

2011 SENATE APPROPRIATIONS

SB 2020

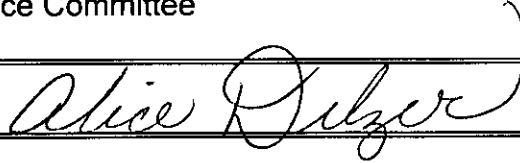
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
01-5-2011  
Job # 13373 (Meter 32.14-35.11)

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A DISCUSSION ON THE WATER COMMISSION (Several bills were discussed on this Job: 2001, 2002, 2003, 2004, 2005, 2009, 2012, 2013, 2018, 2020

## Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg:** Water Commission # 2020 is going to be meeting in the foreseeable future. Senator Fischer, myself and Senator Robinson. A lot of issues going on there and some tie into the Adjutant General Emergency Management.

**Senator Christmann:** Two separate things. I've never worked closely with that budget but is there somewhere in there where we could find a little pool of money that might be appropriate for the Water Commission to share in some of the costs of paying wild life services, as we currently already do with the Game and Fish Department because as the feds continue to ratchet theirs down, we need to ratchet ours up and we got the general fund through Ag Commissioner's Office, we got the Game and Fish. Would it be appropriate to get a little, some buy in from the Water commission anywhere?

**Senator Fischer:** There will be amendments to direct funds from the water development fund, which is everything except, it's two lines, it's administration and projects, and in those projects you can amend instructions that so much money can be used for wildlife services, and I would think that would be appropriate because one of the biggest user of wildlife services is water ? (inaudible, did not have his microphone on) (Meter 33.57)

**Senator Christmann:** In these coming days can this subcommittee maybe chat about that and give me a number that you think you'd be comfortable with. (The recorder stopped and started again) Aside from that, we talked to Devil's Lake, There's a Colonel Hall there that I talked to. He seems really knowledgeable, he always told me that it has to be approved by the Commission but if they get far along enough in this project, the state share, during this biennium, they still had money available, and it probably would be there, so I guess what I'm wanting to make sure of is that as we get into the next biennium, wherever that line of the budget is, that there's something available for other communities on State share.

Discussion was closed on SB 2020. (Meter 32.14-35.11)

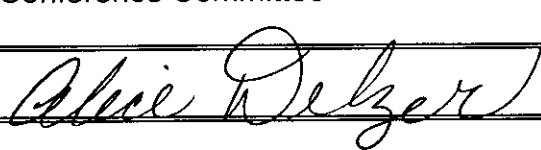
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
01-13-2011  
Job # 12897

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

The Budget Request for the State Water Commission

## Minutes:

See Attached Testimony.

**Chairman Holmberg** called the committee back to order on SB 2020, State Water Commission at 2:00 pm. All committee members were present except Senator O'Connell and Senator Wardner. Tad H. Torgerson, OMB and Sheila M. Sandness, Legislative Council were also present. At the end of this hearing today, I will be appointing a sub-committee to work on this bill. The subcommittee will consist of **Senator Fischer, Chairman Holmberg and Senator Robinson.**

**Todd Sando, P.E., State Engineer and Chief Engineer-Secretary for the ND State Water Commission.** Testified in favor of SB 2020. (Attached Written Testimony #1 & 1A). Testimony will be presented in three main parts, which consist of, organizational overview, a status report on major projects, programs and current budget and pertinent issues for the upcoming biennium. He referred to the maps in the Appendix.

**Senator Christmann** asked if Devils Lake overflowed how big would Stump Lake get before that would overflow naturally.

**Todd Sando** replied that about 80,000 more acres of land would go under water. He continued his testimony on subject of "Water Supply".(Page 8 of Attached Testimony).

**Senator Warner** asked for the reason we want to get the water out of the Missouri before it reaches the reservoir, after the Corps involvement? Is the water in the river property of the State of ND?

**Todd Sando** replied that the issue is about water storage contracts and getting across Corps land to get to the water. We have to acquire easements to get to our intakes to cross Corp property. They want to start charging for the water.

**Senator Warner** stated that Newtown and Parshall are in his district and because of trust land issues, they rely heavily on water sales to finance town government.

**Chairman Holmberg** stated Todd Sando will be available for the subcommittee.

**Jean Schafer, Executive Director of Water Coalition** testified in favor of SB 2020 (Testimony Attached # 2- Water Coalition Funding Priorities Outline and Testimony Attached # 3 Meeting the Challenge VII.) She stated that the Water Coalition is comprised of more than 30 statewide, regional and tribal organizations which have an interest in water facing in our state. The water coalition is also joined together so we are unified in efforts to complete ND water infrastructure for economic growth and for quality of life. She thanked the committee for all the hard work they do in Appropriations.

**Joe Belford, Ramsey County Commissioner** testified in favor of SB 2020 (Attached Written Testimony #4) here today to talk about our flooded Devils Lake and continue to ask for help from the state of North Dakota.

**Senator Robinson** had questions regarding raising the AMTRAK lines at Churches Ferry and the cost.

**Joe Belford** responded it is estimated at 60 Billion dollars.

**Senator Robinson** asked about the status of the road repair work, the lifting of 5ft, and if it all came to a halt in the middle of the winter?

**Joe Belford** stated that there are some areas that they are still trying to work. There is about \$123 Billion worth of road raise that is bid and they are trying to work as much as they can this winter because of the predictions coming out they may not be able to get them raised in time. The road raise from Camp Grafton to Devils Lake levee is projected at 15 feet road raise. He also thanked the Legislators stating they have been great to work with.

**Senator Robinson** had questions regarding the lift or the raise on the dike around Devils Lake and what percentage of that is finished.

**Dick Johnson, Mayor of Devils Lake and also President of the Devils Lake City Commission** testified in favor of SB 2020 (Attached Written Testimony # 5). The bill contains a lot of good funding for a lot of important projects for the state. I want to thank the committee, state of ND and Water Commission for all the funds, technical support that they put into the Devils Lake area and region. We have a new water line, new water source, an embankment, funding the state has met, and without that we wouldn't be here today to operate as a city. The embankment is 1460 ft. today If the National Weather Service prediction holds true, we will have to add another 3 ½ feet, We are preparing for 1454-1455 top elevation. That creates a lot of problems for the City of Devils Lake. The most important thing is safety aspect. The dam does not meet safety requirements. If we add another 3- 4 feet, if we receive a significant rainfall, we will be in trouble. Due to constraints of Sheyenne River, we probably

will be taking in 31/2 feet . All highways, 2, 20, 57 are affected. The top elevation is at 57 and 20 is 14.55. The state DOT states that the road can be in trouble, many of you, saw the pictures on you tube, looked like the Bering Sea. We saw snow ploughs pushing trees this summer. The ground water is a concern in Devils Lake. The sewer and water lines, the streets, are huge issues because of additional water off the lake. With this funding that is being proposed, it wouldn't be a quick fix, only part of the solution. I believe they are taking 160 million gallons a day. With that comes a price tag of \$300,000 a month to pump that water. It is a very expensive process. With that, I think I it is important to get this outlet out. It could be 100,000 acres could be affected, prime farm land, which takes away economic viability to the community. If these people cannot produce their crops, we will lose that tax base in county, city and sales tax also. With funding provided in SB 2020, this would certainly be a step in the right direction. (Meter 65.08)

**Dennis Walaker, Mayor of Fargo** testified in favor of SB 2020 Testimony attached # 6. He stated this project is not for the Mayor of Fargo but for the people of Fargo, Cass County and Clay County. He gave information on Fargo's request for funding of flood protection in Fargo and Cass County.

**Dennis Walaker, Mayor of Fargo** testified in favor of SB 2020 and had comments regarding Devils Lake region. (Attached WrittenTestimony #7).

**Senator Robinson** asked when you talk about Fargo accessing Sheyenne and Red River water, 60/40, do you ever use this percentage always or is it a blend?

**Dennis Walaker** states water quality depends upon cost of treatment. Sometimes water coming from the Red, especially when the Wild Rice is overflowing, we went to Sheyenne which had much less hardness. These are not finite deals. We can blend the water, the sulfates are something we have never had to deal with. We are looking for funding if we have to construct some process to take the sulfates out of the water. We want to maintain that process in the future.

**Bob Schempp, NAWS** testified in favor of SB 2020 and provided Testimony attached # 8. on behalf of NAWS (Northwest Area Water Supply) Advisory Committee.

**Teresa Sundsbak, General Manager, North Prairie Rural Water District and Vice President of the NPRWD** testified in favor of SB 2020. (Attached WrittenTestimony #10).

**Teresa Sundsbak, providing written testimony for Eric Volk, Executive Vice President of the North Dakota Rural Water Systems Association.** (Attached WrittenTestimony #9) in support of SB 2020.

**Geneva Kaiser, Manager of Stutsman Rural Water District** testified in favor of SB 2020. (Attached WrittenTestimony #11).

**Connie Sprynczynatyk, ND League of Cities** testified in favor of SB 2020 and made comments concerning safe and adequate water supplies in our 357 cities in North Dakota.

**Gene Veeder, McKenzie County WRD** testified in favor of SB 2020. (Attached Written Testimony # 12).

**Brent Bogar, Williston City Commission** testified in favor of SB 2020. (Attached Written Testimony # 13).

**Carlyle and Sally Hillstrom, Oliver County farmers** testified in favor of SB 2020 (Attached Testimony # 14). Testified in support of the Southwest Pipeline Project.

**Cliff Ferebee, Dunn County**, testified in favor of SB 2020 (Attached Written Testimony attached # 15). More specifically the completion of the Southwest Pipeline Project in southwest North Dakota.

**Merri Mooridian, Administrative Officer of Garrison Conservancy District**, testified in favor of SB 2020. (Attached Written Testimony #16). Particularly requesting for the Red River Valley Water Supply Project. Also requesting monies for irrigation development regarding the Garrison Diversion.

**Bob Vivatson, ND Irrigation Association** testified in favor of SB 2020. (Attached Written Testimony # 17). Seeking monies for irrigation development.

**Mike Dwyer, ND Water Users, Water Resource Districts, ND Irrigation Associations and other water groups.** References handout "Meeting the Challenge". Outline. It is found in (Attached Written Testimony #3). The governors' budget estimates that there will be about \$235 million in revenues in for the next biennium to meet ND water infrastructures needs.

**Chairman Holmberg** thanked everyone for coming and presenting a wide variety of issues. He closed the hearing on SB 2020.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
01-28-2011  
Job # 13621

Conference Committee

Committee Clerk Signature

*Alice Delzer*

**Explanation or reason for introduction of bill/resolution:**

Subcommittee meeting for the State Water Commission.

**Minutes:**

See attached testimony.

**Senator Fischer, Chairman of Water Commission** opened the subcommittee hearing on SB 2020. **Senators Holmberg and Robinson** were present. **Tad H. Torgerson, OMB, Sheila M. Sandness, Legislative Council, Dave Laschkewitsch and Todd Sando, North Dakota Water Commission** were also present.

**Senator Fischer:** I am comparing 2009 Bill to this bill and several things that have been brought to my attention that we'll go over today. #1 is the wish list of the water coalition. #2. wildlife service's issue, some of us here have been to asked to consider it in the water commission budget, not the entire million dollars but Game and Fish right now is at \$869,000 and they will propose to add \$100,000 to that in the Game and Fish budget; also have found some money saved in that area in the Game and Fish to continue this year. I am talking about the \$157,000 shortage. #3. Request for the Water Commission to put in another \$250,000. My comment to that was, and I am not sure of all the users--I know the ranchers use it, because coyotes are also a part of that. Water research districts use it extensively, but it is also subsidized by the state and federal government to get rid of beavers. That is something brought to his attention they may want to consider and discuss at a later time.

**Todd Sando:** We have 6 county resource boards that have requested additional funding for that: Cass, Richland, Barnes and a few other counties. **Senator Fischer:** Has copies of those letters. The other thing in the general fund, we have issues all over the state and one brought to his attention recently and I knew about it is Beulah and Hazen area and flood control projects. Has no idea what it entails; maybe you could share that with the committee. Apparently some issues and don't know if they've approached you at all. Do you have enough money in there?

**Todd Sando:** We are cost sharing with Hazen and trying to get their levy accredited. They have a PAL that they have to work through with FEMA to make sure it is properly accredited, so they did provide some cost sharing. It is very limited, because they really haven't been in that arena, the water commission funding that. But we started going down that path with the Silver Jackets Program trying to help these smaller communities work through some of these flooding issues and flood control and flood insurance issues that

they have. **Senator Fisher:** Those dollars come out of general water management? **Todd Sando:** Yes, out of general water management. Dam repairs, studies and planning, snagging and clearing projects so actually the request amount came in less than what we do have earmarked for general water management. In internal preliminary list of projects we have \$26 million for general water management. There were comments regarding the Shell River and Pembina and the fact they are doing similar things there. He asked Dave what is in the current biennium in general water management, it is \$20.7 million and it is bumped up to \$26 million for what can be funded in 2011-13. So I think we have enough money in there to deal with a lot of the general water management.

**Senator Robinson** had questions regarding the Nelson County issue. He expressed concern regarding the life safety issues; they use it for buses, EMT services, etc. At what point does that type of situation trigger and become a big priority—and he knows there are several of them, but look at Devils Lake. We have created water and the feds step in to protect that area and build dykes, we've passed the problem on to Nelson County, and knows his county is in the same situation—no money! So do we let it go under—roads under water or too soft to drive on, some people driving 30 miles one way to take their kids to school, the emergency vehicles that can't get to the injured people. They are recipients of the Devils Lake mess through no fault of their own. (Meter 7.00)

**Chairman Holmberg** Heard this morning that the situation in Nelson County is one that other counties need help with, and other issues. Does the legislature get into the business of passing individual bills to handle problems that arise to our consciousness or do we look at what has been done both in DOT and in the water commission which is provide the source of funding and let those problems get reacted to. Thing he feared if do that one; there is another in another county. One could look to more than one agency for some relief. Where does the Adjutant General, DOT, or Emergency Management come in and the funding coming through the Water Commission.

**Senator Robinson:** agrees and that we have the Adjutant General budget here to look at their funding, we are told we need reauthorization of that \$22 million and there is like \$12 million that is already committed, but council has said we need preauthorization. Have introduced the bill to protect ourselves and will revisit that—but is that the place where this should be going? It seems to me some of these programs, when we get to life safety, need to find a home, and struggles with that. Where do we go, what do we do, we don't want to get into micro-management and tell you how to run your agency, and yet *sometimes*, not often, you might welcome a directive because you have a lot of bureaucracy to work with too. Sometimes can be a friend and sometimes an enemy—how do we balance that out?

**Senator Fischer:** As in the testimony from this morning, the folks from water commission didn't get to hear it, the solution is to lower the lake and that is what we need to do. If we are successful in lowering the lake, a lot of those issues go away. I understand the seriousness of today's hearing.

**Senator Robinson:** Will they go away in time to protect that road from going under—probably not!



**Todd Sando:** We will have many roads go under in the Devils Lake Basin and throughout the state. For example, in Nelson County alone, there is many many roads under water around Devils Lake or in the upper basin. This road is around Stump Lake, Highway #23.

**Senator Robinson:** We get in a difficult situation; we've got a request to spend money on Graham's Island, recreational, affects a handful of people that live there and a lot of people that use the facilities, but is that more of a priority than the one in Nelson County.

**Todd Sando** stated we are not in the road building business (State Water Commission), with road authorities, we don't have cost share policy and road raises. In the last bienniums we haven't participated except for one instance and it was ear marked, and that was in Nelson County specifically to put in some road raises. Our goal is to get water out of the lake and there is \$120 million in projects right now that we'd like to build for Devils Lake. We don't have final cost estimates on building the control structure on Tolna Coulee or a gravity outlet out the east end. It is a big rush to raise the levies for Devils Lake; the cost estimate is \$133 million—Water Commission has already allocated like \$25 million toward that. Now there are more issues cropping up so those costs could change too. There is tremendous needs because of this flooding that is going on throughout the state, especially the eastern half.

**Senator Fischer:** stated the only time the Water Commission earmarked was in 2005, because they were having problems all over; the word that was taken out was eligible, because otherwise it would have had to been an eligible project that is usually funded. The amendment that was put in the budget was flood related damages in Nelson County. The intent would allow it to be used for some road repair.

**Dave Laschkewitsch:** We did a split in the costs; \$250,000 could be used for whatever was needed. Going back to life issues, I think the fact that Devils Lake has risen to the top of our list, it is a top priority and that does have a factor, if we have to re-juggle our budget that is going to be an incredibly important aspect if we have to take money away from other projects. Certainly life safety is something we have to work with.

**Senator Robinson:** I know they talked about problems in Stutsman County, but those issues weren't caused by dykes that we built with state dollars, there is a different argument there. This is an extension of Devils Lake; hard situation, but I know the value of that road in Nelson County. They've lost so many of their major ones already.

**Chairman Holmberg** his question is regarding the interface and what kinds of interface are there between the water folks and the emergency management folks. He said the reason he asks is not because he has heard complaints of turf protection or that's your job not mine, but just to make us all understand you are all working together.

**Todd Sando:** We work very closely with the Department of Emergency Service, FEMA, DOT, National Guard, a lot of decisions are made by the water commission and relayed through Department of Emergency Services and they implement it. We have been working closely with DOT, federal highways, the National Guard and everyone to try have protection not only for the city of Devils Lake but for Camp Grafton and the Lakewood area, and we are trying to incorporate a highway into the levy protection so really we're building a dam,

turning this highway into a dam that will act as a levy to protect all Devils Lake. We are working funding back and forth between DOT and Water Commission.

**Senator Holmberg** suggested they talk to the engineers that built the road along the border between Canada and the US as to how to build a road.

**Todd Sando:** That was built in the 1940's in Manitoba. **Senator Holmberg:** It does a good job of roading. **Todd Sando:** They are getting prepared for serious flooding (for last 100 years) in Manitoba; every major river is talking about very very serious flooding; the Red, from ND and MN. The premier of Manitoba—it's all about fighting this flood; he is allocating all kinds of money to fight the flood. Able to see their flood forecast this week; while we have tremendous snow pack, it is even worse in places of Canada.

**Senator Robinson:** In terms of forecast that came out yesterday, was that National Weather Service or the Corp? **Todd Sando:** All official forecasting is done by the National Weather Service. **Senator Robinson:** Have had people say the Corp is more conservative, more accurate, more testing done, look over the history and they've been on top of it. The weather service has been all over the ballpark. Do you think that is the case? **Todd Sando:** That is absolutely not the case. National Weather Service is the official forecaster; the Corp isn't into forecasting, they just operate the reservoirs. They have difficulty just determining if they should evacuate the pools or not, or draw them down to get ready for floods. There is a lot of art to forecasting; it is hard to do.

**Senator Robinson:** The Barnes County resolution, sent to the Governor--there is anxiety there, we are making progress. **Todd Sando:** Think we really need to elevate the awareness so that there is a potential for very serious flooding. Will all depend on this next two months. The snowpack is actually higher than in 2009; the moisture contents are higher. Over 600,000 acre feet of snow, right now. Forecast for Devils Lake is flood of record; just had the flood of record in 2009 and before that was 2006, then 1997, and just keeps going with new records.

**Senator Fischer:** Find ourselves in a position where there is not an area in the state that doesn't have some needs and some wants, that won't get addressed. I don't know of an area right now that doesn't have some serious problems. The Devils Lake area, as far as he's concerned, not anything the Water Commission has done—puts more blame on the legislature than anyplace. We haven't expedited getting that done much earlier; now in a situation that could be catastrophic. But the discussion we should have during the subcommittee process is exactly where we are going, it will be on your shoulders to work with the Governor has done at Devils Lake, the bill that came out of the committee will be killed in the Senate in the next day or so. Probably is a smoother transition for you to move up there and get put to work on it?

**Todd Sando:** The Governor came out with an executive order last Friday, so for procurement process to go through the bidding process and for advertising for engineering solicitation. We will be moving forward, shorter up the time line by two months to get a control structure in Tolna Coulee built so building within the next three months; to have that structure in place by spring 2012. We need to be prepared to stage things and be ready, because now the 50/50 is for Devils Lake to reach 1455 which is only 3 feet away. We

could easily see more water than that; we are on a critical path that we've got to get a control structure in and get a gravity outlet in place and operating get more water out of the lake as soon as possible.

**Senator Robinson:** Without the bid process and the Governor's proclamation last week, when do you expect to have a cost figure? Soon?

**Todd Sando:** We still have to go out and do our cells exploration, geotechnical work; the big thing with Tolna Coulee is just poor soil, blown in sediment and water born sediment. The foundation is very critical in placing a structure on so have to understand the stability in the area very thoroughly, so having geotechnical work--starting that very soon. Do some more soils boring as we are looking at building a very substantial concrete structure with bays to allow water out and control the release of water out of Tolna Coulee. First step is to do the additional soils work, then do final design and get started on the construction.

**Chairman Holmberg:** Going back to that bill we had and the problems they have in Nelson County, their bill, even if we were to pass it won't work because it doesn't go into effect until July 1<sup>st</sup> and by then it is too late. If we were going to do it; legislatively insert--It would have to be an emergency clause if it was going to make any difference. Otherwise the road will be under prior to any bill becoming effective.

**Dave Laschkewitsch:** There is an emergency clause on our appropriation bill, that is listed there so we would be able to proceed more rapidly—primarily the Devils Lake project.

**Senator Holmberg:** Anything nestled in there would also have the emergency clause.

**Dave Laschkewitsch:** The whole agency bill, you appropriate not by project for us but an amount, that would allow us to shave off a few months.

**Senator Fischer:** Water and atmospheric resources line? **Dave Laschkewitsch:** That is the project money; administrative doesn't start until July 1<sup>st</sup>.

**Senator Fischer:** What kind of carryover do you anticipate? **Dave Laschkewitsch:** Looking at about \$116 million of existing projects. It is all obligated. Somewhat of a moving target if some of those projects proceed faster that amount will go down. If we commit additional projects, which he believes they will with Devils Lake, that amount will probably go up where they have more committed with not being able to complete. **Todd Sando:** There is more to that picture; the revenues are coming in faster than we expected too, so thinks they will have some additional money by the end of the biennium. **Dave Laschkewitsch:** That is correct; (*Resources Trust Fund sheet Testimony #A*). It is a little spreadsheet that they track what they are doing. The first column is what our budget was based on--\$94 million worth of revenue. The second column that is actual revenue; the third column is interest on it. When you come down to the summaries on the bottom of the sheet you will see a titled account *approved budget*, which happens to be their budget. Notice this is all the revenues that they thought were going to come in and how much the legislature appropriated, \$188.4. The fund would have had a remaining balance of about \$85,000 you fully appropriated almost everything that was coming in. The current estimate side has got these new revised totals starting to flow into it, and you'll see that they are about \$21 million above/up right now. You were good enough to give us the authority to

simply go ask for that additional spending authority and what Todd was talking is that's the money (part of it) he's going to use to get Devils Lake going right away.

**Dave Laschkewitsch:** We have asked for \$7 million additional authority for the water treatment plant at Valley City; we will perhaps ask for additional money when they have something to commit on Devils Lake. It won't be enough for the project, which is why we are still asking for the emergency clause on our appropriation bill which would be the new projected money.

**Chairman Holmberg:** How do you access that \$21 million—is that through the emergency commission or through what we've already passed? We don't have any role in it do we?

**Dave Laschkewitsch:** You have actually already given us a clause in our appropriation; you have appropriated whatever excess comes in. Fairly simple; we request OMB to increase our budget authority and it happens.

**Senator Robinson:** The situation at Minnewauken, is that impacting this budget? Disaster emergency services, other budgets are looking at that but what about Water Commission impact? **Todd Sando:** We don't have money set aside for Minnewauken. They have been working through Department of Emergency Services, HMGP, Lonnie Hoffer and their programs to help. They are the ones that are going to do the brunt of relocating houses, and dealing with the issues at Minnewauken.

**Senator Robinson:** Maybe OMB or council could provide for us—it would be nice to know the interrelationships between DOT, Water Commission, and Adjutant General. If we could get a snapshot, spreadsheet of various budgets what Devils Lake—in composite—is costing the three agencies it would be a bit overwhelming. If we could have that for our next meeting; doesn't need to go into great detail but lump sum figures for each. **Todd Sando:** There is a lot of federal money coming in too—Department of Emergency Services and DOT to address a lot of these issues. **Senator Robinson:** If we could include a federal column, so it is state and federal, and we have the big picture. **Sheila M. Sandness:** General funds, federal and special funds? **Senator Robinson:** That would be fine.

**Senator Fischer:** Dave, on the MRI loan repayments, will you explain that? And the Southwest Pipeline? **Dave Laschkewitsch:** Southwest Pipeline has a capital repayment requirement. Because we put so many cents per thousand gallons for capital repayment, there sales and usage has gone up rather dramatically. Because of that, we are receiving more money back from them. **Senator Fischer:** Royalties are just because of? **Dave Laschkewitsch:** Very small number; oil royalties are being paid. We own the building that the SW Water Authority operates out of. In the city of Dickinson, all residents are being paid a little sliver for oil that is coming out from under the ground, and because we own two little pieces of property or three (maybe a pump station here and there), we get a couple of dollars of oil royalties. Tapering off right now!

**Senator Robinson:** Given the challenges that were face in the Lake Region, how realistic is it to expect folks in the north central going to see any progress on their rural water systems? A gal was in here talking about they can't see our kids feet in the water when they bathe. Southwest, northwest, what can you tell us—it seems that Devils Lake by itself

is all consuming. Given the resources we have, not saying we have a shortage of funds, as much as the reality of getting everything done. **Todd Sando:** Devils Lake issues will use up about half of our money; if they use up to \$120 million of this new money proposed in the executive budget. If we have \$235 million; well over \$100 million to spread out amongst the other projects. It is still a significant amount of money, because they used to have a lot let money come into the Resources Trust Fund. Looking at moving all major projects still forward; example is SW Pipeline project they are looking at \$25 million; NAWS project looking at \$12 million to keep it moving along; all rural projects and regional water supply systems; a lot of requests for municipal rural water supply. Looking at the state program to continue funding that. Right now there is a template where they could put \$15 million toward MR&I projects. Municipals would like to start seeing more of a share of these MR&I funds because a lot has been put into regional rural water supplies. **Dave Laschkewitsch:** Preliminary List of Projects Testimony attached # B.

**Senator Fischer:** For next meeting, we will get into more detail on some of these projects, the other one being Fargo. Request from Fargo to access some money for planning and engineering. Hasn't fully grasped exactly where this is headed; my first thing is that there will be several signators to any contracts that are done between that project and the state Water Commission. It is a joint project and there are tax monies over there, but there is some foundation to allow them to access some of the 45 for engineering planning. The percentages, we want to discuss, but thinks we need to look at the project. Not sure he will ever understand the Corp because now all of a sudden they want to discuss the Western Alignment again. And all over the fact that West Fargo said they've written letters, they've made phone calls and no one is listening. Then it gets in the newspaper, and it seems like the Corp reacts more to the newspaper than any scientific efforts by consulting engineers or anybody else. Next week, Senator Robinson is gone on Wednesday, so plan to meet Monday afternoon. Discussion with Dave L. about what works best for him to meet. Tuesday morning would work best.

**Senator Fischer:** We will talk about projects. Address some of these smaller issues. Some adjustments in projects. The subcommittee hearing on SB 2020 was recessed.


# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
02-01-2011  
Job # 13791

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Subcommittee Meeting for the State Water Commission.

## Minutes:

See attached testimony.

**Senator Fischer, Chairman of Water Commission** called the subcommittee to order at 11:00 am on February 2, 2011 in the Harvest Room in reference to SB 2020. **Senators Holmberg and Robinson** were present. **Tad H. Torgerson, OMB, Becky J. Keller, Legislative Council, Dave Laschkewitsch and Todd Sando, North Dakota Water Commission** were also present.

**Senator Fischer:** Questions for Todd Sando. As you know we have a lot of small projects and how we want to deal with those and where you and Dave can go through the general water management. I think you are aware of most of them we talked about last time, like Beulah and Hazen. Concern is if you think there is enough dedicated to general water management accommodate these in the next biennium. **Todd Sando, Water Commission:** We do have a line item for general water management that's more like a slush fund to handle all types of projects like rural flood control, bank stabilization, snagging/clearing projects, water supply projects, recreation projects. We have \$26 million right now for a preliminary layout of how to move forward with that. We did send out to all the water resource districts and the local entities their project needs for this upcoming biennium. It actually came in at under \$20 million? Lee, when we sent out those letters in the general water management requests—thinks the total was \$19 million. Actually kind of bumped it up to \$26 million because he felt there would be other things that would crop up that weren't in the state water plan in the biannual report. Big thing with the wet cycle and potential for major flooding and all, so that's why. Think the previous biennium they were down around \$20 million; so did bump up 25%.

**Senator Fischer:** How many senate bills out there that have not been dealt with; that have appropriations in them for the water commission. Becky will find out how many so we can deal with those before finalizing the budget. The Western Area Water Supply (WAWS) is being addressed in the House, very interesting. Another thing regarding the Devil Lake area, Maybe Senator Robinson could get into some issues downstream, think the presentation you made with the people from up that way, decisions that may or may not be

made on the outlet and the management at the lake, but there is a lot of concern downstream in Lisbon and Valley City, and maybe you can ask or Todd could explain that.

**Senator Robinson:** 4 or 5 issues; I have to leave tomorrow and be back Monday, maybe you need time to comb through these issues, but one is a list of priorities—one in particular. You have a line item that says “downstream impacts-Fargo” what is included in that? Talked about general water management, the \$26 million, would do a number of miscellaneous projects. Maybe could put a definition to what is in the miscellaneous.

Following our meeting the other day, Todd, I've been getting emails and questions regarding the discussion we had on retention and storage. Where does that fit into the picture, folks in that part of the state are looking for something in the area of language, and will that be a priority as we move into the upcoming biennium.

Knows the MR&I line item of \$15 million, to the folks out there and think they had \$50-60 million of needs. They are feeling overwhelmed and what can they accomplish for \$15 million; how many left out, are there other options, any way to direct more funds into that area--two or three of those projects could consume that money in a hurry. Some of those folks in north central children in bathtub children couldn't see their feet. Showed people that picture and they were shocked; couldn't believe we have that in North Dakota and you folks deal with that. So the MR&I is a concern; downstream mitigation, bank erosion is a concern in my district, and then where are we with this issue of retention and storage. A week ago when we met that issue came up and he just got another e-mail this morning and the folks want to see some language, and some meat on the bones, so to speak. There are several questions, and you might not have everything here today. If you need some time to go back and digest it. But those are some immediate concerns.

**Todd Sando:** Can start trying to address some of it; can give you more information down the road. Just to summarize Devils Lake, first thing it will take a big chunk of resources to address issues—not only at Devils Lake but also downstream. Preliminary list of projects I know where are going to try to build a west end expansion for 100 CFS, that could be \$50 million. We are looking at this gravity outlet out of east Devils Lake; right now have staff meeting with AECOM in Denver. We have 20 different alternatives and variations so hopefully by the end of today have it narrowed down to the top 4-5 alternatives. Will have to get buy-in from people throughout the state on which to select.

**Senator Robinson:** At one point, you mentioned \$40 or 50 million for that structure. Is that the right figure? **Todd Sando:** That one could actually be \$70 to 80 million. We'll have better cost estimate numbers later this week, and try to have a narrative of all alternatives for the general public and legislators, water commission, etc. so they know where we are going.

**Senator Robinson:** When you mention Devils Lake and downstream concerns what is included? He is asked that question; unfortunately for the Lake Region and that whole Sheyenne area that issue becomes emotional, they are bracing for another flood of record, and it is scary.

**Todd Sando:** We'll try to build two outlets so have a blended outlet to take water out the west and east. Start addressing the downstream concerns, we are moving full speed ahead on designing a control structure for Tolna Coulee—first thing is to protect people downstream; this structure is not for Devils Lake it is to protect the others.. We want to control the amount of water that comes out of Stump Lake; if the lake continues to rise this last 6 ½ feet, and going to overflow. We are going build this control structure so when the lake gets to 58 the water can go out—no earlier, only when it gets to 58 or mother nature deals some issue that tries to wash or blow out earlier.

**Senator Robinson:** Is that figured in? **Todd Sando:** No, it's another probably \$10 million. Still on two parallel paths right now; we have asked the Corp of Engineers for their technical assistance and advanced measures and design of control structure too. At some point will have to decide which direction we are going to go. If the state builds it or the Corp of Engineers, with us being the local sponsors. They sent back their strategy and their goal is to armor the Tolna Coulee, which means don't allow any erosion and in the Devils Lake region that is not acceptable balance between upstream and downstream. We want to build a control structure at the shore with Stump Lake, not just to totally armor Tolna Coulee. We have to make a decision at what point, and if they build it and armor it—and they would look at betterment, but the state of North Dakota would have to pay that full share. It could be up to \$\$ to build there; control structure and armor Tolna Coulee. We could do it for a lot less that just paying the cost share, so the state will more than likely do it.

**Senator Robinson:** When the Governor declares a disaster area and moves up the construction cycle by 2 months and waives a number of these issues—what's include in that waiver—if it is a state sponsored project—do we still have to go through the permitting? How broad based is that waiver; some are of the option that none of that happens-and he's saying there are still a lot of hoops to jump through, correct? **Todd Sando:** All that executive order was to accelerate the process for procurement, for hiring and the engineering firm to get involved, and for hiring a contractor to build it. Still going to have to go out; just signed a letter and the deadline is going to be February 7<sup>th</sup> to try and procure an engineer to design the control structure. They've done preliminary designs at the Water Commission, but need more engineering staff to help. Soliciting their qualifications this next week and then will select. Normal process is to advertise for three weeks, good month to get the proposal advertising. Now just shortening up the timelines to move the project forward—that's what the executive order was. It doesn't circumvent the permit process; if there is a drain permit, flood easements—all have to be acquired. If placing fill in a wet land still need a 404 permit; there still would be eco compliance and dealing with EA's and all that. Working closely with the regulatory office in Bismarck to speed up the process on trying to get a regulatory permit (404) and get the EA complete. That is the first thing they are trying to do for downstream. The next thing, with the issues of sulphate levels on the upper Sheyenne the standards and river have been changed to 750 to 1 mile below Baldhill Dam; from there on down it is 450 standard. Already have funded over \$15 million for the treatment plant in Valley City which will reduce the sulphate levels.

**Dave Laschkewitsch:** You asked about the downstream impact list; the list prior to this had downstream impacts; had Fargo and Valley City listed. Because they funded Valley City's project, it just came off the list, so what's left is the Fargo project.



**Senator Robinson:** Regarding the sulphate issue, he was struck by the mayor of Fargo's comment regarding sulphates, and believes that no more than 450 coming in West Fargo preferably, at the 300 level. How realistic is that statement given the challenges we have?

**Todd Sando:** Doesn't want to answer that right now; that is a stretch. The standard is 450 so they will go above those levels. That's why they are trying to address the issues at Fargo because we can't keep it down at 300 mg/liter or 375. It is going to be approaching the standard. Need to treat the water down at Fargo too. On average, they use the Sheyenne River water to supplement their water supply when the Red River has got water quality issues. That's why the chart has \$15 million for Fargo for water treatment. He'd like to see a regional water treatment plant for Fargo/West Fargo to deal with their sulphates and the request is for \$60 million; and they'd like a 50% cost share so looking for \$30 million. They requested only \$15 in this new biennium, so plugged in to say we'll cover \$15 million, bond for the entire project and then the following biennium would ask for the additional \$15 million. That is the strategy to solve the water treatment issues at Fargo. Those are the only two places on the Sheyenne River that are taking water directly; Valley City uses it all the time and Fargo part of the time. Grand Forks mainly takes their water from the Red Lake River; with all the tributaries and dilution it is really not an issue.

That is some of the downstream stuff, trying to address the Sheyenne diversion too; right now there is pilot channel in the Sheyenne diversion and during these high flows and wet cycle it is being used many days out of the year. This causes erosion problems in the Sheyenne diversion so we are cost sharing there. Trying to armor the pilot channel through the diversion so provided cost share there. The local there is trying to get funding; got really good bids on the first couple phases and want to continue doing that. We are paying flood control, thinks, 60% of construction costs. **Senator Fischer:** It is working well; the pieces that are already done have made a big difference in the operation. It is 20 years old, it has paid for itself, and hate to lose the integrity of it. **Todd Sando:** Sheyenne diversion been a tremendous flood project; during this wet cycle has paid for itself many times over. Have really addressed some critical areas, but still have some big ones that need to be.

**Senator Fischer:** Always seem to have a big list of needs; maybe you should put a list together for what you have done so that it is all not just what needs to be done! There's a lot of things out there that are beneficial to people of the state that have a tendency to forget about it, especially this time of year.

Do you have a handle on water projects? Some may or may not have been reported. We talked about Beulah and Hazen and some of those issues, and apparently that is moving through the general water management—just an example of what might be asked for. Question is more are there enough funds in there to make it happen for the biennium? Know it is a tough question because you never know what is going to happen a year from now.

**Todd Sando:** There are lots of needs out there, try to prioritize and feel they can cover a lot of the immediate needs, and based on what they requested, thinks they have enough in general water management to address that. It is all going to depend on the flood fight, what additional damage occurs, what dams need repaired, everything else.

**Senator Fischer:** There's a lot of that too--small and medium size dams, some are recreation. **Todd Sando:** We did repair a lot of dams this past year, not only the state of North Dakota, but federal government helped out a lot on Cottonwood Creek Dam, Clousten Springs they started repairing that, Absoraka Dam; several million dollars have been put into emergency spillways.

**Senator Fischer:** Where is Renwick at—pretty much done? **Todd Sando:** Off the top of his head, that is NRCS project with the fed government, so we provided cost share and don't think it is complete. It is a lengthy project to bring up to dam standards, so thinks it is not complete; we haven't spend the cost share yet, almost \$1.5 million set aside for that.

**Senator Fischer:** Parks and Rec and Game & Fish are involved in that too? **Todd Sando:** Yes, because there is a big state park up there.

**Dave Laschkewitsch, Water Commission** Provided a Contract Fund spreadsheet (Testimony attached # A). Along the lines of your question about what has been done. Only for the biennium, not for longer. The front you get summaries that are broken into major types of categories that sort of match the categories that we tell you we are looking to put money in next biennium. They roll up but if you want to see the individual projects after you go past that first page, all of the individual projects are listed—when approved, total amount approved, the total payments made and the balance. Broken into the matching categories-city flood controls, the MR&I projects, the irrigation projects, the general water management come down in there. Page 4 or 5 start seeing all the list of the general waters, but add up and dump into the general water project. List of all of the projects we have and where we are at with them.

**Todd Sando:** There are two pages of those general projects; can look at total approved is \$17.9 million. Some of those projects go back to 07-08; most are 09-10, over the last several years so lot of projects approved. Over the last number of years we have \$17.9 million, so the additional \$26 is a good number to try and address the issue. Through the list can see the issues talked about before.

**Chairman Holmberg:** Walk us through why on one page Trail County Moen Drain. Initial approval on March 11th \$500,000 yet nothing has been expended a year later, and it still has \$500,000. How would we read this? **Todd Sando:** Actually the rural flood control projects, drainage projects, are quite complicated. When through the process through their cost share policy with the water commission, developed new policy, made changes. Have lots of difficulty financing these projects so we've actually changed the process to give them conditional approval to start, before even an assessment vote, so they know how much the state will put into the project. The landowners would know how much they are responsible for. Some of these projects take longer to get going but they need to know how much the state is committing. Many hurdles to get over before they can get the project built.

**Chairman Holmberg:** Do you have any built-in time lines that if it isn't approved by so much time the money reverts back—how do you work that like on the Moen Drain. **Dave Laschkewitsch:** Our water commission actually talked to us about getting a better handle on these things that have been hanging out there forever. They told us anything more than three years old, will need to send a letter to the local sponsor and get in writing that they are

either still interested or what is the project status and get an update before we automatically carry it over, and keep the funding available. Just starting that process right now of sending letters to anything more than three years old. Will hopefully pare down old projects a bit.

**Chairman Holmberg:** Let's say \$60,000; if the three years passes and that money goes where? **Dave Laschkewitsch:** It is released back into general fund balance; these are all general fund commitments. Put back into unobligated general fund balance so it could be used for a different project. One other thing, we have older biennial reports that have the last contract fund for each biennium going back; we could go back to those and pull that out. He was told that was not needed for this subcommittee; just share good things have happened. Could go back to Senator Robinson's questions about MR&I, the water supply projects. We can get you more information but right now it is laid out—towards water supply, federal government has put a lot of money into regional water supply systems, MR&I program, and money is getting tighter there. The state of North Dakota has been stepping it up and putting a lot more into water supply projects. For MR&I have \$15 million earmarked, also Western Water Supply is an MR&I project with \$25 million there. SW Pipeline, NAWS project there's \$37 million, Red River Valley Water Supply, etc. (see # b from subcommittee minutes on 1-28-2011).

**Senator Fischer:** You don't feel this weather modification is working too well, do you? That is the cause for all of our problems? **Dave Laschkewitsch:** Weather is making it difficult.

**Senator Robinson:** Regarding MR&I, how do we respond to folks concerns.

**Todd Sando:** Relating to water supply there are a lot of needs municipal, rural, industrial water supply. If you look at the project list, potential funding for the upcoming biennium, it is not just all related to flood control, and addressing Fargo and Devils Lake, and general water management. Big part of the money is going to water supply. MR & I Water supply and western area is also MR & I. He reviewed previous testimony and attachment B. \$82 million of state money. **Senator Robinson:** the folks in north central, can we tell them that the water is on the way; and not talking flood waters from the Mouse River?

**Todd Sando:** We are still in court in Washington DC, until that law suit cleared up the Missouri River water cannot be delivered to Minot, so just using the ground water resources; the Sundry/Minot aquifer to meet the needs of Minot, plus added a lot of small communities to the north and west—and water systems.

**Senator Fischer:** Do you have any indication where the lawsuit is right now? There are things that have come out of there that; some requirements—have they all been met. **Todd Sando:** The judge ordered that the federal government take another look at downstream, impacts actually in Canada, so will redo the EIS so this is going to be the third round of NEPA compliance, so going to hire a third party contractor to address that issue. The other issue was the Missouri River depletion, and Missouri had jumped into the lawsuit too. Have to do additional depletion analysis work. The Bureau of Reclamation is hiring a third party contractor to the supplemental EIS; we've done an EA and full blown EIS and the judge came back with more questions. Looking at probably \$2 million to do the NEPA analysis and the study and the draft EIS will take about a year to come out. Pulling money out of the federal MR&I program to fund that. Looking at pulling \$4 million out of federal to pay for the

study. Until they have the final EIS and that answer, we can't really get back before the judge to get a favorable ruling to move forward.

**Senator Robinson:** Is it realistic or is it safe to say that the Tolna Coulee control structure will be build, an east end outlet at some location will be built, but in all probability the enhancement of the west end outlet (given the challenges) might not happen in the next 24 months? **Todd Sando:** That is correct; if we can get a gravity outlet out the east end, would use that to blend with our existing west end outlet. If we have problems dealing with NEPA and downstream impacts and permits and trying to get a project to get water out of east Devils Lake, land acquisition, all those issues, then we'd look at supplementing the west end outlet for an additional 100 cfs, so the biggest priority is control structure and gravity outlet out the east end.

**Senator Robinson:** Do you expect a disaster declaration, and if so when would that happen, and how much does that impact our ability to move, in terms of additional federal \$\$? **Todd Sando:** The federal disaster declaration is handled by Department of Emergency Services; actually last night the Governor and Adjutant General and Todd flew to Fargo to meet with their advance measures; they have advance measures request in to start building many many dikes and start filling 3 million sandbags. Going to be over that threshold, get a presidential declaration, so that whole process will be soon. At least in 10 different locations to build major dikes in Fargo right now. It is going to cost millions of dollars.

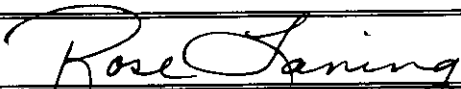
**Senator Fischer:** Anything else. We will close the hearing for today. Senator Robinson is leaving tomorrow so we won't meet until Monday. We will schedule another hearing for 3:30 on Monday, February 7<sup>th</sup>. We are adjourned.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
February 7, 2011  
Job # 14145

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing on the Water Commission – SB 2020.

## Minutes:

You may make reference to "attached testimony."

**Senator Fischer** called the subcommittee hearing to order.

Subcommittee members present: **Senators Fischer, and Robinson.**

Sheila M. Sandness - Legislative Council; Lori Laschkewitsch & Tad H. Torgerson – OMB.  
ND State Water Commission: **Lee Klapprodt, Dave Laschkewitsch, Todd Sando.**

Discussion was held on the Preliminary List of Projects.

**Senator Robinson** asked if the list was a priority list and **Dave Laschkewitsch** said it was not, that it was a list of their project.

**Dave Laschkewitsch:** With the current revenue forecast, we hope to allocate our funds somewhat as this list is showing. Water projects often stall for various environmental funding, local issues or things like that. We can take money from the stalled project and re-allocate it to another water project that is ready to go.

With the likelihood of flooding in the state, it is very remote that they would have enough funding for all their projects.

Discussion was held on the Western Area Water Supply and they have \$25 M planned for the project and were asking for \$150M.

**Senator Robinson** asked if there was anything in this bill that they would like changed that would help facilitate their work over the next 24 months.

**Dave Laschkewitsch** - One item that is not on the list – they have an earmark of \$30M for Fargo flood control project. The funding for that project is not able to be re-allocated. It also is very specific in what that funding can be used for.

**Senator Fischer** said there will be an amendment proposed that allows some of that money to be used, not for the diversion...., so there's \$75M that is allowed for construction of Fargo flood control. Those working in city would like to use part of it for planning, engineering, and flood control – the projects not related to diversion. Because there has been differences of opinion, I'd like to put 3 signatures on any contracts – the mayor of Fargo, Cass County Commission, Cass County Resource District.

They discussed various water projects and funding. **Senator Fischer** asked if they felt there should be language in the budget specifically addressing what they want to do at Devils Lake – not on the physical location of an outlet or any of that, but the wishes of the legislature is that the lake be dealt with.

**Dave Laschkewitsch** said it's clear from everyone's understanding that it's a priority. We will very likely proceed with some of that project with this biennium's funding.

**Senator Fischer** From my point of view, this is also a public relations piece because there are people wondering what is going to happen.

**Todd Sando** said they don't need specific language because they're moving forward with adding an additional outlet on the east end of Devils Lake and built a control structure too. Every day and every week they get better information and more fine tuning of alternatives and costs and getting it closer to narrowing it down as to what exactly they're going to build and what type of permits we need.

**Dave Laschkewitsch** said in three weeks they'll have an initial plan but there can be alignment issues with property owners. There can be a number of things that can cause this to be altered.

