was out. I think it is b basic we have a local communication. Do you allow cell phone equipment on state radio towers?

Greg: There is no private enterprise cell phone antenna's on DOT towers. DOT is the appropriate agency to give you this information.

Rep. Conrad: Looking at the handout; asking about priority packages. Wanting to know out those priorities and if you would do them over time if you do not get enough money now? The \$500,000 in the governor's budget; would that be for the first package?

Greg: we tried to do within out budget is to provide options; not knowing how much money is available and where it is going to go. These were the priorities that were selected by working with the local sheriff's, highway patrol and local entities what we believe the priorities to be.

The second question is yes, but clearly in the Wales tower we can do that because there is an existing tower. If \$500,000 for Ramson that we can leverage; then it is not going to be enough.

Rep. Conrad: If you were to get the funds; would you be able to build all those towers in a biennium?

Greg: We think it would take a two year process to put those towers in place. We would probably have to ask for a carryover of the remaining funds, but it would be a priority project for us. New towers take more time since you have studies to do.

Rep. Conrad: Can you give me a rough estimate of what the cost of two and three would be? Not right now, but later.

Greg: I can only give you what the maxim would be and that would be \$1.2 per tower.

Rep. Zaiser: What about cost sharing? Why did you not pursue that?

Greg: Need engineering studies and the agency does not have funds to do that. Discussed need for engineer study.

Rep. Porter: Tells the department they have to seek a public private partnership first and that is why it is in the bill. The dollar amount is the worst case scenario that we have to go out and build new towers. The verbal says you have to be sure you cannot do a public private partnership. The best case is the towers would cost \$300,000 x 8 and we would partner up with the private sector. If the committee feels the department needs more guidance in the locations of these towers then add some language for that? The intent of the interim committee is that the department do partners or build.

Chairman Wrangham: Are you suggesting we have a Legislative Counsel study to determine that?

Rep. Koppelman: This bill appears to be unorganized and not prioritized?

Rep. Porter: I think if you would ask the adjutant general and Mr. Wilz that coming out of the interim committee it was very clear we expected them to do their jobs. If the public or private partnership works in an area that is the route we would take.

Rep. Zaiser: I am struggling on how all that could be done within the time period of the session? I don't know how we could figure out how we would appropriate money?

Rep. Porter: I think the focus needs to be back on public and private to be sure all the little areas are explored. Extra money would have to be returned if not used?

Rep. Zaiser: Mr. Wilz indicated there would have to be engineering and feasibility study how could that be done during a legislative session and get back to the legislature? Is that possible?

Rep. Porter: that needs to be done at each site regardless so that would be within the two year timeframe of what Mr. Wilz said to get this project done so that is part if it regardless.

Rep. Klemin: discussed robbery issue that was brought up and why could the law enforcement people not walk into the store and use a landline telephone if there is a problem with the cell phone?

Greg: Cell phones are a good thing, but as soon as we have an emergency land lines can get clogged up. The hand held is push and talk vs. the cell phone where you have to open it up. Cell phones are a great backup.

Rep. Klemin: With the existing infrastructure we have land lines and they are not going to be clogged because someone robbed a store. He can get out of the vehicle and walk into the store to call. Sounds like it is based on one incident.

Greg: Rep. Porter talked about the lack of cell phone towers also across the state where there is bad coverage.

Dave Sprynczynatyk: The National Guard equipment you saw Rep. Klemin the other night costs about \$90,000 each and it is a good communication system, but it is not the sort of thing you could use day in and day out responding to situations across the state. I use them overseas and it is not quick; not like a radio or portable unit. In the state there are over 10,000 units that excess state radio. The level of coverage in the state today; when we talk about 90-95% that is on the system DOT towers and they serve roughly 7300 miles of state radio so along state highways you have a 90-95 % chance of having tower range. When you get off that system it is 75%. Our goal is to get coverage across the whole state. Within our agency budget all the agency is asking for now is the \$500,000 that is in HB 1016. State radio does not own any towers today. We utilize the towers owned by DOT. If we built towers and state radio owns them DOT would help us maintain them. There are 40 plus towers now.