**Todd Sando** – the closing date for proposals is today so we'll put a preliminary design together and submit it to the Corps of Engineers for a 404 permit. We'd like to have a 404 permit in hand within two or three months so we can start construction of the control structure and we feel our efforts with the Corps of Engineers Regulatory office – as long as we don't let the water out before it reaches 1458 that it really doesn't change the scenario so there wouldn't be significant impacts downstream. They can just address the impacts right around where the control structure is built and they don't really have to address issues downstream because we're not bringing water down the coulee early at all.

**Senator Robinson** asked if we've ever incorporated into this bill authorization for borrowing in the event of a catastrophic situation where your dollars are so stretched so early in the biennium. How often have we done that?

**Dave Laschkewitsch** said they've done it in the past, but very infrequently. The basis for the borrowing was with bonds because it was to enable them to time our bonding issues to obtain the best rates. The only borrowing has been with bonds.

**Senator Robinson:** Are there any situations other than Grand Forks where we've granted authority because of so many unknowns.

**Dave Laschkewitsch:** Because of way the commission's budget is set up, we can contact some of those project sponsors that have money obligated and tied up that are not going to need it or use it in this current biennium. They will release it with our agreement or offer that we will replace that funding in the next biennium. So we free up funding from our existing projects and utilize that and then come into the next biennium and make them whole.

**Senator Fischer:** We've also given them authorization to access monies coming into the resources trust fund that isn't here on July 1.

**Dave Laschkewitsch:** You appropriate any excess funding that comes into that fund and allows us to access that money.

**Senator Robinson** asked about the possibility of getting federal funds for a disaster declaration.

**Todd Sando** said he was not aware of anything. They're moving forward with it, but it's the responsibility of emergency services so I don't have anything updated. There are a lot of additional counties that have come on board with snow removal.

**Senator Fischer** closed the subcommittee hearing on SB 2020.

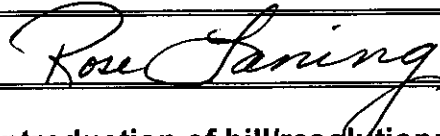
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
February 17, 2011  
14698

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

This was a meeting of the Water Commission subcommittee for budget discussion

## Minutes:

You may make reference to "attached testimony."

Committee members **Senators Fischer, Holmberg and Robinson were present.**  
ND State Water Commission: **Lee Klapprodt, Dave Laschkewitsch, Todd Sando.**

Sheila M. Sandness – Legislative Council; Lori Laschkewitsch – OMB.

**Senator Fischer** said he got an amendment but feels it's incorrect. It refers to SB 2316 from last session – that the cost share doesn't apply. SB 2316 was never passed. The part – these funds are not subject to the 65% funding requirement contained in SB 2316. SB 2316 never passed, so that goes.

The top part is words out of the bill and is about retention for dams.

The subcommittee discussed the flood control projects in the state and the improvements along the river to protect the city of Fargo. They discussed land acquisition for the Grand Forks flood control project, Devils Lake and cost sharing of several water projects.

**Todd Sando** said they have \$45M for Fargo flood control this biennium.

**Senator Fischer** asked if they needed any language in the bill for Devil's Lake. **Todd Sando** said it's a top priority and they have \$120M earmarked to address the issues. Discussion continued on the flooding situation this spring and communication with the Corps of Engineers.

**Sheila M. Sandness** will draw up their amendment.



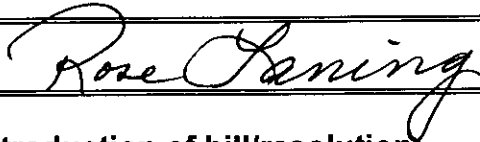
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2020  
February 22, 2011  
Job # 14797

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution.

A committee vote on the Water Commission.

### Minutes:

You may make reference to "attached testimony."

**Senator Fischer** offered amendment 11.8151.01005 and stated that so we have checks and balances, the City of Fargo, Cass County & the Cass County joint water resource district must approve any expenditures made under this section when applying to the Water Commission for cost share.

On page 2 in section 8, there are two pieces there. The wildlife services for animal control \$250,000 and flood related water projects in Nelson County - should be corrected to say Nelson County water resource district - for \$250,000. They need funds and it's not for any road. The problem they have this spring is with the snow falling and water rising as we speak. The communities of Michigan and Lakota are at risk for at very minimal inundation of their sewer system - and it could be even worse than that in flooding the two communities. This is for moving some of that water as well as whatever else they feel they need to do in an emergency mode of protecting those cities.

Because of possible flooding or disasters in the state, we also put an emergency clause on the entire bill.

**Senator Fischer** moved Do Pass on amendment 11.8151.01005 with a corrected amendment coming down

**Senator Robinson** seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

**Senator Robinson** moved Do Pass as Amended as SB 2020.

**Senator Fischer** seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

**Senator Fischer** will carry the bill.

**FISCAL NOTE**  
 Requested by Legislative Council  
 04/29/2011

Amendment to: Engrossed  
 SB 2020

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This fiscal note deals exclusively with SB 2020's section 18. This section repeals Section 5 of SB 2188 passed in the 1999 session which required the City of Grand Forks to pledge the revenues of the Corporate Center to partially repay the Water Development Trust Fund for their flood control project

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

At the time Senate Bill 2188 was passed an analysis was prepared estimating that \$12,164,586 would be repaid to the Water Development Trust Fund over 21 years. These payments would not begin until year 2018 and would end in year 2039. Section 18 of Senate Bill 2020 eliminates these future revenues.

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

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

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

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

<b>Name:</b> David Laschkewitsch	<b>Agency:</b> ND State Water Commission
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Phone Number: 328-2750

Date Prepared: 04/28/2011

**FISCAL NOTE**  
 Requested by Legislative Council  
 04/11/2011

Amendment to: Engrossed  
 SB 2020

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The House amendments on Engrossed SB 2020 eliminate the repeal of Section 5 of SB 2188 passed in the 1999 session. This leaves the City of Grand Forks pledge of revenues from the Corporate Center unchanged and has no fiscal impact.

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

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

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

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

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

<b>Name:</b>	David Laschkewitsch	<b>Agency:</b>	ND State Water Commission
<b>Phone Number:</b>	328-1750	<b>Date Prepared:</b>	04/11/2011

**FISCAL NOTE**  
 Requested by Legislative Council  
 02/24/2011

Amendment to: SB 2020

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

This fiscal note deals exclusively with SB 2020's section 10. This section repeals Section 5 of SB 2188 passed in the 1999 session which required the City of Grand Forks to pledge the revenues of the Corporate Center to partially repay the Water Development Trust Fund for their flood control project

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

At the time Senate Bill 2188 was passed an analysis was prepared estimating that \$12,164,586 would be repaid to the Water Development Trust Fund over 21 years. These payments would not begin until year 2018 and would end in year 2039. Section 10 of Senate Bill 2020 eliminates these future revenues.

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

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

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

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

<b>Name:</b>	David Laschkewitsch	<b>Agency:</b>	ND State Water Commission
<b>Phone Number:</b>	328-2750	<b>Date Prepared:</b>	02/24/2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2020

Page 1, line 2, after "commission" insert "; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding"

Page 1, line 2, after the second semicolon insert "to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application;"

Page 1, replace line 17 with:

"Less estimated income	<u>297,263,809</u>	<u>146,656,412</u>	<u>443,920,221</u> "
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Page 1, replace line 18 with:

"Total general fund	\$13,823,899	\$1,171,300	\$14,995,199"
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Page 2, after line 25, insert:

**"SECTION 6. AMENDMENT.** Section 7 of chapter 20 of the 2009 Session Laws is amended and reenacted as follows:

**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 Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs. No more than ten percent of these funds 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). The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section.

Page 2, line 31, replace "These" with "Except as otherwise provided, these"

Page 2, line 31, remove "land"

Page 3, line 1, remove "purchases and"

Page 3, line 1, replace the second "and" with "including right-of-way acquisition costs. No more than ten percent of these funds"

Page 3, line 1, remove "not"

Page 3, line 1, replace "administration" with "engineering"

Page 3, line 2, after the period insert "The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section."

Page 3, after line 2, insert:

**"SECTION 8. LEGISLATIVE INTENT - STATE WATER COMMISSION PROJECTS AND GRANTS.** It is the intent of the sixty-second 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 grants and projects, for the biennium beginning July 1, 2011, and ending June 30, 2013:

Grant to wildlife services for animal control                    \$250,000  
 Flood-related water projects in Nelson County                \$250,000

**SECTION 9. LEGISLATIVE INTENT - GARRISON DIVERSION CONSERVANCY DISTRICT.** It is the intent of the sixty-second 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 allocate no more than \$1,000,000 to the Garrison Diversion Conservancy District.

**SECTION 10. REPEAL.** Section 5 of chapter 535 of the 1999 Session Laws is repealed.

**SECTION 11. RETROACTIVE APPLICATION.** Section 6 of this Act applies retroactively to January 1, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Senate Action**

	Executive Budget	Senate Changes	Senate Version
Grants local cost-share	\$500,000		\$500,000
Administrative and support services	3,229,873		3,229,873
Water and atmospheric resources	447,913,774		447,913,774
Federal stimulus funds	<u>7,271,773</u>		<u>7,271,773</u>
Total all funds	\$458,915,420	\$0	\$458,915,420
Less estimated income	<u>443,688,322</u>	231,899	<u>443,920,221</u>
General fund	\$15,227,098	(\$231,899)	\$14,995,199
FTE	87.00	0.00	87.00

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

	Changes Funding Source of New Division Director Position <sup>1</sup>	Total Senate Changes
Grants local cost-share		
Administrative and support services		
Water and atmospheric resources		
Federal stimulus funds		
Total all funds	\$0	\$0
Less estimated income	<u>231,899</u>	<u>231,899</u>
General fund	(\$231,899)	(\$231,899)
FTE	0.00	0.00

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<sup>1</sup> This amendment changes the funding source of the Water Development Division director position added in the executive recommendation from the general fund to the resources trust fund.

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Sections are added to the bill to:

- Amend Section 7 of Chapter 20 of the 2009 Session Laws relating to Fargo flood control project funding and to provide for retroactive application.
- Repeal Section 5 of Chapter 535 of the 1999 Session Laws relating to the pledge of revenues from the Grand Forks Corporate Center.
- Provide legislative intent regarding a grant to Wildlife Services for animal control (\$250,000), flood-related water projects in Nelson County (\$250,000), and the allocation of funding to the Garrison Diversion Conservancy District.





Date: 2-22-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2020

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 11.8151.01005

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Lischer Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2020

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Flood-related water projects in the Nelson County water resource district	\$250,000

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**SECTION 10. REPEAL.** Section 5 of chapter 535 of the 1999 Session Laws is repealed.

**SECTION 11. RETROACTIVE APPLICATION.** Section 6 of this Act applies retroactively to January 1, 2011."

Page 3, line 3, remove "The water and atmospheric resources line item in section 1 of"

Page 3, line 4, replace "this" with "This"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Senate Action**

	Executive Budget	Senate Changes	Senate Version
Grants local cost-share	\$500,000		\$500,000
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**Department No. 770 - State Water Commission - Detail of Senate Changes**

Changes Funding Source of New Division Director Position <sup>1</sup>	Total Senate Changes

Grants local cost-share Administrative and support services Water and atmospheric resources Federal stimulus funds		
Total all funds	\$0	\$0
Less estimated income	231,899	231,899
General fund	(\$231,899)	(\$231,899)
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<sup>1</sup> This amendment changes the funding source of the Water Development Division director position added in the executive recommendation from the general fund to the resources trust fund.

Sections are added to the bill to:

- Amend Section 7 of Chapter 20 of the 2009 Session Laws relating to Fargo flood control project funding and to provide for retroactive application.
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The emergency clause in the bill is amended to make the entire bill an emergency measure.

Date: 2-22-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2020

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Robinson Seconded By Fischer

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Fischer

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

**REPORT OF STANDING COMMITTEE**

**SB 2020: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2020 was placed on the Sixth order on the calendar.

Page 1, line 2, after "commission" insert "; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding"

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Re-number accordingly

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

	Changes Funding Source of New Division Director Position <sup>1</sup>	Total Senate Changes
Grants local cost-share		
Administrative and support services		
Water and atmospheric resources		
Federal stimulus funds		



Total all funds	\$0	\$0
Less estimated income	231,899	231,899
General fund	(\$231,899)	(\$231,899)
FTE	0.00	0.00

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<sup>1</sup> This amendment changes the funding source of the Water Development Division director position added in the executive recommendation from the general fund to the resources trust fund.

Sections are added to the bill to:

- Amend Section 7 of Chapter 20 of the 2009 Session Laws relating to Fargo flood control project funding and to provide for retroactive application.
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2011 HOUSE APPROPRIATIONS

SB 2020

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
3/17/11  
15642

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

Attachment #1

**Chairman Skarphol:** Opened the hearing on SB 2020.

**Todd Sando, State Engineer with the ND State Water Commission:** 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; third, our current budget and a discussion of other issues for the upcoming biennium. (See testimony #1). Went over booklet. Since we had our hearing on the Senate side a lot of progress has been made. We had a whole range of ways of getting water out of the east end of Devils Lake, but we have exhausted many options. We were looking at a gravity channel out east Devils Lake. A couple weeks ago we got it narrowed down to four and last week we narrowed it down to a preferred plan and that is to construct a pumped outlet into a pipeline and be a combination tunnel and trenched in pipe and it will extend for five miles to east Devils Lake shoreline and we will pump the water into this pipeline, which is probably a 7' diameter pipe. We are going to have to still lift it about 100'. Our goal is to try and get a gravity outlet. The minimum cost estimate for a gravity outlet is \$130 million and most of them are running over \$200 million.

Right now the cost estimate is from \$62 million to \$90 million. As we get further into the design we will narrow that cost estimate down.

**Chairman Skarphol:** I am assuming both of the last two alternatives you just spoke of had the same volume of water movement, the tunnel and the proposed? You are not talking about a larger capacity in one or the other.

**Sando:** The design capacity is 250, but we can get 350 and possible 400 cfs through the pipeline system so in combination with the west end capacity we could get up to 600 cfs out.

**Chairman Skarphol:** What is the typical inflow during spring runoff and then what is the typical runoff during the normal seasonal situation?

**Sando:** Regarding typical inflows, Devils Lake is not very typical. The last 17 years it has been on the rise and risen 30' so we look at that period how much it comes up during this wet period. The typical inflow in the last 17 years is 240,000 acre ft. of inflow. 2009 was the flood of record and the inflow was 590,000 acre ft. The forecast for 2011 is for a record inflow. When they are looking at the lake going to 54.7 they are looking at 600,000 acre ft. inflow.

**Chairman Skarphol:** During a normal season what is the inflow on a cfs basis?

**Sando:** 3,000 to 4,000 cfs inflows during the peaks. As summer goes along it drops off from 100 – 500 cfs in July.

**Chairman Skarphol:** In your testimony you say 250 cfs to the west; 250 to the east and 100 to the west as an expansion for a total of 600. Is that going to be running pretty much at capacity, do you believe then?

**Sando:** We have constraints because of flood control downstream and water quality constraints. What we have worked out with downstream and efforts involved with the Health Department and EPA so if we run both outlets and say below that 750 criteria. Our goal is to run both of them full tilt all summer long. On the Sheyenne River we have capacity issues on the upper Sheyenne has channel capacity of 650 cfs so any base flow or tributary flow would put us into having over bank flooding. We are going to have to purchase flood easements once we get both outlets operational because we will be exceeding the channel capacity. That is why we have been trying to develop an outlet around 600 cfs. Our goal is trying to keep up with the wet period; the 17 year average of 240,000 acre ft. Normally Devils Lake does have evaporation so there is usually a net loss between 50-100 acre so we feel what we have designed will keep up with wet cycle with that and running both outlets. So we are also looking at a west end expansion to go from 250 cfs to 350 cfs. If this tunnel pipeline works and we get 350 cfs capacity we will evaluate if we will try to upsize additional on the west end. The main alternative there is to build a new pumping station; not at our existing location on Round Lake. It would be four miles downstream on Long Lake. Long Lake is several feet higher than Round Lake so we would just have that outlet operational when it is above 1450. The other big aspect is a control structure on Tolna Coulee. If we get a flood of record next year

we could be to the point of natural overflow. We need to do something at Tolna Coulee immediately. What happens if these outlets can't stay ahead? This control structure on Tolna Coulee would be put in place for going two parallel paths right now of the State of ND building a control structure versus the Corps of Engineers building it. This structure has to be in place by next spring.

**Chairman Skarphol:** The west end expansion and the increase in capacity. You are looking at doing it down the road. What you have talked about doing on the east end for the 250 cfs; you have a time frame for completion I believe you said in 2012. Could the west end be increased by 100 cfs quicker than that?

**Sando:** The timeline to do the east end we are looking at having that in place by June 2012. The west end expansion would probably take a little longer. Depends on what the design would be. We are not as far along on the design there.

**Rep. Delzer:** On your east end outlets; what level are you hoping to draw the lake down to if went dry and started going into a drier period?

**Sando:** The elevation will be around 1446 in Tolna Coulee, and we are going to design taking water out of Stump Lake down to that elevation also. Right now it is close to 1452 but we will be able to operate down to 1446.

**Chairman Skarphol:** The control structure would allow it to go down to 1446.

**Sando:** It is at 1466 right now. The control structure we will have stop logs in it so we will manage Devils Lake and try to mimic the natural erosion rates of the Tolna Coulee erodes down 2 ft. the control elevation would be changed from 1458 down to 1456. We are going to design the structure so it can be taken down to 1446 if that how Tolna Coulee would erode down. Continuing on pp. 5-8 of Attachment # 1, Referring to the second map in the appendices, of Attachment # 1. Correction in my testimony, they are raising the levels of the levies to 1466. This week I got an additional request from the City of Devils Lake for an additional \$10 million that wasn't even in the works when we were going through the Senate side.

**Chairman Skarphol:** Are you in the audience here because of the flooding issue?

**Sando:** Half flooding and water supply. Continuing with pp. 8- 10 of Attachment # 1. Referring to Map # 3 and the map of the Northwest Area Water Project (NAWS) in the Appendices of Attachment # 1.

**Chairman Skarphol:** The Minot water supply that is currently being utilized. It must be getting pushed hard, it should be near completion by now.

**Sando:** We have been monitoring pretty close the levels of the aquifers. The way we have designed it; we are only supplying an average daily of water to the communities of Berthold's and Kenmare's right now so we are not getting peaked.

They are limited in the amount of water they can get. Right now we feel there is enough water in aquifers to meet the needs to do this build out until we do get to the Missouri River water.

**Chairman Skarphol:** Minot had a water shortage several years ago.

**Sando:** Continuing with p. 10. There is also a map of this in the appendices.

**Chairman Skarphol:** What is the completion date of this project (LAWS)?

**Sando:** Completion date of December of 2011. Continuing with testimony pp. 10-11 and the map in the Appendices that shows how water is moved all the way to Fargo and Grand Forks. Weather modification is discussed on p. 12, General Water Management pp. 12-13, funding summary pp. 13-14 of Attachment # 1.

**Chairman Skarphol:** Before you go on I want to go back to forward the \$14.8 million of the committee contract fund projects. Do you have an uncommitted amount of money at this time? Is everything committee that you foresee receiving in this biennium?

**Sando:** We have committed all of our original authorization. The revenues have been coming in higher because of the oil revenues so actually for the December Water Commission we asked for \$6.2 million additional and we applied that to the Valley City water treatment plant. So we have been able to go to OMB and ask for additional authority to give out the additional revenues that are coming in. Right now we probably have \$2 million available right now. We have about \$30M extra than anticipated.

**Chairman Skarphol:** Could you continue to ask for and receive it based on statute?

**Delzer:** There is a total of \$24 million between now and the end of the biennium that you have not committed?

**Lash:** Yes.

**Delzer:** You can't ask for that authority until the money is on hand.

**Dave Laschkewitsch:** Our two primary funding sources are the Resources Trust Fund which is the oil extraction money and the Water Development Trust Fund. The oil extraction money is the revenue stream that is running ahead. At this point we have collected \$110.5 million. The expected revenue at this time would have been \$79, 148,000. We are \$31.3 million ahead in oil extraction money. We also collect water development trust fund money which is the tobacco settlement dollars and we are tracking a \$.5M about \$1M behind projections.

**Chairman Skarphol:** Why down on the tobacco? Sales are down?

**Sando:** Continuing p.14 and discussing the Engrossed Senate Bill 2020 on p. 14

**Chairman Skarphol:** Stimulus dollars are carrying forward?

**Sando:** Yes, continuing with testimony, pp. 14-15.

**Chairman Skarphol:** Addressing Tad Torgerson, OMB Analyst, Are these the same figures that revenue?

**Torgerson:** It is.

**Sando:** Continuing on p. 16 with testimony.

**Chairman Skarphol:** Have we ever collected on a situation where there was suppose to be a repayment like that, or have we always forgiven?

**Sando:** Some, the track record is a little of both.

**Delzer:** Grand Forks, here will they be using that money that would have come to pay this back? Was that mentioned? I will find out some somebody on the Senate side.

**Sando:** Continuing with Water Development Report, pp. 16-17 of Attachment # 1 and referring to Attachment # 2. Went over projects line by line on page 17.

**Chairman Skarphol:** Will you explain the Devils Lake Down Stream Impacts means further down?

**Sando:** Explaining Devils Lake Down Stream Impacts as found on p. 17. That \$15 million is just for Fargo's water supply. It is going to cost them \$60 million to be able to treat sulfates. They are asking for a cost share of \$30 million. Their request is for \$15 million in this biennium. They would bond for the rest and ask for the other \$15 million in the next biennium. We have given Valley City about \$15 million to build reverse osmosis and a filtration plant to deal with sulfates from the Sheyenne River issues because they are going to be elevated with Devils Lake operations. We have to draft a mitigation plan for Devils Lake and that is incorporated in the fourth item here. The General Water Management is a slush fund for all our projects throughout the state. Continued going through the list of projects.

**Chairman Skarphol:** It is accumulating?

**Delzer:** Where is that sitting?

**Dave Laschkewitsch:** Bank of North Dakota is where it physically sets.

**Delzer:** What kind of Interest rate and what happens to the interest?

**Laschkewitsch:** We are required to keep our funds at the Bank of North Dakota. It receives fairly minimal interest rate. The revenue from it comes back to the general fund so maybe it is OK.

**Sando:** Continuing with p. 17 of Attachment # 1. Several amendments were passed on the Senate side. They capped it at \$1M. We asked \$5 million to the Red River Valley Water Supply project, but there is an amendment on the Senate side that you can only provide them \$1 million so that is an issue we need to address.

**Chairman Skarphol:** These are dollars sitting in your water resources trust or whatever. They are not committed to that project. These are proposals for the next biennium.

**Sando:** Continuing p. 17.

**Delzer:** On South West and Northwest, is that cash we are going to put into those projects or is that bond repayment?

**Sando:** That is new cash.

**Delzer:** What kind of repayment do we get from the Southwest?

**Laschkewitsch:** NAWS; that project has a \$20 some million worth of outstanding bonds. They are making those bond payments themselves from the revenue they sell. There is approximately \$2 million above and beyond what they need to make those payments to the Water Commission in capital repayments. Southwest is making bond payments. Minot does not do capital repayments to us. Minot is paying all the non federal which is 35% from the Magic fund as that project goes along.

**Chairman Skarphol:** SW pipeline \$25 million. They are going to repay us \$1 million out of their revenues?

**Laschkewitsch:** That is set up to go forever; once they pay off all their debts and bonds their payment to the water commission will go up rather substantially and we will continue to receive revenue from that project.

**Chairman Skarphol:** So the \$25M is new money?

**Delzer:** We used to give them bonding authority instead of cash money.

**Laschkewitsch:** The commission received bonding authority. We would issue the bonds and the authority then from their revenues would make those payments.

**Delzer:** When did we start giving them cash?



**Laschkewitsch:** 2009 was the last bond issue we did.

**Delzer:** So what we are doing instead of asking them to bond is we just give them cash.

**Laschwitsch:** The revenue stream has to be able to make the bond payments. So that project maybe close to bonded out.

**Sando:** Southwest pipeline, that \$25 million is really two components. One is to continue Mercer Oliver and North Dunn and going east into that area and that is \$12.9 million. The other component of that is like \$12 million toward Killdeer to serve the oil area. This is just potential allocations.

**Mary Massad, Manager, CEO for the Southwest Water Authority:** This past year our capital repayment portion was over \$2.7 million and to date we have paid in over \$26 million in capital repayment. That amount is set annual by the ND State Water Commission. It is tied to the CPI and it goes on into forever.

**Sando:** Continuing with pp. 17-18 of Attachment # 1 and concluding his testimony. Referring to Attachment # 3. This concluded my testimony and I would be happy to answer any questions.

**Chairman Skarphol:** Charges suggested by the Corps and the discussion you have had with them. I suspect they benefit from the electricity generated by the Garrison Dam. Is that correct?

**Sando:** The benefit to the nation is in hundreds of millions of dollars for hydropower generation. It goes to many states. It even goes to our neighbors in Minnesota and Iowa.

**Chairman Skarphol:** I am confused about who should be charging who for storage? We are storing water to benefit them at the expense of our citizens in my mind for quite an extent.

**Sando:** We have 200 ft. between us and getting to the natural flows and the produces that energy capacity so there are many arguments that we have against the federal government.

**Delzer:** When will we get some finalization on that and if it is not what we hope it is. What are the next steps available to us as a state?

**Sando:** They have extended the delay of a decision on the surplus water study that is out there trying to determine if there is a 100,000 acre feet of surplus water available that they could allocate out of Lake Sakakawea to some of our entities that have applied for water rights. We have granted them water rights, but they do not

have an easement to go across the Corps property to get to the water. There were so many comments and issues on these water rights including a lot of other states weighing in on it. It is a states right to manage and the Corps is interfering in the states right to manage the water. We have gone decades without payment for the water and they tried this back in the mid 80s were unsuccessful. Senators back then were able to make some very sound arguments so we are back fighting that issue with our own federal government again so if we are not success with this direction they are going our Attorney General's office is working on a complaint to file a lawsuit to take the federal government to court.

**Carlson:** In regard to charging for our own water, the Governor said it is the dumbest thing he has ever heard. Because it took a little courage to stand in front of those guys and says that. I am looking at your bond payments. They total about \$16.9 million a biennium. Have we renegotiated any of those over the years to take advantage of better rates? Obviously this is interest money; not money you are going to recoup?

**Laschwitsch:** We have refunded a number of issues to take advantage of better rates as you are suggesting.

**Chairman Skarphol:** Is it in testimony?

**Laschwitsch:** this testimony doesn't have the entire list of our outstanding issues. It simply lines up what is there. I can get that to you.

**Carlson:** Are there any of them that would be beneficial to pay off or are they all better to be left in place?

**Laschwitsch:** They are better off to be all paid off. They are in the four and five percent range. The cost of refunding them once you paid all the fees and refunding; although the rates a slightly lower now probably could not be too beneficial. You can only refund the issue one time so we have a number of them we have refunded one time so those we don't have the option on anymore.

**Carlson:** I am glad you moved them down if you had the opportunity.

**Laschweitsch:** Bonding question for Southwest. The project is approach about \$200 million right now and we only bonded \$25. Very little of it was ever bonded.

**Carlson:** Can you get me a set of guidelines of how that money can be accessed and where it is at? I would like to see both of them.

**Laschweitsch:** There is an amendment in our bill. If you look at the last section of our bill that is the new rules of how to excess that money.

**Rep. Monson:** I would like a better breakdown on Devils Lake. You have about \$150 million need to raise the dikes to 1466. You have up to \$90 million for the east end of Devils Lake outlet. What would the Control Structure on Tolna Coulee cost share be?

**Sando:** We allocated on Devils Lake levy system \$150 million. The Corps of Engineers is building it. It is 75-25 cost share. The project went up from \$ 113 million to \$115 million so there is going to be a need for an additional \$10 million. Out of east Devils Lake it is \$60-92 million is the range. As we get the final design we will narrow that cost estimate down. Control Structure on Tolna Coulee we are looking at a range of \$5-10M for the state if we have to build it. The Corps of Engineers will pay 75% of that cost share and then we pay 25%. When you get the Corps involved they will build the least costly alternative. If the Corps can't get it built by the spring of 2012 the state of ND will go build it ourselves.

**Chairman Skarphol:** West end expansion; our estimate is \$30- \$50 million right now? No federal participation. They get involved in the control structure when the water gets up to 50.

**Rep. Monson:** Who runs the outlets and the cost of the pumping? What will that cost per month?

**Sando:** \$300,000- \$350,000 a month to run the west end outlet. The east end outlet we are going to have half the head so the electricity count is going to be lower. There is twenty years of operation costs to run that outlet off the east end. So that cost estimate of \$50-\$90 million is to include twenty years of operations of that outlet.

**Rep. Monson:** That is the pumping cost?

**Sando:** Every month that it is running. Electricity is the biggest cost. \$90,000 a year to operate the east end outlet a month.

**Rep. Monson:** What about the cost to raise all the roads and highways in the Devils Lake area if it keeps on flooding and we have to go to 1458 before anything runs out? Is that part of your factoring or don't you get involved with that part?

**Sando:** We work closely with DOT on those issues and they are putting 100s of millions of dollars into road raises too. Every major highway is being raised.

**Rep. Monson:** Minnewaken will have to move their school, what will that cost. It is probably not just the school that is going to flood.

**Sando:** That is in the Department of Emergency Services budget. That path they are going down is partial relocation. I just heard they were going to try and construct

a temporary emergency dike around Minnewaken. Things change every day on the Devils Lake stuff.

**Delzer:** Where is operating costs budgeted? Is there any in any other budgets?

**Sando:** It is all in our operation and maintenance costs.

**Delzer:** Is it in any other budget?

**Chairman Skarphol:** Are there any operating costs for the west end outlet in any other budget that you are aware of?

**Sando:** No it is all Water Commission budget.

**Mike Dwyer, North Dakota Water Users Association:** Provided an outline of his testimony, see Attachment # 4. We would like to present you our official request for additional funding for water. We think you need to be prepared to spend out \$120 million on Devils Lake. The Governor's budget including the carryover money that is unallocated for this biennium will be about \$235 million. The NAWWS project is currently a grant of \$25 million; you are planning on bonding the \$125 million. The Fargo flood control is set at \$30 million and those three totals are \$175 million. Then if you look at the other critical water needs we have in the state. The MR&I projects testimony will be provided from folks who are still hauling water or have poor quality. We would like to finish the Southwest Pipelines and they have some oil needs as well and that is the \$25 million there.

**Joe Belford, Ramsey County Commission:** I have been deeply involved with Devils Lake flooding issues since the first flooding cycle began in 1993. Provided written Testimony, see Attachment # 5. Reference is made to attachment # 5A. The impact on business activities in the region from both the direct and indirect costs are estimated at \$1,994,419. The major losses are \$57.6 million in the crop sector; \$50.9 million to the household sector and \$42.9 million to the retail sector. The remainder of the \$194.4 million loss is distributed among the other sectors of the economy. This is the reflection of the loss jobs to the region. Employment losses is estimated at 1150 jobs for the region. Are there any questions?

**Chairman Skarphol:** The 1150 jobs; that community just is bustling with activity. There has to be kind of an exchange of jobs is there not?

**Belford:** This came from agricultural related stuff. We are going to be full of people; we don't have room for them with the amount of equipment that is shuffled around our area. That is going to be short lived.

**Dick Johnson, Mayor of Devils Lake:** provided written testimony, see Attachment # 6 in support of SB 2020. We support this bill. I would answer any questions and again thank you for all the support you have given us in the past.

**Chairman Skarphol:** Some time back I had the EERC in Grand Forks do an analysis for me that if we fracked 3,000 wells in western North Dakota with 3.5 million gallons of water each what it would amount to off Devils Lake and I was told it would be .42 inches

**Johnson:** We were talking with the coalition today. I have gotten a lot of emails suggesting using it out in the oil fields of western North Dakota.

**Darrell Vanyo, Chairman of Cass County Commission:** Spoke in favor of SB 2020 and provided printed testimony, see Attachment # 7. Referring to the maps in Attachment 7A. There was a handout with some maps too that provides you with the current and 100 year event. Here in support of this bill.

**Chairman Skarphol:** You have a difficult task getting everybody to agree on this diversion. I don't know how you will ever get it done. There is an amendment to that has been talked about to this particular bill. Rep. Monson do you have a copy with you?

**Rep. Monson:** I do not. I left up at my desk.

**Chairman Skarphol:** Rep. Belter has an amendment. It has to do with the bonding of the school and potential of that school to lose enough land that it would be significant in their repayment capabilities. Are there strong feelings about that particular issue and opposition to it?

**Vanyo:** It could impact them to \$1 million a year or as they put it it could be 23% of their school budget. Very significant and we understand that. I can't imagine if we did have buy outs that everyone is going to be bought out and settle outside the Kindred school district. March 30 the Corps of Engineers presents to us the diversion plan; mitigation dollars etc. Then we have decisions to make about are we building levies or buying out residence south of this line and then we will know what the real impact is. The Kindred school district is the source of this amendment, referring to Rep. Belter. Not everyone who is bought out is going to settle outside of the Kindred school district. Their concerns were a worse case where they buy out everyone south that is in the school district.

**Chairman Skarphol:** What is the date?

**Vanyo:** March 30 is when we get information from the Corps. I have meetings set up starting Saturday. The mayor and I are going to be meeting with the mayor of West Fargo. Tuesday we meet with the mayor of Oxbow and Thursday we meet with Steve Hall, the superintendent of Kindred. It is for the purpose of saying we understand your situation. We want to work with these communities to have a solution that is acceptable; maybe not to one hundred percent because it is almost impossible to do that with a project of this magnitude. I think this amendment is very

premature. You are talking about a project that is ten years down the road. The south end is the last to be constructed of this diversion so the impact of those people is way down the road.

**Chairman Skarphol:** I brought it up to see if anyone is here we can take the opportunity to discuss it. If half the people in the room are here for that reason I would call Rep. Belter down here and officially talk about the proposal. Does anyone else wish to comment on that issue?

**Rep. Williams:** We have heard about this for the past two years. What is the biggest frustration you have gone through on this diversion flood control?

**Dennis Walaker, Mayor of Fargo:** Spoke in response to Rep. Williams' question. I have submitted some information for your records etc. The biggest thing has been the redesign; listening to the people. We started on the Minnesota side; it was the NED plan and we couldn't find an end. We studied it all and there were about 4800 impacts to structures. Then we moved to the North Dakota side and all of these things take time. We have the best designed modeled river in the US now because of our commitment to a lot of people. There are two significant issues; one is the West Fargo alignment. They want that changed etc. The same way with the Kindred school district. Right now if we started this design process sometime this summer it would take 10 ½ years before the project would be completed. Everybody is concerned about the water and they all want another inch of water, but we have to hold it back someplace to deal with the impacts so we have processes. Are we sure there is going to be a process. I am using the 40% chance with the economics. The Corps of Engineers has taken this project in their teeth and it has gone so well with them in proceeding with it. The problem even with the \$45 million that is appropriated before is money we can't spend on the design so that is why we asked for the amendment to the \$30 million because we do have some bills. We have already spent something in the vicinity of \$17 million. The county will be coming forth on April 1, 2011 accruing a ½ sales tax etc. It has been a very frustrating long project.

**Chairman Skarphol:** How much closer are you today than you were five years ago?

**Walaker:** It has gone exceedingly well.

**Rep. Williams:** I have gone to many meetings and the people are scared and frustrated. How do you feel working within the confines of a 10 year period and not knowing the outcome?

**Walaker:** I have probably not attended as many meetings as I did in the previous year. I thought I went to 60 or 70 different meetings with watersheds up and down the river. We have been working on this 2 ½ years. Some people say we are going too fast. Is 2 ½ years too fast? Different people are impacted now. So the people in

Minnesota see the diversion, but they see it on the other side of the river and feel they don't have to deal with it.

**Chairman Skarphol:** Do you have an opinion on Rep. Belter's amendment?

**Walaker:** We have been waiting for the Corps to come out with their final bill etc. and sometime around the end of March we are going to get that information. That is the time to decide this. We have plenty of time. Do they trust us to continue working because it isn't just the Kindred school district?

**Vanyo:** Everyone wants facts and wants to move the project along as fast as possible. We all know we are impatient. The Corps requires a certain amount of time to to analysis etc. and quite frankly everyone gets impatient. We are limited in where we can look for flood protection. In regard to Rep. Belter's amendment, I would hope that it is better placed at a future Legislative Session.

**Alan Walter, Director of Public Works, City of Minot and Garrison Conservancy District:** Spoke in favor of SB 2020. We are ready with our money to support that project to the end. We are getting projects done and we will have more projects starting this fall. I am also here representing the Garrison Division Conservatory District and I am in support of the bill. If there are any questions I will answer them.

**Eric Volk, Executive Director of North Dakota Rural Water Systems Association:** Provided written testimony, see attachment # 9. He made reference to a couple spread sheets and project summary's of the rural systems that we are talking about. These are the smaller rural water systems; not the NAWS; not the SW Water authorities and those types it is the South Central around the Bismarck area and Stutsman and all of those. There is a big funding need out there. As you can see there is about \$70 million worth of projects in the next biennium. The other sheets just give an in depth description if you want to take a look at that. I attached a rate sheet of all the rates of the rural water systems just to show the rural systems are paying their way. An average customer in ND is about \$65 a month for that so they are paying their way. Our rural areas did take a big decline so it takes a lot of dollars to get to those people that deserve a good quality and quantity of water.

**Chairman Skarphol:** Two years ago there were loan and grant dollars available. Fortunately my district happened to be high on the priority list of the health Department, but we paid for some of the anticipated loans with permanent oil trust funds. So those loan dollars were available and I want to know how they were utilized. We will get the information sometime.

**Teresa Sundsbak, General Manager of North Prairie Rural Water:** Provided written testimony, see attachment # 10, in support of SB 2020.

**Chairman Skarphol:** People who have their lines running through their property; are you suggesting they can't hook up even if they want to pay for it? Or are you suggesting they don't get hooked up free?

**Sundsbak:** If they want to pay for it they can pay to be hooked up.

**Chairman Skarphol:** I have a gentlemen that is along a water line and is paying \$12,000 to get hooked up to it. I just wanted to make sure I understood it.

**Sundsbak:** I would just like to say it takes everybody in the community to make a project work and make it feasible and when you take a person, town or piece out of the pie that project becomes less feasible.

**Chairman Skarphol:** Do you have a project request funding.

**Geneva Kaiser, Stutsman Rural Water:** Provided written testimony, see attachment # 11, in support of SB 2020.

**Gene Veeder, Board Member on the McKenzie County Water Resource District:** Provided written testimony, see attachment # 12, in support of SB 2020.

**Chairman Skarphol:** I am familiar with Western Area Water Supply. I do have a question for you about McKenzie County itself. If it is completed as suggested what percentage of area in McKenzie County would be serviced by the plan?

**Gene Veeder:** McKenzie County anticipates that 80% of the people that wanted water would get it through this project.

**Cliff Ferebee, Dunn County:** Provided written testimony, see attachment # 13, in support of SB 2020.

**Marie Johnson, Director of the Southwest Water Authority Board of Directors for Mercer County:** Provided written testimony, see attachment # 14, in support of SB 2020.

**Dave Koland, General Manager of Garrison Diversion Conservancy District:** Introduced the Board of Directors and provided written testimony, see attachment #s15 and 15A, in support of SB 2020.

**Norm Haak, member of the North Dakota Irrigation Association Board of Directors:** Provided written testimony, see attachment # 10, in support of SB 2020. He requested that the restricting amendment be removed.

**Bill Ongstad, farmer near Harvey, Wells and County Director of Garrison Diversion:** Provided written testimony, see attachment # 17, in support of SB 2020. I object to Section 9 the amendment. It would be unwise to leave that in; it would be



saying no to water development; irrigation development just when we need it; just when we need water rights and food security and it would screw up the financing too without that cost share in there. I support the SB 2020 but oppose the amendment section 9.

Opposition: None

Hearing closed.

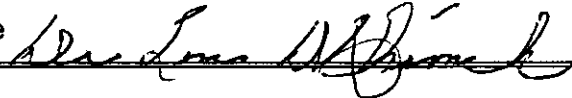
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
3/22/11  
15827

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

**Chairman Skarphol:** Called the Committee to order to hear SB 2020. The Water Commission beginning with State Engineer Todd Sando in regard to your budget. Am I correct? We did have a conversation earlier and had some discussions about some potential changes; would you like to address the committee with regard to that? The question was raised by Rep. Delzer about whether or not there any way that we can do anything with surplus monies that you have potentially coming before the end of this biennium with regard to any kind of road damage in rural parts of the Devils Lake area for safety reasons?

**Todd Sando:** Regarding indicated roads we feel right now in our budget we have \$235 million for projects and we feel indication of roads should be a road authority issue; not falling under the State Water Commission budget. I think it makes a lot more sense to have it left in Department of Transportation to do the road raises and deal with indicated roads. Right now there is major demand on the water funding aspect of it because of this wet cycle we are in so there is a lot of funding needs for flood control and water supply throughout the state. We can't get into road building, too. That is going to impact a lot of other water projects.

**Chairman Skarphol:** What revenue you may see in addition to the \$30 million that you have reflected here. We talked a little bit about potentially five or higher numbers today. Over and above the \$30 million you anticipate receiving that you have appropriated in this next biennium.

**Todd Sando:** We feel the Resources Trust Fund in new money we will see like \$204 millions and what is above and beyond what is projected we thought there might be \$30 million additional coming in these last several months before the biennium is over. We felt we were going to carry that dollar amount forward into the next biennium. If we do allocate some of the possible water commission money we would take from the \$235 million. We feel right now there would be \$30 million extra. I do not know the 2011-2012 forecasts for exceeding the forecast.

**Chairman Skarphol:** Is that \$30 million is based on OMB's oil price and production level using what figures?

**Dave Laschkewitsch:** Right now we are tracking at actual now we are up \$29.9 million. We are tracking approximately \$4 million only in the last two months. In the last two months we have been up \$4 million a month in the last two so give me three more months; if that continues on that \$30 million will probably approach \$42 million.

**Chairman Skarphol:** You are using actual production figures.

**Laschkewitsch:** I am tracking actual receipts. So those numbers are running about \$4 month and the actual receipts in the last two months have been \$8 million. That is why I was saying we are going to track another \$4 million up each month for the next three months.

**Chairman Skarphol:** It would be your intention as far as that additional \$12 to just carry that forward?

**Sando:** Money may be allocated to Devils Lake and flood fighting. We are going to move forward on the east end outlet as quickly as we can so we might have to allocate some of that money towards that. We might have to allocate some of that money toward our flood fight too.

**Chairman Skarphol:** Based on your best opinion you think you can do the east end outlet with the \$90 million you have here in your most current projections? Hopeful you can do it all. The \$12M would be a cushion.

**Sando:** Right now the cost estimate for the east end outlet is \$60 to \$90 million. Until we get our alignment precisely defined for the pipeline.

**Chairman Skarphol:** Colna Coulee control structure.

**Sando:** The Colna Coulee control structure is not built in and it is going to cost about \$10 million to build. That is not in the budget right now but we are still going down parallel path with the Corps of Engineers. We will be the local sponsor if the Corps builds it; if the Corp builds it they will pay 75% under advanced measures and then the state will have to pick up 25%. They are going to do the least costly alternative so if we want something different than what they design; say we want better control we may have to pay for some betterment.

**Chairman Skarphol:** You are estimating that cost to be \$5-10 million.

**Rep. Monson:** If they do it they will be build it at 1458 with no outlet or no control. They will do the cheapest thing. I will not vote for that. If that is the plan, I will vote for the whole thing to die.

**Sando:** We would not support that either. If they built the structure at 1458 and they allow us to come in and modify the true structures so they can put in bays; put in stop lots so we control the amount of water coming out and we can change the control elevation as the natural divide erodes down. That is the only way we would do a joint project with the Corps if we can put a control within it; not just leave it at a fixed we are 58.

**Chairman Skarphol:** So if the Corps is involved the least costly alternative in your mind would be how much total?

**Laschkewitsch:** If the Corps is involved. Probably if they build it a \$10 million and they pay seventy five percent of it; we would pay \$2.5 million.

**Chairman Skarphol:** So if you alter that and do it like you would like to do the additional cost would be from \$2.5 to \$7.5 million. Is that what you are saying?

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**Chairman Skarphol:** Did they suggest anything or just asking for consideration for forgiveness of debt?

**Sando:** It is repeal?

**Rep. Monson:** Section 10 was a repeater; and Section 5 was old session law. Have there been any other entities over the years come in and ask to have this done? Or is this new territory if we allow this can we expect Fargo to come in and say if you did it for Grand Forks then we shouldn't have to pay for our diversion full amount?

**Chairman Skarphol:** We haven't forgiven previous debt.

**Rep. Monson:** Have there been any other entities that have come in and asked Does this set a precedent? How would Southwest Water respond if we do it for Grand Forks would it be appropriate we let them off the hook for their annual or biennial payments to us?

**Chairman Skarphol:** Could it set precedence?

**Sando:** Other people see that yes it could.

**Chairman Skarphol:** How many others instances do we have pending?

**Laschkewitsch:** We have had nobody do repayment on flood control projects. There were some in 1999.

**Chairman Skarphol:** What is the urgency to do this? Payments don't start until 2018.

**Laschkewitsch:** There isn't any.

**Rep. Monson:** Getting back to other flood control projects probably we had nothing that had this kind of magnitude. Does anything come close to this?

**Sando:** Devils Lake Outlet when we built that was \$42M for the cfs.

**Rep. Monson:** There would be no repayment in a case like that I wouldn't think because that is not the same category.

**Sando:** That was a grant. Either we have grant or cost shares. Back when they did 2188 to fund those flood control projects it was tobacco settlement dollars that they bonded against.

**Senator Gary Lee, District 22:** Presenting the proposed Amendment to Engrossed Senate Bill 2020, see Attachment # 2, on behalf of Rep. Belter. The Kindred School District is impacted, and stands to lose 23% of their taxable value. That is about \$3.5 million dollars per year at the current taxable value that they have. It would include a loss of 125 students or nearly 20% of their student population. They just passed a bond issue of \$14.7 million; the payback is over 16 years. It is a if kind of thing. Their payment this year is \$915,000. That is substantial for a district of this size. That would mean a resident of that district about \$83 per \$100,000 of house value that each of those taxpayers would have. That wouldn't only be one district. About 25% of their district is in Cass County; the other 25% in Richland County; so it would affect both counties. It is a school district that covers nearly 1/3 of Cass County, not just the people who live along the river. The bill does not ask for anything to be spent at this time. The people have been put into a situation where they don't know what their home values will be until this is settled. Those people have really been put in a situation that in a suspended animation if you will. People living in Ox Bowl and that particular area don't know now what is going to happen. The home values aren't worth very much; especially if they try to sell. They can't sell until this thing is settled and that could be years down the road. This may just provide them some hope that somebody is looking out for them in terms of this particular issue; at least in regard to their school district. That Mr. Chairman is the amendment and what it is trying to do. I would try to answer any questions that you may have.

**Rep. Williams:** Could this also impact Richland 24?

**Senator Lee:** In talking with the Superintendent of Kindred; he wan't sure if their value loss would come up to that 5% or not with the current alignment as it exists.

**Rep. Monson:** I can see something similar happening in Devils Lake. This amendment wouldn't address that; same scenario. If you are going to put a control structure at 1458 you are virtually guaranteeing you are going to flood another 50,000 or more acres. Especially now if we have to move the school from Minnewaken to higher ground there is certainly going to be some kind of bonding there. If we do it for one we have to do it for all.

**Chairman Skarphol:** So based on the language in the bill ten years from the diversion happens and you have a 16 year repayment you could anticipate based on this language that they would make 23% of the payment on an annual basis. Is that right?

**Senator Lee:** They have six years left so it would be 23% of those six years remaining.

**Chairman Skarphol:** The mechanism that this espouses, is that an annual payment?

**Rep. Monson:** Are there going to be years in drier years that farmers could actually farm that or lose it permanently?



**Senator Lee:** The honest answer is I don't know. In terms of this example the numbers are really based on the communities that are being lost there. In dry years it could be farmable.

**Chairman Skarphol:** Based on the discussion, give us your opinion.

**Sando:** I think they are going to be losing a lot of students in the school district so it isn't about the farm land, but the school and homes that will be impacted.

**Chairman Skarphol:** I am not familiar enough with the project but this diversion has to involve some type of excavation; am I incorrect?

**Sando:** Yes it is going to be a gigantic excavation.

**Chairman Skarphol:** What portion of that would be in this school district? It is three football fields at the bottom in size.

**Sando:** The Corps of Engineers don't have a final project yet. They are trying to hold water upstream and not have it go around through the division rapidly so they want these ponding areas to hold that water back. So you are going to have stage increases upstream so you are going to have homes that will be impacted upstream. So the Ox Bowl area; they have been having lots of flooding problems during this wet cycle. Now it will be even more with this diversion project. The project will not be completed for 10 years. If you want to put this amendment into the Water Commission budget it is not a Water Commission responsibility to deal with roads or school districts.

**Rep. Monson:** If it is a water commission project and approved by you to backup and hold the water and because of that action you are taking away their ability to pay off their bonds; I see the connection and I agree with that. If you are going to approve something like that and put your money into doing it and it is going to flood somebody else; then you better be stepping up.

**Sando:** You would have to mitigate those projects so either you have to buy out those properties and ring dike those properties. We would mitigate and provide flood protection or buy them out. That would all be part of the big major flood control project that the federal government built at Fargo and the local sponsors have put money into and the State of North Dakota put money in. It is not common for us to put money into schools. We have to address those issues.

**Chairman Skarphol:** There are flooded lands and there has to be an effect on school district due to the excavation and actual trench. There has to be some value loss to the school district. What would the actual trench amount to?

**Lee:** ½ mile wide but it is huge.

**Chairman Skarphol:** What is the surface area that is going to get flooded?

**Sando:** Reference the map in the appendix of Attachment # 1. There are several miles of it that would be in the school district. I don't know exactly.

**Chairman Skarphol:** This is not your responsibility and this is premature.

**Sando:** Who knows what the project will be.

**Chairman Skarphol:** Nelson Lake, ear mark.

**Laschkewitsch:** Still have the \$250,000 and more than likely we would give that money out and maybe even more than that.

**Chairman Skarphol:** Redwick Dam in the north eastern part of the state.

**Sheila Sandness, Legislative Council Representative:** You asked the question earlier about wildlife services and funding for that. Game and Fish has \$868,800, Ag \$289,000 and water commission \$250,000.

**Chairman Skarphol:** This \$25,000 was strictly an add. It wasn't that it was taken from here and reduced somewhere else, correct?

**Sandness:** It came out of their budget. It did not come from somewhere else.

**Sando:** The Fargo Flood Control Project, see attachment # 3. Went over the handout.

**Chairman Skarphol:** On the green sheet it is the first bullet on the last page.

**Laschkewitsch:** In the previous biennium we had \$45 million for that project. We are adding another \$30 million in this biennium so there will be a total of \$75 million for the Fargo flood control project.

**Chairman Skarphol:** So they just took things unpaid?

**Laschkewitsch:** We have not spent any of last year's \$45 million.

**Chairman Skarphol:** This language is in the bill?

**Rep. Williams:** Referring to attachment # 3. In Fargo's flood control project we are going to need \$75 million available. What is the local going to be giving them?

**Sando:** The current cost estimate is like \$1.5 billion; the state of ND is looking at paying half of non-federal, non-Minnesota share so that is basically \$300 million for state of North Dakota and \$300 million for the locals.

**Rep. Williams:** So we are talking about \$75 million there out of the \$300 funded. Next session are we going to be putting in another \$75 million?

**Sando:** Yes there will be a need for a large dollar amounts to continue.

**Rep. Williams:** So we will be doing this for three or four bienniums.

**Sando:** That is right to get to the \$300 million.

**Rep. Monson:** Renwick Dam? What happened to this?

**Sando:** Look under general projects.

**Chairman Skarphol:** Tell me about the \$500,000. That must be for the Wildrose project.

**Laschkewitsch:** At this point there was \$2.7 million for allocated using permanent oil trust money for a number of projects. Those projects are progressing; however they will not have drawn their full amounts of money by the end of the biennium so that is simply an estimate of projects to go so we are asking for the \$500,000 to continue out of the same \$2.7.

**Chairman Skarphol:** You don't have carry forward ability on projects like that?

**Laschkewitsch:** That is why it is in our budget. That is all it is carry forward.

**Chairman Skarphol:** In the interest of full disclosure the projects that we authorized last time were for Ray, Tioga, Burke, Divide, Williams and Stanley. Wildrose was not included in that. The Wildrose project the funding was requested and the water commission made grants out of our regular funding pot.

**Laschkewitsch:** The only reason the \$500,000 is standing out the \$2.7 received a separate line item; otherwise it wouldn't really be standing out like it is.

**Chairman Skarphol:** That was because the stimulus dollars by the health department were for these projects and we just paid the balance that was not funded by stimulus dollars out of the permanent oil trust.

**Sando:** Under Richwick Dam rehabilitation we approved \$1,478,190 on 5-17-10. We have made zero payments to date. That is a federal project with NRCS so we are paying a big share of the local's contribution.

**Chairman Skarphol:** Is it on going?

**Sando:** Yes

**Chairman Skarphol:** Is it near completion?

**Sando:** No. It is a federal project so they haven't submitted for any cost share at this point.

**Chairman Skarphol:** Anything else? We are going to have to digest this amendment.

**Hearing closed**

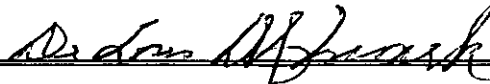
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
3/22/11  
15827

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

**Chairman Skarphol:** Called the Committee to order to hear SB 2020. The Water Commission beginning with State Engineer Todd Sando in regard to your budget. Am I correct? We did have a conversation earlier and had some discussions about some potential changes; would you like to address the committee with regard to that? The question was raised by Rep. Delzer about whether or not there any way that we can do anything with surplus monies that you have potentially coming before the end of this biennium with regard to any kind of road damage in rural parts of the Devils Lake area for safety reasons?

**Todd Sando:** Regarding indicated roads we feel right now in our budget we have \$235 million for projects and we feel indication of roads should be a road authority issue; not falling under the State Water Commission budget. I think it makes a lot more sense to have it left in Department of Transportation to do the road raises and deal with indicated roads. Right now there is major demand on the water funding aspect of it because of this wet cycle we are in so there is a lot of funding needs for flood control and water supply throughout the state. We can't get into road building, too. That is going to impact a lot of other water projects.

**Chairman Skarphol:** What revenue you may see in addition to the \$30 million that you have reflected here. We talked a little bit about potentially five or higher numbers today. Over and above the \$30 million you anticipate receiving that you have appropriated in this next biennium.

**Todd Sando:** We feel the Resources Trust Fund in new money we will see like \$204 millions and what is above and beyond what is projected we thought there might be \$30 million additional coming in these last several months before the biennium is over. We felt we were going to carry that dollar amount forward into the next biennium. If we do allocate some of the possible water commission money we would take from the \$235 million. We feel right now there would be \$30 million extra. I do not know the 2011-2012 forecasts for exceeding the forecast.

**Chairman Skarphol:** Is that \$30 million is based on OMB's oil price and production level using what figures?

**Dave Laschkewitsch:** Right now we are tracking at actual now we are up \$29.9 million. We are tracking approximately \$4 million only in the last two months. In the last two months we have been up \$4 million a month in the last two so give me three more months; if that continues on that \$30 million will probably approach \$42 million.

**Chairman Skarphol:** You are using actual production figures.

**Laschkewitsch:** I am tracking actual receipts. So those numbers are running about \$4 month and the actual receipts in the last two months have been \$8 million. That is why I was saying we are going to track another \$4 million up each month for the next three months.

**Chairman Skarphol:** It would be your intention as far as that additional \$12 to just carry that forward?

**Sando:** Money may be allocated to Devils Lake and flood fighting. We are going to move forward on the east end outlet as quickly as we can so we might have to allocate some of that money towards that. We might have to allocate some of that money toward our flood fight too.

**Chairman Skarphol:** Based on your best opinion you think you can do the east end outlet with the \$90 million you have here in your most current projections? Hopeful you can do it all. The \$12M would be a cushion.

**Sando:** Right now the cost estimate for the east end outlet is \$60 to \$90 million. Until we get our alignment precisely defined for the pipeline.

**Chairman Skarphol:** Colna Coulee control structure.

**Sando:** The Colna Coulee control structure is not built in and it is going to cost about \$10 million to build. That is not in the budget right now but we are still going down parallel path with the Corps of Engineers. We will be the local sponsor if the Corps builds it; if the Corp builds it they will pay 75% under advanced measures and then the state will have to pick up 25%. They are going to do the least costly alternative so if we want something different than what they design; say we want better control we may have to pay for some betterment.

**Chairman Skarphol:** You are estimating that cost to be \$5-10 million.

**Rep. Monson:** If they do it they will be build it at 1458 with no outlet or no control. They will do the cheapest thing. I will not vote for that. If that is the plan, I will vote for the whole thing to die.

**Sando:** We would not support that either. If they built the structure at 1458 and they allow us to come in and modify the true structures so they can put in bays; put in stop lots so we control the amount of water coming out and we can change the control elevation as the natural divide erodes down. That is the only way we would do a joint project with the Corps if we can put a control within it; not just leave it at a fixed we are 58.

**Chairman Skarphol:** So if the Corps is involved the least costly alternative in your mind would be how much total?

**Laschkewitsch:** If the Corps is involved. Probably if they build it a \$10 million and they pay seventy five percent of it; we would pay \$2.5 million.

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**Chairman Skarphol:** Did they suggest anything or just asking for consideration for forgiveness of debt?

**Sando:** It is repeal?

**Rep. Monson:** Section 10 was a repeater; and Section 5 was old session law. Have there been any other entities over the years come in and ask to have this done? Or is this new territory if we allow this can we expect Fargo to come in and say if you did it for Grand Forks then we shouldn't have to pay for our diversion full amount?

**Chairman Skarphol:** We haven't forgiven previous debt.

**Rep. Monson:** Have there been any other entities that have come in and asked Does this set a precedent? How would Southwest Water respond if we do it for Grand Forks would it be appropriate we let them off the hook for their annual or biennial payments to us?

**Chairman Skarphol:** Could it set precedence?

**Sando:** Other people see that yes it could.

**Chairman Skarphol:** How many others instances do we have pending?

**Laschkewitsch:** We have had nobody do repayment on flood control projects. There were some in 1999.

**Chairman Skarphol:** What is the urgency to do this? Payments don't start until 2018.

**Laschkewitsch:** There isn't any.

**Rep. Monson:** Getting back to other flood control projects probably we had nothing that had this kind of magnitude. Does anything come close to this?

**Sando:** Devils Lake Outlet when we built that was \$42M for the cfs.

**Rep. Monson:** There would be no repayment in a case like that I wouldn't think because that is not the same category.

**Sando:** That was a grant. Either we have grant or cost shares. Back when they did 2188 to fund those flood control projects it was tobacco settlement dollars that they bonded against.

**Senator Gary Lee, District 22:** Presenting the proposed Amendment to Engrossed Senate Bill 2020, see Attachment # 2, on behalf of Rep. Belter. The Kindred School District is impacted, and stands to lose 23% of their taxable value. That is about \$3.5 million dollars per year at the current taxable value that they have. It would include a loss of 125 students or nearly 20% of their student population. They just passed a bond issue of \$14.7 million; the payback is over 16 years. It is a if kind of thing. Their payment this year is \$915,000. That is substantial for a district of this size. That would mean a resident of that district about \$83 per \$100,000 of house value that each of those taxpayers would have. That wouldn't only be one district. About 25% of their district is in Cass County; the other 25% in Richland County; so it would affect both counties. It is a school district that covers nearly 1/3 of Cass County, not just the people who live along the river. The bill does not ask for anything to be spent at this time. The people have been put into a situation where they don't know what their home values will be until this is settled. Those people have really been put in a situation that in a suspended animation if you will. People living in Ox Bowl and that particular area don't know now what is going to happen. The home values aren't worth very much; especially if they try to sell. They can't sell until this thing is settled and that could be years down the road. This may just provide them some hope that somebody is looking out for them in terms of this particular issue; at least in regard to their school district. That Mr. Chairman is the amendment and what it is trying to do. I would try to answer any questions that you may have.

**Rep. Williams:** Could this also impact Richland 24?

**Senator Lee:** In talking with the Superintendent of Kindred; he wan't sure if their value loss would come up to that 5% or not with the current alignment as it exists.

**Rep. Monson:** I can see something similar happening in Devils Lake. This amendment wouldn't address that; same scenario. If you are going to put a control structure at 1458 you are virtually guaranteeing you are going to flood another 50,000 or more acres. Especially now if we have to move the school from Minnewaken to higher ground there is certainly going to be some kind of bonding there. If we do it for one we have to do it for all.

**Chairman Skarphol:** So based on the language in the bill ten years from the diversion happens and you have a 16 year repayment you could anticipate based on this language that they would make 23% of the payment on an annual basis. Is that right?

**Senator Lee:** They have six years left so it would be 23% of those six years remaining.

**Chairman Skarphol:** The mechanism that this espouses, is that an annual payment?

**Rep. Monson:** Are there going to be years in drier years that farmers could actually farm that or lose it permanently?

**Senator Lee:** The honest answer is I don't know. In terms of this example the numbers are really based on the communities that are being lost there. In dry years it could be farmable.

**Chairman Skarphol:** Based on the discussion, give us your opinion.

**Sando:** I think they are going to be losing a lot of students in the school district so it isn't about the farm land, but the school and homes that will be impacted.

**Chairman Skarphol:** I am not familiar enough with the project but this diversion has to involve some type of excavation; am I incorrect?

**Sando:** Yes it is going to be a gigantic excavation.

**Chairman Skarphol:** What portion of that would be in this school district? It is three football fields at the bottom in size.

**Sando:** The Corps of Engineers don't have a final project yet. They are trying to hold water upstream and not have it go around through the division rapidly so they want these ponding areas to hold that water back. So you are going to have stage increases upstream so you are going to have homes that will be impacted upstream. So the Ox Bowl area; they have been having lots of flooding problems during this wet cycle. Now it will be even more with this diversion project. The project will not be completed for 10 years. If you want to put this amendment into the Water Commission budget it is not a Water Commission responsibility to deal with roads or school districts.

**Rep. Monson:** If it is a water commission project and approved by you to backup and hold the water and because of that action you are taking away their ability to pay off their bonds; I see the connection and I agree with that. If you are going to approve something like that and put your money into doing it and it is going to flood somebody else; then you better be stepping up.

**Sando:** You would have to mitigate those projects so either you have to buy out those properties and ring dike those properties. We would mitigate and provide flood protection or buy them out. That would all be part of the big major flood control project that the federal government built at Fargo and the local sponsors have put money into and the State of North Dakota put money in. It is not common for us to put money into schools. We have to address those issues.

**Chairman Skarphol:** There are flooded lands and there has to be an effect on school district due to the excavation and actual trench. There has to be some value loss to the school district. What would the actual trench amount to?

**Lee:** ½ mile wide but it is huge.

**Chairman Skarphol:** What is the surface area that is going to get flooded?

**Sando:** Reference the map in the appendix of Attachment # 1. There are several miles of it that would be in the school district. I don't know exactly.

**Chairman Skarphol:** This is not your responsibility and this is premature.

**Sando:** Who knows what the project will be.

**Chairman Skarphol:** Nelson Lake, ear mark.

**Laschkewitsch:** Still have the \$250,000 and more than likely we would give that money out and maybe even more than that.

**Chairman Skarphol:** Redwick Dam in the north eastern part of the state.

**Sheila Sandness, Legislative Council Representative:** You asked the question earlier about wildlife services and funding for that. Game and Fish has \$868,800, Ag \$289,000 and water commission \$250,000.

**Chairman Skarphol:** This \$25,000 was strictly an add. It wasn't that it was taken from here and reduced somewhere else, correct?

**Sandness:** It came out of their budget. It did not come from somewhere else.

**Sando:** The Fargo Flood Control Project, see attachment # 3. Went over the handout.

**Chairman Skarphol:** On the green sheet it is the first bullet on the last page.

**Laschkewitsch:** In the previous biennium we had \$45 million for that project. We are adding another \$30 million in this biennium so there will be a total of \$75 million for the Fargo flood control project.

**Chairman Skarphol:** So they just took things unpaid?

**Laschkewitsch:** We have not spent any of last year's \$45 million.

**Chairman Skarphol:** This language is in the bill?

**Rep. Williams:** Referring to attachment # 3. In Fargo's flood control project we are going to need \$75 million available. What is the local going to be giving them?

**Sando:** The current cost estimate is like \$1.5 billion; the state of ND is looking at paying half of non-federal, non-Minnesota share so that is basically \$300 million for state of North Dakota and \$300 million for the locals.

**Rep. Williams:** So we are talking about \$75 million there out of the \$300 funded. Next session are we going to be putting in another \$75 million?

**Sando:** Yes there will be a need for a large dollar amounts to continue.

**Rep. Williams:** So we will be doing this for three or four bienniums.

**Sando:** That is right to get to the \$300 million.

**Rep. Monson:** Renwick Dam? What happened to this?

**Sando:** Look under general projects.

**Chairman Skarphol:** Tell me about the \$500,000. That must be for the Wildrose project.

**Laschkewitsch:** At this point there was \$2.7 million for allocated using permanent oil trust money for a number of projects. Those projects are progressing; however they will not have drawn their full amounts of money by the end of the biennium so that is simply an estimate of projects to go so we are asking for the \$500,000 to continue out of the same \$2.7.

**Chairman Skarphol:** You don't have carry forward ability on projects like that?

**Laschkewitsch:** That is why it is in our budget. That is all it is carry forward.

**Chairman Skarphol:** In the interest of full disclosure the projects that we authorized last time were for Ray, Tioga, Burke, Divide, Williams and Stanley. Wildrose was not included in that. The Wildrose project the funding was requested and the water commission made grants out of our regular funding pot.

**Laschkewitsch:** The only reason the \$500,000 is standing out the \$2.7 received a separate line item; otherwise it wouldn't really be standing out like it is.

**Chairman Skarphol:** That was because the stimulus dollars by the health department were for these projects and we just paid the balance that was not funded by stimulus dollars out of the permanent oil trust.

**Sando:** Under Richwick Dam rehabilitation we approved \$1,478,190 on 5-17-10. We have made zero payments to date. That is a federal project with NRCS so we are paying a big share of the local's contribution.

**Chairman Skarphol:** Is it on going?

**Sando:** Yes

**Chairman Skarphol:** Is it near completion?

**Sando:** No. It is a federal project so they haven't submitted for any cost share at this point.

**Chairman Skarphol:** Anything else? We are going to have to digest this amendment.

**Hearing closed**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
3/24/11  
15931

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

Testimony #1

**Chairman Skarphol:** Brought the Committee to order to discuss SB 2020, the Water Commission explaining Attachment # 1, Page 17 going through the SWC priority projects list. Probably a more appropriate use of that money is to put it in General Water Management to give him the flexibility to do some small projects in other areas. He was pretty comfortable with the rest of the priority list.

**Rep. Hawkins:** There are too many water projects and some that would be adversely affected.

**Chairman Skarphol:** If we limit it to \$1 there are projects out there that wouldn't get completed with that provision in there.

**Rep. Dosch:** Section 10, Repeal, if we wanted to look at that. That is the Grand Forks payment on their bonds. The bond repayment wouldn't start till 2018 because they have to pay off some building. They have to release themselves of the liability.

**Chairman Skarphol:** Then he had an issue with the Nelson County designation of \$250,000 too. That is in the Senate amendment. The grant for Wildlife Services for \$250,000; so that is now down to \$100,000 now. I agree with you on Section 10.

**Rep. Dosch:** Do we know how much the State of ND gave Grand Forks for their flood control project?

**Chairman Skarphol:** What is going to happen if they do it up the river? Is Grand Forks going to be able to handle the flow that would happen with the Fargo diversion?

**Sheila Sandness:** It was \$52 million in 1998 or 99.

**Rep. Dosch:** Any indication of what percentage of the cost was that?

**Sandness:** It is not in this document but SB 2188 passed in 1999 authorized the issuance of bonds for statewide water development including the \$52 million for Grand Forks flood control. I have to do some digging to find out what the total costs were.

**Chairman Skarphol:** What about Rep. Belter's amendment? It probably gives them some leverage of some kind in talking about the issue. It gives Kindred a little bit of leverage in the whole discussion. I don't see it that way. We aren't going to kick this one out until Monday. Allocation of oil and gas impact grants; that little 2132 had \$8 million which would be eligible for up to \$500,000 grants out of that \$8 million oil impact money to a community. We did ask council to check on if any other states have better or more descriptive information to what the criteria are.

Hearing closed.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
3/25/11  
16008

Conference Committee

Committee Clerk Signature *Shirley Branning*

**Explanation or reason for introduction of bill/resolution:**

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

**Minutes:**

You may make reference to "attached testimony."

**Chairman Skarphol:** A conversation with Dave Laschkewitsch and Bob Schafer on the metering thing. They don't want the responsibility of purchasing the meters but they are more than willing to set up the specifications for what the meters have to do and would be able to do. They are working with Sheila on an amendment with regard to getting the language needed and Bob Schafer said "I'd like to do a pilot." I said that is fine we will pilot all 41 industrial water permit sites as opposed to the irrigation and commercial and residential ones. If he wants to know whether or not it'd work, a lot of different meters should be out there to see if they are compatible. We will see that amendment. Senate hasn't acted on 1206, the water deal for the Western Area. I still haven't had that conversation with Senator Fischer. We are on hold for that one.

**Meeting closed.**



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
4/5/11  
16369

Conference Committee

Committee Clerk Signature

*Shirley Branning*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

You may make reference to "attached testimony."

**Chairman Skarphol:** Called the Committee to order to discuss SB 2020.

**Rep. Martinson:** Move an amendment to delete Section 9 from SB 2020.

**Rep. Hawken:** Second

**Chairman Skarphol:** Any discussion? It would allow for the contract by the water commission with the Garrison Diversion District more than \$1M limitation than what should be on here, it would go back to previous practice.

**Voice Vote:** All those in Favor

**Motion carried:** 6-0-0

**Chairman Skarphol:** Requesting **Sheila Sandness, Legislative Council Representative** to walk the committee through Amendment # .02003. See Attached Amendment.

**Sandness:** Explaining Amendment # .02003 as it pertains to meters.

**Chairman Skarphol:** The reason for the change in the language is, nonpotable ground water they are throwing hoses are put into ponds. I am not real satisfied with the 25 acre feet and the description leading up to it. I think it should be for water wells or supply sources that are permitted for...and I would like to see 15 rather than 25 acre feet because it does make a fairly significant difference. That we can always raise in conference

addition to what is on here. Intentionally circumventing the metering of the water would have some type of penalty such as a temporary suspension of a permit or temporary suspension of utilization of that water source. Charts are available that show the number of wells that would be affected by this.

Do you have any thoughts on how to get that to permitting? Addressing Sandness.

**Sandness:** Drafting new amendment. We can say "except for nonpotable ground water used for the enhanced oil recovery purposes, and water uses of less than 15 acre feet per year. All other permitted and temporarily permitted water industrial supplies are required ..." We will say "the state water engineer shall require the remote reading of .....Do you want language regarding the penalty? Language regarding what that penalty should be?"

**Chairman Skarphol:** Is it logical if you are going to have a requirement for metering you'd have a requirement for trying to circumvent.

#### **Inaudible Dialog**

**Chairman Skarphol:** This is a \$50 to \$100M a year business, in today's world. A 30 day suspension of the right to sell....

#### **Inaudible Dialog**

**Chairman Skarphol:** Language to that effect, a 30 day suspension.

Do we have a motion?

**Rep. Dosch: Move to accept the amendment**

**Rep. Hawken: Second**

**Voice Vote: Motion Carried**

**Pause to 11:18**

**Rep. Dosch: Section 10**

**Chairman Skarphol:** Section would repeal the requirement that Grand Forks repay, referring to fiscal note for SB 2020.

**Rep. Dosch:** Repay \$12M in bonds.

**Chairman Skarphol:** They don't start their repayment until 2018. This fiscal bill deals exclusively with SB 2020 section 10, it repeals section 5, SB 2188 passed on the .....which required the City of Grand Forks to pledge the revenues of the corporate center to partially repay the water development trust fund for their flood control project. At the time the Senate bill was passed, an analysis was prepared estimating that \$12.164M would be repaid to the water development trust fund over 21 years. These payments would not

begin until 2018 and end in 2039. This section eliminates these future revenues.  
Addressing Sandness: Was that put on in the Senate?

**Sandness:** Yes, it was.

**Rep. Dosch:** We are setting a dangerous precedent here. If we start doing this, then there is no end and I will **Move to take out section 10 from the bill.**

**Rep. Monson:** **Second**

**Voice Vote carries: 5-1-0 Rep. Hawken opposed. Motion carried.**

**Chairman Skarphol:** During the Commissioner's presentation he talked about the list of his priorities. Are they reflected in the bill? The distribution of the moneys as he recommended on the water commission. It is on p. 17 of his testimony. See Attachment # 1, dated 3/17/11. In this it has \$5M to the Red River Water Supply.

**Tad Torgerson, OMB Analyst:** Those projects are not listed specifically in the bill.

**Chairman Skarphol:** So he has the ability to move that on his own?

**Torgerson:** The water commission would approve those projects as they are presented to them.

**Chairman Skarphol:** Is it an approved list that has been provided by the water commission?

**Torgerson:** I don't believe this list has actually been approved yet by the water commission. These are looked at as a priority.

**Chairman Skarphol:** He asked that \$5M be removed from the Red River Valley Water Supply to general water maintenance. Why would he ask that unless he felt some need for action on our part?

**Torgerson:** Not sure.

**Rep. Monson:** I remember when we did move things around. We changed the order.

**Chairman Skarphol:** The suggestion was that the \$5M utilized to purchase options on the potential route for the Red River Valley Water Supply but it is so far away it is almost ludicrous to purchase options in case there is a change in directions and where they want to go. The money could be better utilized in general water management.

**Sandness:** In the past, there has been legislative intent put into the bills such as those put in by the Senate to say certain amounts of money would be used to various purposes. Language regarding the \$5M could be put into intent in the bill.

**Chairman Skarphol:** The money the water commission spends, as Garrison Diversion that was initially limited to \$1M typically comes out of that general water management line, does it not?

**Sandness:** They have a one line item budget so they may not be limited to identifying projects in a certain way. All projects are put into one line.

**Chairman Skarphol:** If we wanted to preclude them from doing the Red River Valley Water Supply we would have to put language in instructing them not to.

**Sandness:** I believe that would work.

**Chairman Skarphol:** The majority leader felt it is not the time to purchase these options. We've already bought \$5M worth. **Inaudible dialog 19:56.**

It is an option to get an easement.

Unless you knew for certain, this would be a strange way to go, spending money purchasing options.

Put legislative intent in that it not be a priority, and that it would be used in general water management. It would not preclude him from doing whatever he deems necessary. We need a motion to make that happen.

**Sandness:** Intent language of \$5M for the Red River Valley Water Supply project instead be used in general water management.

**Chairman Skarphol:** And that there would be no money available for the Red River Valley Water Supply project.

**Rep. Dosch: Move**

**Rep. Monson: Second**

**Voice vote: 6-0-0 carried.**

**Chairman Skarphol:** We will not take final action on this until tomorrow morning.  
**Discussion closed.**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2020  
4/6/11  
16386

Conference Committee

Committee Clerk Signature

*Shirley Branning*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

*Proposed Amendment .02002*

**Chairman Skarphol:** Called the committee to order noting that everyone is present. Introducing Rep. Wes Belter to the podium to address his amendment to SB 2020.

**Rep. Belter, Dist. 22:** Presented an explanation of proposed Amendments to Engrossed SB 2020 .02002, the responsibility to the diversion project to the Fargo flood control project funding. Discussing the bonding. I live in the city of Fargo and I think we have an obligation to prevent any potential loss.

**Chairman Skarphol:** Welcoming student visitors from Richardton. Addressing Rep. Rep. Belter, Is it your vision that if we pass this and ultimately there would be land taken away from the school districts so they would lose the property value, that the Fargo Flood Control project would make the annual payments associated with that loss of property or would they pay off that portion of total indebtedness so that only the remaining portion would have annual payments?

**Rep. Belter:** They would only be paying that proportion of the remaining indebtedness if it exceeds 5%. There is the stipulation that the school district has to incur at least a 5% reduction in its valuation.

**Chairman Skarphol:** A potential 20% loss to the school district and in five years you lose 20% to this project, would you envision with this amendment that they make 20% of the payment annually or that they pay off 20% of the remaining indebtedness, thereby reducing the total indebtedness in the remaining portion....

**Rep. Belter:** Intent is to pay it off annually for their portion of the remaining indebtedness..

**Rep. Hawken:** How do you feel about the local entities, the county being involved in this? There is discussion that they are going to buy out homes that are in the Kindred School district within the next year to a year and a half. The land will still be there but the homes will not. How does the local piece fit in there or what is the local responsibility?

**Rep. Belter:** Major decisions on the local level on the costs that will incur. Losses of revenues because of the costs are being paid by the Maple River Dam Diversion. The only money available would be the sales tax money that could be tapped. That is not involved in the bill.

**Rep. Dosch:** Some of the comments that we have heard, since there is no project approved or even agreed upon yet for the area is jumping the gun. Premature in putting it out there at this point in time.

**Rep. Belter:** It is important to send the message that there needs to be compensation to those who will be flooded. Those of us who live in Fargo will be beneficiaries of this diversion. The people getting flooded because of the diversion and are incurring costs. We have an obligation to cover some of those costs.

**Rep. Williams:** I agree with this amendment because Richland 44 is in my district. It may be premature but we have a responsibility. If there is inundated property in those school districts someone other than the taxpayers in those districts should be responsible for it and the Water Commission made the decision. I support the amendment.

**Chairman Skarphol:** More than just the school districts will be effected. Why did you not mention them?

**Rep. Belter:** Bond indebtedness is a major tax issue. I don't know of any bond indebtedness of any level has been taken on. Now people can plan for it but these school districts who passed a bond issue several years ago had no idea that a diversion project as this would have the impact it would have

**Chairman Skarphol:** As the plan develops will it be brought forward and the estimated cost of the project brought forward?

**Rep. Belter:** That is true until you may not have enough money to go around. These costs need to be brought forward now. We are talking bond indebtedness; Kindred could lose 20% or more of its kids and per pupil payments decline.

**Chairman Skarphol:** Take it under our council. Addressing Sheila Sandness, Legislative Council Representative regarding any other issues related to this bill.

**Sandness:** No other notes at this time.

**Chairman Skarphol:** How do we deal with this issue?

**Rep. Monson:** I don't know that there is any imminent hurry to put this on. This project is two years down the road. The people who will be winning is the school district. It is saving their land at the expense of somebody else's. Maybe sales tax in Fargo should kick in.

**Rep. Dosch:** Whatever the final plan is in Fargo for the diversion is, there will be compensation and mitigation as a part of that. What about other entities effected? Should the money come from Fargo, from the state? I cannot support this because it is premature.

**Rep. Williams:** Do pass on the amendment .02002.

**Chairman Skarphol:** Your motion dies for lack of a second.

**Sandness:** Legislative intent in Section 8 of the bill regarding the grant to Wild Life Services to \$100,000.

**Chairman Skarphol:** \$200,000 We don't need to take any action on it, do we?

**Rep .Hawken:** Move to pass 2020 as amended

**Rep. Monson: Second**

Requesting Sandness to run through all of the amendments as a quick summary.

**Sandness:** Legislative intent in Section 8 of the bill regarding the grant to Wild Life Services to \$100,000. Yesterday the committee acted to delete Section 9 of the bill, approved an amendment .02003 with changes regarding the metering of certain water sources, delete Section 10 of the bill which is the repeal of Section 5 of Chapter 535 of the 1999 session laws that had to do with the repayment in Grand Forks. This committee will be adding legislative intent that \$5M of Red River Valley Water Supply money be used in general water management and no if dollars available in Red River Valley Water Supply projects.

**Rep. Monson:** Red River Valley water supply, we want to restrict them from further options.

**Sandness:** In their testimony they included \$5M and this would limit that.

**Roll Call Vote: 6-0-0 Motion Carried. Carrier Rep. Skarphol**

**Meeting closed.**

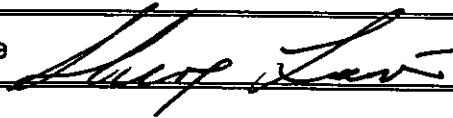
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

SB 2020  
April 8, 2011  
Recorder Job# 16447

Conference Committee

Committee Clerk Signature



## Minutes:

First few minutes on Water Commission (SB 2020)

Chairman Delzer informed committee the testimony from State Water Commission was provided.

**Representative Skarphol:** If I might just mention if you look at that list of potential allocations; when I talked about the \$5 million from Red River Valley Water Supply, we in our section in the bill, recommended that be moved up to general water management. That total would become \$31 million.

**Representative Nelson:** Correct me if I'm wrong, but, the \$235 million that's listed here is what we are appropriating for each one of these items. There was more money that was generated in the trust fund. Does the water commission really have the authority to spend money?

**Chairman Delzer:** They've been given a continued appropriation on the water resources trust fund. That's something that never was as much money until this time. It's something the legislature may want to take a look at in some point in time. I believe the \$235 million included most of their estimated increase from the revenue report showed.



**Representative Nelson:** Is there a reporting mechanism or is it subject to emergency commission or budget section approval?

**Chairman Delzer:** I believe not. I believe there might be a reporting requirement; but, I don't believe there's any budget section approval. It's the water commission which is chaired by the governor and I don't know if it has all of the industrial commission, it has the ag commissioner on it and a number of other individuals; the state engineer, etc.

**Representative Skarphol:** This \$235 million are not appropriated. That's their list of priorities based on the money being available.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee  
Roughrider Room, State Capitol

SB 2020  
4/8/11  
16437

Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the state water commission; to amend and reenact section 7 of chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding; to provide exemptions; to repeal section 5 of chapter 535 of the 1999 Session Laws, relating to pledge of revenues from the Grand Forks corporate center; to provide legislative intent; to provide for retroactive application; and to declare an emergency.

## Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** Called the committee to order. Roll was called and a quorum was declared. We'll start with 2020.

**Representative Skarphol:** You should have amendment .02004. On section 6, with all of the money being generated by the sale of water in western ND to the oil field, we thought we should have a more accurate measurement of what that amounts to. We put in language that by July 1, 2012, remote metering of water used for oil and gas purposes would be required. There's a lot of different scenarios out there, communities and individuals selling, and we're a little concerned about what's happening to the aquifers in some of these cases. In the past, the honor system has been the system by which people reported their water usage; you get a permit for so many acre-feet and at the end of the year you tell them how much you used. I'm not quite sure that system really works very well anymore. This requires the water commission to set up a system with meters readable by satellite and on a web-based site for anyone and everyone to be able to look at what's being utilized out of the aquifers. There is a penalty for trying to circumvent the meters; obviously without a penalty there's no reason to comply. The reduction on page 3 line 31 is the amount of money going to wildlife services. We removed section 9 of the bill, which put a limitation on the amount of money that could be spent by the water commission in contracting with the Garrison Diversion services district. We removed line 7 page 4, which removes a section, it continues to require Grand Forks to repay what they agreed to after the 1997 flood. They do not have to start to repay that until 2018, and if a subsequent legislature thinks it's appropriate for them not to have to repay it, they can make that decision, we don't need to be making that decision this early in time. I move amendment .02004.

**Representative Monson:** Second.

**Chairman Delzer:** We have a motion to amend engrossed SB 2020 with .02004. Discussion?

**Representative Kaldor:** In the engrossed bill (.02000) section 9, did we have any testimony from the water commission on the status of the Red River water supply project? Do they expect to go through next biennium without incurring any costs on that project?

**Representative Skarphol:** The Red River Valley water supply (RRVWS) money has been used in the past for the purchase of options for the route of the line. The water commission requested that we not do that for this next biennium, and that the money in fact be allowed to move to general water management to give them more capabilities to do some of the things they thought were more appropriate. The RRVWS was far enough away that they didn't think it was imperative to get those options purchased.

**Representative Kaldor:** And I understand that, I don't think they anticipate any federal dollars for quite a long time. Their planning, at least for future options, they'll just go into suspension for the time being.

**Representative Skarphol:** Correct.

**Representative Nelson:** In section 6 of the amendment you talk about the metering, and the technology to read those meters. Was there a cost estimate on what it would cost to implement that?

**Representative Skarphol:** It is a satellite system that has been developed. The meter itself costs about \$2500, there is an installation cost, and there is a minor monthly cost, probably \$50 or less. This business is generating somewhere between \$50-\$100 million a year in water sales now. There are 40 sites that are going to be impacted by this, and the cost of that metering will be passed on to the guys purchasing the water, and I don't believe they'll find it to be all that significant.

**Representative Klein:** Did you say section 10 was requested by the water commission?

**Representative Skarphol:** Yes it was.

**Chairman Delzer:** Further discussion? We'll do a voice vote. Motion carries. Further amendments to SB 2020?

**Representative Glassheim:** I move we further amend by putting the repealer in section 10 back in.

**Representative Dahl:** Second.

**Chairman Delzer:** Committee, I'm going to oppose this further amendment. I don't believe it's the proper time to make this decision.

**Representative Glassheim:** During the flood of 97, Governor Schafer promised Grand Forks 25% of the cost of flood control. The money was found from the tobacco settlement money, and they established the 45% of tobacco settlement money to go into the water distribution fund, and out of that, over two or three biennia that money went to Grand Forks to pay for about a quarter of the cost of flood control, which was very much appreciated. For whatever reason, I think starting in the Senate, we had a building that got some federal funding in downtown Grand Forks, and it was to be paid out over 25 years, and the legislature put a lien against that building for us to pay back some of the money the state had granted us for the flood control project. As far as I know, they've never done the same for any other flood control project in the state. The citizens of Grand Forks paid their quarter, and the feds paid a half for the total cost. This is exactly the appropriate time to do this, because in this bill, we have \$45 million for the Fargo flood control project. They're not being asked to pledge or mortgage anything in order to pay the state back for their money. This is a good time to get it off the books. No other project has to pay the state back, what Governor Schafer intended to be the state's contribution to the total non-federal, federal, and state share. We of course support the Fargo project, but it seemed fair to take this thing hanging over Grand Forks's head out in the same bill at this time.

**Chairman Delzer:** Further discussion on the motion to further amend?

**Representative Skarphol:** Southwest water, while it's not a flood project, it's a water supply project, was also enabled with state help. That entity has to pay ad infinitum an annual fee to the state of ND for helping them create their system. So there is some basis for repayment. In the case of the proposed WAWS (western area water supply) project, it was intended that that project pay back the initial grant. I think it would be unfortunate at this time if we set a precedent of saying, yeah, you need to pay back the money, and then a few years later saying, no, you don't need to pay back the money. It would become an assumption on the part of entities that they don't need to stand behind what they've done.

**Chairman Delzer:** What is the state's supposed share of the Fargo flood control? Is it 10%, do we know?

**Representative Skarphol:** I don't want to say, I'm not sure, I think it's larger than that. I've heard estimates the state's contribution is to be \$300 million, and that's a portion of it, and the local contribution is larger than that.

**Chairman Delzer:** Further discussion on the motion to further amend?

**Representative Monson:** Does anyone know exactly how much money we're talking about with this?

**Chairman Delzer:** Around \$12.5 million. Further discussion? Seeing none, we'll do a voice vote. Voice vote fails. Roll call vote requested, vote is 10-10-1, motion fails on a tie. Any further motions for 2020?

**Representative Kaldor:** Regarding the Fargo flood control project and funding, what does the section of Century Code 54-44.1-11 obligate us to? I'm looking at sections 6 and 7 of

the engrossed bill. When we come back in future legislative sessions, are we obligated to a particular amount? What are the parameters? I think it's about a \$1.7 billion project.

**Chairman Delzer:** My understanding is they're hoping to build this reserve to \$300 million.

**Representative Skarphol:** That is my understanding as well. We'll build it gradually, so when the time comes that we do need to have the money available, at least a significant portion of it is there.

**Representative Kaldor:** We must have something in that fund already.

**Representative Skarphol:** Last time it was \$45 million put in there, this time it's \$30 million. There has not been any money expended from it, and there is a provision in here that would allow for some of the right of way acquisition costs, engineering, legal and planning to be covered by it. The city of Fargo has been having to cover that out of their own revenue, and they are looking to recover some of that from these dollars.

**Chairman Delzer:** The rest of the dollars would have to be appropriated at a future session.

**Representative Skarphol:** I move Do Pass as Amended on SB 2020.

**Representative Dosch:** Second.

**Representative Skarphol:** This is a highly special funded entity with a significant amount of money available, but it's also got an extremely large job to do. Their priority list dedicates \$90 million to Devils Lake outlets; of that, the pumped outlet on the east side is estimated to cost anywhere from \$60-\$92 million, and the control structure they would like to install at the coulee would be \$5-\$10 million. They feel they have the money to cover those within the monies they have available. They also anticipate a future west end expansion for moving water that will cost \$30-\$50 million, that is not incorporated in here. As we walk through the priority list, the Fargo flood control is \$30 million, general water management is \$31 million, irrigation is \$5 million, Missouri River management is \$1 million, northwest area water supply is \$12 million, southwest water pipeline is \$25 million, state water supply program or MR&I project is \$15 million, western area water supply is \$25 million if that happens, and \$1 million for weather modification. Their priority list totals \$235 million that they would spend on water projects, and it's estimated that they may have as much as \$30 million more than that available based on potential oil revenues. Our committee was very convinced by this agency that their priorities are right and that they're doing their job in a fashion that is appropriate.

**Chairman Delzer :** They have a continuing appropriation on water resources trust fund, which is 20% of the oil extraction tax, right?

**Representative Skarphol:** That's correct, and that's the money they are anticipating spending. They have the ability to move money back and forth between projects, but typically when they dedicate money to some project, they will take it off the books to ensure

that the money is available. If the project doesn't happen, the money becomes available again for something else.

**Chairman Delzer:** How does that money roll into that water resources trust fund?

**Representative Skarphol:** I'm assuming it's on a regular basis, but I didn't ask that question.

**Chairman Delzer:** I would guess it's monthly. I see we're up about \$1 million on general fund, that is for the administration of the water commission?

**Representative Skarphol:** Correct. \$200,000 goes to the administrative and support services line, and it's granted to the game and fish department for enforcement activities on sovereign land. It's used, for example, in Bismarck-Mandan on the beaches in summertime. We did not spend a lot of time on that, we were more interested in the costs associated with the major projects they were doing.

**Representative Nelson:** Would you repeat how the \$30 million that's expected to come into the water resource trust fund, what flexibility the Water Commission has with that particular funding?

**Representative Skarphol:** That's an optimistic estimate, it's probably more in the range of \$5-\$8 million, though there were those that thought that was too conservative. They do have a great deal of flexibility with that money as to the utilization of it for legitimate water purposes.

**Chairman Delzer:** 2188 laid out certain lines of things that should get done and we've adjusted those over time as to what's the most important.

**Representative Nelson:** The issue that I have is that with the potential and realized funding reductions from the feds in water supply projects, the MR&I appropriation of \$15 million doesn't allow many projects to go forward. There's a number of residents that have waited nearly 20 years for water that they've signed up for, and they've waited, and in the meantime, infrastructure is failing and there's a lot of need for that. I'm wondering if that was considered in this budget, as far as the legislature making a commitment from a priority standpoint.

**Representative Skarphol:** In the budget, the priority list is provided, but it is not a legislative mandate. It's their priority list, not requirements. We give them flexibility.

**Chairman Delzer:** We'll pass out the testimony from the water commission for everybody, see attachment 1. Further discussion?

**Representative Kaldor:** In the Senate amendment, section 6 subsection 7 of the engrossed bill which contains the 65% funding requirement that was in the 2009 Senate bill, what effect does that have or what does that mean?

**Sheila Sandness, Legislative Council:** The Senate amended the 2009 session laws to include right of way acquisition costs and to provide that no more than 10% of the funds may be used for engineering, legal planning, and other similar purposes. They took out that administration reference, and the subject to the 65% funding requirement. In 2009 there was SB 2316 that addressed that.

**Representative Kaldor:** I'm looking at 2316 session law and I don't see anything in there other than cost sharing.

**Sandness:** I'd have to look into the history of the budget bill from last time, but it could be that when that was added there was different language in 2316, and that may have been amended later. I'll research it and let you know.

**Representative Kaldor:** I'm assuming that's some kind of local match, or there is a match requirement that was in place in 2009 and that the Senate deleted that. I'm curious about the reason for that.

**Representative Glassheim:** I just hope that the conferees on this bill will bear in mind in relation to that section 10 that Fargo flood control and the millions we're spending on Devils Lake and there's no mortgage or lien put on any of their properties to pay it back. We don't do it that way. Secondly, we change things all the time. Third, what's changed since that measure was put on is significantly increased oil revenues in the water fund. I think at the time, there was concern that it would be too much going to Grand Forks, too much percentage of the total, but that's no longer the case. There are significantly new dollars in the water projects from the oil revenues. The state doesn't need this money back, and the reason for putting it in has passed.