Rep. Koppelman: Discuss the different departments that own these towers and if we are going to trample any ones turf? Aren't they all owned by the State of ND?

Dave Sprynczynatyk: It is all about public safety in the state of ND.

Rep. Conrad: Rep. Porter talked about rules coming out in 2013. Are we going to have a huge request at that point? What is that going to look like?

Dave Sprynczynatyk: 2013 is in terms of public radio communications. The good news is that the state of ND and many other states are working toward that as digital. Millions of dollars have already been spent to make that conversion. Before the analog is shut off we will be sure everyone is on digital.

Rep. Headland: Dave Sprynczynatyk can you tell us whether public safety is really at risk without this \$7.2 million appropriation.

Dave Sprynczynatyk: that is a difficult question because you tie that to \$7.2 million. It is at risk today because you cannot communicate in some rural areas. We are aware of the oil and

other activities in the state and course this increases the risk. Yes I think public safety is at risk today. I am not sure if \$7.2 is the correct amount. We need to work toward the 95% level throughout the state.

Rep. Headland: you would say this risk to public safety is not new?

Dave Sprynczynatyk: would say it is not new, but the risk has increased because of some of the changes that have occurred with the increased activity.

Rep. Zaiser: I am 99% convinced there are opportunities to celebrate and there is a good chance we could spend \$200,000.

Dave Sprynczynatyk: There will be opportunities to collaborate with other entities.

Rep. Jerry Kelsh: Informed the committee on the specifics of the robbery.

Hearing closed.

Start of Job #7099.

Chairman Wrangham: Reopened the hearing on HB 1050. What are the committee's thoughts on this bill?

Rep. Hatlestad: I thought they were very poorly prepared. I think they wanted to do whatever with the \$7.2 million.

Rep. Klemin: All three of these bills I think are already a part of the governor's budget. If I understand what they were saying they could live with what is in the governor's budget. It is already in HB 1016.

Chairman Wrangham: They are asking us to act as appropriations.

Rep. Conrad: We do have changes going on in our state. Going over the handout from Greg Wilz and discussing need for New Town area and that with the oil activity they need more coverage with cell phones and towers.

Rep. Koppelman: when I look at these bills I wonder if we are being asked to be an appropriation and policy maker in the case of these bills and this is what we see there. These agencies should be going through appropriations.

Rep. Jerry Kelsh: I think we have the policies. I think we should pass them out to appropriations and they will make the decisions. We are making the decision that these are the things that need to be done. Discussed the confusion on the amounts. I think they are all important. When we started this no one could talk to each other, but now they can. This bill goes beyond all that stuff. Now we need to let this bill go to appropriations.

Rep. Koppelman: Discussed difference between policy in committee and appropriations.

Rep. Conrad: The interim committee and Rep. Porter took his whole morning out to talk about public safety. What are our priorities and what can we live with and what is a reasonable amount of money. I think we need those towers and that is a policy not appropriations.

Rep. Klemin: this bill does not say here is the money; build the towers. It is left up to the agency where to do it.

Rep. Conrad: I would say lets amend it based on testimony of these priority areas.

Rep. Klemin: The problem with that is they have not done any engineering studies to know what the costs would be so I don't know how do we put money in it when we don't know what it is?

Rep. Hatlestad: I don't disagree with the fact it is a good idea. Where are the existing cell towers that might be utilized in this bill? They have no idea.

Rep. Headland: These priorities in these bills were not high enough to be put into the agency budget.

Motion Made of DO NOT PASS By Rep. Headland: Seconded by Rep. Hatlestad

Rep. Corey Mock: I think it is an appropriation and a policy bill. I think there is a lack of engineering study and lack of preparation that I will vote do not pass. It was important enough to make it into the governor's budget but did not meet the threshold of importance with all the other bills.