**Chairman Delzer:** So noted. Further discussion?

**Sandness:** SB 2316 from the 2009 session as it was introduced said flood control projects, state cost share, notwithstanding any other provision of law, the state water commission shall provide 65% of the funding for any flood control project eligible for state cost share of matching funds, costs eligible for state cost share or matching funds include expenses for legal fees, engineering fees, and acquisition of land. That language was later amended to what Representative Kaldor referred to.

**Representative Kaldor:** That's why I asked the question, in this amendment, why is it referenced, when it really wasn't part of the session law?

**Sandness:** That amendment is to the budget bill of the water commission. That language was in budget of the water commission last session, it made reference to it, and that didn't get updated after SB 2316 changed.

**Chairman Delzer:** Further discussion on the motion for a Do Pass as Amended on 2020? We'll call the roll. Motion carries 19-1-1. Representative Skarphol will be the carrier.

Date: 4/5/11  
Roll Call Vote #: 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2020**

House Appropriations – Education and Environment Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Monson Seconded By Rep. Martinson

<b>Representatives</b>	<b>Yes</b>	<b>No</b>	<b>Representatives</b>	<b>Yes</b>	<b>No</b>
Chairman Bob Skarphol	X		Clark Williams	X	
Vice Chair Hawken	X				
Mark Dosch	X				
Rep. Martinson:	X				
David Monson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
To delete Section 9 From SB 2020. allowing for the contract by the water commission with the Garrison Diversion District more than \$1M limitation than what should be on here, it would go back to previous practice.



PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

Page 1, line 2, after "commission" insert "; to create and enact a new section to chapter 61-04 of the North Dakota Century Code, relating to metering certain water sources"

Page 2, after line 30, insert:

"SECTION 6. A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than twenty-five acre-feet per year, the state engineer shall require the remote metering of water used pursuant to a temporary or perfected water permit and sold for oil and gas purposes. The rules must provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof; and
5. That meters may be replaced only under supervision of the state engineer.

Page 4, line 8, replace "6" with "7"

Renumber accordingly

Date: 4/5/11  
Roll Call Vote #: 2

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2020**

House Appropriations – Education and Environment Committee

Check here for Conference Committee

Legislative Council Amendment Number .02003

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Dosch Seconded By Rep. Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Bob Skarphol	X		Clark Williams	X	
Vice Chair Hawken	X				
Mark Dosch	X				
Rep. Martinson:	X				
David Monson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
"except for nonpotable ground water used for the enhanced oil recovery purposes, and water uses of less than 15 acre feet per year. All other permitted and temporarily permitted water industrial supplies are required ..." "the state water engineer shall require the remote reading of...." And language regarding a penalty.

Date: 4/5/11  
Roll Call Vote #: 3

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2020**

House Appropriations – Education and Environment Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Dosch Seconded By Rep. Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Bob Skarphol	X		Clark Williams	X	
Vice Chair Hawken		X			
Mark Dosch	X				
Rep. Martinson:	X				
David Monson	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
Take out section 10 from Senate bill 2020.

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2020**

House Appropriations – Education and Environment Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By Rep. Dosch Seconded By Rep. Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Bob Skarphol	X		Clark Williams	X	
Vice Chair Hawken	X				
Mark Dosch	X				
Rep. Martinson:	X				
David Monson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:  
 Intent language of \$5M for the Red River Valley Water Supply project instead be used in general water management and that there would be no money available for the Red River Valley Water Supply Project.

Date: 4/6/11  
 Roll Call Vote #: 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. SB 2020**

House Appropriations – Education and Environment Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hawken Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Bob Skarphol	X		Clark Williams	X	
Vice Chair Hawken	X				
Mark Dosch	X				
Rep. Martinson:	X				
David Monson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Rep. Skarphol

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

April 6, 2011

V/K  
4/8/11  
102

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

Page 1, line 2, after the semicolon insert "to create and enact a new section to chapter 61-04 of the North Dakota Century Code, relating to metering certain water sources;"

Page 1, line 3, remove "to repeal section 5 of chapter 535"

Page 1, remove line 4

Page 1, line 5, remove "center;"

Page 2, after line 30, insert:

"SECTION 6. A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require the remote metering of water used pursuant to a temporary or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer; and
6. That the penalty for circumventing the provisions of this section shall be a thirty-day suspension of the noncompliant permit."

Page 3, line 31, replace "\$250,000" with "\$100,000"

Page 4, replace lines 3 through 6 with:

**"SECTION 10. LEGISLATIVE INTENT - WATER-RELATED FUNDING PRIORITIES.** It is the intent of the sixty-second legislative assembly that the \$5,000,000 for the Red River valley water supply project identified by the state water commission as a 2011-13 biennium funding priority be used for general statewide water management and that the state water commission not spend any funding for the Red River valley water supply project during the 2011-13 biennium."

Page 4, remove line 7

Page 4, line 8, replace "6" with "7"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - House Action**

This amendment changes the legislative intent section relating to a grant to Wildlife Services by reducing it from \$250,000 to \$100,000.

The amendment removes:

- Section 9 providing legislative intent relating to the Garrison Diversion Conservancy District.
- Section 10 repealing Section 5 of the 1999 Session Laws Chapter 535 relating to a pledge of revenues from the Grand Forks Corporate Center.

In addition, the amendment:

- Adds a section to create a new section to Chapter 61-04 relating to the metering of certain water sources.
- Provides legislative intent relating to the use of funds for water project priorities.

Date: 4/8  
 Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2020

House Appropriations Committee

Legislative Council Amendment Number 02004

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep Skarphol Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*voice vote carries*



Date: 4/8  
 Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2020

House Appropriations Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Glassheim Seconded By Rep. Dahl

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Representative Nelson	X	
Vice Chairman Kempenich			Representative Wieland		X
Representative Pollert		X			
Representative Skarphol		X			
Representative Thoreson		X	Representative Glassheim	X	
Representative Bellew		X	Representative Kaldor	X	
Representative Brandenburg		X	Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch		X	Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt		X			
Representative Martinson	X				
Representative Monson		X			

Total (Yes) 10 No 10

Absent 1

Floor Assignment \_\_\_\_\_

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

*put the repealer in section 10 back in  
 motion fails  
 roll call vote requested*

Date: 4/8  
 Roll Call Vote #: 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2020

House Appropriations Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Representative Skarphol Seconded By Representative Dosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	✓		Representative Nelson	✓	
Vice Chairman Kempenich			Representative Wieland	✓	
Representative Pollert	✓				
Representative Skarphol	✓				
Representative Thoreson	✓		Representative Glassheim	✓	
Representative Bellew	✓		Representative Kaldor	✓	
Representative Brandenburg	✓		Representative Kroeber	✓	
Representative Dahl		✓	Representative Metcalf	✓	
Representative Dosch	✓		Representative Williams	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Kreidt	✓				
Representative Martinson	✓				
Representative Monson	✓				

Total (Yes) 19 No 1

Absent 1

Floor Assignment Rep. Skarphol

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

Motion carries

**REPORT OF STANDING COMMITTEE**

**SB 2020, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (19 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2020 was placed on the Sixth order on the calendar.**

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Page 1, line 3, remove "to repeal section 5 of chapter 535"

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4. That meters be sealed and tamperproof:
5. That meters may be replaced only under supervision of the state engineer: and
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Page 4, remove line 7

Page 4, line 8, replace "6" with "7"

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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In addition, the amendment:

- Adds a section to create a new section to Chapter 61-04 relating to the metering of certain water sources.
- Provides legislative intent relating to the use of funds for water project priorities.

2011 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2020

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2020 Conference Committee  
April 14, 2011  
Job # 16599

Conference Committee

Committee Clerk Signature

*Rose Laning*

### Explanation or reason for introduction of bill/resolution:

This is a Conference Committee hearing on the Water Commission.

### Minutes:

See attached testimony - # 1.

### Conferees:

**Senator Fischer, Senator Holmberg, Senator Robinson  
Rep. Skarphol, Rep. Monson, Rep. Williams**

**Joe Morrissette - Legislative Council; Sheila M. Sandness - OMB.**

**Senator Fischer** called the conference committee hearing to order on SB 2020 and noted that all conferees are present. He handed out the First Engrossment with House Amendments (11.8151.03000) and also contained the proposed changes starting on page 3 – see attached #1. He asked the House to explain their actions.

**Rep. Skarphol:** We added a new section six and I'm looking at our amendment (.02004).

- On page 30, we inserted a new section six (read from amendment). The intent was to try to make sure there is compliance with the permitted amounts. There is concern about the utilization of irrigation water. The water commission has the authority to make them temporary industrial permits. There should be some reassurance other than the honor system. There is a penalty for non-compliance.
- Page 3, line 31 – we replaced \$250,000 with \$100,000. That is the result of budget action they took.
- Section 10 is in regard to the Red River Valley water supply project.
- Removed section 9 in the engrossed bill that we received which limited the expenditures by the water commission to the Garrison Diversion Conservancy District to \$1M.
- Removed section 10 which repealed the pledge of the 1999 Session Laws with regard to the repayment of some monies from the flood in 1997.

**Senator Fischer:** Any comments or questions?

**Rep. Skarphol:** An additional comment on the Grand Forks issue – it was my understanding that the repayment on that doesn't begin until 2018 and we just didn't see the urgency to take

this action. There are other projects out there that are anticipated to have to repay. We didn't want to start the process already in saying you're not going to have to pay even though it was agreed to.

**Senator Fischer:** I'm the one that put that in there. The thought was that is was held as collateral and we've never collateralized any of these projects. Between now and time they finish paying, we have a lean against the corporate center. The repayment program starts and there may be refurbishing issues and we'd be involved in rebuilding the corporate center.

The Wildlife Services and Ag dept. budget and the federal piece will all come back towards the end of this process so we can deal with that at that time.

The metering - am I incorrect in that irrigators meter their water now?

**Rep.Skarphol:** I think it's estimated like everything else.

**Todd Sando, State Engineer:** They do.

**Senator Fischer:** I was told that they did. The State Engineer has provided us with that. I ran into a gentleman from California that does telemetric metering and he's going out to the Dickinson area to set up and do a bid of some kind. They do 50-60 wells and it's all bounced off of satellites. It monitors the flows from the oil wells and if the flow stops, they'd have someone go out and look at the motor.

**Rep.Skarphol:** It should be the telemetric type so that information is available so we'd have better grasp and know how much water is being used. I'd telemeter the reservoir levels and the aquifers that are being used as well to ensure that we're not over utilizing.

**Senator Fischer:** This is going to get short. Other issues that may have come forward are welcome and any changes anyone wants to make, we'll consider. The amendments that you've done seem to be reasonable. We'll meet a few more times to get some things done.

**Rep. Skarphol:** In the process, there was a bill that I introduced to move from joint powers to a commerce authority. It passed unanimously in the House and was killed in the senate. I've talked to people in the senate and am working on a document that would provide for that ability to make that switch in business organization more easily done without any eminent domain authority, without any additional bonding authority. It would however, create a political subdivision for the purposes of being able to get a loan from the revolving fund and do business. The current joint powers agreement does not provide for that so the city of Ray has to be responsible for those. It would be more appropriate for the cities of Ray, Tioga and Stanley to have some type of joint political subdivision to which they'd all have responsibility. Any utilization of any mill levy would be limited to their current mill levy and they'd have to use from that mill levy if they were going to fund anything. I have those amendments being worked on. I'm trying to work with your colleagues so ensure that they are comfortable with them before I bothered to bring them forward, but I intend to bring them forward as an amendment to this because it is water related.

**Rep. Williams:** We do not know how this diversion is going to be in the Red River Valley. There are some school districts that could be negatively affected because they have bonded indebtedness based on the property. Two school districts, specifically Kindred and Richland 44, if holding bonds are part of the project, could be very adversely affected because of the bonded indebtedness. I'm not going to propose it today, but I do have an amendment from Wes Belter who represents that area. I'm going to propose it at a later date and I will have the clerk make copies of that so you can study it.

**Senator Fischer:** One thing is the purchases of the houses probably are going to be in the future. If we don't do it this session, I don't think there will be an adverse impact. I don't have a problem with that. The other thing is that when we built the Maple River Dam, except for the county, we didn't do in lieu of taxes. We pay the taxes on the property that was lost by the project – from the fire district to the first responders, school district; all of them received the tax that would have been levied on that property.

**Rep. Williams:** Some may think that this is premature; however, we have some citizens in our area that are troubled by potential for the future. I think as legislators, if we can give some type of assurance to those people, whether it's the housing or whatever, that we are cognizant of their needs. I think it would be well worth our time.

**Senator Robinson:** Several weeks ago when we had this budget before us on the senate side, we had discussion about the possibility of asking the commission to provide us with an updated list of work projects for the biennium based on the latest information available on the challenges that we're facing, not only in Devils Lake, but in a number of areas across the state. I would be interested in having the committee receive an updated list. If there is something on there that we're not going to get to, we know that now, so let's take it off. So what we have for a final product represents our best information at this point in time.

**Todd Sando:** It's growing – not getting shorter.

**Rep. Monson:** I'm also on Ag commissioners budget and on the copy of .02004 on page 2 of the amendment where we had reduced the amount from \$250,000 that the senate had in for wildlife services down to \$100,000. We're coming close to an agreement on SB 2009 moving back to where the Senate was on this wildlife depredation so that would impact this one from \$100,000 back up to the \$250,000. We're finding out its going to cost us a lot more money that we had thought from the House and we're seeing that the Senate's numbers are probably closer. We are close to settlement and that could affect this one.

**Senator Fischer** adjourned the meeting.



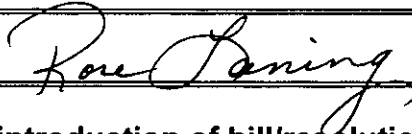
# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020 Conference Committee  
April 18, 2011  
Job # 16739

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

This is a Conference Committee hearing on the Water Commission.

## Minutes:

See attached testimony # 1 & 2.

**Conferees:** Senator Fischer, Senator Holmberg, Senator Robinson  
Rep. Skarphol, Rep. Monson, Rep. Williams

**Joe Morrisette - Legislative Council** **Sheila M. Sandness - OMB**

**Senator Fischer:** Called the committee hearing to order on SB 2020.

**Rep. Skarphol:** He handed out amendment 11.8151.02005, see attached #1. He talked about House Bill 1384. He is trying to resolve the issues that the senate had on the bill in this amendment. He goes over the amendment.

**Senator Fischer:** We'll all the amendments together as one when we are done.

**Rep. Skarphol:** I am happy with that.

**Sheila M. Sandness:** Typically what we do, if it is something the committee wants to include they will vote to include it and then I will know at the end to incorporate it with all the amendments.

**Rep. Skarphol:** Moved amendment .02005. The second was not audible on the tape.

Roll Call Vote: Yes-6 No-0

**Senator Fischer:** I have an amendment to clarify an issue with the flood control project in the eastern part of the state. This isn't exactly what I wanted.

**Rep. Williams:** The other day I handed out amendment .02002, prepared by legislative council and I handed it out so you could take a look at it. He talks about what it would do.

**Senator Fischer:** I visited with folks from the two school districts that would be adversely affected it there was a project. This is far enough in the future that we don't even know the

alignment or where it is going to go. If Fargo's flood control project acquires any land that is in either of those school districts, any land that they are responsible for proportional part of the school districts indebtedness; it is not subject for approval for anybody who is going to be paying the money. I have trouble supporting that. All you have to do is have the superintendant of the school certify it and you're asking Fargo to pay for that. They are going to find what the core wants but I am not sure that some of the counties won't be protected. Buying property isn't provided here. What is beneficial to the flood control project and what isn't?

**Rep. Williams:** Conversation with Rep. Belter, he doesn't feel the small communities are being asked to participate in a discussion but rather they are being subjected to the plan. That is why he feels this is important. The sense is they're not being talked to until after some decisions are made. Ultimately we'll have to make some decisions on whether we are going to go forward with it. Based on what is happening with 1206, I am not sure we shouldn't take some action in here that would limit the utilization of the water resources trust fund.

**Senator Fischer:** I agree I am hoping they will come to some conclusion. They've put an awful lot of time in this.

**Senator Robinson:** We asked about the possibility of a new updated list even though some projects are going on. If you have the list, we had some others ask for it.

**Dave Laschkewitsch:** He handed out ND State Water Commission – Preliminary List of Projects- see attached #2. We had to take money to take care of Devils Lake levee. That is a normal process for us to shift money back and forth.

**Senator Fischer:** Adjourned the meeting.

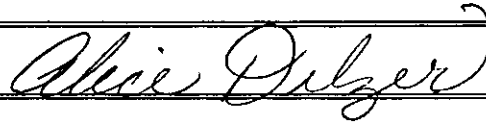
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2020  
04-26-2011  
Job # 16902

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE HEARING ON THE STATE WATER COMMISSION

### Minutes:

Amendment Attached

### MEMBERS PRESENT ARE AS FOLLOWS:

SENATE: Senator Fischer (Chair), Senator Holmberg, Senator Robinson

HOUSE: Rep. Skarphol, Rep. Monson, rep. Williams

OMB: Tad H. Torgerson; LEGISLATIVE COUNCIL: Sheila M. Sandness

**Chairman Fischer:** Called the Conference Committee to order at 4:00 pm on Tuesday, April 26<sup>th</sup>, 2011 in reference to SB 2020. Let the record show that all conferees are present.

**Senator Fischer:** I passed out amendment # 02008. Sheila will go through them. Amendment Attached.

**Sheila M. Sandness:** She goes over the amendment. The amendments are that the house will recede from their amendments and further amend. Relating to the joint powers entities and commerce authorities expenditure of funds for Garrison Diversion Conservancy District and metering certain water sources. There is also a transfer and there is application and expiration date.

**Rep. Skarphol:** Those sections are pertinent to the conversion of the joint powers authority to a commerce authority and I think we agreed to them in a previous meeting.

**Sheila M. Sandness:** She continues going over the amendment.

**Senator Fischer:** In reference to HB 1206?

**Sheila M. Sandness:** I looked at the language in 1206 and the appropriations that are necessary are all made in 1206 so we didn't feel language was necessary here.

**Rep. Skarphol:** I think it would be appropriate for us to talk about, on top of page 3, I agree with what you are doing with the Garrison diversion conservancy district but I think it would be to the benefit of my colleagues from the house that you go through that.

**Senator Fischer:** The Garrison conservatory district has not been functioning as a legitimate public entity for some time. We have been giving them money for years and have accomplished nothing. I was asked had a bill to bring forward to dissolve it completely, but I was asked to put a trigger on it and let's see what they can do on their own, in their statement of concern about their mission being threatened. They referred to the Oaks test site that the \$2.5 million was going to be spent on it. They haven't done anything so far. I don't know what kind of money they have available but I am not really concerned about that if they can refurbish it and turn it over to the local participants or just bring it back here at the end of the interim and show what they have done, I may have other thoughts about it. The Garrison project has been given chances time and time again and we never seem to act on it. If they want to continue to exist then they should show us they can do something on their own for a change. The record of decision I didn't use. I maybe a loan supporter but I am consistent. Are there any other questions about the amendments?

**Senator Holmberg:** The other handout we got with Representative Skarphol's name on, those are incorporated in here so we can just drop them away. Where is 1206 right now, has that been signed?

**Rep. Skarphol:** No it passed the house a few minutes ago. It would be my feeling of that before we pass this out.

**Senator Holmberg:** Passing it out and having them hold it.

**Rep. Skarphol:** Not any difficulty in the Senate?

**Senator Fischer:** It would be prudent to see what the actions are on the floor. Maybe what we should do is adjourn. We can come back down here. We are adjourned.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2020 conference committee  
April 27, 2011  
Job # 16910

Conference Committee

Committee Clerk Signature

*Rose Tanning*

### Explanation or reason for introduction of bill/resolution:

This is a conference committee on SB 2020 – the State Water Commission.

### Minutes:

Amendment is in previous minutes.

### Conferees:

**Senator Fischer, Senator Holmberg, Senator Robinson  
Rep. Skarphol, Rep. Monson, Rep. Williams**

**Joe Morrissette - Legislative Council; Sheila M. Sandness - OMB**

**Senator Fischer** called the committee hearing to order on SB 2020. All conferees are present. He handed out amendment 11.8151.02009.

The other amendment did not take out the \$1M authority for the Water Commission for Garrison. It's not in here and these would be proposed amendments.

The other piece in here is the language on top of page 3 under the heading 'contracts entered into', that's been changed. If you look at the other amendment the wording is different. The other one – the language is 'the water commission....' It's a change in the way it was written and is a little clearer.

The third one is on page 2, line 23. The number in there, we had it at 235, it should be \$447,913,774 because that's their authority. We were addressing the amount of money for this biennium less any federal funds less any carryover. This is with federal funds carryover and all other income so this would be a cap or the dollar amount that they would then have to come to the budget section for.

**Senator Robinson:** The \$447,913,774 – that is accurate?

**Senator Fischer:** Yes. That's as accurate as I can get from both the Water Commission and the Legislative Council along with OMB.

**Rep. Skarphol:** That includes the carry forward from this biennium? (Answer – Yes). What dollar amount is that? Also, that included federal money, so could we have the number on that?

**Dave Laschkewitsch:** I don't have that number readily available, but he is right. That is the general fund operations for those divisions. It is the carryover. It is the new monies. That is what you are appropriating to us in total is \$447,913,774. If you give me a few minutes, I can dig through and come up with some of those numbers.

**Senator Fischer:** We'll be meeting later again today so if you could get those numbers then.

**Rep. Skarphol:** I was hoping we'd be able to finish this up.

**Senator Fischer:** On senate side, we seemed to have put into this amendment, something that there is an issue with. Maybe you could enlighten me because I wasn't really involved with the bill. It has to do with the Commerce authority. The fact that it was in another bill and some of the leadership on our side is concerned about bringing that back with an amendment.

**Rep. Skarphol:** I had numerous conversations with Senator Cook because I understand that it was his primary consternation over the bill that resulted in it getting killed. I was of the understanding that his issue was first of all, eminent domain. That's gone. It's not in here. There is no eminent domain. Secondly, he has difficulty with the creation of new political subdivisions and I respect that. What I've tried to do in this amendment, and he has signed off on it. John Bjornson and Legislative Council have worked with me on this to insure that it does not give any additional taxing authority. Section 9 – this provides for conversion from a joint powers to a commerce authority. Top of page 2 - provides for the creation; section 11 is for conversion; section 12 is for the co-existence.

On 13, it says, "if the commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations....." In the dilemma that R&T faces, because that's who this is for, it has joint powers authority that if they were going to dissolve and re-organize as a commerce authority. They do have to dissolve, they have to disperse all funds and then re-organize as a commerce authority. It's a rather cumbersome process. This is only attempting to make it easy to just convert and take on the existing debt as a new political subdivision. It doesn't give them any taxing authority in addition to what they're capable of doing with the financing - re-financing of existing obligations.

**Senator Fischer:** That's the basic reason for the Commerce authority is for re-financing and managing the funds that are already there?

**Rep. Skarphol:** The reason to want to do this is that R&T voted to take Stanley on as a new member. In having to do that, if they were going to do it as a joint powers agreement, they'd have to dissolve and re-form as a joint powers. They'd like to re-form as a commerce authority so in the event in the future they want to add Crosby, for example, to the organization, the commerce authority gives them the ease of doing it. They don't have to dissolve and re-form another organization. They're allowed under their by-laws and under the law to add any entity they wish to add with whatever conditions that exist. This is only about making that conversion

easier. There was no intent in any way, shape or form to give additional authority to a political subdivision. It's sunset so it's only effective for two years. In the event that there's some quirk in it, it wouldn't be on-going but we could have an opportunity to take another look at it.

**Senator Robinson:** In looking at .0009, sections 9 through 13 deal with that issue.

**Rep. Skarphol:** And I think 17 & 18 are also part of it. In 17, there is a statement that says it does not grant any additional authority to exercise powers of eminent domain or issue general obligation bonds. We're trying to make it as clear as possible that it's a tool for convenience only. More or less a single purpose. I'm not trying to circumvent the wishes of the senate. I'm only trying to provide a tool.

**Senator Fischer:** From what you're saying, it sounds like there's been a lot of work done since then.

**Senator Holmberg:** I need a little more comfort on section 14 before I can vote for it. We have the new language which makes it prospective rather than the original in 08. I was led to believe that the Oakes test site is a federal facility. That may or may not be correct. If it is, how does the Garrison Diversion or the state deal with something over which they have no control. Does someone know the status of the Oakes test site?

**Senator Fischer:** There has been money appropriated from the federal government to convert federally owned irrigation projects to either local, state or other than federal. Garrison has received an amount of money that I have been told is been around \$2.3 M. That is going to be used in the new irrigation project that they brought through here for up in the area of Turtle Lake.

**Mike Dwyer, ND Water Users:** The Oakes test area is a federal facility. It is intended that eventually it will be turned over to the state or local interests, but at this point, it's a federal facility. The funds to operate it are federal funds. There are some triggers in the ND Waters Resources Act that have to take place before its transferred from the federal government to the state and those triggers have not occurred.

**Senator Holmberg:** From your view of this, is this language problematic? Is it ineffective because it can't work? Tell us more..

**Mike Dwyer:** It's completely problematic because the conservancy district doesn't have the authority to transfer a federal facility. That's the Bureau of Reclamation that owns and manages this facility. They are the ones who will transfer it when these triggers happen. The way it's written, it can't occur.

**Senator Fischer:** Has the Bureau of Reclamation ever offered maintenance or any help of any kind to Garrison now that Garrison is starting a new irrigation project and Turtle Lake, it seems to be entirely inappropriate that they don't finish one before they start another?

**Mike Dwyer:** The Oakes test area is a federal facility that was developed to test irrigation; to provide an example of what the federal irrigation would be and it's been in existence for 20-30 years. We've also tried to develop irrigation as part of the Garrison project and we're finally

getting there. We have a 23,000 acre irrigation area that is still in the federal authorization along the McClusky canal that is being developed using water from the McClusky canal. We're happy that the development is going forward. As far as the Oakes test area, it's in our interests to not have it transferred because the Bureau of Reclamation pays for the operation and maintenance of it until that point in time. It's a cost that we don't have to take on at the local level until these triggers happen.

**Senator Fischer:** And that could happen any day.

**Mike Dwyer:** The federal legislation is 2 years after the triggers happen so that we have time to make that happen.

**Todd Sando, State Engineer:** Regarding the Oakes test area - It's between the Bureau of Reclamation and the Seed District. The Bureau of Reclamation has been funding the operation and maintenance of the Oakes test area. To my knowledge, it's not in their budget at all to spend anything. They don't have any funding for operating or maintaining it right now. The goal is to get it to the locals and we've been working on a water permit for them to get additional water source for it. The federal government is trying to divest in it too. It would be good to get it turned over and get the locals running the project.

**Rep. Skarphol:** What do you anticipate the cost might be to refurbish the test site?

**Todd Sando:** Off the top of my head, I don't have a number.

**Rep. Skarphol:** I understand there has been some local consternation over this that they haven't agreed to take it on. I understand there have been discussions in which the locals have said 'no, we don't want to do anything with this at this time.' Is that correct?

**Todd Sando:** There are some that want to take it over and some that don't. They've been trying to work out those issues too.

**Senator Fischer:** They don't want to take it over in its present condition. The water appropriation isn't clear. Part of the refurbishment is that they would have to have water rights and equipment issues.

**Rep. Skarphol:** If there were a record of decision on this, where would that put this project in your estimation on a priority list? Would it be moved further up? Would it be in the list next time? Do you have an opinion about that?

**Todd Sando:** Are you relating the record of decision for the Red River Valley water supply? It's tied to the record of decision for the Red River Valley water supply and they have a 2 year time period for transfer, but they could transfer it over early. I'm not directly involved with all this but we could do some more research and get back to you on it.

**Rep. Skarphol:** I wonder if what you're trying to accomplish to here should be dependent on the record of decision.



**Senator Fischer:** Through the process that the federal government originally set up, and I'm not sure if it's 2 years or 18 months, but after the record of decision is issued, they have to divest themselves of the Oakes test site. When they issue the record of decision, none of us may be breathing. With the situation in Washington, right now with the lack of funds, is that issuing a record of decision is a precursor.

**Todd Sando:** It's not just the record of decision, you have to get an authorized project after that too.

**Senator Fischer:** Those are all issues that lead to funding it. Any other discussion? I'll set up another meeting this afternoon and we'll try to straighten it out.

**Dave Laschkewitsch:** I can give you your breakdowns if you want. The \$447,913,774 is comprised of \$12,136,225 or \$12.1M of general funds; \$53.8M of federal funds and the balance being the special funds. Those special funds have \$108.6M worth of carry forward in them. The new projects are local project funding that will come in to make up that balance. In other words, the City of Minot, is probably the biggest contributor in those other funds as they're paying their share of NAWS.

**Rep. Skarphol:** The \$108M is already projects that are?

**Dave Laschkewitsch:** They are actually approved and committed this biennium but will not be paid out. That \$108M is our best guess of what we're going to get spent through June. That number will move.

**Todd Sando:** On refurbishing the Oakes test area – I did get a number and it's \$1M to bring it back up and get it refurbished to a level that the locals will be willing to take over the project. They'd like to see that refurbishment of \$1M.

**Senator Fischer:** Thank you and we're adjourned.

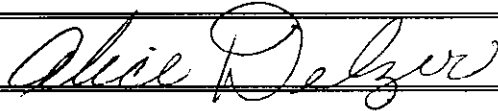
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2020  
04-27-2011 (12:00 pm)  
Job # 16916

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE ON THE WATER COMMISSION

Minutes:

Amendment Attached

MEMBERS PRESENT ARE AS FOLLOWS:

SENATE: Senator Fischer (Chair), Senator Holmberg, Senator Robinson

HOUSE: Rep. Skarphol, Rep. Monson, Rep. Williams

OMB: Tad H. Torgerson; LEGISLATIVE COUNCIL: Sheila M. Sandness

**Chairman Fischer:** Called the Conference Committee to order at 12:00 pm on Wednesday, April 27<sup>th</sup>, 2011 in reference to SB 2020. Let the record show that all conferees are present except Rep. Williams. ( Rep. Williams came in later)

**Senator Fischer:** I am working off the amendment #.2009. After some more discussion and meeting with Council the commerce authority seems to be exactly what is needed and what everyone is amenable to. I would propose one other change, by a lot of pressure and arm twisting, getting rid of the Oaks test site language. Until Garrison diversion conservancy district receives recorded decision from the department of interior. I would propose we would have that, unless there are other issues on here.

**Rep. Skarphol:** Could Shelia tell us how that language would sound or where it would be inserted?

**Sheila M. Sandness:** The amendment remains the same except for that on page three, at the top, it would read; except for contracts entered into before the effective date of this act the state water commission may not approve any funding grants or contracts with the Garrison diversion conservancy district until the Garrison diversion conservancy district refurbishes the Oakes test site and transfers the site to local control.

**Senator Fischer:** That would be the trigger.

**Rep. Skarphol:** Are the parties relatively satisfied?

**Senator Fischer:** The bottom line here, until they pull themselves together and reorganize, I don't see any reason to contract with them for anything. The only concern is that the Garrison has been doing maintenance on the..... (Recorder stopped)

**Senator Holmberg:** In an earlier version of this bill, didn't have contracts entering into, what are some of these contract examples?

**Todd Sando, State Engineer, Water Commission:** The water commission does have contracts with the Garrison diversion conservancy district on several different projects and it is mainly three different areas it's related to the MR&I agreements for water supply contracts, it is also related to the Devils Lake outlet operation and maintenance, so it is maintenance of the canal system and we have agreement with them for irrigation projects, like Turtle Lake irrigation district, so those would be existing contracts we are in. We have hired contractors to assist us and to maintain the project.

**Rep. Skarphol:** Your contracts you currently have with Garrison diversion are due to expire when?

**Todd:** They go for the whole biennium we will then have to amend the contract to carry over until the next biennium, so they will expire June 30<sup>th</sup> and we will have to amend are contracts to go into the new biennium.

**Rep. Skarphol:** The record of decision that is referred to.

**Senator Fischer:** Yes, that should read, the record of decision on the Red River Valley Water Supply Project.

**Todd:** Yes that would be a good addition to add that at the end that it is for the Red River Valley Water.

**Rep. Skarphol:** What is the realistic potential time frame for it to be achieved? How long has it been pending?

**Todd:** To my knowledge it was 1997, I mean 2007, so it has been out there for the last four years and they haven't issued the record of decision so the final was complete and they were ready to move forward but the.....(recorder stopped)

**Senator Robinson:** Go back to the contracts you have in place, they expire June 30, with this language will you be able to renew those contracts, are we talking about activity that you are responsible for at the present time or are we actually looking at removing your ability to negotiate those contracts that you have that are operational as we speak?

**Todd:** I am not sure the way that is written how we would handle that for existing contracts.

**Dave Laschkewitsch, Water Commission:** My expectation would be the contracts that we would have for maintenance would terminate June 30, and we would not be able to reenter into those, some of those irrigation projects that we already are in and are ongoing we would

continue the funding into them. It isn't a new contract necessarily so I would expect those would continue.

**Todd:** That would be your intent to have, so the ones that already exist, that we can continue on and get them completed.

**Senator Fischer:** Do we need to change anything to accomplish that?

**Rep. Skarphol:** It would probably only affect the Devils Lake outlet.

**Todd:** We've actually this passed biennium provided a significant amount of money to the C district for them to develop operation plans for the Red River Valley Water Supply Project. Money went to acquiring options, to acquire the land from the end of the McClusky channel all the way to Lake Ashtabula, so they were out trying to acquire land so they were getting options to purchase easements so we gave them several million dollars to move forward on that. That would impact them moving forward on Red River Valley, trying to acquire more land or trying to develop more of an operating plant for the Red River Valley Water Supply project.

**Rep. Skarphol:** I thought we moved that Red River Water Supply money into the general fund category. I would have thought that money wasn't available for them to be buying options at this point.

**Senator Fischer:** Well in the future it won't, it seems a little odd that they are out buying options on land for easements when there is no project because the record of decision is beginning process of there actually being a federal project. I find it a little disconcerting that they are out buying land for a project that hasn't been authorized.

**Rep. Skarphol:** In the case of the Devils Lake outlet, if they can't contract with the C district to do this, are there other options, and are those options viable?

**Todd:** We could hire local contractors to do that work I don't see it costing us any more money to go to the private sector.

**Senator Fischer:** We will adjourn and have these amendments finalized.

**Senator Holmberg:** There was a discussion about continuing any contracts they have now and the use of the words, "do funding". Do you have some tentative language that you can share with us at this time?

**Sheila M. Sandness:** We could try to say, except for contracts with on-going terms. I am not sure how you would term those contracts. On occasion the record shows the intent.

**Dave:** That is what I was asking is if my understanding and interpretation was the same as yours, I cannot enter into any new contracts I may finish out the contracts that I am currently entered into but I can't put any new money in. That is my understanding.

**Senator Robinson:** That spurs another question. You said you can finish out the current contracts, so are you suggesting those that mature June 30<sup>th</sup> will not be renewed? You didn't intend to say that did you?

**Dave:** There are some outstanding irrigation contracts that we have with them, those contracts with the money that is already approved in this current biennium can be carried forward, but I will not enter into any new contracts with them. Does that clarify your question?

**Senator Robinson:** That is partially what we are talking about here, the clarity and just so we do the right thing here. I think the issue really gets to be what the definition of what's new. If you have a contract that expires June 30<sup>th</sup> and you had intentions of renewing that to me it is a new contract but it is an existing program. That is the issue I am trying to get to.

**Todd:** So once it comes due June 30<sup>th</sup> we are going to amend and change the termination date to the end of the new biennium so we can continue. That wouldn't be considered new money that would be the carryover project that we would continue to fund. I think what we are trying to get at is any new contracts. So these ones that we amend, just to change the termination date to get us into the new biennium we could continue and complete those projects.

**Senator Holmberg:** It is important with the discussion and the record that we have the statute clear, rather than have to go back to the record and hire lawyers to determine what the legislature meant, so we might have to put a burden on Sheila and if she understands what we are saying.

**Senator Fischer:** One of the issues that I think how we can clarify this is that if you have a project that has been authorized by the water commission and the project is not finished and but the contract terminates at the end of the biennium that contract can be renewed to finish the project. The bottom line of it is that the contracts for new projects with Garrison are not allowed.

**Sheila M. Sandness:** Can I try some language? Except for contracts for projects authorized by the state water commission and entered into before the effective date of this act? Would that cover it?

**Senator Fischer:** Yes.

**Rep. Skarphol:** On a different issue on page 3 of the bill itself the first engrossment 02000 version of bill. It would be 2020, 02000, it has to do with the language in regard to the Fargo flood control project and what are eligible expenditures. One of the things listed is engineering and the question was posed to me on how much money can be expended it says, no more than 10% of those funds can be used for engineering, legal planning or other similar purposes. I guess there is a 10% limitation on the expenditure funds, so even at seventy five million they could expend seven and half in total for all those various categories, is that engineering something we need to be looking into as appropriate?

**Senator Fischer:** There are two types of engineering there are consultants which would be included but administration is not in there and administration would cover engineers working

let's say for the city of Fargo or the county engineering that type would not be reimbursed. There is another amend included in these that has to do with land purchases that we adopted or discussed that limits the city of Fargo from purchasing buildings but the expenditures are good as far as a match is concerned. In the original bill the land purchases were not allowed, it made it clear that amendment does allow land purchases but they can buy dwellings but not with state money.

**Rep. Skarphol:** So they can't buy them with the seventy five million we are appropriating? The language you have on page three lines ten after costs would read, except as otherwise provided these funds may be used only for construction including right away acquisition costs and may not be used for the purpose of dwellings.

**Senator Fischer:** That is the way it would be amended and there is another amendment that goes further in the packet of amendments were dealing with, there is language in page 1, of this big amendment and it has to do with page 1, page 3, line 10, that's the insert, the cost incurred by non state entities for dwellings or other real property that are not paid by state funds are eligible for application by non state entity for cost sharing but can't use state money for purchase of dwellings, the land is but the buildings are not with state money. The other piece we need to do is remove land purchases from the original.

**Sheila M. Sandness:** In the current language land purchases is over struck. That was in the original bill and it will remain over struck.

**Senator Fischer:** That is what I would like with the proposed amendment, we are adjourned.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee  
Harvest Room, State Capitol

SB 2020  
04-27-11 (3:30 pm)  
Job # 16922

Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE ON THE WATER COMMISSION

## Minutes:

You may make reference to "attached testimony."

## MEMBERS PRESENT ARE AS FOLLOWS:

SENATE: Senator Fischer (Chair), Senator Holmberg, Senator Robinson

HOUSE: Rep. Skarphol, Rep. Monson, Rep. Williams

OMB: Tad H. Torgerson; LEGISLATIVE COUNCIL: Sheila M. Sandness

**Chairman Fischer:** Called the Conference Committee to order at 3:30 pm on Wednesday, April 27<sup>th</sup>, 2011 in reference to SB 2020. Let the record show that all conferees are present.

**Chairman Fischer:** I have amendments here. There will be a motion to change those. These are the amendments that we discussed this morning. # .02010.

**Representative Skarphol:** There are a number of us that have some consternation because of conversations we've had with regard to the amendment that you asked for on Garrison Diversion and the inhibitions it inflicts on the ability of the Water Commission to have some flexibility. Leadership on my side would like me to move to take it out, so I would have to move to take it out.

**Representative Skarphol:** Made a motion to take it out. Seconded by Representative Monson.

**Chairman Fischer:** I have a few words Representative Skarphol. If that is the wish of your side than I am not going to oppose it, however, I am going to explain a few things that I feel as though that people should know about. That is that with Garrison we are pumping millions of dollars into the Garrison Conservancy District, and we're a not getting anything back. As an example of my county, and I am not comparing mill levies for anybody but, for your information a mill levy in Cass County is about \$425,000. We contribute 1 mill as we do to water, other water projects and it's not the amount of money but the way that Garrison keeps everybody in line is the law. If you get any kind of a benefit in the last year, you have to fund Garrison. So

last year, Cass County was so fortunate to get playground equipment for the county to the tune of \$15,000 that they didn't want. So our return on our investment is kind of poor. Now if the rest of that \$450,000 went to something that actually benefited all of the counties that belong, I would be very happy. What it actually benefits is the directors, and travel time for personal, and the activities. Some of the activities which Garrison participates in aren't even in their mission. For instance, why don't we have a private contractor bid on maintaining the Devils Lake outlet? When Garrison is using federal machinery to do a project and I wonder how the feds feel about that. Time and time again and we've allowed them again this session to take on assessment power. Their mission for the Red River Valley Water Supply project is pitiful. They are out buying land easements or options on easements for a project that is not even authorized. They are spending our money every year, \$5, \$6, \$7 Million dollars and they will continue too because if you want to go back to the original bill, or had money in for them, that is fine. But my issue is that there is no accountability. They have got a hell of a lobby but most of the lobby, what's in it for the lobby? Is it the lobbyists or the citizens that we should be worried about?

**Representative Sharphol:** I appreciate the information. I wish we would've had this discussion earlier. What you're suggesting is that they collect \$5 to \$7 million dollars from the various counties that are participating in Garrison Diversion, if I am correct. **Chairman Fischer:** It is not all the same amount from each county. **Representative Skarphol:** I understand that the mill rate is a different amount in different counties. But what you're saying is that raised five to seven million dollars by their assessments that they get from each county and you feel that the value that we receive from the \$5 to \$7 million is not sufficient?

**Chairman Fischer:** You would think that at some point, each county would receive services from Garrison. I don't feel as though that they do.

**Representative Skarphol:** I mean that I understand and I think I am beginning to understand better, you're maintaining at that money is invested in a rather localized area and the benefits do not accrue to all of the counties across the state that belong and pay that 1 mill levy.

**Chairman Fischer:** The one thing that Garrison has is a secretary for the Lake Agassiz Water Authority. But they are also paid for that from the counties in Eastern North Dakota. Everywhere there I see them being paid. And yet I don't see Oakes done, I don't see; there starting another irrigation project in Turtle Lake and now, but they haven't finished Oakes. They say well it's a federal project and they got to do this, well why don't they get on it, and find out exactly what is going to happen. They don't even go that far. Oh that's right there is a conference in San Antonio Texas; I had to go to that. In their statement, Rep. Skarphol, they made that there mission was threatened when the money was taken out of the budget. It is stated in there that they were working on the Oakes test site at \$2.5 Million dollars. I don't see any plans for that. I don't see that listed anywhere in the priorities of the State Water Commission.

**Representative Skarphol:** I didn't know that it wasn't a required bid process for the work the Water Commission does on the Devils Lake outlet.

**Chairman Fischer:** That I couldn't tell you; I was just told that they were the ones that did it, and they already had federally paid machinery. I don't know how the bid process works, or maybe it's under another contract. I can't tell you that.



**Representative Skarphol:** I respect the work that you have done on water. I know it is sometimes hard to communicate all of the things that you know to the rest of us. But there would be value in the rest of us knowing as much about this as you do. Now is this the vehicle we should use to make that happen is what I am asking?

**Chairman Fischer:** It doesn't have to be. But I've run out of things to ask them to try and move Garrison along. They could be a useful tool to the water community but I don't feel it as though they are. They are arrogant enough to just ask for money and actually the Lake Agassiz water minutes and agenda which I think would be of some value to you because they are quite humorous. It is called change the date. So, I just feel as though that if we don't start addressing these things, nobody will and I just felt as though I wanted to make this effort. If not I guess it doesn't have to worry about me other than I can't support anything that they do until they get their act straight. There are people that are sitting here, and these people who are generally interested in water, but for different reasons.

**Representative Skarphol:** We are at that point in time where it's extremely difficult to take the time to put together the kind of information that would be useful. **Chairman Fischer:** Any other discussion? Call the role. To further amend that. Your amendment just includes the entire section; Section 14 of the amendment of 02010.

**A roll call vote was taken: Yea: 5; Nay: 1. Motion carried.**

**Representative Skarphol:** I don't like delaying the process, but I have a lot of respect for you. I am wondering if we could further amend some language in here that would require some type of accountability report with regard to the activities of Garrison Diversion. Something that would require them to delineate the work they've done. I am open for any suggestion you would have as to what we could require of Garrison Diversion to justify their continued existence. I am happy to wait.

**Chairman Fischer:** I know you are, but I'd think that's delaying the process and I understand what your saying is that accountability is important to you and I appreciate that.

**Representative Skarphol:** I have difficulty within inhibiting the activities of the Water Commission because I believe their plate is extremely full. But I agree with you, that we should not continue to contribute to someone who doesn't seem to be accountable. If you don't want to do it here, let's try to do something together and have it put on OMB.

**Senator Fischer:** Well, or actually, Audit and Fiscal Review might be the place.

**Representative Skarphol:** I don't know what authority we may have to require them to report to us. I am not familiar enough with all of the federal inhibitions and prohibitions as to information that we can require. I would need help with that. You are much more knowledgeable than I am on this issue.

**Chairman Fischer:** I don't have all the answers today to the issue. I do know that I believe that there needs to be accountability for everyone. This is one area I don't believe there is any. Any further discussion on the amendment to the amendment, I guess unless section 6 and 14.

**Senator Robinson:** Just to clarify, where did the issue of Wildlife Services end up?

**Sheila M. Sandness:** It is included. The amount is \$250,000 to Wildlife Services.

**Representative Skarphol:** I would move amendment, the amended amendment 02010.  
**Seconded by Representative Monson:**

**A Roll call vote was taken: Yea 6. Motion carried.**

**Representative Skarphol:** I appreciate all the work of this committee and of what you do and hopefully we can find some resolution to your problem. And I will make the effort to proceed with what we can do.

**Representative Skarphol:** I don't know the official motion. Okay, that the House recesses from its amendments and we further amend. **Seconded by Senator Robinson**

**Chairman Fischer:** Discussion.

**A roll call vote was taken: Yea 6. Motion carried**

**Senator Fischer:** We are adjourned.

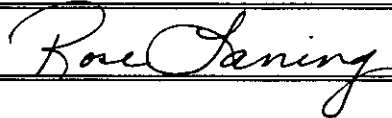
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2020 conference committee  
April 28, 2011  
Job # 16929

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This is a conference committee hearing on SB 2020 – the Water Commission.

Minutes:

Attachment

### Conferees:

Senator Fischer, Senator Holmberg, Senator Klein  
Rep. Skarphol, Rep. Monson, Rep. Williams

**Joe Morrissette - Legislative Council; Sheila M. Sandness - OMB**

**Chairman Fischer:** Called the committee hearing to order on SB 2020. All conferees are present. We had problems on the floor of the Senate this morning. We're going to change things a bit, and we're going to call on you for views or information.