Rep. Zaiser: Rep. Porter talked about the study and I would have thought they would have initiated that. I think public safety is all important and a number one priority. I think they did not do preparation for the bill.

Vote: 11 Yes 2 No 0 Absent Carrier: Rep. Klemin

Chairman Wrangham: There maybe technology around the corner that will make allot of this unnecessary. Maybe should be funding new technology.

Hearing closed.

Roll Call Vote #: 1

Date: 1-15-09

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1050

House Political Subdivisions Committee

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Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended

Motion Made By Rep. Headland Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Rep. Dwight Wrangham, Chairman	✓		Senator Kari Conrad		✓
Rep. Craig Headland, Vice Chairman	✓		Senator Jerry Kelsh		✓
Rep. Patrick Hatlestad	✓		Senator Robert Kilichowski	✓	
Rep. Nancy Johnson	✓		Senator Corey Mock	✓	
Rep. Lawrence Klemin	✓		Senator Steve Zaiser	✓	
Rep. Kim Koppelman	✓				
Rep. William Kretschmar	✓				
Rep. Vonnie Pietsch	✓				

Total (Yes) 11 No 2

Absent 0

Floor Assignment Rep. Klemin

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

REPORT OF STANDING COMMITTEE

HB 1050: Political Subdivisions Committee (Rep. Wrangham, Chairman) recommends
DO NOT PASS (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1050 was
placed on the Eleventh order on the calendar.

2009 TESTIMONY

HB 1050

#1

TESTIMONY - HB 1050
HOUSE COMMITTEE – POLITICAL SUBDIVISIONS
JANUARY 15, 2009
BY GREG WILZ
DEPUTY DIRECTOR, DEPARTMENT OF EMERGENCY SERVICES

Mr. Chairman and members of the committee, my name is Greg Wilz. I am the Deputy Director of the Department of Emergency Services (NDDDES) and Director of Homeland Security for the state of North Dakota. Today I am here as a representative of the task force established at the request of the interim Public Safety Committee. The Public Safety Committee asked that the task force be established to request improvements to emergency services by adding organizational changes, system upgrades, process or protocol changes and statutory changes to ensure the future viability and capability of emergency services in North Dakota. My intent is to provide background information as was discussed within the task force and not to take an agency position on HB 1050.

HB 1050 advances the propagation of the State Radio System by dramatically improving radio signal coverage through the addition of eight towers. Studies conducted combined with reports from local and state law enforcement officers and responders indicate current mobile and handheld coverage equates to approximately 90-95 percent and 55 percent, respectively over and around state highway networks. Because of the dramatic increase in communications activity achieved in part through more industrial and recreational use, coverage gaps pose real life safety issues for law enforcement officers and citizens. The envisioned goal is to reach 95 percent mobile radio coverage.

The tower project was presented to the State Information and Technology Advisory Committee (SITAC) and was ranked third on the state's overall priority list. As briefed at the SITAC, if funding is made available, State Radio would seek to locate existing towers that could be leased long term and engineered into the system to save money. It will cost about \$300,000 to equip an existing tower and approximately \$1.2 million per tower for new construction.

The Executive Budget (HB 1016) includes \$500,000 for initial expansion of the system.