**Rep. Skarphol:** Handed out a section of the bill – see attached # 1. He said he thought in the amendment that they had explicitly defined the metering requirements. He read section 9. I don't know what we can do to approve that. I did have Legislative Council put some preliminary language together which we could add a subsection of legislative intent to explicitly state that the 62<sup>nd</sup> legislative assembly that the state water commission not require remote water metering for permits irrigation purposes. That is probably not stated strongly enough but that has never the intent. The intent was that since this is a \$100M industry that it would be appropriate to have as accurate a metering or understanding of water use as we can. I also understand that there has been some discomfort with regard to the cost of the meters. I asked AE2S to provide me with a number that would be reflective of the cost of the meters today. The number they provided to me was that the meter itself would cost about \$2500. So I asked about the installation cost and they said it should not exceed \$5000 but even if it does the cost of the meter installed should not exceed ten thousand dollars. I talked with leadership on our side and I asked them if we would be willing to pay the cost and they said not pay the cost but we could probably to half. He also suggested it come out of the Water Resources Trust Fund over and above the two hundred and thirty five million dollar figure that is in their priority list today. I also asked Legislative Council to put together some language it and it is on the top of the page. Read 1<sup>st</sup> sentence of attachment #1. We would need to get some concrete estimates of the numbers of meters required to ensure that number was adequate. I did visit with Todd Sando and I asked him how many permits are affected and he said 90 permits but for purposes of much transparency as possible I know of a location that has four loading points at a single location that the water is provided by three wells. I would also like to incorporate language in here that would say that the state water commission would have the digression to determine the proper metering point. Our side thinks strongly that this gets done. I can't be responsible for what a future legislative session decides to do as far as irrigation permits. That is an issue that will

have to be continued to be resolved. I don't view this as a first step, I view this as something that is important for the water resource that we have to be adequately protected and monitored.

**Chairman Fischer:** Questions?

**Senator Wardner:** I think that's a fair compromise.

**Chairman Fischer:** I know you worked hard to put this system together.

**Rep. Skarphol:** The WAWS system intends to use these types of meters on everyone of their water depots, so this system will be out there operational for their purposes and could be monitored by the state water commission as well.

**Senator Klein:** A lot of discussion, we weren't very vocal on the House side but became very vocal on the senate side. We didn't do much for them and as we looked at the needs for the water out there we realized that there is plenty of opportunity so we have a little bit of language in there that says we are going to try to minimize the effect to them. Maybe we are on the right direction here. To clarify the irrigation issue the irrigators have been calling thinking they are possibly next. I'm glad that we clarified that and make sure that the intent is not to create that problem.

**Rep. Skarphol:** The water commission says it was a fair amount of work and if we would make this applicable to irrigation it would amount to a lot more work and I don't want to add FTEs to take care of the responsibilities of irrigation. We may have to work with water commission next session to help them more adequately address their FTEs to do this. It doesn't become effective before July 2012. However we want to configure that language I am amenable to but I do think it is important.

**Chairman Fischer:** Any other legislators that would want to comment on this before we move forward?

**Senator Holmberg:** There are people in the audience that voiced displeasure on the floor. If there are others that plan to get up and speak against it, it would be helpful if you would let us know.

**Senator Olafson:** It is no secret at the beginning of the discussion about the western area water project I had concerns and one was the financing package and one was the concern that state government was stepping into area where we were interfering with private enterprise that certainly was an argument that could be made to that affect and I was pleased on what the committee did there to try to alleviate as much as those concerns as they could. So when this issue can up with the metering I viewed that as being further a poke in the eye to those independent operators. I was also concerned with the possibility that this could lead to meters being required for irrigation and it is clear that that was never the intent and I think if we make that statement in strong language I think that would alleviate that concern going forward.

**Chairman Fischer:** Anyone else.

**Senator Holmberg:** Can I ask Sheila a question because one of the statements we heard was about how strong the language would be and it says it is the intent of the 62<sup>nd</sup> session, is this session law or is this permanent law? Wouldn't it be stronger if you said the state water commission may not require remote watering meters on irrigation projects, rather than it is the intent?

**Sheila M. Sandness:** This is session law, we could add in the section that covers the metering century code that is being drafted may be another bullet item that says this section does not, so I could certainly draft that and add that to the section that is actually amending century code.

**Rep. Skarphol:** We need to make sure that it does apply to irrigation wells used exclusively for irrigation because there are irrigation wells that do have temporary or conditional permits for industrial use and we want the metering to apply to those.

**Chairman Fischer:** That needs to be there.

**Senator Holmberg:** Needs to be in and not session law.

**Chairman Fischer:** We'll schedule again.

**Senator Holmberg:** Sheila can let us know.

**Sheila M. Sandness:** I can email you a copy.

**Rep. Skarphol:** Thanked the committee and asked if the dollar amount would be sufficient.

**Todd Sando:** That is additional money that is above what is in the executive budget. That is an impact to other projects, but if that's what you want to do the metering.

**Rep. Skarphol:** You do believe that four hundred and fifty thousand will address the needs to cover half the cost?

**Todd Sando:** Right now we felt 90 to 100 meters would be needed to do this. We would we need to adjust the number up.

**Rep. Skarphol:** Would everyone be ok with that?

**Senator Holmberg:** If we went to 500, does the water commission/emergency commission have the authority to allow you to go above that if the need arose?

**Todd Sando:** We would be referred back to the budget section if we went above the appropriated amount.

**Chairman Fischer:** We're adjourned till this afternoon.

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Appropriations Committee**  
Harvest Room, State Capitol

SB 2020 conference committee  
April 28, 2011  
Job # 16931

Conference Committee

Committee Clerk Signature

*Rose Laning*

## Explanation or reason for introduction of bill/resolution:

This is a conference committee hearing on SB 2020 – the State Water Commission.

## Minutes:

See attached amendment

## Conferees:

**Senator Fischer, Senator Holmberg, Senator Robinson  
Rep. Skarphol, Rep. Monson, Rep. Williams**

**Joe Morrissette - Legislative Council; Sheila M. Sandness - OMB**

**Senator Fischer:** Called the committee hearing to order on SB 2020. All conferees are present. The amendments were handed out and are before you (amendment 11.8151.02012- see attached). The section that deal with this are sections 9 - any concerns? Are they appropriate to everyone?

**Rep. Skarphol** (asked of Sheila): Page 2 line 23, the \$448 billion – did that increase by \$500,000? (Answer – Yes)

**Senator Holmberg moved amendment 11.8151.02012  
Rep. Skarphol seconded.**

**A Roll Call vote was taken. Yea: 6 Nay: 0**

**Senator Robinson moved that the House recede from the House amendments and further amend SB 2020.  
Senator Holmberg seconded.**

**A Roll Call vote was taken. Yea: 6 Nay: 0**

**Senator Fischer adjourned the hearing.**

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02 of the North Dakota Century Code, relating to joint powers entities and commerce authorities;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 4, after line 6, insert:

**"SECTION 10.** A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

**SECTION 11. AMENDMENT.** Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, who are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

**SECTION 12. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-37-04. Filing of agreement and resolutions - Certificate of incorporation  
- Beginning of corporate existence.**

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

**SECTION 13. AMENDMENT.** Subsection 8 of section 11-37-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

**SECTION 14. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

**SECTION 15. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act is a valid commerce authority after the expiration date of this Act. Sections 10 through 14 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 16. EXPIRATION DATE.** Sections 10 through 14 of this Act are effective through July 31, 2013, and after that date are ineffective."

Renumber accordingly



# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2020 as (re) engrossed

Date: 4-18-11

Roll Call Vote #: 1

*02005 amendment*

- Action Taken**
- SENATE accede to House amendments
  - SENATE accede to House amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) --

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Skarphol Seconded by: \_\_\_\_\_

Senators	4/14		Yes	No		Representatives	4/14		Yes	No
	✓	✓					✓	✓		
Senator Fischer	✓		✓			Rep. Skarphol	✓	✓	✓	
Senator Holmberg	✓	✓	✓			Rep. Monson	✓	✓	✓	
Senator Robinson	✓	✓	✓			Rep. Williams	✓	✓	✓	

Vote Count: Yes \_\_\_\_\_ No \_\_\_\_\_ Absent \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

April 27, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02, a new section to chapter 61-02, and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities, expenditure of funds for Garrison Diversion Conservancy District projects, and metering certain water sources;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 2, line 19, after "APPROPRIATION" insert "- BUDGET SECTION APPROVAL"

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$447,913,774 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 9, remove the overstrike over "~~land purchases~~"

Page 3, line 10, remove the overstrike over "and"

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "for" insert "land purchases and"

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, replace lines 3 through 6 with:

"SECTION 9. A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

**SECTION 10. AMENDMENT.** Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, that are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

**SECTION 11. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-37-04. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.**

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

**SECTION 12. AMENDMENT.** Subsection 8 of section 11-37-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

**SECTION 13. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as

long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

**SECTION 14.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

**State water commission prohibited from Garrison Diversion Conservancy District expenditures.**

Except for contracts for projects authorized by the state water commission and entered into before the effective date of this Act, the state water commission may not approve any funding, grants, or contracts with the Garrison Diversion Conservancy District, until the Garrison Diversion Conservancy District receives a record of decision on the Red River valley water supply project from the United States department of the interior.

**SECTION 15.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require permitholders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary, conditional, or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

**SECTION 16. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM.** The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 17. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 9 through 13 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 18. EXPIRATION DATE.** Sections 9 through 13 of this Act are effective through July 31, 2013, and after that date are ineffective."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Conference Committee Action**

The conference committee restored a grant to Wildlife Services in a legislative intent section to \$250,000, the same as the Senate. The House reduced the grant to \$100,000.

The conference committee added a section relating to the metering of certain water sources, the same as the House, but did not include legislative intent relating to the use of funds for water project priorities included in the House version.

The conference committee restored a section repealing Section 5 of Chapter 535 of the 1999 Session Laws relating to a pledge of revenues from the Grand Forks Corporate Center removed by the House.

A legislative intent section relating to the Garrison Diversion Conservancy District removed by the House was not restored by the conference committee.

In addition, the conference committee adopted the following amendments not included in the Senate or House versions:

- Added a provision to Section 4 requiring the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of the funding provided in the water and atmospheric resources line item.
- Amended sections of the bill relating to Fargo flood control.
- Added sections relating to joint powers entities and commerce authorities. Sections were also added to provide for the application and expiration of these sections.
- Added a section relating to expenditure of funds for Garrison Diversion Conservancy District projects.
- Added a section to provide for a transfer from the permanent oil tax trust fund of any unexpended funds appropriated by the 2009 Legislative Assembly prior to the end of the 2009-11 biennium.

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2020 as (re) engrossed

Date: 4-27-11

Roll Call Vote #: 1

further amend  
02010  
Section 14

- Action Taken**
- SENATE accede to House amendments
  - SENATE accede to House amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) ---

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: S. Karpfol Seconded by: Monson

Senators	Yes	No		Representatives	Yes	No	
Senator Fischer	✓			Rep. Skarphol	✓		
Senator Holmberg	✓			Rep. Monson	✓		
Senator Robinson	✓			Rep. Williams	✓		

Vote Count: Yes 5 No 1 Absent  

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

## 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2020 as (re) engrossed

Date: 4-27-11

Roll Call Vote #: 2

*amended amendments*  
#02010

- Action Taken**
- SENATE accede to House amendments
  - SENATE accede to House amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) ---

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

Motion Made by: S Skarphol Seconded by: Monson

Senators	Yes	No		Representatives	Yes	No
Senator Fischer	✓			Rep. Skarphol	✓	
Senator Holmberg	✓			Rep. Monson	✓	
Senator Robinson	✓			Rep. Williams	✓	

Vote Count: Yes 6 No \_\_\_\_\_ Absent \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2020 as (re) engrossed

Date: 4-27-11

Roll Call Vote #: 2

- Action Taken**
- SENATE accede to House amendments
  - SENATE accede to House amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) 1364 - 1365

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) 2020 was placed on the Seventh order of business on the calendar

Motion Made by: Skarphol Seconded by: Robinson

Senators				Representatives			
		Yes	No			Yes	No
Senator Fischer		✓		Rep. Skarphol		✓	
Senator Holmberg		✓		Rep. Monson		✓	
Senator Robinson		✓		Rep. Williams		✓	

Vote Count: Yes 6 No \_\_\_\_\_ Absent \_\_\_\_\_

Senate Carrier Robinson House Carrier Skarphol

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment



PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02 and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities and metering certain water sources;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 1, replace line 19 with:

"Water and atmospheric resources	307,768,034	140,645,740	448,413,774"
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Page 1, replace lines 21 and 22 with:

"Total all funds	\$311,087,708	\$148,327,712	\$459,415,420
Less estimated income	<u>297,263,809</u>	<u>147,156,412</u>	<u>444,420,221"</u>

Page 2, line 19, after "APPROPRIATION" insert "- BUDGET SECTION APPROVAL "

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$448,413,774 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 9, remove the overstrike over "~~land purchases~~"

Page 3, line 10, remove the overstrike over "~~and~~"

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "for" insert "land purchases and"

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, replace lines 3 through 6 with:

**"SECTION 9. LEGISLATIVE INTENT - REMOTE METERING OF WATER PERMITS - FUNDING.** It is the intent of the sixty-second legislative assembly that of the funds appropriated from the resources trust fund in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide up to \$500,000 for a reimbursement program for the purchase and installation of remote water metering devices, for the biennium beginning with the effective date of this Act and ending June 30, 2013.

**SECTION 10.** A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

**SECTION 11. AMENDMENT.** Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, that are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

**SECTION 12. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-37-04. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.**

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

**SECTION 13. AMENDMENT.** Subsection 8 of section 11-37-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

**SECTION 14. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

**SECTION 15.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require permitholders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary, conditional, or perfected water permit and sold for oil and gas purposes. The metering requirement must not apply to water permits used exclusively for irrigation purposes or to temporary permits that have been returned to irrigation use. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

The state engineer shall establish a reimbursement policy for the purchase and installation of the remote terminal water metering devices. Permitholders may apply to the state engineer for reimbursement of one-half of the cost of a qualifying metering device, including installation, up to a total reimbursement of five thousand dollars per metering device installed.

**SECTION 16. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM.** The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 17. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 10 through 14 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 18. EXPIRATION DATE.** Sections 10 through 14 of this Act are effective through July 31, 2013, and after that date are ineffective."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Conference Committee Action**

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Grants local cost-share	\$500,000	\$500,000		\$500,000	\$500,000	
Administrative and support services	3,229,873	3,229,873		3,229,873	3,229,873	
Water and atmospheric resources	447,913,774	447,913,774	500,000	448,413,774	447,913,774	500,000
Federal stimulus funds	<u>7,271,773</u>	<u>7,271,773</u>		<u>7,271,773</u>	<u>7,271,773</u>	
Total all funds	\$458,915,420	\$458,915,420	\$500,000	\$459,415,420	\$458,915,420	\$500,000
Less estimated income	<u>443,688,322</u>	<u>443,920,221</u>	500,000	<u>444,420,221</u>	<u>443,920,221</u>	500,000
General fund	\$15,227,098	\$14,995,199	\$0	\$14,995,199	\$14,995,199	\$0
FTE	87.00	87.00	0.00	87.00	87.00	0.00

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

	Adds Funding for Remote Metering Devices <sup>1</sup>	Total Conference Committee Changes
Grants local cost-share		
Administrative and support services		
Water and atmospheric resources	500,000	500,000
Federal stimulus funds		
Total all funds	\$500,000	\$500,000
Less estimated income	<u>500,000</u>	<u>500,000</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> Adds funding from the resources trust fund for a remote metering device reimbursement program.

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The conference committee restored a grant to Wildlife Services in a legislative intent section to \$250,000, the same as the Senate. The House reduced the grant to \$100,000.

The conference committee added a section relating to the metering of certain water sources, the same as the House, but did not include legislative intent relating to the use of funds for water project priorities included in the House version.

The conference committee restored a section repealing Section 5 of Chapter 535 of the 1999 Session Laws relating to a pledge of revenues from the Grand Forks Corporate Center removed by the House.

A legislative intent section relating to the Garrison Diversion Conservancy District removed by the House was not restored by the conference committee.

In addition, the conference committee adopted the following amendments not included in the Senate or House versions:

- Added a provision to Section 4 requiring the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of the funding provided in the water and atmospheric resources line item.
- Amended sections of the bill relating to Fargo flood control.
- Added sections relating to joint powers entities and commerce authorities. Sections were also added to provide for the application and expiration of these sections.
- Added a section to provide for a transfer from the permanent oil tax trust fund of any unexpended funds appropriated by the 2009 Legislative Assembly prior to the end of the 2009-11 biennium.
- Added a legislative intent section relating to the funding of a reimbursement program for the remote metering of water permits.

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2020 as (re) engrossed

Date: 4-28-11

Roll Call Vote #: 1

*11.8151.02012*

- Action Taken**
- SENATE accede to House amendments
  - SENATE accede to House amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s)                     --                    

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Holmberg Seconded by: Rep. Skarphol

Senators	<i>4-28</i>		Yes	No		Representatives	<i>4-28</i>		Yes	No
	<i>4-28</i>	<i>4-28</i>					<i>4-28</i>	<i>4-28</i>		
Senator Fischer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Rep. Skarphol	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Holmberg	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Rep. Monson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Senator Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		Rep. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Vote Count: Yes 6 No 0 Absent \_\_\_\_\_

Senate Carrier \_\_\_\_\_ House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

## 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2020 as (re) engrossed

Date: 4-28-11

Roll Call Vote #: 2

SB 2020

**Action Taken**

- SENATE accede to House amendments
- SENATE accede to House amendments and further amend
- HOUSE recede from House amendments
- HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) ---

Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Robinson Seconded by: Holmberg

Senators				Representatives			
		Yes	No			Yes	No
Senator Fischer		✓		Rep. Skarphol		✓	
Senator Holmberg		✓		Rep. Monson		✓	
Senator Robinson		✓		Rep. Williams		✓	

Vote Count: Yes 6 No 0 Absent \_\_\_\_\_

Senate Carrier Fischer House Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2020, as engrossed:** Your conference committee (Sens. Fischer, Holmberg, Robinson and Reps. Skarphol, Monson, Williams) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1364-1365, adopt amendments as follows, and place SB 2020 on the Seventh order:

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02 and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities and metering certain water sources;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 2, line 19, after "**APPROPRIATION**" insert "**- BUDGET SECTION APPROVAL**"

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$447,913,774 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 9, remove the overstrike over "~~land purchases~~"

Page 3, line 10, remove the overstrike over "~~and~~"

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "for" insert "land purchases and"

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, replace lines 3 through 6 with:

**"SECTION 9.** A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.



**SECTION 10. AMENDMENT.** Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, that are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

**SECTION 11. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-37-04. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.**

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

**SECTION 12. AMENDMENT.** Subsection 8 of section 11-37-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

**SECTION 13. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

**SECTION 14.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require permitholders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary.

conditional, or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices:
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

**SECTION 15. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM.** The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 16. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 9 through 13 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 17. EXPIRATION DATE.** Sections 9 through 13 of this Act are effective through July 31, 2013, and after that date are ineffective."

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Conference Committee Action**

The conference committee restored a grant to Wildlife Services in a legislative intent section to \$250,000, the same as the Senate. The House reduced the grant to \$100,000.

The conference committee added a section relating to the metering of certain water sources, the same as the House, but did not include legislative intent relating to the use of funds for water project priorities included in the House version.

The conference committee restored a section repealing Section 5 of Chapter 535 of the 1999 Session Laws relating to a pledge of revenues from the Grand Forks Corporate Center removed by the House.

A legislative intent section relating to the Garrison Diversion Conservancy District removed

by the House was not restored by the conference committee.

In addition, the conference committee adopted the following amendments not included in the Senate or House versions:

- Added a provision to Section 4 requiring the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of the funding provided in the water and atmospheric resources line item.
- Amended sections of the bill relating to Fargo flood control.
- Added sections relating to joint powers entities and commerce authorities. Sections were also added to provide for the application and expiration of these sections.
- Added a section to provide for a transfer from the permanent oil tax trust fund of any unexpended funds appropriated by the 2009 Legislative Assembly prior to the end of the 2009-11 biennium.

Engrossed SB 2020 was placed on the Seventh order of business on the calendar.

**REPORT OF CONFERENCE COMMITTEE**

**SB 2020, as engrossed:** Your conference committee (Sens. Fischer, Holmberg, Robinson and Reps. Skarphol, Monson, Williams) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1364-1365, adopt amendments as follows, and place SB 2020 on the Seventh order:

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02 and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities and metering certain water sources;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 1, replace line 19 with:

"Water and atmospheric resources	307,768,034	140,645,740	448,413,774"
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Page 1, replace lines 21 and 22 with:

"Total all funds	\$311,087,708	\$148,327,712	\$459,415,420
Less estimated income	<u>297,263,809</u>	<u>147,156,412</u>	<u>444,420,221"</u>

Page 2, line 19, after "**APPROPRIATION**" insert "**- BUDGET SECTION APPROVAL**"

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$448,413,774 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 9, remove the overstrike over "~~land purchases~~"

Page 3, line 10, remove the overstrike over "~~and~~"

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "for" insert "land purchases and"

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, replace lines 3 through 6 with:

**"SECTION 9. LEGISLATIVE INTENT - REMOTE METERING OF WATER PERMITS - FUNDING.** It is the intent of the sixty-second legislative assembly that of the funds appropriated from the resources trust fund in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide up to \$500,000 for a reimbursement program for the purchase and installation of remote water metering devices, for the biennium beginning with the effective date of this Act and ending June 30, 2013.

**SECTION 10.** A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

**SECTION 11. AMENDMENT.** Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, which are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

**SECTION 12. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-37-04. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.**

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

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8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

**SECTION 14. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

**SECTION 15.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require permitholders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary, conditional, or perfected water permit and sold for oil and gas purposes. The metering requirement must not apply to water permits used exclusively for irrigation purposes or to temporary permits that have been returned to irrigation use. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

The state engineer shall establish a reimbursement policy for the purchase and installation of the remote terminal water metering devices. Permitholders may apply to the state engineer for reimbursement of one-half of the cost of a qualifying metering device, including installation, up to a total reimbursement of five thousand dollars per metering device installed.

**SECTION 16. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM.** The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 17. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 10 through 14 of this Act do

not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 18. EXPIRATION DATE.** Sections 10 through 14 of this Act are effective through July 31, 2013, and after that date are ineffective."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Conference Committee Action**

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Grants local cost-share	\$500,000	\$500,000		\$500,000	\$500,000	
Administrative and support services	3,229,873	3,229,873		3,229,873	3,229,873	
Water and atmospheric resources	447,913,774	447,913,774	500,000	448,413,774	447,913,774	500,000
Federal stimulus funds	<u>7,271,773</u>	<u>7,271,773</u>		<u>7,271,773</u>	<u>7,271,773</u>	
Total all funds	\$458,915,420	\$458,915,420	\$500,000	\$459,415,420	\$458,915,420	\$500,000
Less estimated income	<u>443,688,322</u>	<u>443,920,221</u>	500,000	<u>444,420,221</u>	<u>443,920,221</u>	500,000
General fund	\$15,227,098	\$14,995,199	\$0	\$14,995,199	\$14,995,199	\$0
FTE	87.00	87.00	0.00	87.00	87.00	0.00

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

	Adds Funding for Remote Metering Devices <sup>1</sup>	Total Conference Committee Changes
Grants local cost-share		
Administrative and support services		
Water and atmospheric resources	500,000	500,000
Federal stimulus funds		
Total all funds	\$500,000	\$500,000
Less estimated income	<u>500,000</u>	<u>500,000</u>
General fund	\$0	\$0
FTE	0.00	0.00

<sup>1</sup> Adds funding from the resources trust fund for a remote metering device reimbursement program.

The conference committee restored a grant to Wildlife Services in a legislative intent section to \$250,000, the same as the Senate. The House reduced the grant to \$100,000.

The conference committee added a section relating to the metering of certain water sources, the same as the House, but did not include legislative intent relating to the use of funds for water project priorities included in the House version.

The conference committee restored a section repealing Section 5 of Chapter 535 of the 1999 Session Laws relating to a pledge of revenues from the Grand Forks Corporate Center removed by the House.

A legislative intent section relating to the Garrison Diversion Conservancy District removed by the House was not restored by the conference committee.

In addition, the conference committee adopted the following amendments not included in the Senate or House versions:

- Added a provision to Section 4 requiring the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of the funding provided in the water and atmospheric resources line item.
- Amended sections of the bill relating to Fargo flood control.
- Added sections relating to joint powers entities and commerce authorities. Sections were also added to provide for the application and expiration of these sections.
- Added a section to provide for a transfer from the permanent oil tax trust fund of any unexpended funds appropriated by the 2009 Legislative Assembly prior to the end of the 2009-11 biennium.
- Added a legislative intent section relating to the funding of a reimbursement program for the remote metering of water permits.

Engrossed SB 2020 was placed on the Seventh order of business on the calendar.



2011 TESTIMONY

SB 2020



# **North Dakota State Water Commission Testimony Relative to Senate Bill 2020**

**Presented to the  
Senate Appropriations Committee**

**62nd Legislative Assembly**

**January 13, 2011**

**By Todd Sando, P.E.  
North Dakota State Engineer and Chief Engineer-Secretary  
to the North Dakota State Water Commission**

**NORTH DAKOTA STATE WATER COMMISSION TESTIMONY  
RELATIVE TO SENATE BILL 2020**

**PRESENTED TO THE SENATE APPROPRIATIONS COMMITTEE**

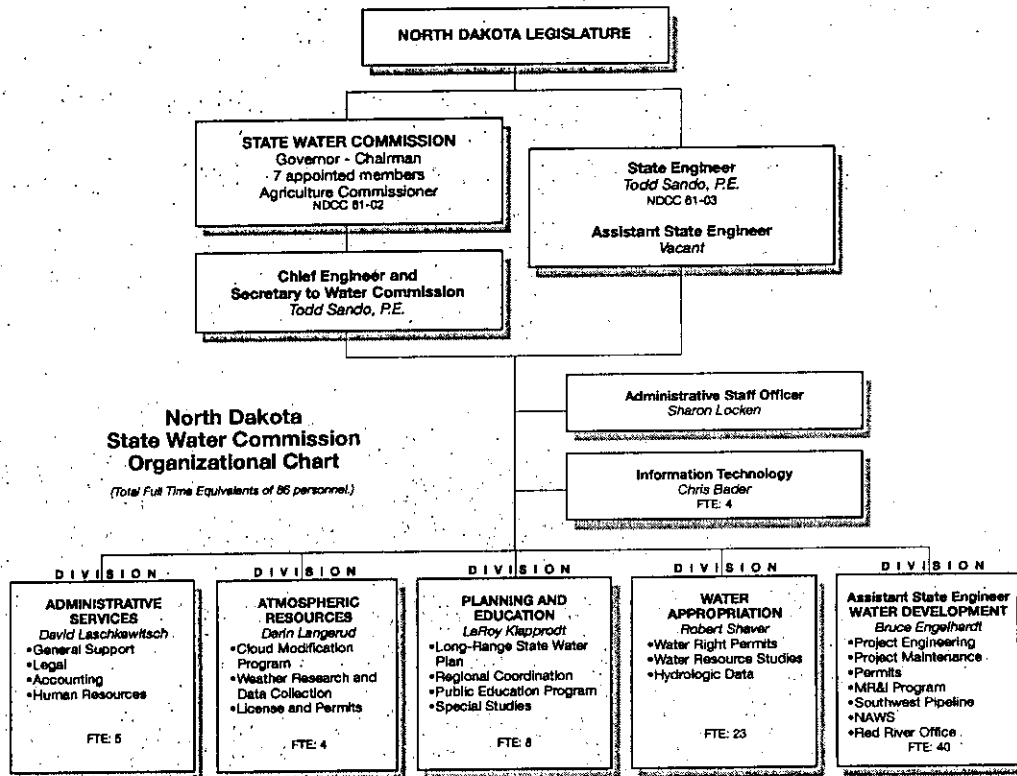
**JANUARY 13, 2011**

Mr. Chairman, members of the Senate Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding Senate Bill 2020. 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 pertinent issues for the upcoming biennium.

## ORGANIZATIONAL OVERVIEW

As illustrated by our organizational chart, the State Water Commission is separated into five divisions, with 86 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 Bruce Engelhardt, is responsible for project engineering, construction, 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 construction and 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; and manages the agency's information and education programs, including public outreach, and Project WET.

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 2009-2011 biennium so far, great progress has been made in several facets of water management and development – including flood control, water supplies, weather modification, and numerous general water management projects. I would like to take a few moments to outline some key water management and development efforts that have occurred this biennium, along with a brief overview of efforts we intend to pursue in the future.

## **Flood Control**

In flood control efforts, one of the most urgent issues facing the state is the ongoing flooding crisis in the Devils Lake basin. On April 2, 2010, Devils Lake set a new record level of 1450.74 feet above mean sea level. From there, the big lake continued with its relentless rise, peaking at a new record level of 1452.02 feet on June 27. Since then, Devils Lake has receded slightly, going into freeze-up at about 1451.5 feet.

I would like to report that we can expect a reprieve from rising lake levels, but unfortunately, the outlook for this spring and summer is potentially disastrous. According to the National Weather Service's long-range probabilistic forecast released in December, there's a fifty percent chance Devils Lake will reach 1454.6 feet, which is over two and a half feet above the previous record set last June. If the lake reaches that elevation, another 34,000 acres will be flooded, and the lake will cover 212,300 acres in total. Even more troubling is the fact that the Weather Service is giving a one percent chance of the lake exceeding 1457 feet – only one foot below the lake's natural spill elevation.

In response, we will continue to pursue a comprehensive, three-pronged approach to the Devils Lake area's flood-related problems - including upper basin water management, infrastructure protection, and outlet operations. With regard to outlet operations, we are pursuing additional capacity as soon as possible, which I will explain in more detail.

In August 2005, construction on the state's emergency Devils Lake outlet was completed, and it was operated in 2005, 2007, 2008, 2009, and 2010. The outlet was originally completed

with an operational capacity of 100 cubic feet per second (or cfs). However, last June we completed a major expansion to the outlet, which increased the outlet's capacity to 250 cfs. Over the course of the 2010 operating season, we were able to remove about 63,000 acre-feet from the lake.

However, current and forecasted conditions require even more to be done. Therefore, in addition to the state's existing outlet on the west end of Devils Lake, the Water Commission is moving forward with a 250 cfs east end outlet that would take water from East Devils Lake – likely from the Jerusalem Channel. Currently, we're considering several alternatives on the east end, including open channel, pipeline and pumping, and tunneling (See Map Appendix). In addition, we are also preparing designs for a 100 cfs expansion of the west end outlet, and working to develop a control structure on Tolna Coulee to limit discharge, while allowing natural erosion to occur, should the lake spill. With the existing 250 cfs west end outlet in place, a 250 cfs east end outlet, and a 100 cfs west end expansion, the state could be releasing up to 600 cfs via outlets in the coming years. While any combination of outlets will reduce the risk of a natural overflow and the resulting impacts, they do not guarantee that a natural overflow can be prevented.

With regard to upper basin water management, the Water Commission has continued to provide assistance to the Devils Lake Joint Water Resource Board in their basin-wide efforts. In addition, we have continued to implement and fund the Extended Storage Acreage Program that stores floodwater in the upper portions of the basin.

Infrastructure protection and relocation efforts also continue to be an issue throughout the Devils Lake basin. The U.S. Army Corps of Engineers is making progress on raising the city of Devils Lake levee to 1465 feet, at a total cost of about \$125 million. Of that amount, the state, through the Water Commission, is contributing about \$25 million. This project is scheduled for completion in 2012. The city of Minnewaukan recently received a \$6 million federal grant through the Department of Education to relocate the school. However, many questions still remain about the future of the rest of the community.

Moving our attention to other flood control efforts in the Red River basin, I am happy to report that the Grand Forks flood control project performed extremely well during our most recent large-scale flood events in 2009 and 2010.

In Wahpeton, Stages 1 and 2 of their flood control project have been completed, and construction on Stage 3a, which began in the summer of 2009, is 95% complete.

Construction on Stage 3b, the only remaining in-town levee alignment, will begin this coming summer. As in the past, construction efforts in Wahpeton will 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-Moorhead metro area flood control project. After the flood of 2009, it is apparent that a permanent, large-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the U.S. Army Corps of Engineers, Fargo, West Fargo, Moorhead (MN), Cass County, and Clay County (MN) have been jointly working toward the



completion of a study that assesses potential measures that will reduce the entire metro area's flood risk. The two primary projects that are being evaluated are a 35,000 cfs diversion channel through North Dakota, and a 35,000 cfs diversion channel through Minnesota. The preferred alternative of local project sponsors is the North Dakota diversion (See Map Appendix).

According to the U.S. Army Corps' Draft Feasibility Report, the locally preferred plan would be a 36-mile long diversion channel that would start approximately four miles south of the confluence of the Red and Wild Rice Rivers and would re-enter the Red River north of the confluence of the Red and Sheyenne Rivers.

The estimated cost of the North Dakota diversion alternative is \$1.46 billion, with a non-federal share of \$564 million. The Water Commission has budgeted \$30 million in the 2011-2013 biennium, in addition to \$45 million from the previous biennium, to cover a portion of North Dakota's non-federal share of this project, which could total \$300 million.

One final flood-related item I would like to cover is the recent implementation of North Dakota's new Silver Jackets program. The Silver Jackets program was initiated in January 2010 in response to the extensive flooding of 2009 to provide local interests, including smaller communities, with a single point of contact to help them through their flood recovery and mitigation efforts. This new program has already seen a number of successes, including the advancement of levee certifications in Hazen, Pembina, Enderlin, and Velva; progress on a James River Recon Study; and various forms of flood mitigation support in Linton, Lisbon, LaMoure, Oxbow, Beulah, Hazen, Minnewaukan, Kindred, and Fargo.

## **Water Supply**

In water supply efforts, a huge challenge facing North Dakota right now is providing enough water to support the oil industry. To put this growth into perspective, there were ten water permits issued for water depots out west over the course of 27 years from 1980 to 2007. In the last three years alone, we've issued 34 permits and have 70 under review. With oil companies being forced to truck water in for their drilling operations, and sometimes over great distances, the development of additional water depots helps to reduce trucking miles, and more importantly, it spreads out supply and demand for water resources.

As the oil industry continues to grow in the western portion of the state, so does the need for water development projects to support drilling processes, and a growing workforce. Even with current drilling activity in that region, existing water supplies are being stretched to their limits. And, with future drilling expected to expand substantially in the coming years, the strain on water supplies is only expected to intensify. This is particularly true of areas that are relying heavily on groundwater resources. For that reason, development of water supply systems that utilize abundant Missouri River water have become a priority in the region.

In response, the Western Area Water Supply project has been proposed as part of the solution. This project is being advanced through a collaborative effort between the city of Williston, Williams Rural Water District, McKenzie Water Resource District, and Ray and Tioga Water Supply. The focus of this collaborative effort has been to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant to areas throughout the northwest, oil-producing region of the state for municipal, rural, and industrial purposes (See Map Appendix).

The total estimated cost of the Western Area Water Supply project is approximately \$150 million, and a business plan is currently in the works that will more accurately detail their funding requirements and sources.

With the Northwest Area Water Supply (NAWS) project, the first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot - that also serves North Prairie Water District. But, until Missouri River water can be accessed, NAWS is getting an interim water supply through a ten-year contract with Minot, which expires in 2018.

This spring, Mohall, Sherwood, and All Seasons Water District will be connected to NAWS, and we will move forward on another 30 miles of pipeline north of Minot to the Air Force Base, Glenburn, and the Upper Souris Water District. These projects are all scheduled for completion in the 2011-2013 biennium (See Map Appendix).

Regarding the NAWS-related lawsuit, the federal court issued an order in March 2010, requiring the Bureau of Reclamation to take a closer look at the cumulative impacts of water withdrawals on Lake Sakakawea and Missouri River water levels; and the consequences of biota transfer into the Hudson Bay basin, including Canada. As a result, a Supplemental Environmental Impact Statement is underway and initial public scoping meetings have been completed. A draft of that report should be released about a year from now. More recently,

an October 2010 court order allowed us to proceed with filter work in Minot's water treatment plant, and that work is under design.

In the last couple of years, we have continued with our track-record of substantial progress on the Southwest Pipeline Project. As you will notice on the Southwest Pipeline Project map in the Appendix, this project now covers much of southwest North Dakota west of the Missouri River. Today, Southwest Pipeline serves over 35,000 people, including 28 communities, and about 4,000 rural hook-ups.

Funding from the current 2009-2011 biennium will advance several Southwest Pipeline projects in the next few years, including: the Oliver, Mercer, North Dunn Water Treatment Plant; and main transmission facilities in the Zap and Center Service Areas. New 2011-2013 funding will be put toward the Zap Service Area rural distribution pipeline; design and bidding of the Center Service Area rural distribution pipeline; and to begin construction on transmission facilities in the Dunn Service Area.

In addition to NAWS and Southwest Pipeline, State Water Supply Program and federal MR&I funds, totaling about \$52 million and \$44 million, respectively, were invested in nine design and/or construction projects so far this biennium. Those projects involved several systems across the state, including: South Central Regional Water District; McKenzie County Regional Water; Traill Rural Water; West Area Water Supply; Red River Valley Water Supply; Tri-County, Lakota; Crosby, Burke-Divide-Williams Rural Water Supply; and the cities of Parshall and Valley City. The federal government also invested another \$42 million for tribal-related projects on reservations.

Thanks to North Dakota's Water Supply Program, regional and rural water systems have continued to expand throughout the state. There are now 30 regional water systems in North Dakota, providing water to over 200,000 residents, including 319 cities, 64 various water systems, 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.

With regard to the Red River Valley Water Supply, the Water Commission has continued to work in cooperation with the Garrison Diversion Conservancy District to advance this project, although a Record of Decision has not been signed for the EIS that was completed back in 2007.

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). However, the project still needs two major steps to occur before construction can start: 1) Congress must authorize the project; and 2) the Record of Decision must be signed.

### **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 34th year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 754 active volunteer observers throughout the state, and precipitation data, charts, and maps can now be easily accessed on the Water Commission website.

This winter, a new snow-reporting program was launched through ARB's Cooperative Observer Network. There are 414 observers participating this year, and snowfall will be reported in inches, liquid water equivalent, and total snowpack water equivalent. This information will be extremely valuable as it will fill data gaps and improve forecasting of spring runoff and flood risks.

d

### **General Water Management**

Significant progress was also made on statewide general water management projects through our cost-share program. These efforts included 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.

In addition, it should be noted that dam repairs continue to be a high priority in North Dakota and throughout 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.

During the last two construction seasons, the Water Commission was involved in repairs at 15 dams across the state.

### **2009-2011 Funding Summary**

To cap off our discussion of activities in the current biennium, I would like to provide a brief summary of 2009-2011 project expenditures. The State Water Commission spent \$83.5 million on water projects through November 2010. It is anticipated that an additional \$54.6 million will be spent through June 2011. About \$89.2 million of that \$138.1 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 balance is made up of federal and local funds. We estimate that we will carry \$108.6 million of the committed contract fund projects forward and into the 2011-2013 biennium.

To update you on the Water Commission's bonding, we have six bond issues outstanding on the Southwest Pipeline Project. These have provided the project with \$24 million, of which \$20.4 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by water sales.

We also have two 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 \$73.9 million remains outstanding. The Water Development Trust Fund provides the funding to make these payments. Payments for the 2011-2013 biennium will total \$16.9 million.

**SENATE BILL 2020**

Senate Bill 2020 contains the Executive Budget recommendation for the State Water Commission for the 2011-2013 biennium. The recommendation totals \$458,915,420.

Administrative and Support Services	\$3,229,873
Water and Atmospheric Resources	447,913,774
Federal Stimulus Funds	7,271,773
Grants Local Cost-share	<u>500,000</u>
Total	\$458,915,420
General Funds	\$15,227,098
Federal Funds	53,984,383
Other Funds	<u>389,703,939</u>
Total	\$458,915,420

Our agency budget contains four 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 most project funding. The remaining one-time project funding is included in the line items titled Federal Stimulus Funds and Grants Local Cost-share. The Federal Stimulus Funds line contains the estimated unexpended stimulus funds carried forward from the 2009-2011 biennium for the Southwest Pipeline water treatment plant. The Grants Local Cost-share line contains the estimated unexpended funds for the Ray-Tioga, Burke-Divide-Williams, Wildrose and Stanley water projects. The Grants Local Cost-share funds are from the Permanent Oil Trust Fund and are also carried forward from the 2009-2011 biennium. In the 2009-2011 biennium, general funds totaling \$14.1 million were included in the budget. The 2011-2013 budget recommendation contains \$15.2 million, an increase of \$1.1 million from the 2009-2011 budget. This increase in general fund dollars



provides the funding required for the salary and benefit package included in the Executive Budget, as well as one additional position.

Federal funds totaling \$54 million have been included in the Executive Budget recommendation. This is a decrease of \$13.1 million from the 2009-2011 biennium. This decrease is due to the anticipated reduction of federal funding 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 \$204.4 million in new Resources Trust Fund revenue for the 2011-2013 biennium. This included \$199.8 million of oil revenues, and \$4.6 million from other sources. This projection assumes prices averaging \$72 per barrel for fiscal year 2012, with production ranging from 390,000 to 405,000 barrels per day, and \$75 per barrel for fiscal year 2013, with production ranging from 405,000 to 425,000 barrels per day. The most recent oil extraction deposit into the Resources Trust Fund, which was received in December, totaled \$7,520,245. The Commission closely monitors revenues throughout the biennium to insure that project commitments do not exceed the projected revenues.

The other large funding source for the Water Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in \$20.6 million in new revenue this biennium. This is an increase of \$900,000 from the 2009-2011 biennium. The Commission, with authorization from the Legislature, issued bonds that use future Water Development Trust Fund revenues to make the payments. With the 2011-2013 biennium's bond payments totaling \$16.9 million, only \$3.7 million will be available for water projects from the Water Development Trust Fund

## 2011 Water Development Report

The new 2011 Water Development Report has been provided for your reference. This report serves as an update and supplement to the 2009 Water Plan; it provides up-to-date information regarding North Dakota's current and future water development project needs; it provides current information regarding North Dakota's ability to fund those water development needs; and it serves as a formal request for funding from the Resources Trust Fund.

As indicated in the 2011 Water Development Report, the total estimated project and program funding needs submitted by water project sponsors total over \$640 million, with state funding needs of about \$417 million for the upcoming biennium. Thus, prioritization requires very close coordination with the Governor's Office, State Water Commission members, and the water community through the North Dakota Water Coalition.

The following table represents the Water Commission's funding priorities for the 2011-2013 biennium.

<b>SWC Priority Projects</b>	<b>Potential 2011-2013 Allocations</b>
Devils Lake Outlet	\$75,000,000
Devils Lake Downstream Impacts	15,000,000
Fargo Flood Control	30,000,000
General Water Management	26,000,000
Irrigation	5,000,000
Missouri River Management	1,000,000
Northwest Area Water Supply	12,000,000
Red River Valley Water Supply	5,000,000
Southwest Pipeline Project	25,000,000
State Water Supply Program	15,000,000
Weather Modification	1,000,000
Western Area Water Supply	25,000,000
<b>Project Totals</b>	<b>\$235,000,000</b>

## AGENCY SPECIFICS AND OTHER PERTINENT ISSUES: 2011-2013 BIENNIUM

In closing, I would like to cover an important staffing issue and some other water management challenges that are currently facing our state.

The Executive recommendation includes one new position for the Commission, which would bring our total FTEs to 87 for the 2011-2013 biennium. Currently the Assistant State Engineer serves as both the Assistant State Engineer and the Water Development Division Director. The Executive Budget includes a new position for a Water Development Division Director.

The agency has experienced a substantial increase in both funding and workload. With the many critical statewide water issues occurring in North Dakota we believe the additional position would benefit both the agency and the state's citizens. The new position would allow the State Engineer to assign more responsibilities to the Assistant State Engineer because that individual would no longer have the day-to-day responsibilities of also running the Water Development Division, which is our agency's largest division.

With regard to other water management challenges, there are several ongoing Missouri River studies moving forward that will have lasting impacts on how that system is managed. They include the Missouri River Recovery Implementation Committee, the Missouri River Ecosystem Restoration Plan, and the Missouri River Authorized Purposes Study. The Water Commission, several other state agencies, and numerous stakeholder interests have continued to be closely involved in each of the aforementioned efforts, and in fact, we have recently spearheaded a Missouri River stakeholders group to ensure that North Dakota's interests are not overlooked.

Of equal or even greater importance, I would like to bring to your attention a recent U.S. Army Corps of Engineers policy change that will negatively impact many North Dakota water users. Last spring, the Army Corps of Engineers began denying access easements to water users trying to withdraw water from Lakes Sakakawea and Oahe. After decades of allowing that water to be used for municipal, rural, industrial, and irrigation uses, the Corps has now announced its intention to begin charging water storage fees. Under this policy, new and maybe even existing water users that request land easement modifications, will be subject to a water storage contract with the Corps, which will require them to pay an estimated \$20.91 per acre-foot of water.

Since becoming aware of this new Army Corps policy, the Water Commission, other state agencies, and several stakeholder groups have been working hard to get the Corps to reconsider.

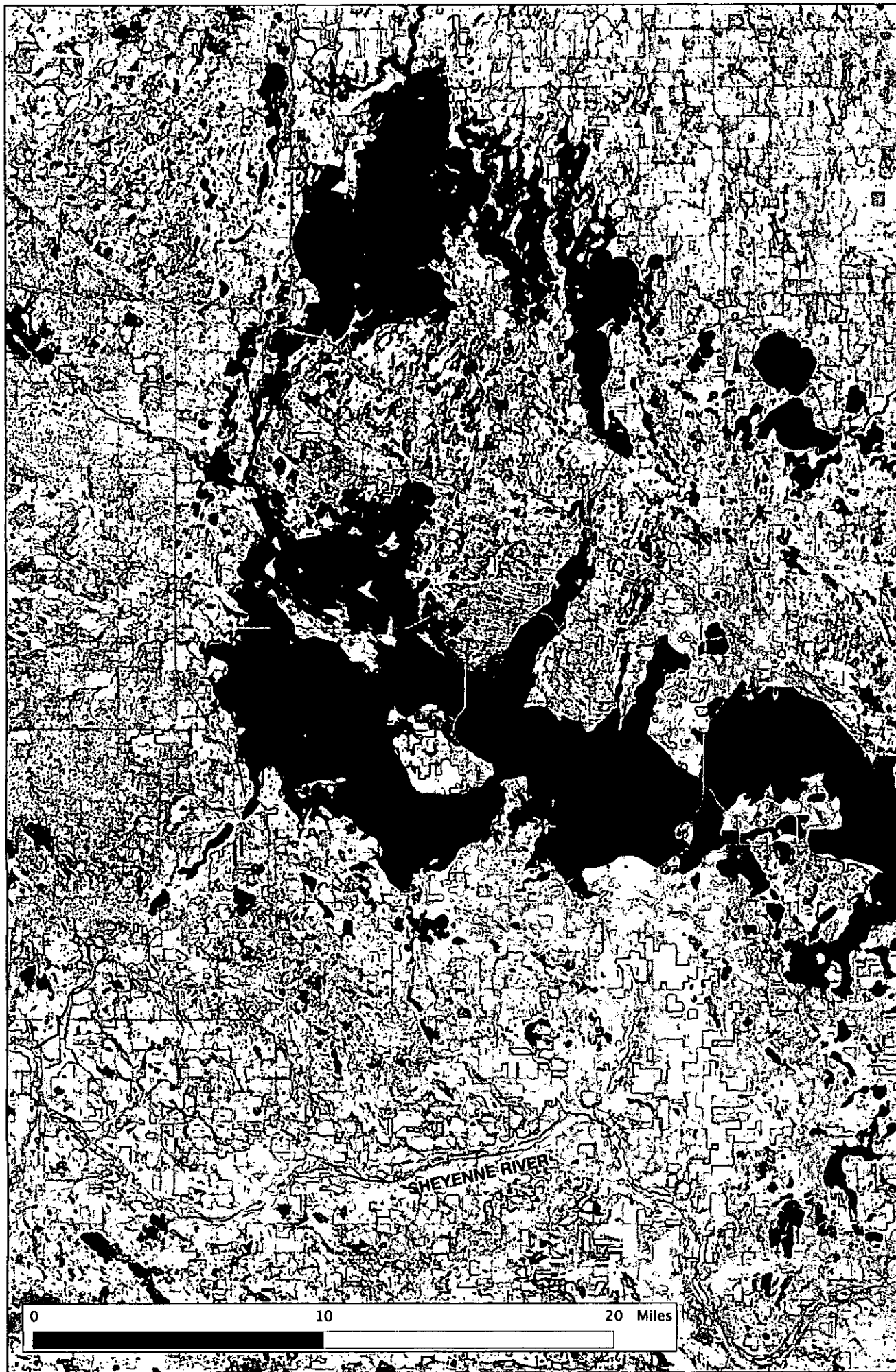
The foundation of our argument thus far has been that North Dakota's water users are entitled to water from the Missouri River's natural flow, which is water that would be available without the mainstem reservoirs. Natural flow of the Missouri would be ample to meet all North Dakota's water needs, and the reservoirs stand in the way of accessing our Missouri River water along vast stretches. For that reason alone, North Dakota water users should never be required to pay for access to Missouri River water whether it be natural flow or stored. In addition to this argument, we have raised several other issues in letters to the Corps, and public outreach information, that I would be happy to make available upon request.

In getting back to Devils Lake, I earlier outlined the urgency of their current flooding crisis. That situation was obviously an important consideration in the drafting of Senate Bill 2020, as you will note a Devils Lake flood-related emergency clause is included. In consideration of predicted lake levels for the coming year, and the reality of what is at stake for residents within the Devils Lake basin and downstream, we appreciate the flexibility that such an emergency clause can provide. As such, I respectfully request your support of this emergency clause in Senate Bill 2020 so the Water Commission can respond with appropriate measures as quickly as possible.

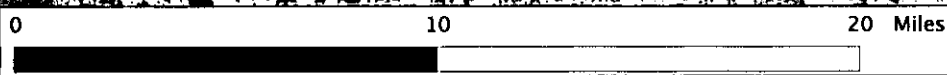
And finally, I would like to draw your attention to our newly developed State Water Commission and Office of the State Engineer Strategic Plan for the 2011-2013 biennium. The purpose of this new plan is to clearly document agency direction and expectations that we have set for ourselves through our strategic 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.

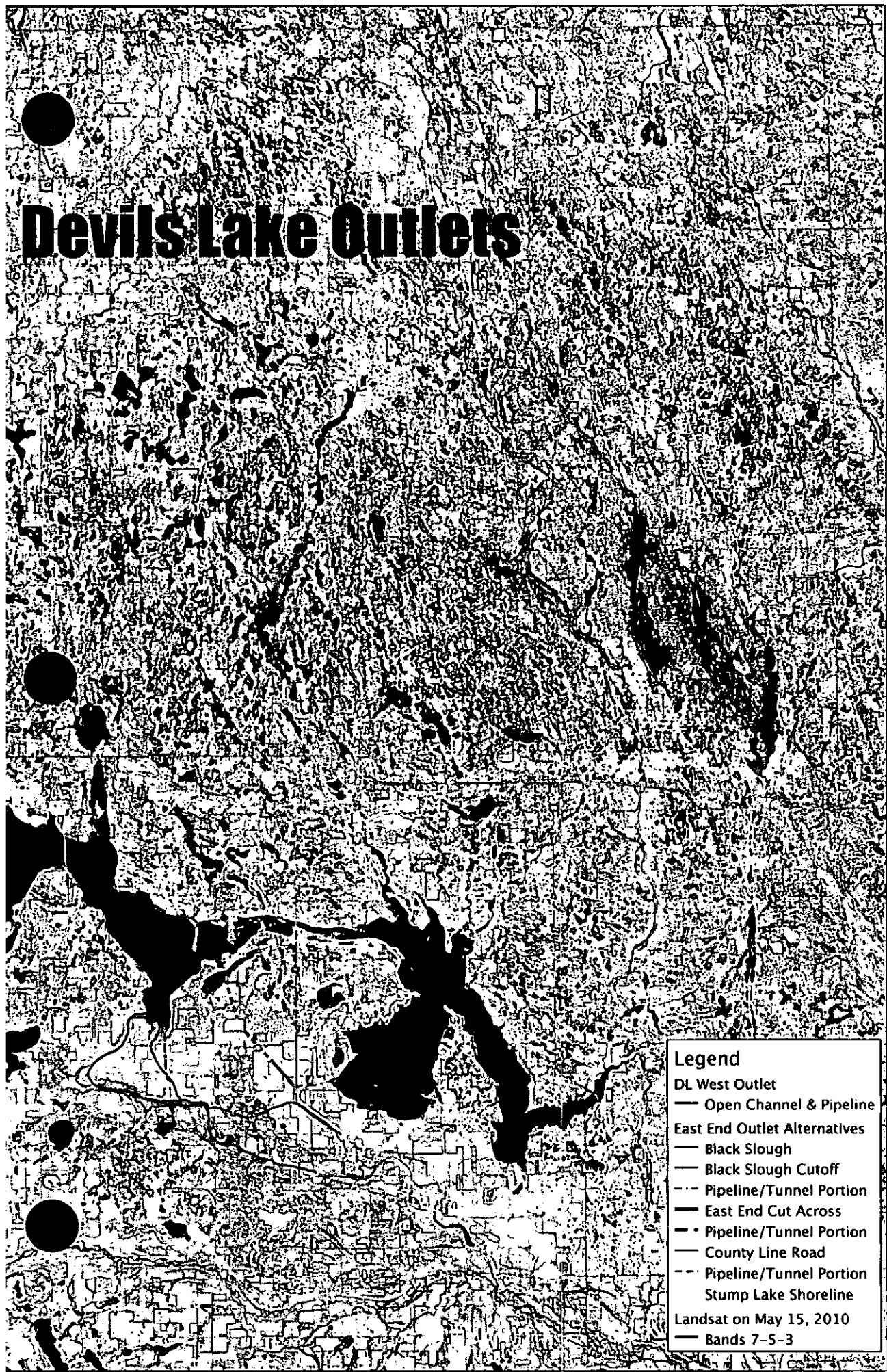
This concludes my testimony on Senate Bill 2020, and I will be happy to answer any questions that you might have.



SHEYENNE RIVER

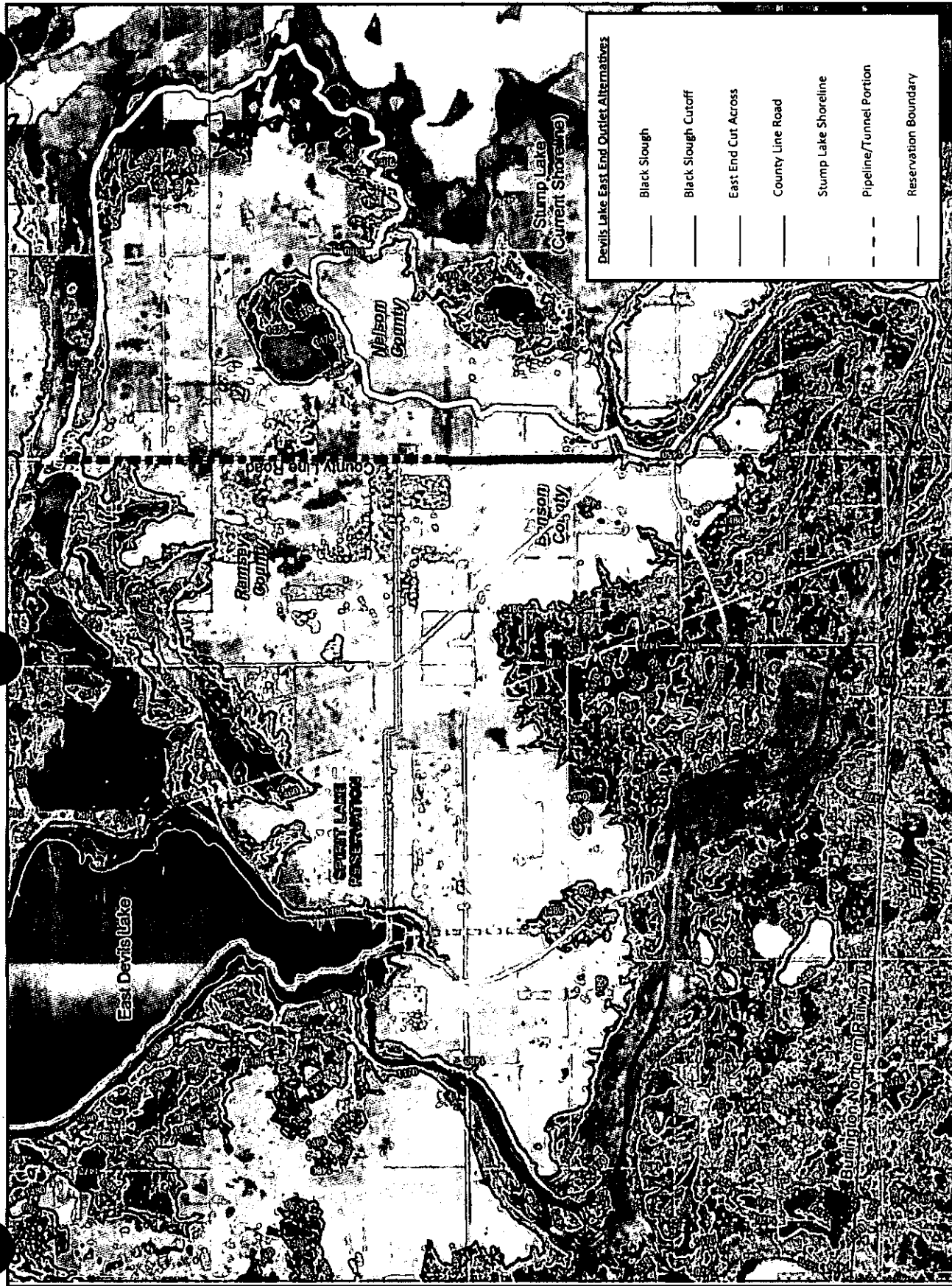


# Devils Lake Outlets



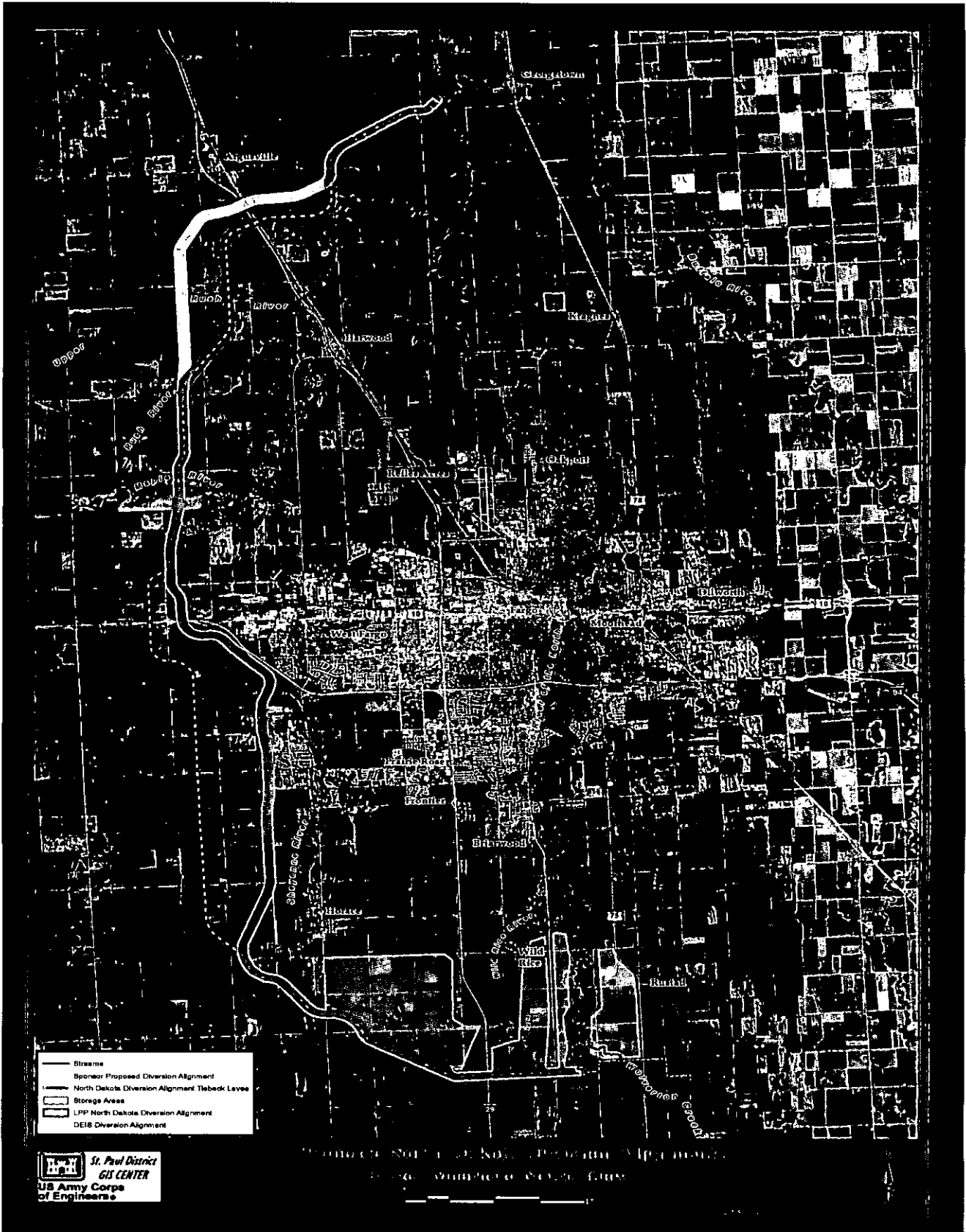
**Legend**







- DL West Outlet
- Open Channel & Pipeline
- East End Outlet Alternatives
- Black Slough
- Black Slough Cutoff
- - - Pipeline/Tunnel Portion
- East End Cut Across
- · - Pipeline/Tunnel Portion
- County Line Road
- - - Pipeline/Tunnel Portion
- Stump Lake Shoreline
- Landsat on May 15, 2010
- Bands 7-5-3



Devils Lake East End Outlet Alternatives





-  Stream
-  Sponsor Proposed Diversion Alignment
-  North Dakota Diversion Alignment Tieback Levee
-  Storage Area
-  LPP North Dakota Diversion Alignment
-  DEIS Diversion Alignment

**St. Paul District  
GIS CENTER**  
US Army Corps  
of Engineers

FARGO, NORTH DAKOTA, DEVILS LAKE PROJECT

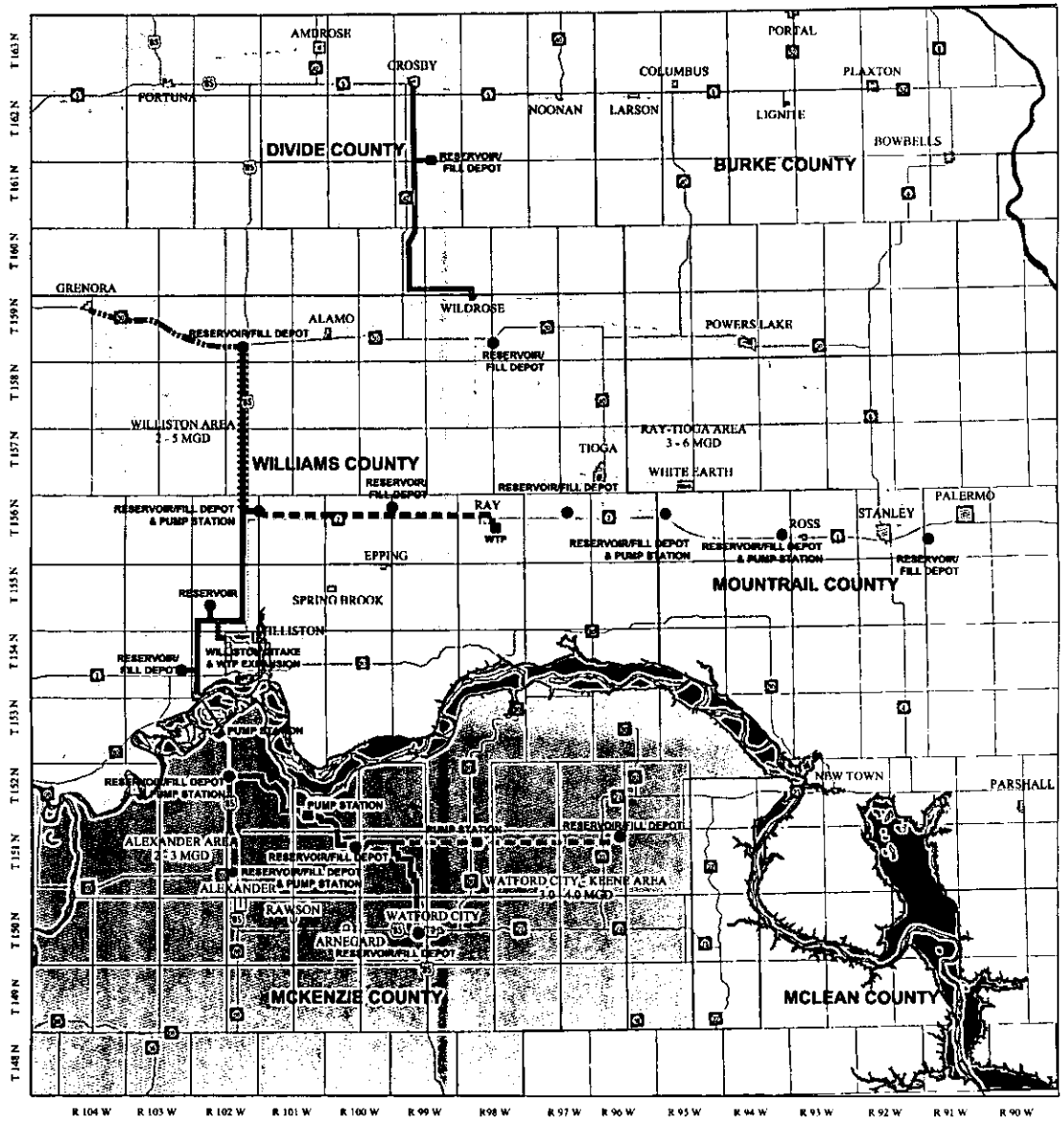
Scale: 1 inch = 1 mile

# WESTERN AREA WATER SUPPLY PROJECT

CANADA

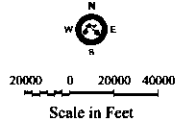
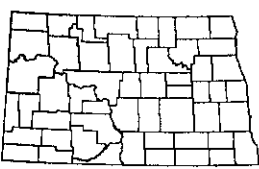
R 102 W R 101 W R 100 W R 99 W R 98 W R 97 W R 96 W R 95 W R 94 W R 93 W R 92 W R 91 W R 90 W

MONTANA  
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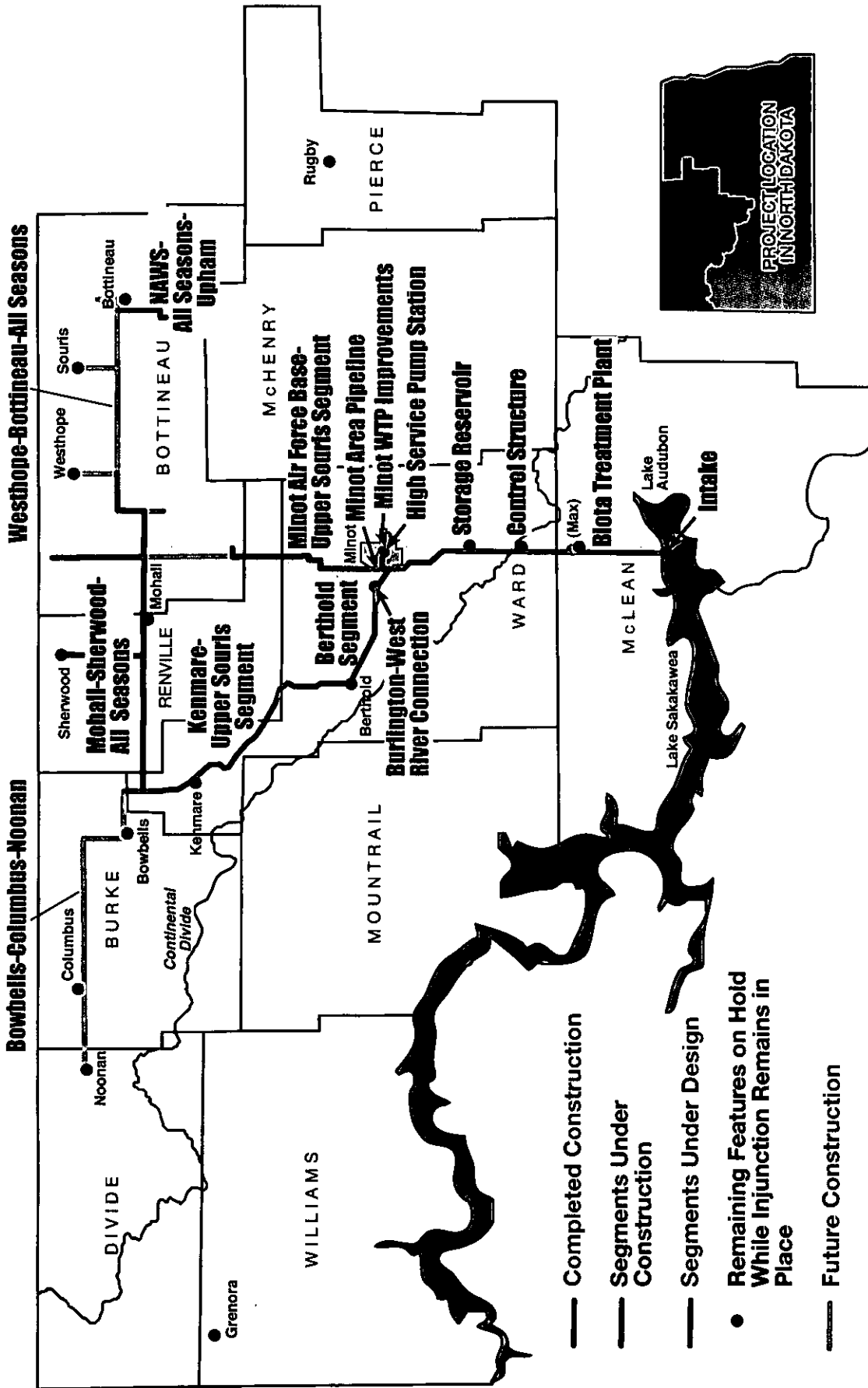


R 104 W R 103 W R 102 W R 101 W R 100 W R 99 W R 98 W R 97 W R 96 W R 95 W R 94 W R 93 W R 92 W R 91 W R 90 W

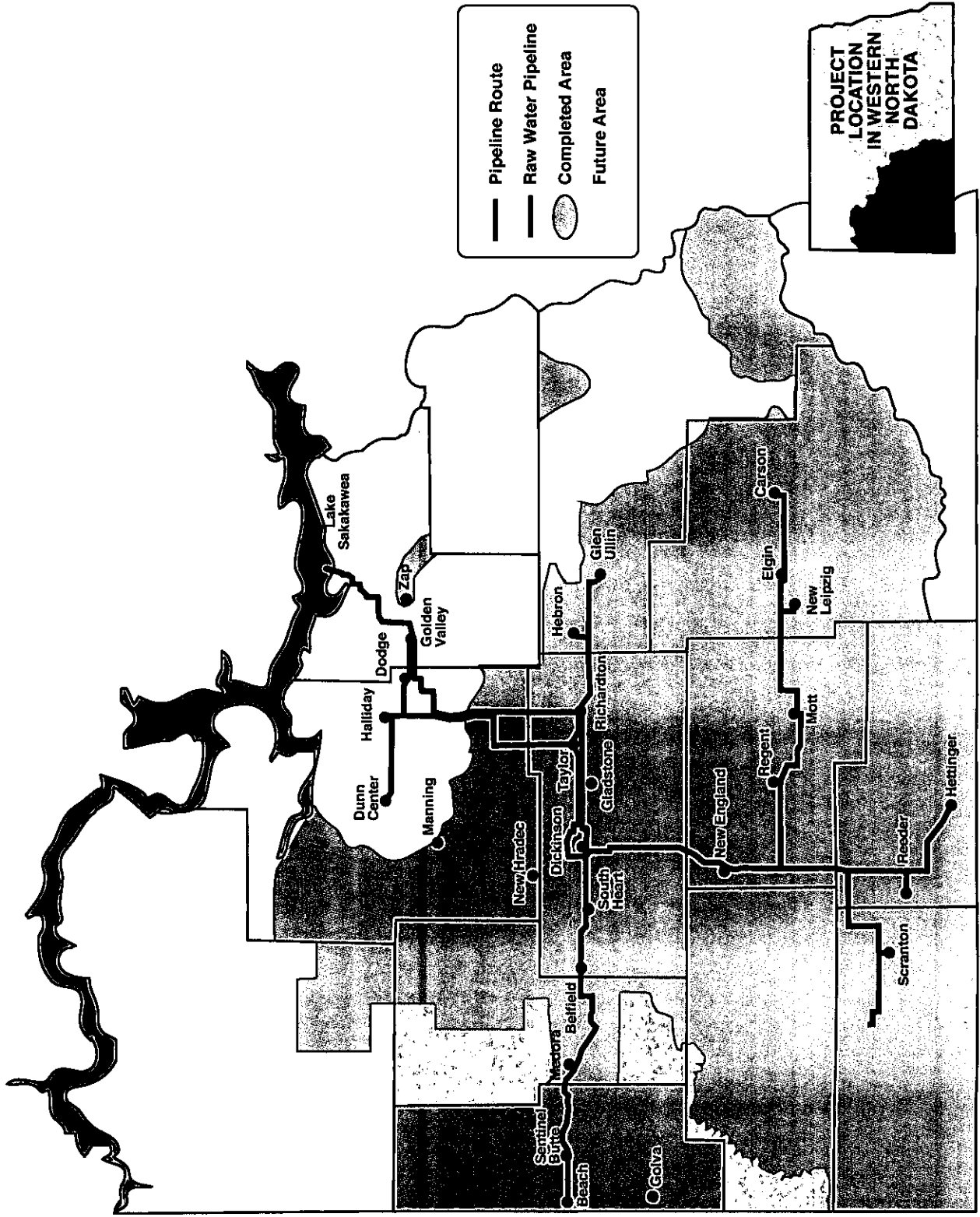
- NORTH SERVICE AREA (5 MGD OIL INDUSTRY WATER DEMAND)
- SOUTH SERVICE AREA (4 MGD OIL INDUSTRY WATER DEMAND)
- EXISTING/FUNDED TRANSMISSION LINES
- MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT - PHASE I
- MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT - PHASE II
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE I
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE II
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE IV
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE V
- SDW RURAL WATER DISTRICT IMPROVEMENT PROJECT
- CITY OF WILLISTON IMPROVEMENTS PROJECT
- RAT WATER SUPPLY ASSOCIATION IMPROVEMENTS PROJECT



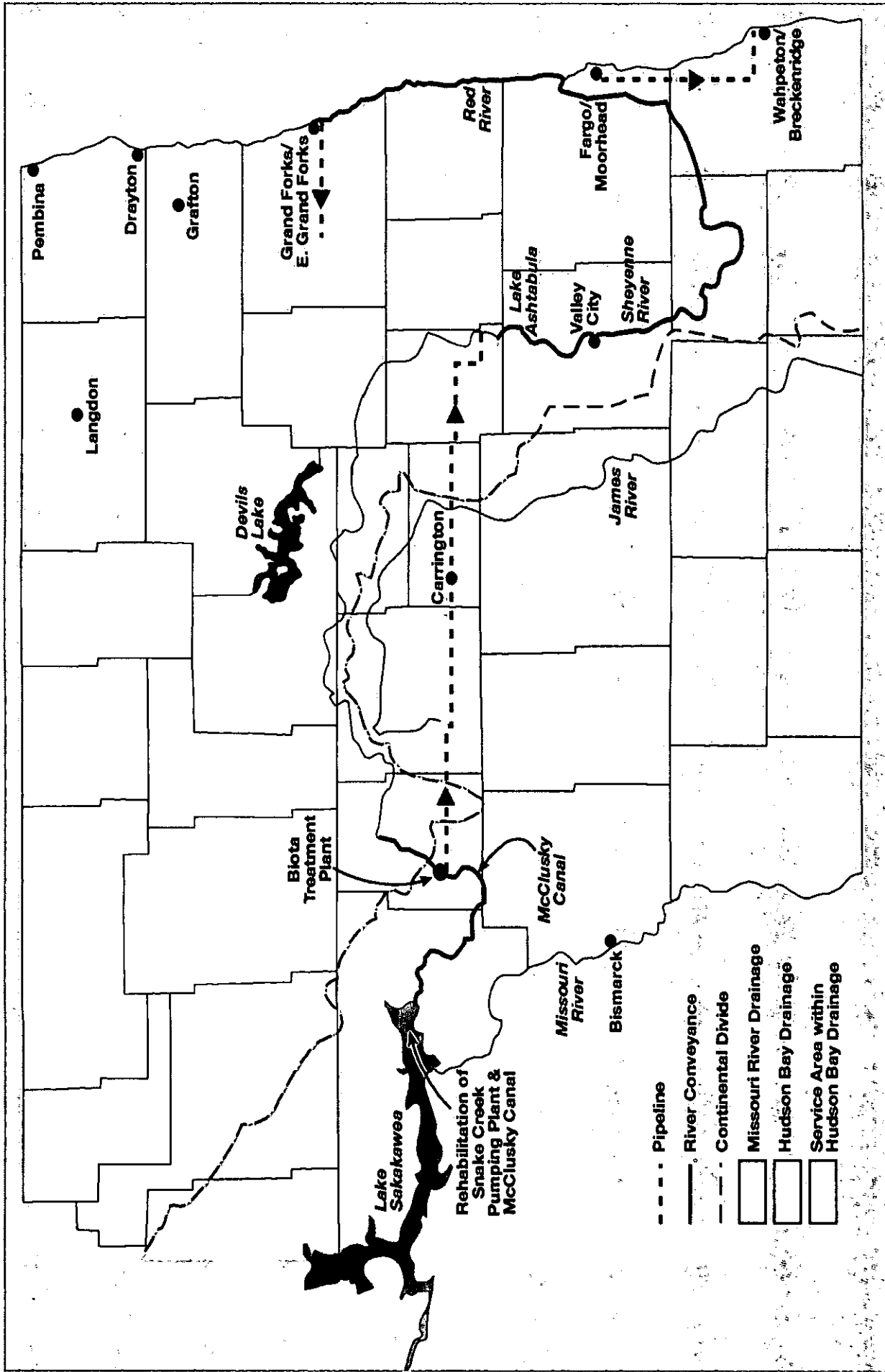
Project No. 1000000000  
 Date: 11/15/00  
 Project Name: WESTERN AREA WATER SUPPLY PROJECT  
 Project Location: WILLIAMS COUNTY, MONTANA  
 Project Status: IN PROGRESS  
 Project Manager: [Name]  
 Project Engineer: [Name]



Northwest Area Water Supply



Southwest Pipeline Project



Red River Valley Water Supply  
Preferred Alternative

## **North Dakota Water Coalition Participants**

Senate Appropriations-Harvest Room

SB 2020 Hearing

January 13, 2011

1. North Dakota Water Coalition– (2 min.)  
**Jean Schafer**
2. Devils Lake– (15 min.)  
**Joe Belford**, Ramsey County Commission  
**Richard Johnson**, Mayor of Devils Lake
3. F-M Metropolitan Flood Protection– (15 min.)  
**Dennis Walaker**, Mayor of Fargo
4. Northwest Area Water Supply– (5 min.)  
**Bob Schempp**, NAWS Advisory Committee
5. Rural Water Supply– (5 min.)  
**Teresa Sundsbak**, North Prairie Rural Water  
**Geneva Kaiser**, Stutsman Rural Water
6. Municipal Water Supply– (5 min.)  
**Connie Sprynczynatyk**, N.D. League of Cities
7. Western Area Water Supply– (15 min.)  
**Gene Veeder**, McKenzie County WRD  
**Brent Bogar**, Williston City Commission
8. Southwest Pipeline Project– (10 min.)  
**Carlyle and Sally Hillstrom**, Oliver County  
**Cliff Ferebee**, Dunn County
9. Red River Valley Water Supply– (10 min.)  
**Merri Mooridian**, Lake Agassiz Water Authority
10. Irrigation– (5 min.)  
**Bob Vivatson**, N.D. Irrigation Association
11. Water Management Projects– (5 min.)  
**Mike Dwyer**, N.D. Water Resource Districts Association
12. N.D. Water Users Association– (5 min.)

# Meeting the Challenge VII

## 2011-13 Critical Water Needs Summary

In the past two years we have seen serious flooding not just in the east, but throughout the entire state. This next spring is projected to bear similar conditions. In the west oil development is booming and in need of water to continue and grow. We also have regional infrastructure needs such as Devils Lake, Red River Valley Water Supply, NAWs and the Southwest Pipeline Project, as well as local needs for rural water, irrigation, water management and weather modification. The Missouri River is another very significant issue. The following is a summary of the critical water needs we are facing in the coming biennium and beyond.

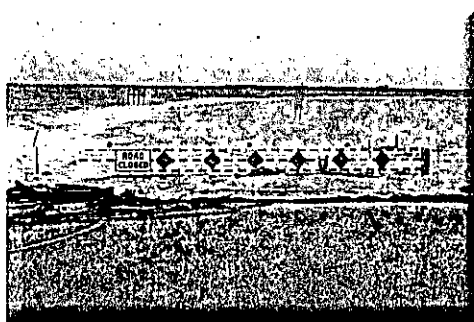
Our focus has always been, and continues to be, on critical water priorities. The North Dakota Water Coalition brings water and other groups together to help build grassroots support to complete North Dakota's water infrastructure for economic growth and quality of life.

- Dennis Hill, Chairman, North Dakota Water Coalition

# Regional Infrastructure

## Devils Lake

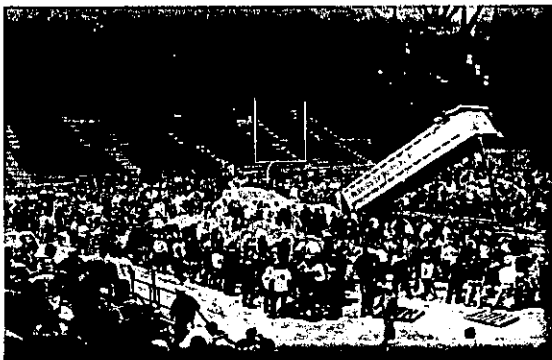
Devils Lake continues to plague the region with on-going flooding. The lake reached another all-time high during the summer of 2010, and sparked another round of road raises, flood protection measures, and home relocations – pushing the costs of mitigating the crisis to more than \$700 million. In addition, the lake inundated more than 40,000 acres of productive farmland in the last two years, bringing the total amount of flooded land to nearly 140,000 acres since 1993.



Record lake elevations have also significantly increased the risk of a natural spill from the east end of the lake, causing increased concerns for potential downstream flooding and water quality impacts.

Federal, state, and local officials continue to search for answers to bring the lake into check. A federal task force was convened in the summer of 2010 to review alternatives and develop recommendations for flood control for the area. However, based on federal rules and regulations, it appears a federal response may take years to implement and will be quite costly. State and local officials have been reviewing potential non-federal alternatives for a solution to prevent a potential catastrophic overflow of the lake and reduce additional flooding in the region. The non-federal response will require significant state funding in future bienniums.

## F-M Metropolitan Flood Protection



The City of Fargo has adopted a two-track strategy to achieve both comprehensive, long-term protection and continue to meet the immediate needs of the population. Fargo continues to be the last major city on the Red River that does not have a comprehensive flood protection project in place to protect its approximately 100,000 residents.

The immediate plan involves a series of projects that take a

neighborhood approach to raising the level of protection available, thereby minimizing the amount of emergency efforts needed in areas that have historically required a substantial effort to protect. This approach has currently identified 26 locations and involves levee and flood wall construction, acquisition and removal of flood-prone property, road raises and storm sewer modifications that total approximately \$31 million.

The comprehensive metro-wide flood risk management project is being developed in conjunction with the U.S. Army Corps of Engineers (USACE). The USACE has identified the National Economic Development plan as a diversion of the Red River through Minnesota that begins south of Fargo-Moorhead and terminates to the north of the cities. A locally preferred plan has also been identified that involves the construction of a diversion channel that would carry water from the Red, Wild Rice, Sheyenne, Maple, Lower Rush, and Rush rivers around the Fargo, West Fargo, Horace and Harwood communities in North Dakota as well as the cities of Moorhead and Dilworth in Minnesota. This plan is being carried forward and is still in development. It will take more than 10 years to construct a North Dakota diversion. The estimated cost for this project is \$1.2 billion and includes an estimated \$711 million in federal funding. This leaves an estimated \$561 million to be shared by the local entities including the states (North Dakota and Minnesota), counties, City of Fargo, City of Moorhead, as well as potential special assessments to benefitting properties.

## Northwest Area Water S

NAWS is delivering much-improved drinking water to water service is being provided to Burlington, West F Souris Water District near Donnybrook. Construction Sherwood, Mohall and All Seasons Water District near contracts for facilities north of Minot to the Air Force will be ready for construction in 2011. A federal court intake and construction on improvements to the Minn underway in 2011.

The water supply from Lake Sakakawea is still a few the Bureau of Reclamation to review two additional it and the depletions to the Missouri River. To address t meetings for a Supplemental Environmental Impact S expects to complete a draft of the Supplemental EIS construction costs is contingent on the required leve The projects that can be pursued while the Suppleme million. The project receives federal and state funding Minot.

## Red River Valley Water

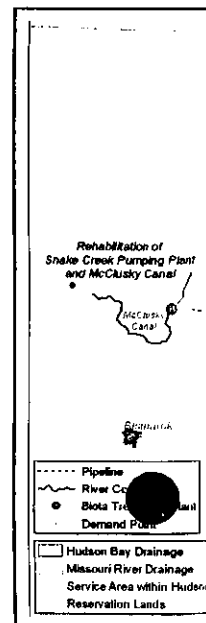
The Red River Valley faces a potential water supply c prone Red River, or its tributaries, for their primary w 1930s, there were months of no flow in the river.

Preparing for the lack of water is critical. A c bora and federal officials have worked together to d y th all agree that a drought similar to 1930s is inevitable 1,200 truckloads of water per day just to supply Far year drought, there is not enough water to meet tod in the Valley, water shortages will become even grea resources are fully allocated, leaving no room for ind

A solution has been chosen to counter this devastati will provide a supplemental water supply to ensure c Fourteen years of studies, backed by sound data an to the Sheyenne River Alternative is the best solution costly of all Missouri River alternatives to build, the least costly to operate, and provides the most environmental benefits.

The Lake Agassiz Water Authority board of directors, Garrison Diversion board of directors, the State Water Commission and Gov. John Hoeven have all identified this option as the state's preferred alternative. In addition, the Bureau of Reclamation declared it the federally preferred alternative.

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.





# Development Projects

## Supply

areas in north central North Dakota. Interim Water District, Berthold, Kenmare and Upper 1 the facilities to provide interim water service to Antler which were completed in fall 2010. New base and Upper Souris Water District near Glenburn is reviewing a request to allow design work on the water treatment plant. If allowed, this work will be

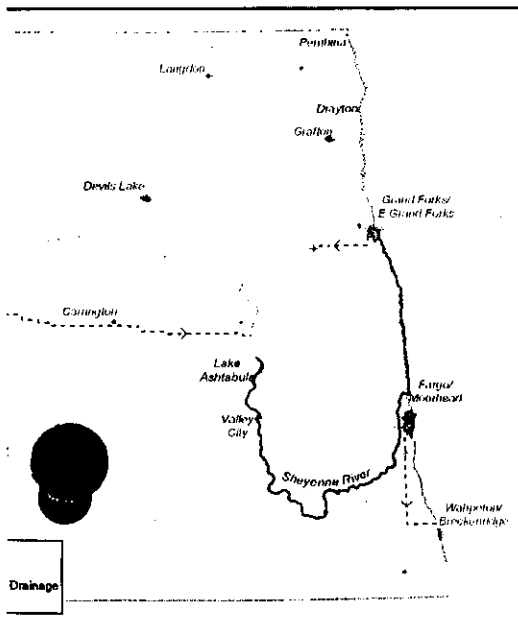
steps away. In March 2010, a federal court directed us: study the consequences of a biota transfer, a court order, Reclamation started public scoping (EIS) in September 2010. Reclamation / the end of 2011. The estimate of remaining f biota treatment identified in the Supplemental EIS. al EIS is being completed total approximately \$40 and a 35 percent cost-share from local sales tax in

## Supply Project

is. Most residents of the region rely on the drought-er supply. During the devastating drought of the

e t researchers, water experts, and state water supply needs of the Red River Valley. They During this type of water shortage, it would take s basic indoor household water needs. In a multi-s demands. With the predicted population growth : Future growth is also limited—groundwater trial growth.

loss. The Red River Valley Water Supply Project tinued economic growth in eastern North Dakota. scientific research, concluded that the GDU Import is the most reliable, the most flexible, the least



## Southwest Pipeline Project



The Southwest Pipeline Project (SWPP) is the first large multi-county regional rural water project developed in the state. For 25 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,

more than 4,000 rural service locations and more than 30 other contract customers are served by the pipeline.

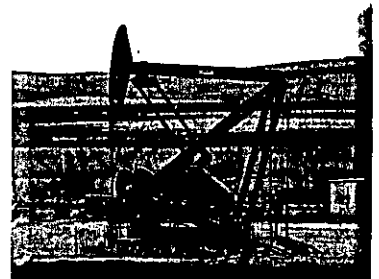
Current construction includes the last regional phase of construction, the Oliver, Mercer, North Dunn (OMND) Service Area. This includes Zap (Hazen) Service Area, Center Service Area, Dunn Center Service Area and the Halliday Service Area.

The new water treatment plant, two main transmission pipelines and one potable water reservoir for the OMND Regional Service Area have been bid and are/will be under construction.

Looking to the future, the ultimate goal is to reach out to those who wait for project completion. This includes communities, more than 1,000 rural customers and all energy sector users, including the power plants and the oil industry.

## Western Area Water Supply

As oil industry expansion and population growth continues to soar, there is a dire need for water in the northwest portion of North Dakota. Currently, the existing regional water systems have limited capacity to accommodate the expanding energy work force, much less try to provide for the estimated 12 to 20 million gallons of water that will be needed each day to meet the needs of the oil industry. In fact, the State Water Commission concluded the aquifers in the area are insufficient to supply the requirements of the current region at the proposed rate of development.



The most viable solution is to utilize the plentiful water supply of Lake Sakakawea and enhance the infrastructure already in place. The Northwest North Dakota Oil Country Water Plan can provide additional water supplies and distribution points to the area in need.

This plan has the support of the key water infrastructure stakeholders in the region. The communities and water districts agree that this plan will address their challenges while providing the key benefits below:

- Meets the regional energy and domestic water needs
- Delivers water into the oil fields
- Reduces trucking road miles
- Reduces road operations and maintenance costs
- Reduces accidents
- Saves lives
- Financially responsible project that will use revenues from bulk sales to pay for a majority of the project without increasing the rates of existing residents
- Flexible phased plan can be implemented quickly
- Serves the best long-term needs of the state and region
- Estimated project is three years from the start date to being fully operational

The Northwest North Dakota Oil Country Water Plan meets existing and expanding domestic, commercial, and industrial water needs to: Williston, Williams Rural Water District, McKenzie County Water District, R&T Water Supply Association, Watford City, Ray, Tioga, Stanley, Crosby and BDW.

Ultimately, this plan benefits the entire state by providing the essential resources needed to continue the economic development of oil and other energy sources in the region.

# Local Infrastructure Development Projects

## General Water Management



In addition to the many large-scale water projects being developed across North Dakota, there are also hundreds of smaller local water management projects that benefit individuals and local communities. The State Water Commission provides support for these water management projects, which require cost-

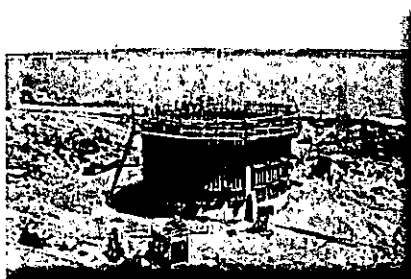
sharing with local entities, primarily water resource districts. Joint water boards are playing a key role in these local water management projects. Examples of general water management projects that typically receive cost-share assistance from the state include: rural flood control, snagging and clearing, channel improvements, recreation projects, dam repairs, planning efforts, and special studies.

## State and Tribal MR&I

The state's 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 statewide water needs, the Bureau of Reclamation, Garrison Conservancy District, North Dakota State Water Commission, and the four Tribal Nations are working cooperatively to solve water quality and quantity problems.