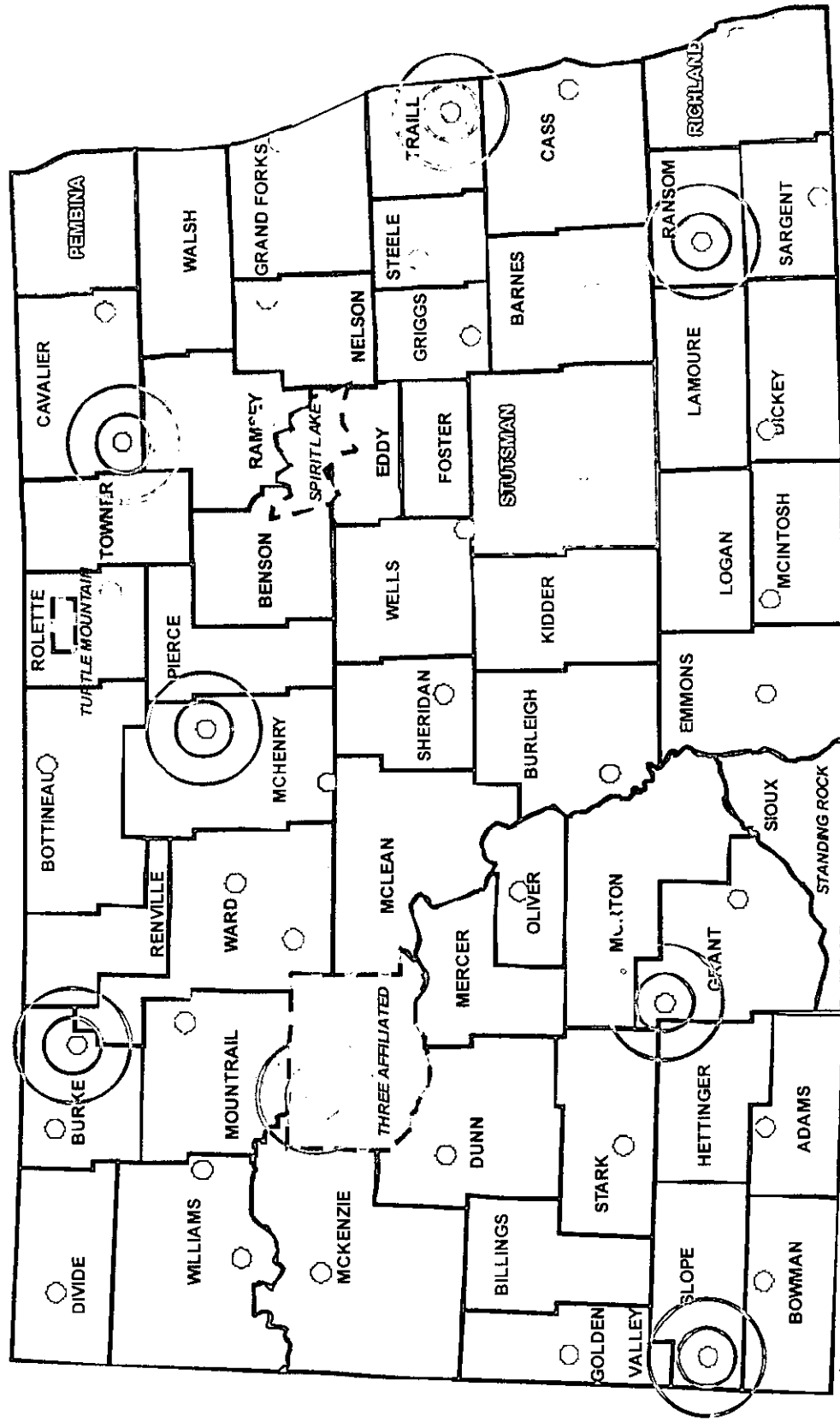
The areas or vicinities selected for tower sites are based upon current propagation studies. An attached map identifies the approximate locations of the eight towers in this project.

Thank you, I will try to answer any questions you may have.

Priority Package 1 – 2 Towers in the vicinities of Wales and Lisbon
 Priority Package 2 – 3 Towers in the vicinities of New Town, Marmarth, and Mayville
 Priority Package 3 – 3 Towers in the vicinities of Bowbells, Towner, and Heart Butte Dam

Priority Package 2 – 3 Towers in the vicinities of New Town, Marmarth, and Mayville

Priority Package 3 – 3 Towers in the vicinities of Bowbells, Towner, and Heart Butte Dam



STATE RADIO SYSTEM COVERAGE GAP

EXISTING STATE RADIO TOWER