State MR&I projects under construction include a new water treatment plant and lake intake for Emmons County. This treatment plant, part of the South Central Regional Water District, will eventually serve Emmons, Logan and McIntosh counties.

Recently completed projects include Tri-County Rural Water (City of Lakota), Walsh Rural Water, All Seasons Rural Water (City of Upham), Barnes Rural Water (City of Wimbledon) and the City of Garrison. Other rural water sponsors have requested funding for studies and project construction.



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 must be responsible for the operation and maintenance of reservations' rural water systems. The tribes carry out the day-to-day activities related to construction and operation and maintenance.

## Missouri River

The six mainstem dams and reservoir projects 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 and competition between water users, loss of valuable habitat, endangered species impacts, bank erosion, and delta formation—just a few of the complex issues related to Missouri River management today. Currently there are several coordinated efforts to address multiple issues in the Missouri River Basin, including:

### Missouri River Recovery Implementation Committee (MRRIC)

The Missouri River Recovery Implementation Committee (MRRIC) serves as a collaborative forum to develop a shared vision and provides recommendations to federal, tribal, state, local and private entities in the basin on threatened and endangered species, while sustaining the river's many uses.

### Missouri River Ecosystem Restoration Plan (MRERP)

The Corps, partnering with the U.S. Fish and Wildlife Service, initiated a collaborative long-term study/plan to identify and guide actions required to restore ecosystem functions, mitigate habitat losses and recover native fish and wildlife on the Missouri River, while seeking balance with social, economic and cultural values for future generations.

### Missouri River Authorized Purposes Study (MRAPS)

Congress provided funding to the Corps for a five-year study of the original purposes of the Missouri River projects based on the Flood Control Act of 1944, as amended, to determine if changes to the authorized purposes and existing federal infrastructure may be warranted given current priorities.

### Missouri River Protection and Improvement Act of 2000, Title VII

This act requires a taskforce to prepare and approve a plan for the use of the funds made available under Title VII primarily dealing with sedimentation issues in the headwaters of Lake Sakakawea and Lake Oahe.

## Irrigation

North Dakota has approximately 260,000 acres of irrigated land. Irrigation provides increased job opportunities, more farm income, enhanced crop diversification, creates value-added opportunities, and increases tax revenues and overall economic benefits to the state. Revenue from irrigated production results in \$4 to \$5 return compared to each dollar of dryland crop production. Substantial land and water resources are available for increased irrigation development.

The expansion of the biofuels industry along with increased markets for irrigated malt barley, corn, potatoes, edible beans, pulse crops, oilseeds, and livestock forage all provide additional opportunities for profitable irrigated production. As an example, the research currently underway on the use of sugar beets for the production of ethanol may lead to an expanded irrigated crop and local processing opportunity. Irrigation development is a partnership of federal, state, local and private interests. State support of irrigation development enhances the opportunities for the overall expansion and diversification of the state's economy.

## 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 5 to 10 percent, resulting in increased wheat production of nearly 6 percent. A 2006 economic evaluation by Bangsund and Leistriz at NDSU shows the NDCMP increases direct agricultural production value by \$12 million to \$19.7 million annually, while producing total annual economic activity of \$37 million to \$60 million. Costs for the 2011-13 biennium are estimated to be \$1.75 million.

Good morning/afternoon,

My name is Joe Belford, and I am a Commissioner from Ramsey County and have worked as the Devils Lake Coordinator of the state's Downstream Awareness Program for 15 years. I have been deeply involved with Devils Lake flooding issues since the current flooding cycle began in 1993. I thank you for the opportunity to testify today in support of the Water Commission's budget, and their work, which are vital for the survival of my county and my region in North Dakota.

As you are no doubt aware, the Devils Lake flood is the longest duration and one of the most expensive floods in the history of North Dakota, having started in 1993, and continuing through today, with infrastructure spending rapidly approaching a billion dollars.

In 1992, we in the basin were seriously concerned about drought. Quickly, we became aware of the problems that long-term flooding presented. The lake has now risen by nearly 30 feet, and is projected to far outstrip the record elevation in 2011. We're told there is even a 1% chance that the lake will rise high enough to spill into the Sheyenne River this year.

As the lake has risen, it has covered over 150,000 acres of pasture and cropland; not only devastating the landowners who made their living from the land, but placing a huge financial burden on the city and county governments that depended on their property taxes and purchases of goods to allow them to provide the services expected of them.

Beyond a purely economic impact, the effect on so many good people, who have worked hard their entire lives to improve their land and holdings, only to see them swallowed up by the seemingly unstoppable advance of the lake cannot be overstated. The stress that these folks are under is hard to imagine, and I am not exaggerating when I say that some have suffered an early grave from facing such impossible problems.

Even if a person's land is not flooded, road after road has either been flooded or battered by relentless waves. While the efforts of state and federal entities have succeeded in elevating the highest traffic roads again and again; there are perhaps hundreds of miles of rural roads that could not be raised, turning trips that used to take 10 minutes, into one or two hour journeys over treacherous paths. Some people drive their children to school every day, because they fear that the buses might slide off of the road.

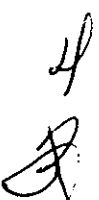
As you can imagine, the stress of living under such difficult conditions with no sign of relief for so many years, has taken its toll. Unfortunately, many people have found this stress too much, and have given up home and land, and left our region, and sometimes our state, likely never to return.

And while people in the basin have had to learn to live with the reality and hardships of the situation, those living downstream are only now becoming aware of the implications of this flood, and the potential damages an increasingly likely catastrophic overflow presents to their homes and livelihood.

Despite the grim picture I have just painted, our situation would have been far, far worse, if it were not for the efforts of the Water Commission, and many other agencies. Since the beginning of this catastrophe, the Devils Lake region has relied heavily on the Commission's help and guidance. Whether it is their work on the outlets, the levee that protects Devils Lake, watershed planning efforts, or any of the countless other ways that they provide us with assistance, the Commission has often been all that lies between despair and hope.

Because of the efforts of the Commission, I strongly urge you to continue your support of their activities and provide funding commensurate with the challenges that we all face.

Thank you.



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City Commission:  
Dick Johnson, President  
Tim Heisler  
Craig Stromme  
Rick Morse  
Dale Robbins

**Testimony of**  
**Dick Johnson,**  
**President of the Devils Lake City Commission,**  
**in support of SB 2020**  
**January 13, 2011**

As a member of the ND Water Coalition, the City of Devils Lake supports SB 2020.

Now, more than ever, funding is needed to complete critical water projects across the state. The state funding will aid in the construction of several flood control measures, including an outlet on the eastern end of our lake, and many needed water supply projects that are ready for construction and in need of funding.

First and foremost, I would like to thank the State for the ongoing support it has provided our area throughout the years of flooding. The embankment protecting the City, the roads leading to our great community, the development of our new drinking water supply project, and the construction of the existing State outlet from Devils Lake would not have been possible without the State's unrelenting support and commitment to addressing this on-going flood disaster.

While much work has been done, much more work remains due to the continued rise in Devils Lake. Recently the Governor declared our area a state of emergency based upon expected lake conditions this spring. The flood protection system around Devils Lake does not meet dam

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safety standards with the existing lake elevation and raising our protection level will take another two years to complete. This, coupled with the recent National Weather Service forecast projecting a 50% chance the lake will raise three feet this year, make it imperative that emergency measures be taken to develop a project to remove additional water from the lake. The existing outlet alone is not enough to control the elevation of the lake and an outlet on the eastern end of the lake is necessary. Further, we feel the outlet should be developed in an emergency fashion to allow releases from the lake as soon as possible to help alleviate the City's flooding concerns.

Additional releases from the lake will also help address the significant risk of a natural overflow of the lake that could have devastating downstream consequences. We feel an outlet on the east end of the lake would allow the lake to be controlled, similar to a pool behind a dam, and allow the lake to absorb flood events and slowly release these flows to our downstream neighbors. Such a project would not only provide flood benefits to our area, but also resolve potential uncontrolled flooding that could occur downstream should the lake continue to rise.

In addition, water removed from the lake could help prevent the inundation of an additional 100,000 acres or more of prime farmland, reduce the chance of flooding countless homes, and reduce the devastation the lake continues to cause to our neighboring communities. Additional water off the lake would also reduce impacts to roadways in our area, many of which will become flooded if the lake reaches its projected elevation.

Working together now to develop effective flood relief measures, rather than waiting to see if Mother Nature will address the issue on her own in the future, is the most logical approach to solve this issue.

Therefore, the City of Devils Lake fully supports Senate Bill 2020 and expenditures associated with developing an outlet on the eastern portion of the lake.

**Testimony of Fargo Mayor Dennis Walaker**  
**Senate Appropriations Committee**  
**January 13, 2011**

Good afternoon, I'm Dennis Walaker, Mayor of Fargo. I'm here today to speak in favor of Senate Bill 2020 and to give you some information on Fargo's request for funding of flood protection in Fargo and Cass County. Commissioner Darrell Vanyo of the Cass County Commission wishes he could be here today, but an important meeting with the Corps of Engineers and the Metro Flood Study Work Group Force is taking place this afternoon and he needed to be there.

Attached to this document is a series of charts and maps showing you the flooding issues that Fargo and Cass County have had to deal with since 1997. We have also presented to you a proposed diversion plan to address the long term flood protection for the Fargo metro area and surrounding communities. The final plan is not yet solidified. Downstream concerns have been analyzed, upstream concerns are now being studied and the final diversion route is being discussed.

As you know, Fargo-Moorhead and Cass-Clay Counties represent the last large metropolitan area to not have permanent flood protection in place. After the 1997 flood that had devastating impacts to Grand Forks and Wahpeton, Governor Ed Shafer approached then-Mayor Bruce Furness and requested that Fargo delay requesting State support for permanent flood protection until those two communities recovered from their flood impacts. That request was honored and little did we know at that time that the Red River Valley would experience even higher water in the Spring of 2009.

Since 1997 the City of Fargo has directed over \$32 million in flood protection within the community. We have purchased and removed homes along the Red River (over 300 homes have been purchased); we have elevated our flood protection along the Red River so that our flood fight now begins in earnest at about 38' above flood stage (flood stage in Fargo is when the Red River leaves its bank at 18'). In 1997, the City's flood fight effort had to begin protecting homes when the flood stage reached 30', so we have come a long way in terms of emergency flood fighting to protect Fargo's citizens' homes.

Because of our southerly growth, and our experience with overland flooding, we have also had to extend legal drains, elevate roadways and develop detention ponds that hold water away from new housing subdivisions. This allows us to stage the breakout water from the Wild Rice and Sheyenne Rivers prior to entering the City.

The cost of permanent flood protection is estimated to be \$1.5 billion at this time. A federally-sponsored project, planned and designed by the Corps of Engineers, is in the latter stages of approval. An Environmental Impact Statement--EIS--has been drafted and currently is being reviewed internally by the Corps personnel in preparation for review by other federal agencies. The Corps goal is to have a final EIS approval in the summer of 2011. Once accepted, the EIS record of decision (ROD) will be forwarded on for approval and then Congressional authorization. If all goes according to the current schedule, design of a diversion plan could begin early winter of 2012.

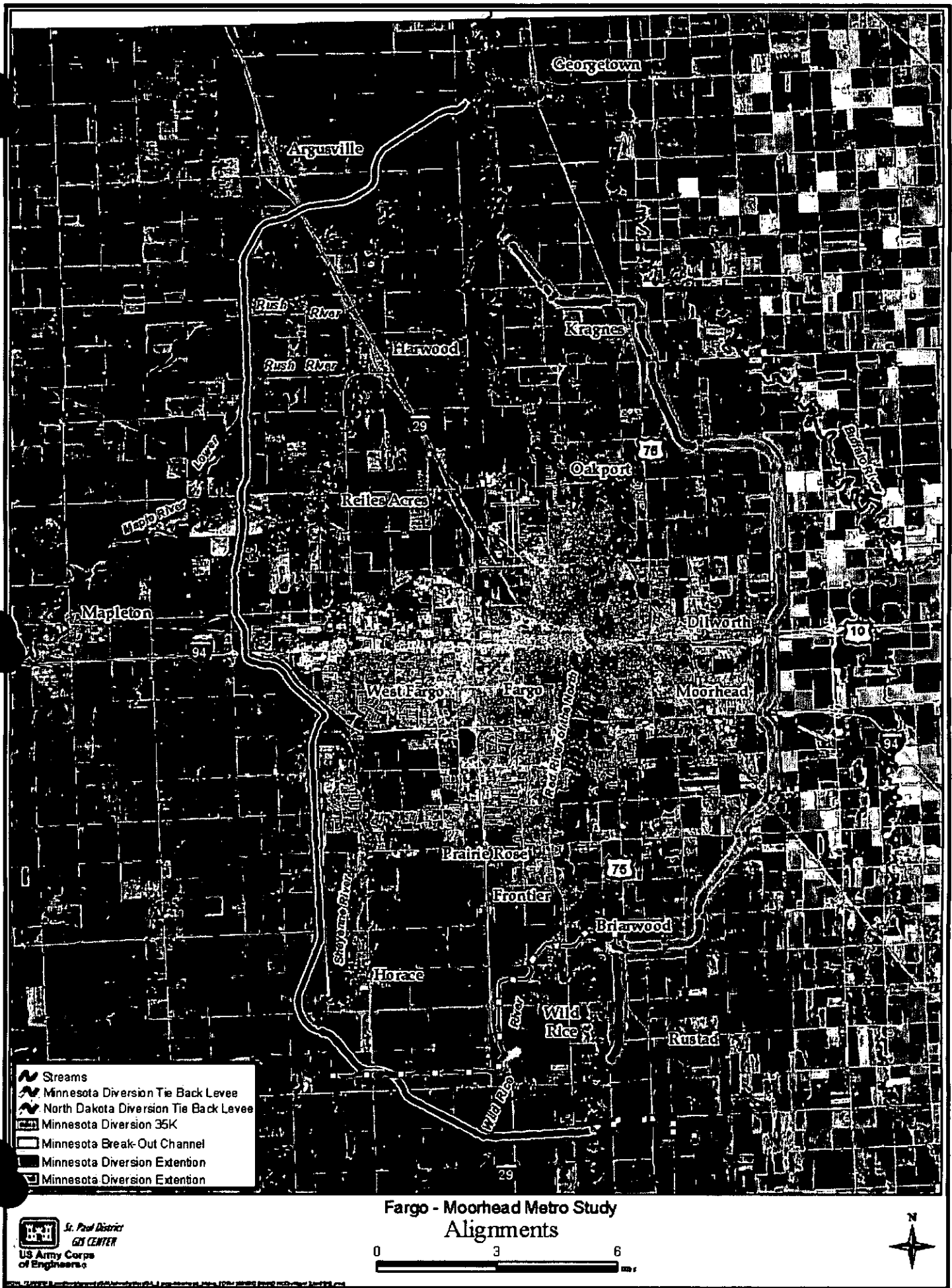
At this time the Corps of Engineers funding plan calls for the federal government participating at 65% of a National Economic Development (NED) planned diversion in Minnesota—which is the Corps preferred option. A locally preferred option calls for a diversion in North Dakota. Intercepting water from the Red River south of Fargo, the proposed diversion would extend west of West Fargo intersecting with the Wild Rice, Sheyenne, lower and upper Rush Rivers and Maple River, and re-entering the Red River north of Harwood, North Dakota. This diversion would be approximately 36 miles in length, would have a capacity of about 35,000 cubic feet per second (by comparison the West Fargo diversion has a capacity of about 6,000 cubic feet per second), and would protect Fargo, West Fargo and Moorhead, Minnesota to a 500 year event.








The \$1.5 billion cost estimate for the project anticipates federal cost participation to be about \$800,000,000 and the State of Minnesota at about \$100,000,000 with the \$600 million balance of the funding to be split evenly between the State of North Dakota and local funding.

Sales tax votes have been taken both in Fargo and Cass County and have been approved by the voters (1/2 cent in Fargo and 1/2 cent in Cass County). The total 1 cent tax should generate about \$21 million a year and will continue for 20 years.

To date, Governors Hoeven and Dalrymple and previous legislative bodies have been generous in recognizing the need for permanent flood protection and have authorized \$75 million. The 2009 legislature appropriated \$45 million and today I am here requesting that the balance of the authorization (\$30 million) be appropriated in this legislative session. I believe Governor Dalrymple's budget included the \$30 million for flood protection in Fargo/Cass County and we encourage you to support that funding level. We understand the current legislature cannot commit future legislatures, however, we respectfully request some language be put in place recognizing the need for additional funding in future legislative sessions for this project.

I thank you for giving me the opportunity to present this information to you and will answer any questions you might have.



-  Streams
-  Minnesota Diversion Tie Back Levee
-  North Dakota Diversion Tie Back Levee
-  Minnesota Diversion 35K
-  Minnesota Break-Out Channel
-  Minnesota Diversion Extension
-  Minnesota Diversion Extension

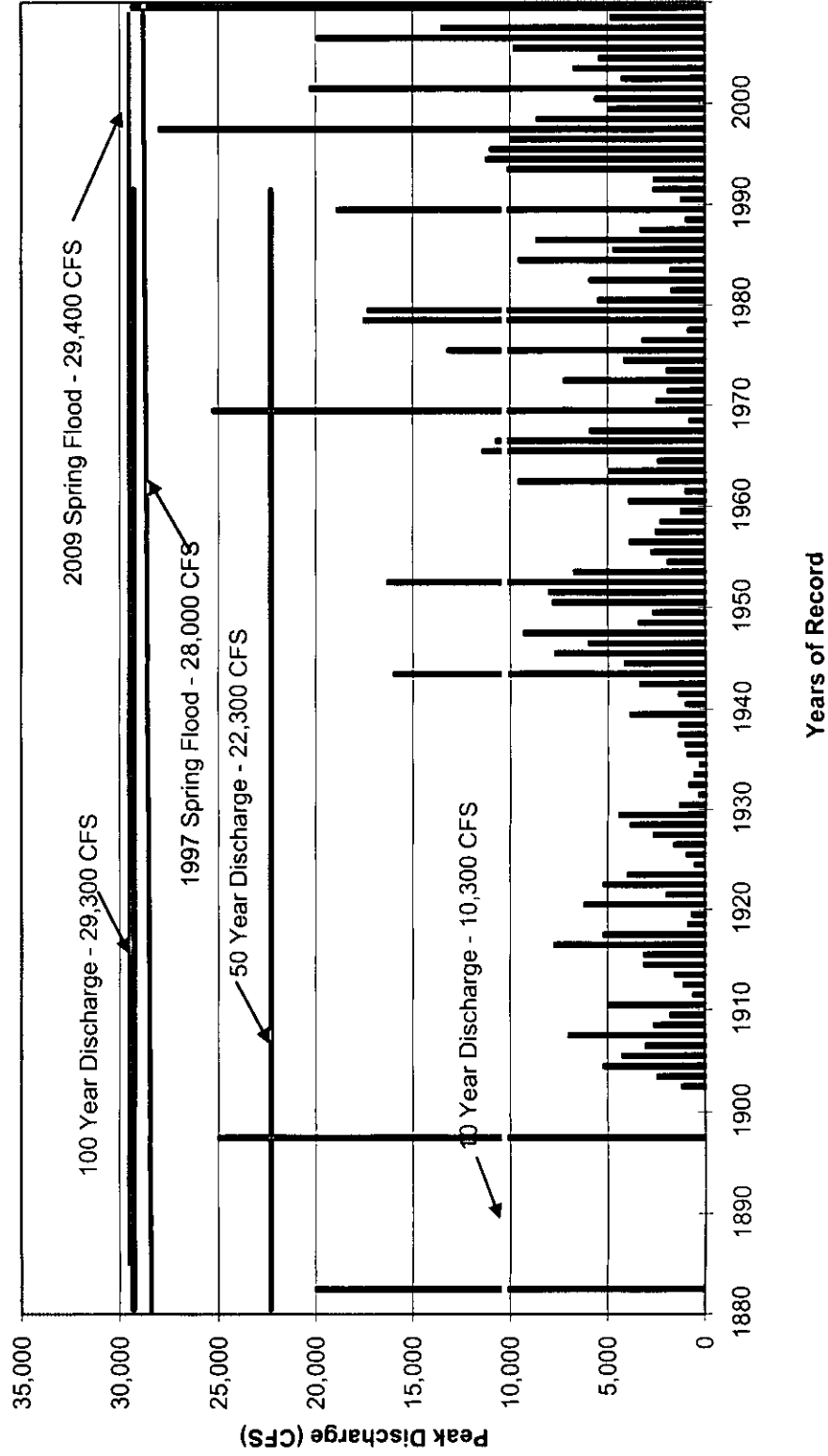
Fargo - Moorhead Metro Study  
Alignments



St. Paul District  
GIS CENTER  
US Army Corps  
of Engineers



**RED RIVER AT FARGO - USGS GAGING STATION  
HISTORICAL FLOOD DATA**



**RED RIVER**

1. 40.84 feet, March 28, 2009
2. 40.10 feet, April 7, 1897
3. 39.57 feet, April 17, 1997
4. 37.80 feet, April 11, 1882
5. 37.34 feet, April 15, 1969
6. 37.13 feet, April 5, 2006
7. 36.99 feet, March 21, 2010
8. 36.69 feet, April 14, 2001
9. 35.39 feet, April 9, 1989
10. 34.93 feet, April 19, 1979

Source: National Weather Service

BASED ON 1969 FLOOD  
(April 8 to May 12)

BASED ON 1975 FLOOD  
(June 20 to July 18)

BASED ON 1979 FLOOD  
(April 13 to May 4)

BASED ON 1989 FLOOD  
(April 3 to April 17)

BASED ON 1993 FLOOD  
(March 26 to April 12)

BASED ON 1993 FLOOD  
(July 14 to Aug. 18)

BASED ON 1994 FLOOD  
(March 21 to April 15)

BASED ON 1997 FLOOD  
(April 2 to May 30)

BASED ON 1999 FLOOD  
(March 17 to April 9)

BASED ON 2001 FLOOD  
(April 4 to June 4+)

BASED ON 2005 FLOOD  
(June 8 to July 22+)

BASED ON 2006 FLOOD  
(March 30 to April 20+)

BASED ON 2007 FLOOD  
(March 20 to July 10)

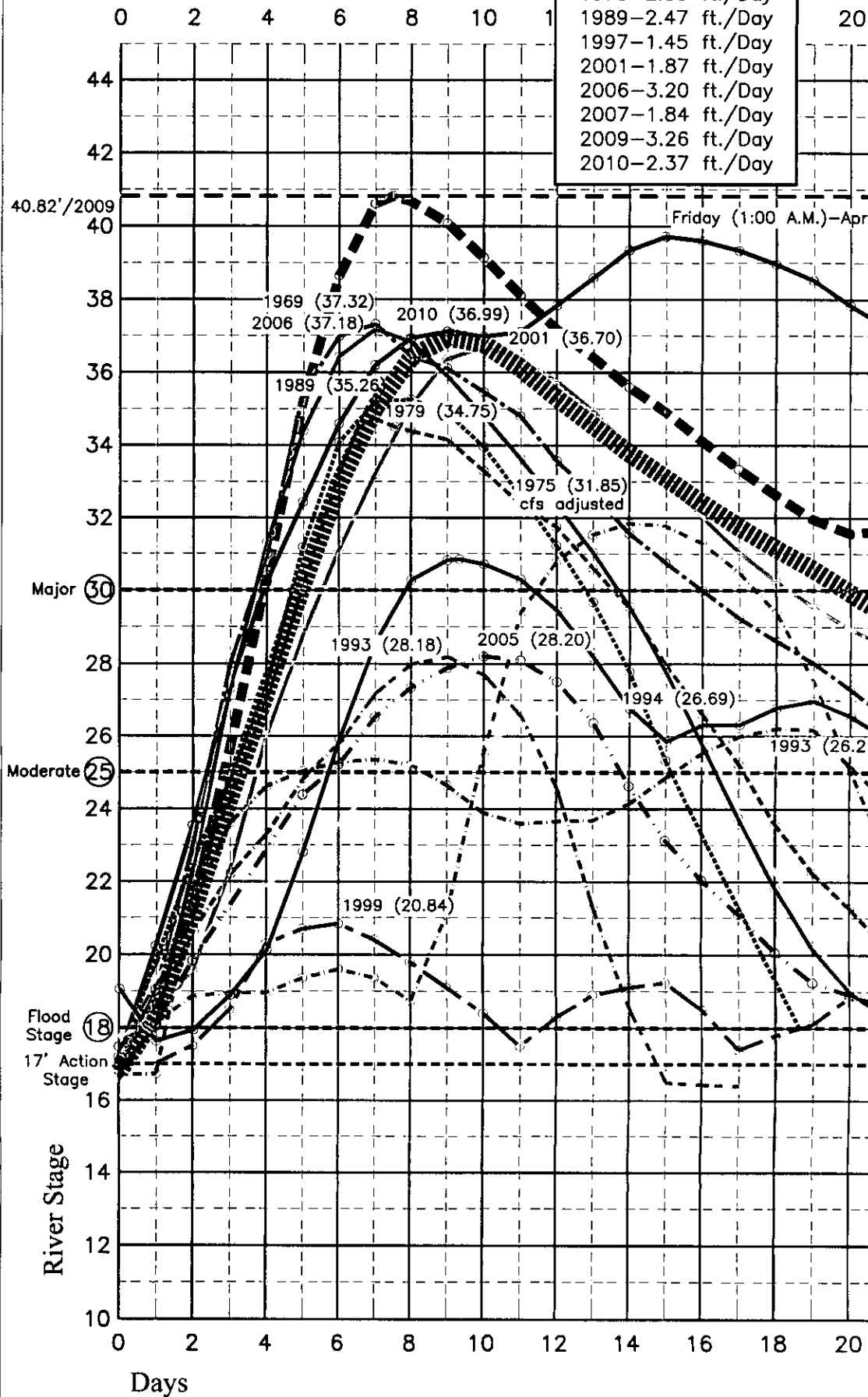
BASED ON 2009 FLOOD  
(March 20 to May 20)

BASED ON 2010 FLOOD  
(March 13 to April 23)

17' Gauge = 881.33 Elev. (City of Fargo)  
17' Gauge = 878.80 Elev. (U.S.G.S.)

**APPROX. AVG. RISE**

- 1969-3.22 ft./Day
- 1975-1.07 ft./Day
- 1979-2.39 ft./Day
- 1989-2.47 ft./Day
- 1997-1.45 ft./Day
- 2001-1.87 ft./Day
- 2006-3.20 ft./Day
- 2007-1.84 ft./Day
- 2009-3.26 ft./Day
- 2010-2.37 ft./Day



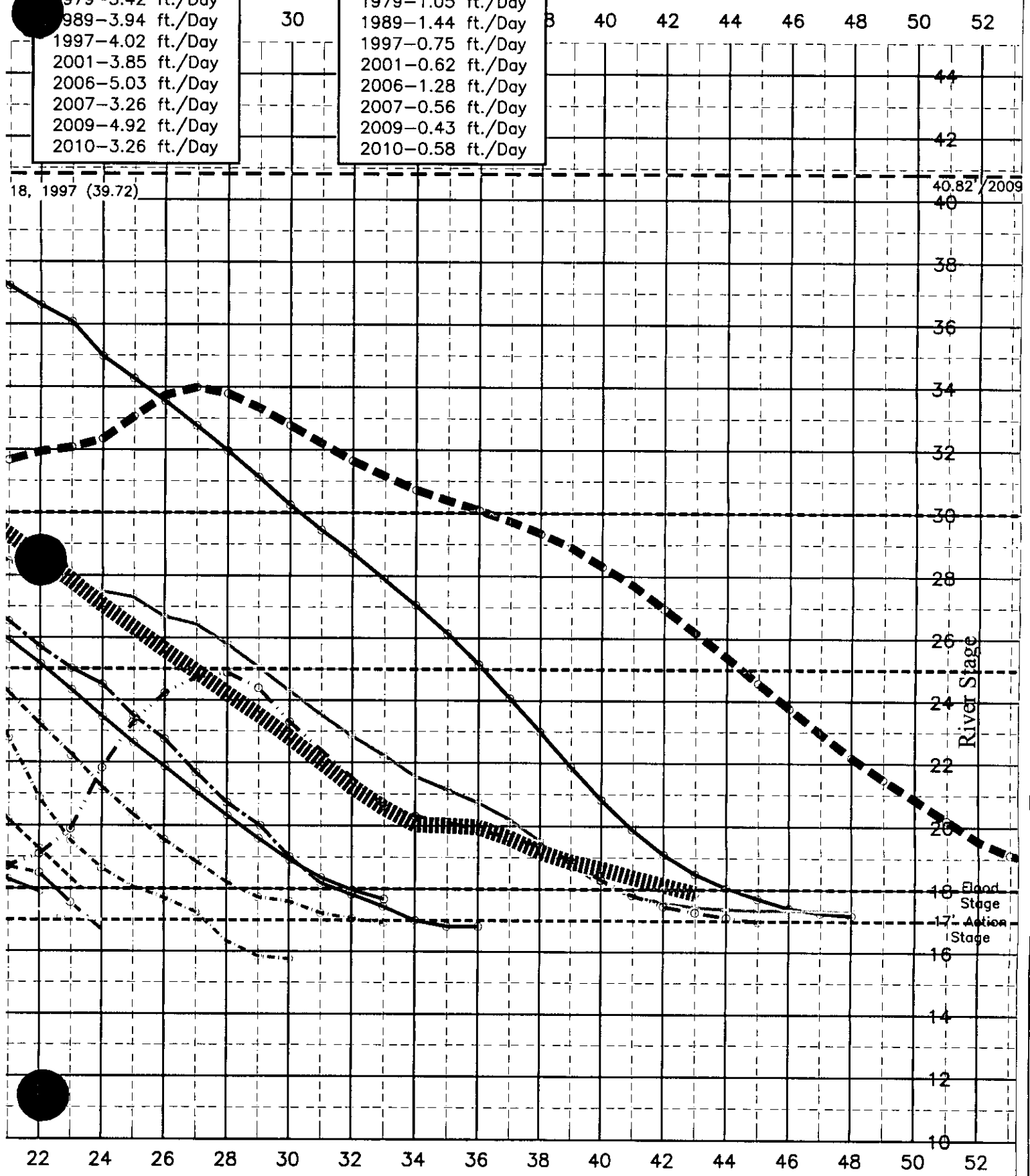
**Approx. Max. Rise/Day**

- 1969-5.10 ft./Day
- 1975-4.55 ft./Day
- 1979-3.42 ft./Day
- 1989-3.94 ft./Day
- 1997-4.02 ft./Day
- 2001-3.85 ft./Day
- 2006-5.03 ft./Day
- 2007-3.26 ft./Day
- 2009-4.92 ft./Day
- 2010-3.26 ft./Day

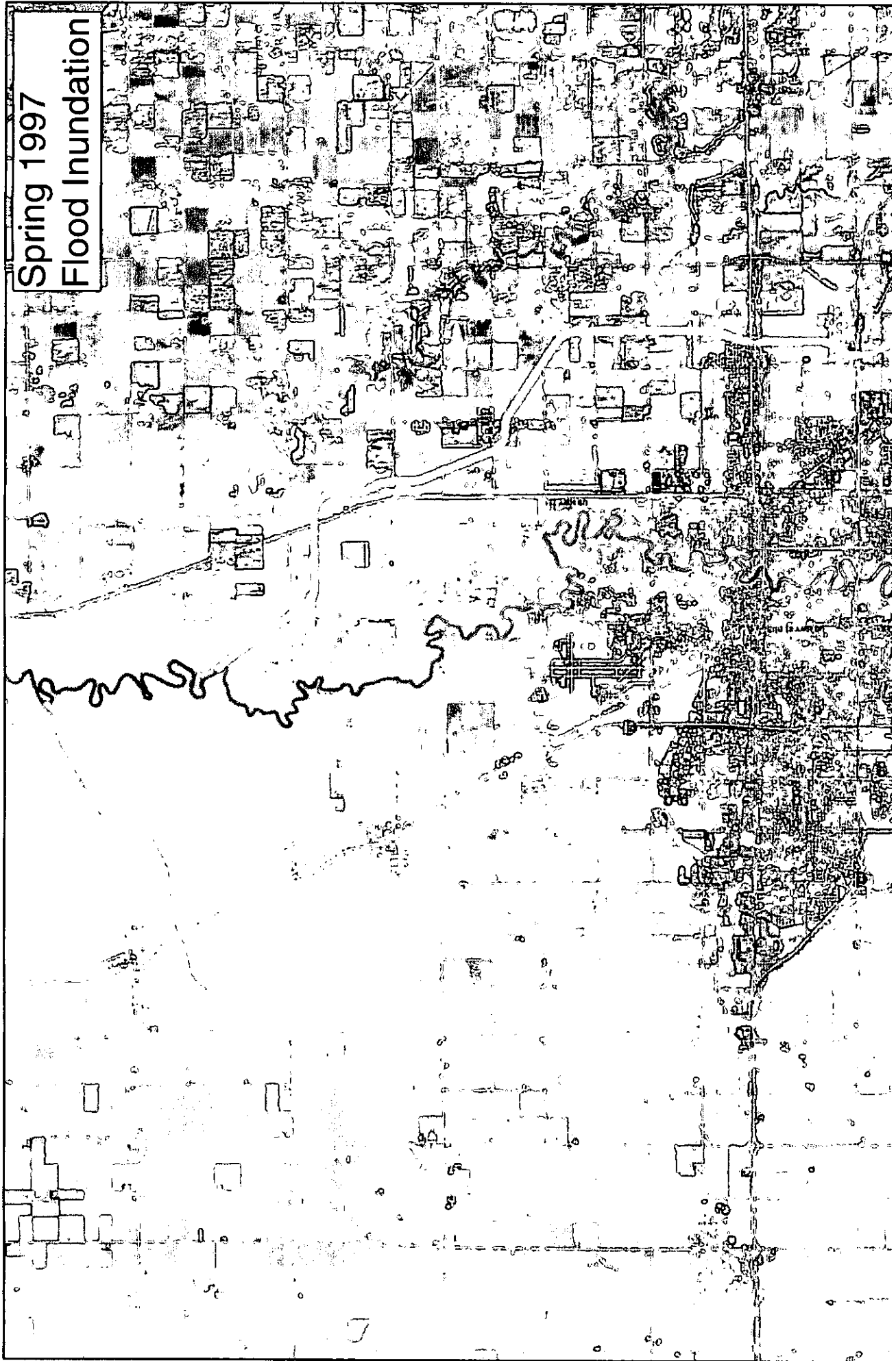
**APPROX. AVG. DECLINE**

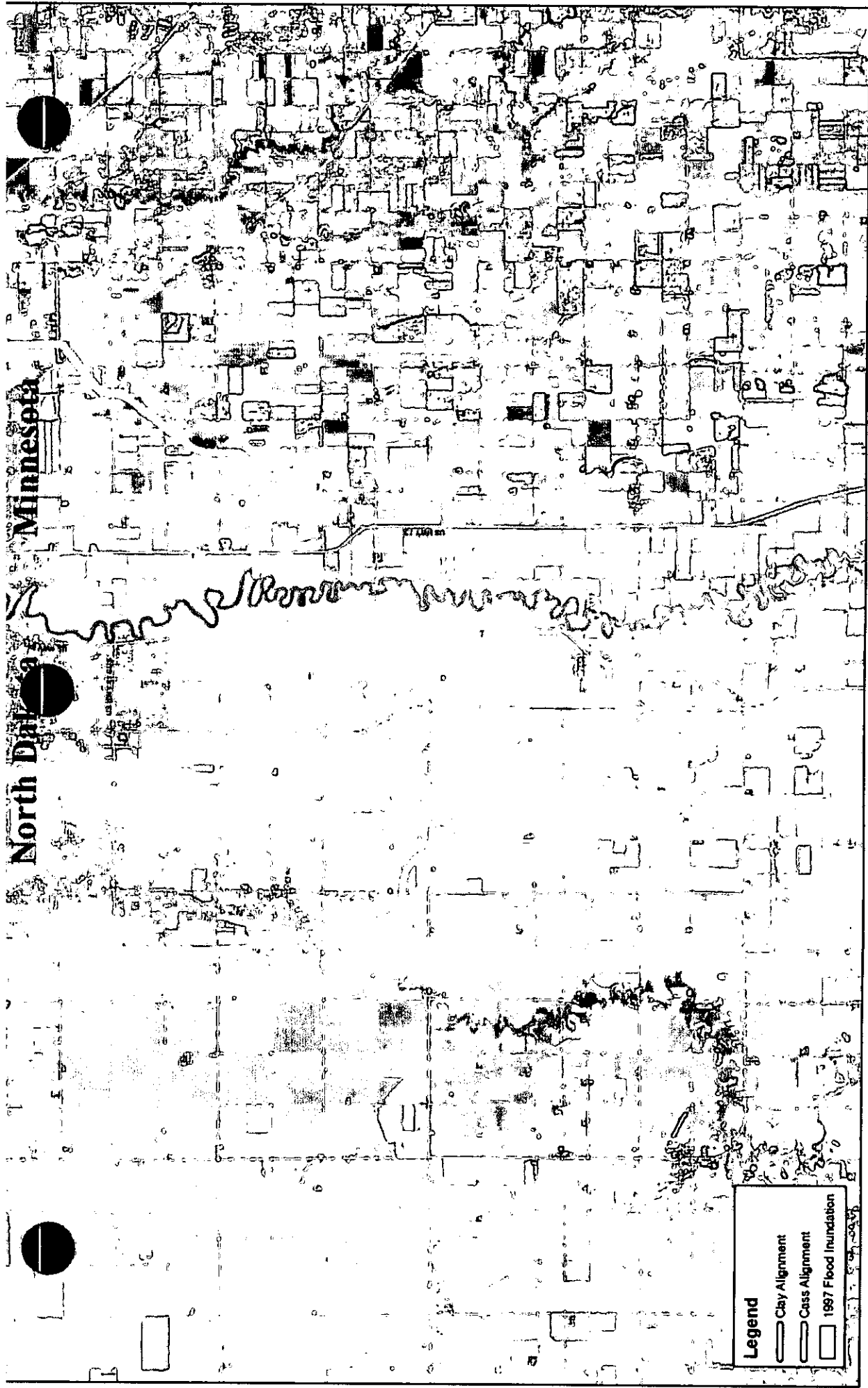
- 1969-0.77 ft./Day
- 1975-1.15 ft./Day
- 1979-1.05 ft./Day
- 1989-1.44 ft./Day
- 1997-0.75 ft./Day
- 2001-0.62 ft./Day
- 2006-1.28 ft./Day
- 2007-0.56 ft./Day
- 2009-0.43 ft./Day
- 2010-0.58 ft./Day

# FLOOD GRAPH



Spring 1997  
Flood Inundation

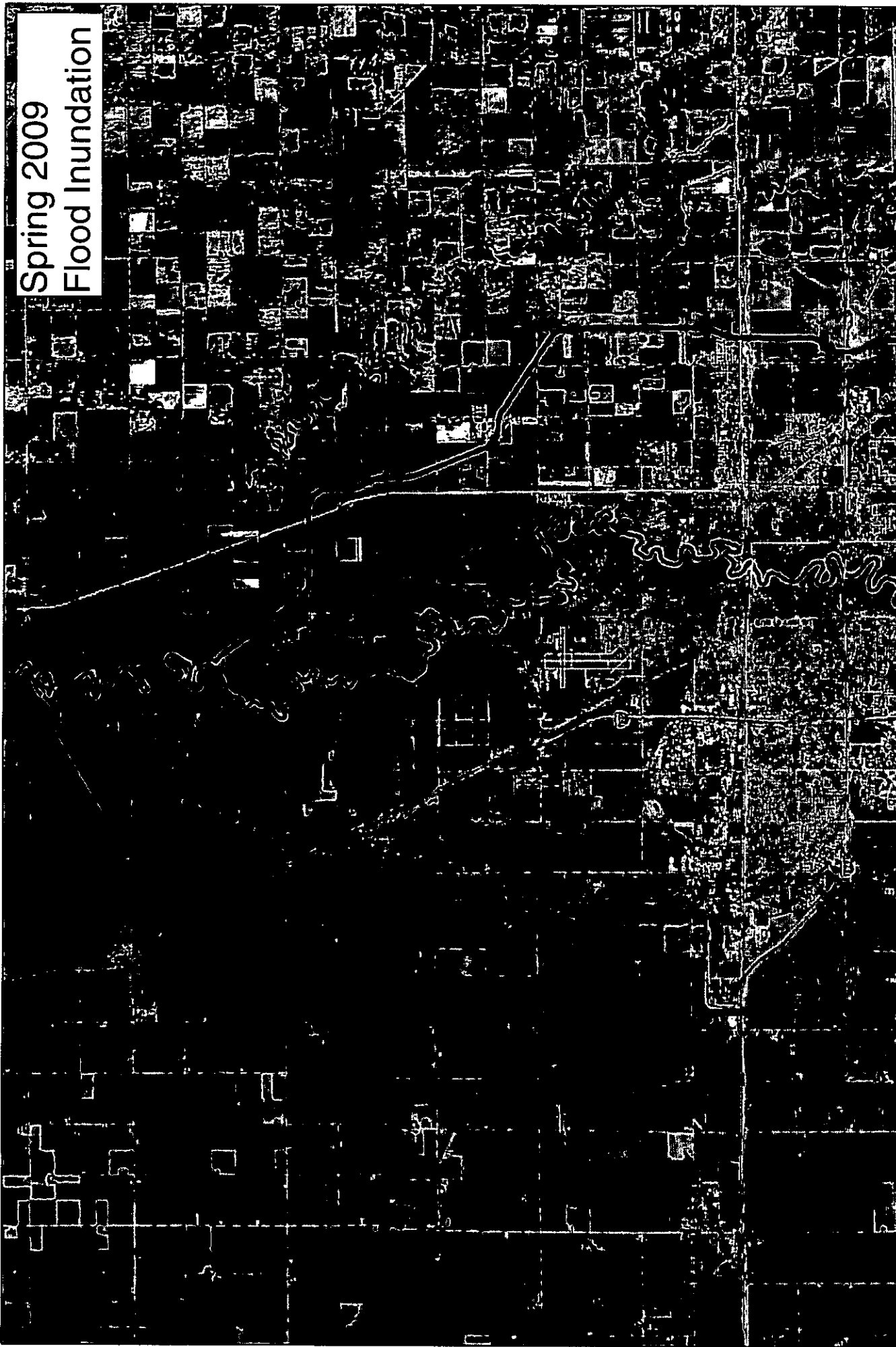


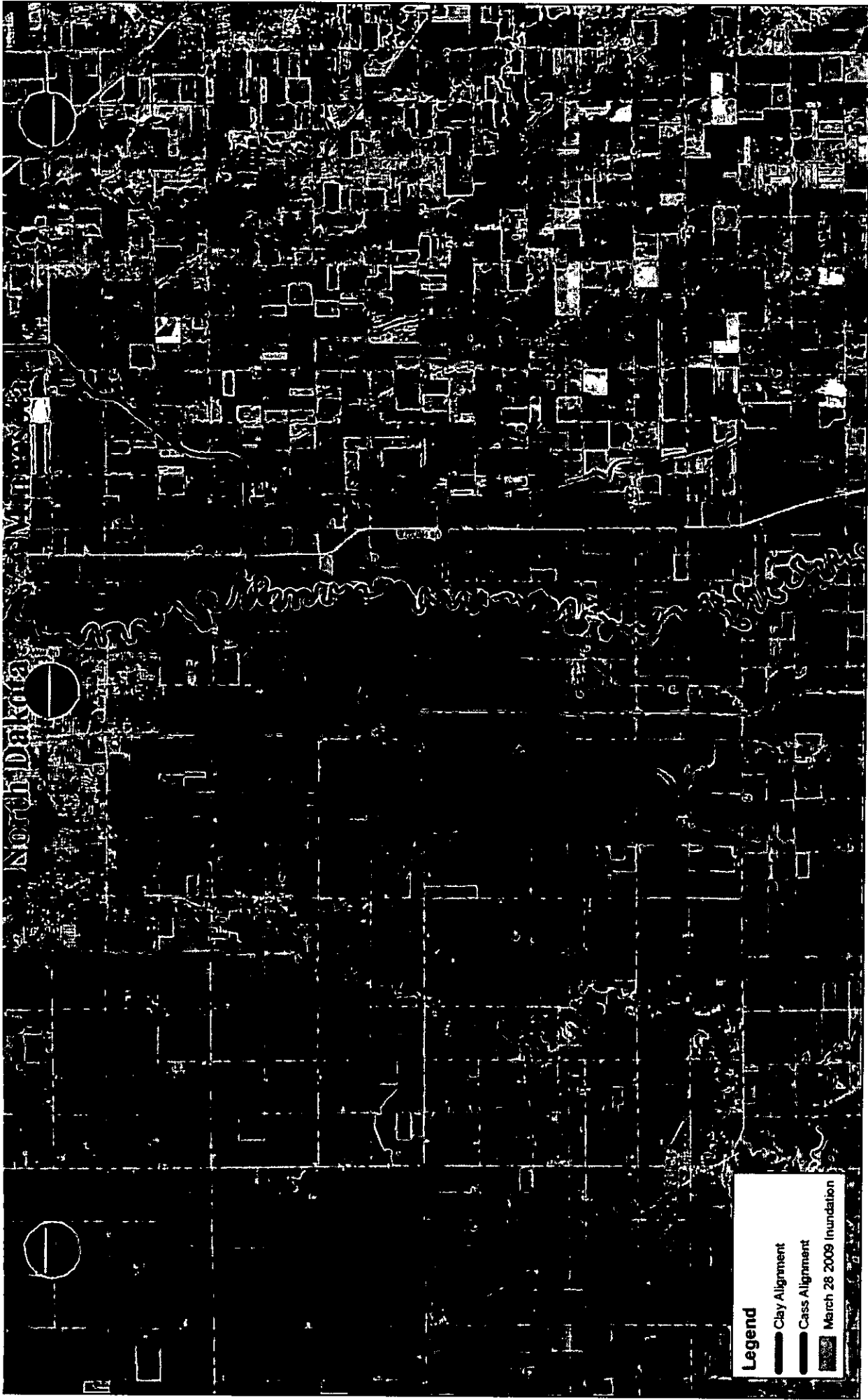


Spring 1997 Cass County Inundation



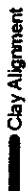
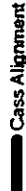

Spring 2009  
Flood Inundation





NORTH DAKOTA

**Legend**

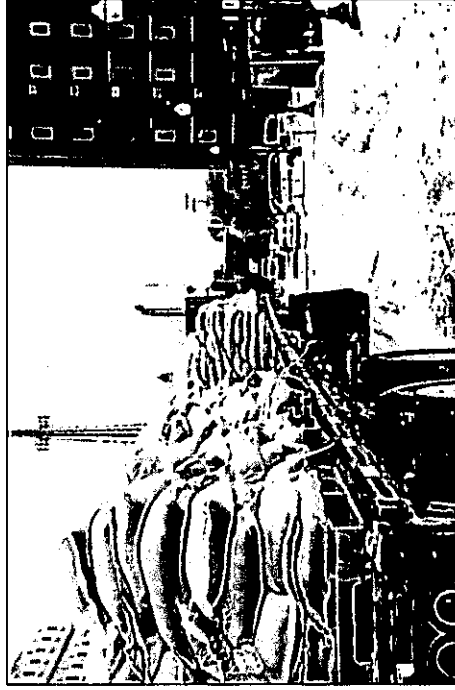
-  Clay Alignment
-  Cass Alignment
-  March 28 2009 Inundation

Spring 2009 Cass County Inundation  
 Derived from Advanced Land Imager IR  
 Imagery Date: March 28, 2009



## Effectiveness of Diversions:

	Stage at Fargo Gage (ft)	
	1% Chance (100- year)	0.2% Chance (500- year)
Existing Condition (Stage)	42.4	46.7
Existing Condition (CFS)	34,700	61,700
Work Group Goal	30	36
20K MN Diversion Channel	36.9	43.7
25K MN Diversion Channel	34.8	42.4
30K MN Diversion Channel	33.6	41.9
35K ND Diversion Channel	30.6	40
35K MN Diversion Channel	31.9	39.6
40K MN Diversion Channel	31.9	37.6
45K MN Diversion Channel	31.9	35.3

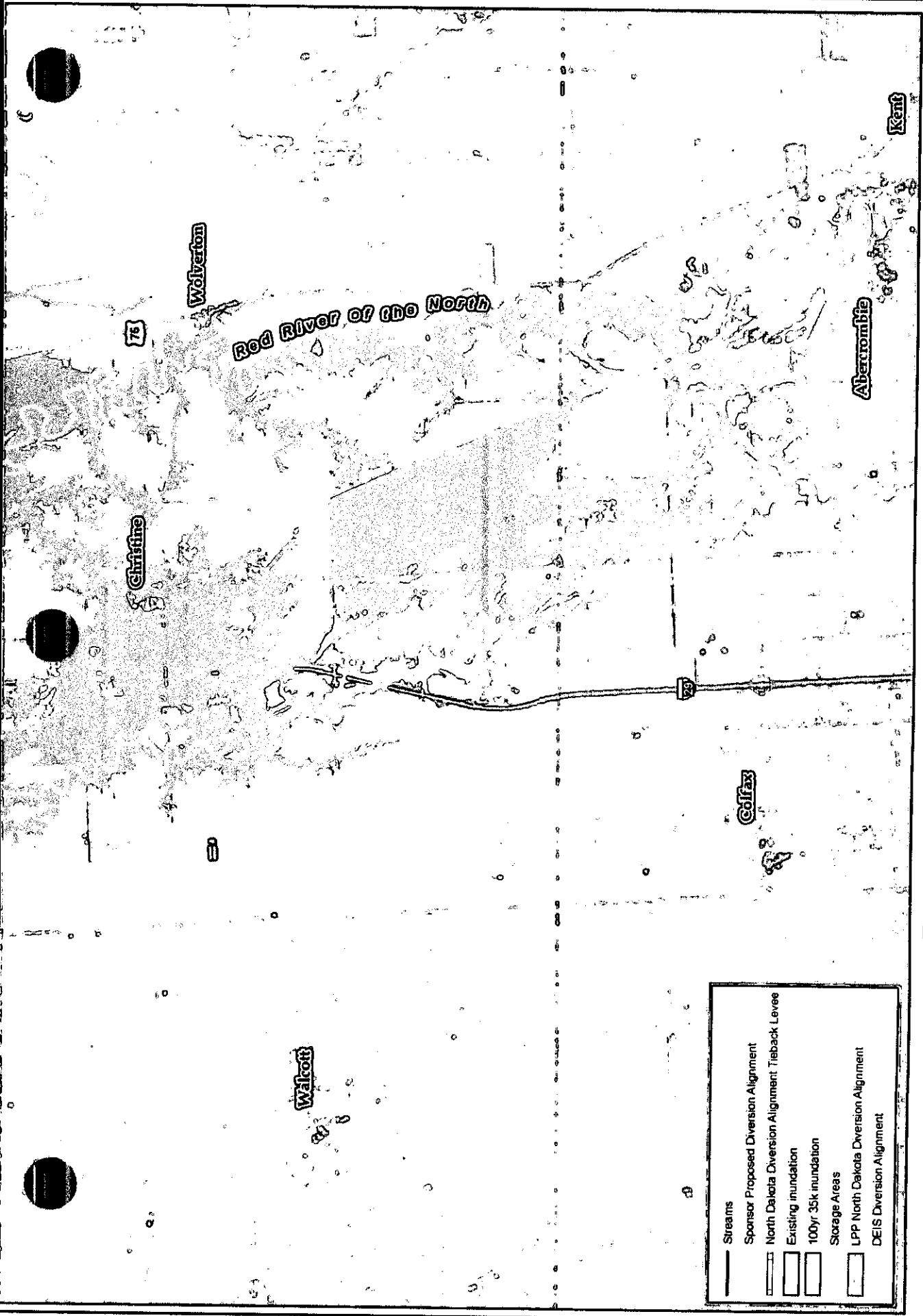


Fargo, N.D., March 26, 2009

Stage	Impacts
27	Fargo Elm Street closed
30	Fargo 2nd Street Dike installed
31	Moorhead 1st Ave. North closed
32	First homes in Moorhead threatened
35	First homes in Fargo threatened
40.8	2009 Flood Record Stage







# Proposed North Dakota Diversion Alignments

## Fargo - Moorhead Metro Study

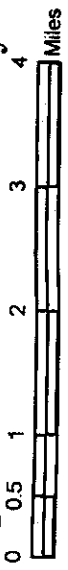
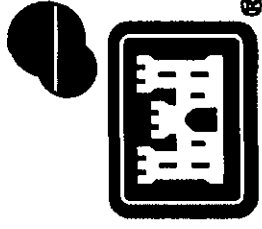


Plate 3

- Streams
- Sponsor Proposed Diversion Alignment
- North Dakota Diversion Alignment Tieback Levee
- Existing inundation
- 100yr 35k inundation
- Storage Areas
- LPP North Dakota Diversion Alignment
- DEIS Diversion Alignment


**St. Paul District**  
**GJS CENTER**  
**US Army Corps**  
**of Engineers®**

Project: 2005-2006 Fargo - Moorhead Metro, FDR, 12,256,633, 2005-77010, City of Fargo Alignment Department, REV 03/10, B04



## ***F-M Metro Study Timeline:***

✓	26 Nov 10	Unsteady model updated
✓	10 Jan 11	Refinement of LPP
✓	Feb/Mar 11	Meetings in impacted areas (up or downstream)
✓	27 Apr 11	Supplemental Draft EIS to EPA for publication
✓	May 11	Public Meeting(s)
✓	20 Jun 11	Complete 45-day NEPA public comment period
✓	1 Aug 11	Division Engineer's Transmittal
✓	7 Sept 11	Submit Draft Chief's Report and Final EIS to EPA for publication
✓	1 Dec 11	Sign Chief's Report

**Legislative Testimony of Fargo Mayor Dennis Walaker**  
**Senate Natural Resources Committee**  
**January 13, 2011**

Thank you.....I'm Fargo Mayor Dennis Walaker. I would like to thank you for this opportunity to offer comments on this draft bill which is so critically important to the Devils Lake region. Being Fargo's Mayor, I know how vital flood protection can be to an affected community and region.

First, I think some background information would be helpful to understand Fargo's history as a regional water supplier. The City of Fargo currently utilizes both the Red and Sheyenne Rivers for its municipal water supply. On an annual basis, we use the Red River about 60% of the time and the Sheyenne River about 40% of the time. We think having two surface water sources is good water supply planning and historically, we have utilized them both independently and in combination for a variety of reasons related to water quantity or water quality. The Fargo water system presently provides drinking water to the City of Fargo and a significant consecutive user, the Cass Rural Water Users District, serving a total population of approximately 120,000. In addition, we have recently begun discussions with the City of West Fargo to explore the possibility of a regional water supply solution to benefit both cities.

Our water treatment plant was constructed in 1997 with treatment technologies that were selected based on historic water quality data in the Red and Sheyenne Rivers. As far back as 1975, USGS historic water quality data on the Sheyenne River at West Fargo indicates an average sulfate concentration around 200 mg/l with an occasional peak of 300 mg/l. The EPA secondary standard for sulfates in drinking water is 250 mg/l and the North Dakota Department of Health's recommended upper limit for sulfates in drinking water is also 250 mg/l. So, based on historic water quality data, it wasn't necessary for our water treatment plant to include technologies for sulfate removal. And, since the plant began operating in 1997, we've been able to routinely meet the EPA secondary standard and the North Dakota Department of Health's recommended upper limit for sulfate concentration in our drinking water.

The Sheyenne River is a critical component of Fargo's water supply and drought mitigation plans. As such, we have two perfected permits, one for natural flows in the Sheyenne River and one for stored water in Lake Ashtabula. In addition, Fargo is an active participant in the Red River Valley Water Supply Project to bring Missouri River water to eastern North Dakota during periods of water shortages or drought. The

preferred option utilizes Lake Ashtabula and the Sheyenne River. Fargo's participation is, in part, predicated on water quality that allows us to continue to meet the EPA secondary standard and North Dakota Department of Health upper recommended limit for sulfates in drinking water with our current treatment technologies.

That being said, Fargo recognizes the threat of flooding to the City of Devils Lake and surrounding areas. We also recognize the potential downstream impacts of an uncontrolled overflow from Devils Lake. So, it is our desire to work cooperatively toward a mutually beneficial solution to address the flooding threat in the Devils Lake area and address the potential downstream water quality impacts on water systems that utilize the Sheyenne River as a water supply.

The recently approved Emergency Rule increased the allowable sulfate concentration in the Sheyenne River, measured at a point 0.1 mile downstream of Baldhill Dam, to 750 mg/l. Our review of historic USGS water quality data indicates that there is little or no change in Sheyenne River sulfate concentrations between Baldhill Dam and West Fargo. However, it's important to note that the Emergency Rule did not change the stream standard and corresponding allowable sulfate concentration in the Sheyenne River at West Fargo, which remains at 450 mg/l.

To that end, we have estimated that the modifications necessary to our water treatment system to reduce the sulfate concentration from 450 mg/l in the Sheyenne River to 250 mg/l in our drinking water would cost upwards of 60 million dollars. It's my understanding that it has been a past policy of the State to provide 50% funding assistance for extraordinary treatment costs such as this.

We would hope that an operational strategy can be developed for the Emergency Outlet that can control the maximum sulfate concentration in the Sheyenne River at West Fargo to the historic maximum level around 300 mg/l. If that isn't possible, we would like to see a financial assistance program, to be applied equivalently to all downstream water systems for the additional treatment upgrades necessary to reduce sulfate concentrations in drinking water to meet the EPA secondary standard and the North Dakota Department of Health's upper recommended limit.

Once again, thank you for the opportunity to present our concerns on this matter. I would be happy to answer any questions you might have, and I also have staff present to address technical matters.

Statement of NAWS Advisory Committee Chairman, Bob Schempp, in favor of SB 2020 at Senate Appropriations Committee hearing, 1/13/11

Mr. Chairman and members of the Committee.

I'm Bob Schempp. I'm appearing in favor of SB 2020 on behalf of the NAWS Advisory Committee.

In 1972 an agreement between the Bureau of Reclamation and Minot was approved which authorized construction of an "interim" water supply for Minot until the Velva Canal was completed. The project involved the drilling of wells and construction of a water transmission pipeline which was intended to be a part of the original Garrison Diversion Project.

Now 39 years later, NAWS is serving several cities and rural water districts with that same "interim" water supply. The transmission line to Lake Sakakawea is complete, and by the end of 2012 all of the supply lines will be in the ground or ready to bid.

A lawsuit has stalled the treatment portion of the project. But the trial judge has stated that connection to the Missouri is necessary for NAWS and, when complete, the latest version of our Environmental Impact Statement should answer any questions that can be raised.

When NAWS is finally permitted to tap the Missouri, other water projects will have a much smoother path towards eventual use of Missouri water. So, because of the importance of NAWS to north central North Dakota and to the State's water development efforts, we can't allow the project to be stalled indefinitely by Manitoba objections and down stream concerns.

Thanks for your consistent support over the years. Without your support and the efforts of the State Water Commission, NAWS would not be under construction. Your continued support is necessary to complete the project.

I ask that you approve SB 2020 and I thank you for the opportunity to testify on behalf of the NAWS Advisory Committee.



**Testimony of Eric Volk, Executive Director**

**ND Rural Water Systems Association**

**Senate Bill 2020**

**Senate Appropriations Committee - Harvest Room – January 13, 2011**

Chairman Holmberg and members of the committee, my name is Eric Volk. 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.

The NDRWSA is committed to ensuring North Dakota's residents receive affordable drinking water of excellent quality and sufficient quantity. 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 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 large expansion of Stutsman Rural Water District, the further development of the North Central Rural Water Consortium, and the three county expansion of South Central Regional Water District, 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 \$46 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 & replacing aging infrastructure and complying with rules & regulations are 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. This does offer a challenge in finding affordable ways to bring quality water to rural areas. 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.

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.



Regional and Rural Water Projects

2011-2013 Funding Needs

NDRWSA  
January 2011

Project	Estimated Cost	Funding Request	Project Description
<b>Rural/Regional Water Systems</b>			
All Seasons Rural Water District	\$381,000	\$285,750	Reservoir Pump and SCADA Improvement Project
Central Plains Water District	\$1,270,000	\$952,500	Finished Water Storage Improvements at Two Reservoirs and Backup Power Generation for Distribution System
Garrison Rural Water District	\$955,485 \$1,841,489	\$716,614 \$1,380,967	Southwestern Expansion Project Western Water Expansion
Grand Forks-Trail Water District	\$5,000,000	\$3,800,000	System Expansion
McKenzie County Rural Water	\$5,000,000	\$3,800,000	Systems IV-Alexander Area Expansion
McLean-Sheridan Water District	\$350,000 \$450,000 \$2,000,000	\$262,500 \$337,500 \$1,500,000	Mine Reclamation Project North System Expansion Project Water Treatment Facility Improvements
North Central Rural Water Consortium	\$4,200,000 \$3,400,000	\$3,150,000 -\$2,550,000	Berthold-Carpio Phase Deering Phase
North Valley Water District	\$2,189,000 \$636,000	\$1,641,750 \$477,000	93rd Street pipeline improvements (Includes city of St. Thomas facility improvements) Residential Automated Meter Read System
South Central Regional Water District	\$12,341,000	\$9,255,750	Three County Distribution System
Southeast Water Users District	\$1,500,000	\$1,125,000	System Improvements
Stutsman Rural Water District	\$18,762,300	\$13,133,610	System Expansion
Trail Rural Water District	\$1,733,333	\$1,300,000	Additional Well Field Improvements and Hillsboro/TRWD Water Treatment Plant Upgrades
Tri-County Rural Water District	\$1,040,000	\$780,000	Water Treatment Plant Improvements
<b>TOTAL</b>	<b>\$63,049,607</b>	<b>\$46,448,941</b>	

Submitted by: Eric Volk, Executive Director  
ericvolk@ndrw.org

North Dakota Rural Water Systems Association



# 2011-2013 Rural/Regional Water Funding Needs

## **All Seasons Rural Water District – Bottineau**

### Reservoir Pump and SCADA Improvement Project:

Some facilities within the system are in need of improvements in order to continue to provide clean, safe, drinking water to the District's customers and to meet the growing peak needs. An addition of 16 Variable Frequency Drives (VFDs) will allow the pumps to run at varying speeds, only utilizing the power required at a particular time throughout the day, allowing the system to experience lower power costs, and less wear and tear on the pumps and motors. The SCADA system, through local control, operates each reservoir site independently to provide pressure and flow to the user's respective area. Recent FCC regulations are requiring the District to change their current operating radio frequency, which will require new radios at each site, and programming modifications at the Central Terminal Unit.

**Estimated Project Cost: \$381,000**

**Funding Request (75%): \$285,750**

## **Central Plains Water District – Fessenden**

### Finished Water Storage Improvements at Two Reservoirs and Backup Power Generation for Distribution System:

Booster stations No. 3 and No. 5 empty and fill approximately 15 to 20 times a day as they push water further into the system. As there is only 10,000 gallons of storage at each station, any power disruption or breakdown in the system feeding these reservoirs cause domino effects throughout the system. The project would consist of constructing additional storage at these two stations, adding backup power generation at the water treatment plant and at each booster station to improve system reliability.

**Estimated Project Cost: \$1,270,000**

**Funding Request (75%): \$952,500**

## **Garrison Rural Water District – Garrison**

### Southwestern Expansion project:

The project would expand the existing infrastructure of the Garrison Rural Water District to serve a 20 lot subdivision and a 42 lot subdivision that are being planned for the SW area of the territory. Along this route the project would also serve 8 farmsteads at this time with a few more potential customers.

**Estimated Project Cost: \$955,485**

**Funding Request (75%): \$716,614**

### Western Water Expansion:

The project would expand the western reaches of the present system. Included in this project is a water storage reservoir and pump station to better serve existing customers. The project would also give the Garrison Rural Water District the opportunity to serve the expanding oil industry by installing a water salesmen/depot.

**Estimated Project Cost: \$1,841,289**

**Funding Request (75%): \$1,380,967**

## **Grand Forks-Traill Water District - Thompson**

### System Expansion:

The Water District is seeking to undertake a number of improvements that would provide wa service to an additional 100-200 new water users throughout the system. These new users are currently on individual wells. Many of these individual wells have high nitrate and/or arsenic levels.

**Estimated Project Cost: \$5,000,000**

**Funding Request (75%): \$3,800,000**

## **McKenzie County Water Resource District - Watford City**

### System IV-Alexander Area Expansion:

Concerns over existing well water quantity and quality utilized by rural residents for domestic and livestock consumption in west-central and northwestern McKenzie County prompted residents in the area to investigate the possibility of constructing a rural water system to provide for their water needs. Residents fortunate enough not have to haul water for domestic needs in this region, typically are utilizing groundwater supplies with very high concentrations of iron, hardness, fluoride, sulfates, and sodium. As a result, residents in this region initiated a grass roots effort to persuade the McKenzie County Water Resource District (MCWRD) to evaluate rural water service to west-central and northwestern McKenzie County (McKenzie County Water Distribution System – System IV). Approximately 100 domestic, commercial (ranching), and industrial (oil) users have expressed interest in rural water service in this region. The MCWRD and the City of Williston have agreed on a bulk water purchase agreement for Williston to become a regional water supplier for the area.

**Estimated Project Cost: \$5,000,000**

**Funding Request (75%): \$3,800,000**

## **McLean-Sheridan Water District - Turtle Lake**

### Mine Reclamation Project:

Project consists of approximately 8 miles of 4-inch pipe to serve reclaimed coal mine land. The proposed project will allow expansion of the District into areas previously removed for industrial use. The reclamation has been completed; however the lack of potable water service is a major obstacle to re-population and land use.

**Estimated Project Cost: \$350,000**

**Funding Request (75%): \$262,500**

### North System Expansion Project:

Project consists of approximately 9 miles of 2-inch pipe to serve 50-100 users located north of Turtle Lake within the District service boundary.

**Estimated Project Cost: \$450,000**

**Funding Request (75%): \$337,500**

### Water Treatment Facility Improvements:

Project consists of plant upgrades including replacement of aged infrastructure including filter media, pumps, chemical equipment, and electrical systems. The project also includes the installation of a new treatment train expansion and water storage.

**Estimated Project Cost: \$2,000,000**

**Funding Request (75%): \$1,500,000**

## **North Central Rural Water Consortium II – Minot & Fessenden**

### Berthold - Carpio Phase:

This project extends from Des Lacs to Carpio. The water supply would be the NAWS pipeline and would extend into the rural areas of western Ward County. This project would serve approximately 180 rural users and the community of Carpio. The community of Carpio does not have a centralized water system as each resident is on their own well or shared wells. The community reports that this is limiting their ability to grow with the oil boom in the area as businesses and residents will not locate in the community. Water quality generally has high iron, manganese and total dissolved solids. Some residents report hauling all their drinking water due to lack of quality sources.

**Estimated Project Cost: \$4,200,000**

**Funding Request (75%): \$3,150,000**

### Deering Phase:

This project extends from Granville to the Deering area. The project would serve approximately 100 users and the community of Deering. The community of Deering has a deteriorating water system with a large water loss and low pressures. Water supply would be from North Prairie Rural Water District and the future NAWS pipeline north of Minot Air Force Base. Water quality generally has high iron, manganese and total dissolved solids. Some residents also report hauling all their drinking water due to lack of quality sources.

**Estimated Project Cost: \$3,400,000**

**Funding Request (75%): \$2,550,000**

## **North Valley Water District – Cavalier**

### 93<sup>rd</sup> Street pipeline improvements (Includes city of St. Thomas facility improvements):

Project includes a 13-mile pipeline (8 & 10 inch diameter) from North Valley's Water Treatment Plant and east along 93<sup>rd</sup> Street NE. Purpose of the project is to improve capacity of rural Cavalier, Hensel, Hamilton, Glasston, and St. Thomas areas. Also includes improvements at the City of St. Thomas to improve delivery to the City.

**Estimated Total Project Cost - \$2,189,000**

**Funding Request (75%) - \$1,641,750**

### Residential Automated Meter Read System:

Project involves replacement of all residential water meters to radio-head meters (1,400). North Valley Water District has already invested \$45,000 for installation of Radio-Frequency chips on approximately 1,050 Nodak Rural Electric meters as the first stage of this project. Nodak meters and power lines will carry data back to North Valley's office. This "green" tool will help conserve water and energy by properly monitoring usage.

**Estimated Project Cost - \$636,000**

**Funding Request (75%) - \$477,000**

## **South Central Regional Water District – Bismarck**

### Three County Distribution System:

The project is the continued development of a regional water supply system within Emmons, Logan, and McIntosh Counties. This phase of the work will provide potable water service to nearly 300 rural residences in Logan and McIntosh Counties. Supply will also be provided to the communities of Ashley, Wishek, and Napoleon. The work includes the installation of approximately 350 miles of 1½"-12" PVC pipe, a prefabricated booster station, and the construction of a storage reservoir.

**Estimated Project Cost - \$12,341,000**

**Funding Request (75%) - \$9,255,750**

## **Southeast Water Users District – Mantador**

### System Improvements:

SEWUD currently experiences elevated concentrations of disinfectant by-products (DBPs) in various outlying and far reaching portions of their systems. These areas will not be able to meet compliance with Stage 2 Disinfectants-Disinfection By-Products (D/DBP) Rule without modifications to the reservoirs, pumps, controls, monitoring, and chemical feed systems within SEWUD system. The project includes conducting testing to determine what areas will be out of compliance with the upcoming Stage 2 D/DBP Rule and performing various reservoir, pump, controls, monitoring, and chemical feed improvements.

**Estimated Project Cost - \$1,500,000**

**Funding Request (75%) - \$1,125,000**

## **Stutsman Rural Water District – Jamestown**

### System Expansion:

Expansion project will bring water to 550 individual users and the cities of Woodworth and Streeter. These residents are currently experiencing quantity and quality deficiencies in the water supply. The Water District will use a combination of its existing water treatment plant and purchased water from the cities of Jamestown and Carrington. By utilizing existing city infrastructure, the Water District becomes a more efficient regional water system.

**Estimated Project Cost: \$18,762,300**

**Funding Requested (70%): \$13,133,610**

## **Trail Rural Water District – Clifford**

### Additional Well Field Improvements and Hillsboro/TRWD Water Treatment Plant Upgrades:

Continuation of the Trail Regional Water Supply Project. Additional funds are required for increased construction costs (addition ND Department of Health waste water disposal requirements) and to bring the total funding package to a level of 75%.

**Estimated Project Cost: \$1,733,333**

**Funding Requested (75%): \$1,300,000**

## **Tri-County Rural Water District – Petersburg**

### Water Treatment Plant Improvements:

The Water District is experiencing problems with supplying an adequate quantity of potable water through its existing water treatment plant. Expansion of the water treatment plant (constructed 1982) to increase water production, storage and distribution from the water treatment facility to keep up with the water needs of the district is necessary. Additional onsite storage will alleviate some of the peak demands, along with improvements within the plant, including pump replacement, filter expansion, and piping modifications.

**Total Estimated Project Cost - \$1,040,000**

**Funding Request (75%) - \$780,000**

Rural Water System Rates  
January 2011

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	1630	\$29.00	0	\$4.75	\$57.50	
Barnes Rural Water District -New		\$47.00	0	\$5.75	\$81.50	
Cass Rural Water District	3500	\$25.00	0	\$3.75	\$47.50	
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	2390	\$24.50	0	\$4.50	\$51.50	
Greater Ramsey Water District	792	\$30.00	0	\$3.25	\$49.50	
Greater Ramsey Water District Expansion	826	\$42.00	0	\$3.25	\$61.50	
Langdon Rural Water District Phase I, II & III	680	\$44.00	0	\$5.00	\$74.00	
Langdon Rural Water District Phase IV	263	\$57.00	0	\$5.00	\$87.00	
Langdon Rural Water District Phase Cando Expansion	21	\$50.00	0	\$5.00	\$80.00	
McKenzie Water Resource District	120	\$42.00	0	\$1.90	\$53.40	
McLean Sheridan Rural Water	500	\$46.00	0	\$5.91	\$81.46	
Missouri West Water System	1425	\$35.00	0	\$4.45	\$61.70	
North Central Rural Water Consortium	612	\$52.00	0	\$5.30	\$83.80	
North Prairie Rural Water District	2000	\$38.00	0	\$6.15	\$74.90	
North Valley Water District	1340	\$30.00	0	\$4.70	\$58.20	
R&T Water Supply Association	27	\$17.00	0	\$4.00	\$41.00	
South Central Regional Water District	4133	\$30.00	0	\$6.50	\$69.00	
Southeast Water Users District West	510	\$45.00	0	\$3.00	\$63.00	
Southeast Water Users District Central	770	\$45.00	0	\$5.25	\$76.50	
Southeast Water Users District East	1335	\$26.00	0	\$4.00	\$50.00	
Southwest Water Authority	3897	\$42.10	2000	\$3.75	\$57.10	
State Line Water Cooperative	138	\$25.00	0	\$4.00	\$49.00	
Stutsman Rural Water District	1216	\$37.00	0	\$4.00	\$61.00	
Traill Rural Water District	770	\$55.00	0	\$6.00	\$91.00	
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	560	\$24.00	0	\$8.00	\$72.00	
Walsh Rural Water District R1	1181	\$31.00	0	\$6.00	\$67.00	
Walsh Rural Water District R2	11	\$45.00	0	\$6.00	\$81.00	
Walsh Rural Water District R3	137	\$48.00	0	\$6.00	\$84.00	
Walsh Rural Water District R4	15	\$55.00	0	\$6.00	\$91.00	
Williams Rural Water District	972	\$35.00	0	\$8.40	\$85.40	
	37296					
<b>Median</b>		\$37.50		\$5.00	\$65.75	
<b>Average</b>		\$36.99		\$4.88	\$65.84	
** \$4.50/1000 for 1st 5000 gallons & then \$4.00/1000						

**Testimony on HB 2020**

**Hearing Date: January 13, 2011**


**By: Teresa Sundsbak, General Manager of North Prairie Rural Water District and Vice President of the NCRWC**

Good afternoon Mr. Chairman and committee members. I am Teresa Sundsbak, General Manager of North Prairie Rural Water District and Vice President of NCRWC, a regional water system in north central North Dakota. We provide water service to a large portion of Ward, Wells, Benson and a smaller area of Mclean, McHenry, Pierce, and Mountrail Counties, and I ask for your support on House Bill 2020.

You will hear a lot of testimony today concerning the larger water needs around the state. I am here today representing the Rural Water systems of North Dakota. Keep in mind that it is the rural water systems that take that water off of the larger projects and are delivering it to the rural people of ND. In the Berthold/ Carpio area we have the NAWS line running through our District and yet we have not been able to secure funding to utilize this line to its full potential. Many of the people in this area gave easement to allow this line to run through their land and they have not been able to get water because of lack of funding. In the Deering/ Granville area they are surrounded by water districts but cannot get water because of lack of funding. How long do they have to wait?

In this day and age can you imagine a young mother drawing a bath for her children and when she puts them in the tub you cannot see their toes for the water is too brown, or when you run water out of your faucet you can light it on fire. I grew up in this area and I know what it is like to take a bath in that brown water. Many of us who have good potable water take it for granted. But for those who don't it becomes priceless. These families have been waiting for water for over 30 years.





As you may know most of the rural water systems in central ND were built in the 80's. These projects were mainly funded by the Federal government. It takes 60 to 75% grant dollars to make most rural water projects feasible. With all the changes that have taken place on the Federal level, we know that we cannot rely upon them in the future. The eastern part of the state has no gaps. With the continued growth of Western and Central ND due to the oil industry it is crucial that we secure funding to be able to support the continued growth of this region. Agriculture and the oil industry remain a key driver of North Dakota's economy. Quality water is critical to the growth of North Dakota. Please support rural water systems in House bill 2020.

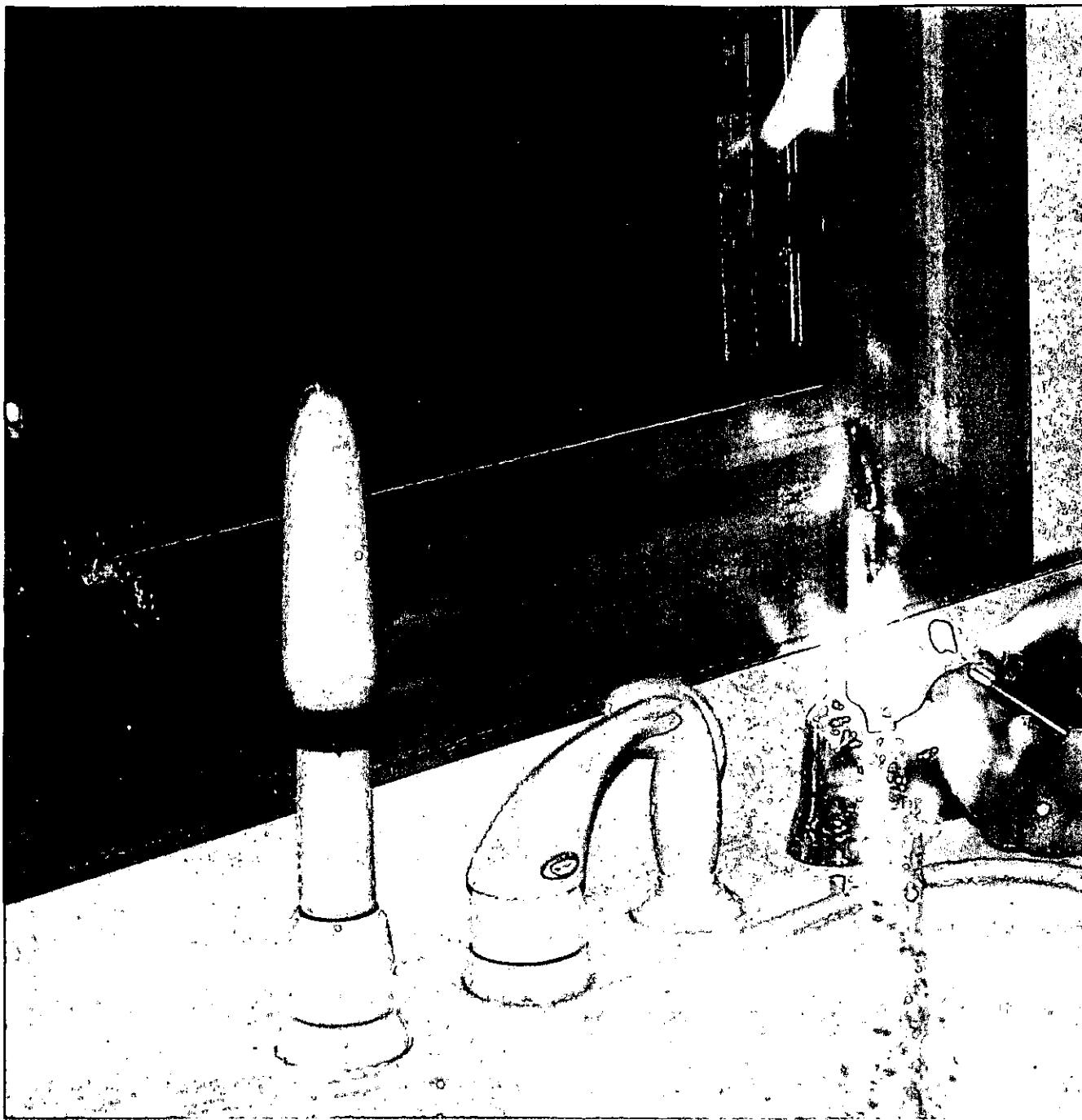
Thank you





The real true innocence  
of Children.

IF they only knew  
what they were taking  
a bath in.



*Richard and Mary Thompson  
4120 20th Ave. S.E.  
Minot, ND 58701*

10/14/2010

**Testimony on SB 2020**

**Hearing Date: January 13, 2011**

**By: Geneva Kaiser, Manager-Stutsman Rural Water District, Jamestown, ND**

Good afternoon, Mr. Chairman and committee members. I am Geneva Kaiser, Manager of Stutsman Rural Water District, which provides quality water to portions of Stutsman, Foster, Griggs, LaMoure and Logan Counties. Stutsman Rural Water District is a growing regional water system currently serving 1238 rural residences, farmsteads and businesses. After the Water District received numerous requests for water service from residents in western Stutsman County, a membership drive was conducted to assess the unmet water needs within the District's boundaries. The replies received were more than anticipated, with 550 new potential members paying their good intention fee in order to become part of the feasibility study.

The District's Engineer has since completed the Preliminary Engineering Report and Stutsman Rural Water District has applied for funding through the MR & I Program for its \$18.3 million Capital Improvement and Expansion Project. In order to provide water at an affordable cost to the average resident, the grant funding requested is at the 70% level, with Stutsman obtaining loan dollars to fund the balance of the project. This project will provide the opportunity for 550 additional rural residences and farms, and the towns of Woodworth and Streeter, to obtain a safe, reliable source of high quality potable water. Many of these individuals currently purchase their drinking water, and often haul water to meet their daily household needs for something as simple as bathing, so they don't need to bathe in red or brown water. Water is also hauled in to meet the needs of their livestock, which directly affects the ability to maintain their livelihood.

There are very few opportunities for rural residents to obtain affordable quality water other than being included in a grant funded project constructed by a rural water system. They do not reside in highly populated areas that have the ability to fund portions of their own projects with sales tax dollars, special assessments and property taxes. The rural resident stands alone and patiently waits for a basic necessity of life that many of us take for granted - a good quality potable water supply.

Thank you for the opportunity to testify before you today in support of SB 2020.

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Central Plains Water District



NOT TO SCALE

LEGEND

- EXISTING PIPELINE
- PROPOSED PIPELINE
- WATER DISTRICT BIDDY
- COUNTY BIDDY
- STATE OR COUNTY ROAD
- BOOSTER STATION
- RESERVOIR
- WATER TREATMENT PLANT
- EXPANSION SIGNUP

Central Plains Water District

WELLS COUNTY

FOSTER COUNTY

Greater Ramsey Rural Water District  
Stutsman Rural Water District

FOSTER COUNTY  
STUTSMAN COUNTY

GRIGGS COUNTY  
BARNES COUNTY

NORTHERN  
STUTSMAN  
PHASE

WOODWORTH  
PHASE

CARRINGTON  
BOOSTER/METER VAULT

Bordjic

Merville

Edmunds

WOODWORTH  
BOOSTER/RESERVOIR

Reservoir R5

Pingree

WOODWORTH

Reservoir R4

Booster B3

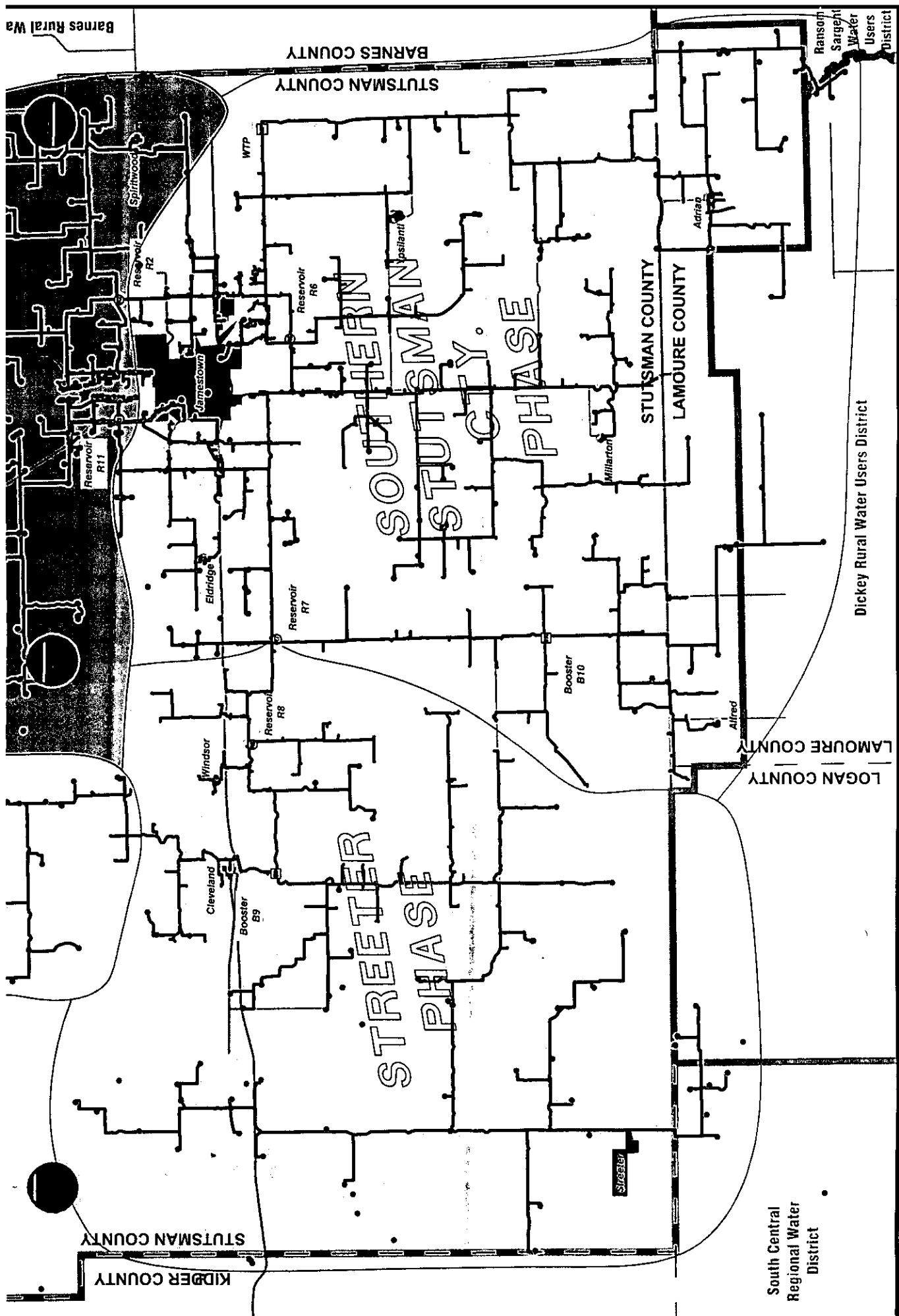
Spiritwood Lake

Buchanan

Sutton

Dakota Rural Water District

7 District



**BARTLETT & WEST**

# EXPANSION PHASE MAP

JANUARY 2011

**STUTSMAN RURAL WATER**

**Stutsman Rural Water District**  
 PO Box 547  
 Jamestown ND 58402-0547  
 Phone: 701-252-7727  
 Fax: 701-252-8711

## Stutsman Rural Water District Expansion and Improvement Project

Stutsman Rural Water District (SRWD), is an existing operational regional rural water supply system that has been providing clean, safe drinking water to over 1200 individual rural users and several rural communities in central and eastern portions of Stutsman County since 1986. The current system consists of a 400 gpm water treatment plant, 12 underground reservoirs with pump stations, and approximately 1000 miles of distribution pipeline. The system's WTP treats approximately 100 million gallons of water each year and purchases additional water from the City of Jamestown during peak usage periods.

After numerous requests were made by residents of western Stutsman County to receive an adequate and quality source of water, the SRWD has determined it necessary to expand their existing water system such that residents in all Stutsman County have an opportunity to receive a dependable water supply. To date the residents of western Stutsman County have not yet had an opportunity to be included in any type of rural water system project. At this time SRWD has received over 550 individual sign-ups and requests from the cities of Woodworth and Streeter to be included as part of the expansion project. These residents are currently experiencing quantity or quality deficiencies in their water supplies.

In January of 2009 a Preliminary Engineering Report was completed by Bartlett and West to provide water to the 550 individual users and the cities of Woodworth and Streeter. Several alternates were looked at including expanding their own WTP, purchasing additional water from the City of Jamestown, and purchasing water from the City of Carrington. The SRWD Board of Directors elected to move forward with the cheapest of the three alternates which was a combination of using their own WTP to its existing capacity and purchase water from both the cities of Jamestown and Carrington. The SRWD has signed long term water purchase agreements with both Jamestown and Carrington. By utilizing available surrounding cities infrastructure facilities, the SRWD Expansion Project is becoming a more efficient regional water system.

The total cost for the SRWD Expansion Project is \$18,762,300. This includes improvements within their existing system that are needed to provide water all new users in western Stutsman County. SRWD is requesting a 70% grant from the state MR&I program. The remaining 30% portion of funding will be secured by a loan from the USDA RD. This project can be constructed in phases contingent on the availability of funding. SRWD is requesting \$13,133,610.00 of grant dollars from the state MR&I program during the 2011-2013 biennium to complete the expansion project. The remaining funding will be requested in the 2013-2015 biennium.

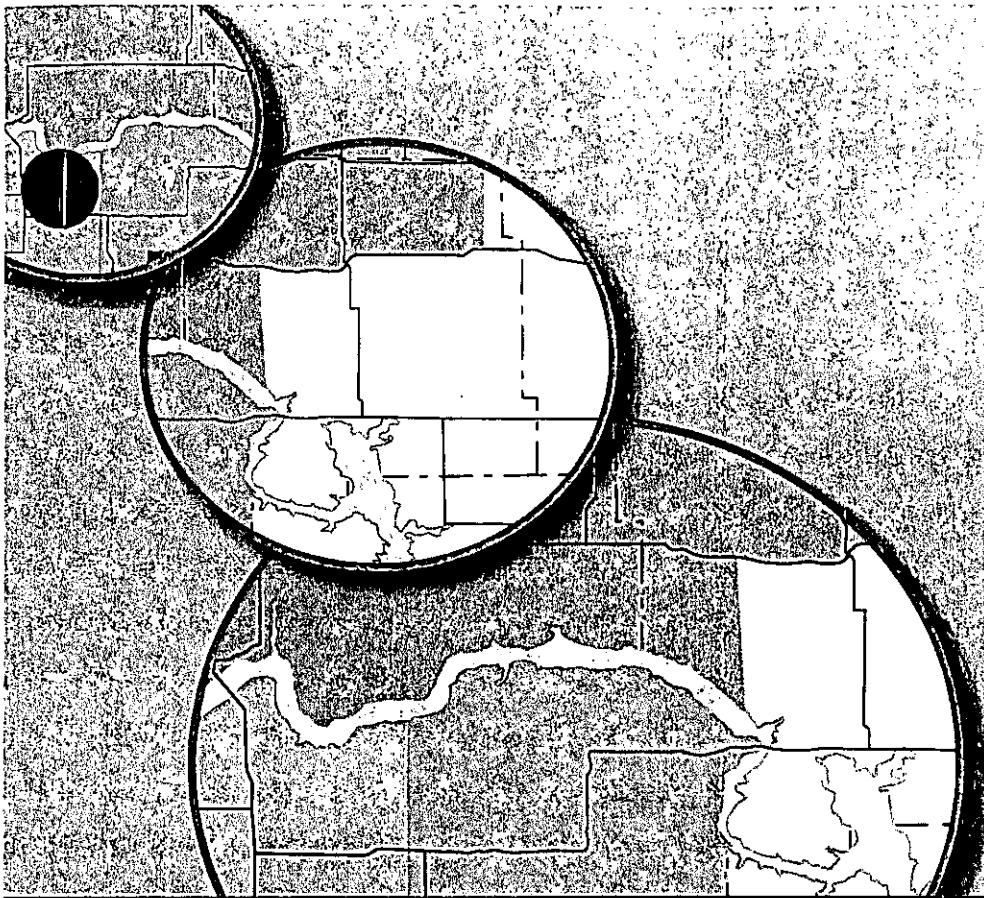
## Construction Cost Estimate Stutsman Rural Water Users Overall Expansion

<b>Rural Water Distribution System</b>			
Description	Quantity (ft.)	Unit Price / Ft.	Extension
8" Cl. 250 PVC	10,800 '	\$ 11.50	\$124,200
8" Cl. 200 PVC	88,450 '	\$ 10.25	\$906,613
8" Cl. 160 PVC	100,300 '	\$ 9.50	\$952,850
6" Cl. 250 PVC	5,850 '	\$ 7.40	\$43,290
6" Cl. 200 PVC	85,700 '	\$ 6.90	\$591,330
6" Cl. 160 PVC	158,600 '	\$ 6.10	\$967,460
4" Cl. 250 PVC	5,500 '	\$ 4.90	\$26,950
4" Cl. 200 PVC	52,300 '	\$ 4.50	\$235,350
4" Cl. 160 PVC	192,320 '	\$ 4.00	\$769,280
3" Cl. 250 PVC	92,300 '	\$ 3.25	\$299,975
3" Cl. 200 PVC	124,200 '	\$ 2.90	\$360,180
3" Cl. 160 PVC	434,500 '	\$ 2.60	\$1,129,700
2" Cl. 250 PVC	122,400 '	\$ 2.35	\$287,640
2" Cl. 200 PVC	429,700 '	\$ 2.25	\$966,825
2" Cl. 160 PVC	1,019,800 '	\$ 2.10	\$2,141,580
1½" Cl. 250 PVC	1,700 '	\$ 4.75	\$8,075
1½" Cl. 200 PVC	63,450 '	\$ 4.55	\$288,698
Subtotal Pipe	2,987,870 '		\$10,099,995
Appurtenances at 30%			\$3,030,000
Reservoir 6 Upgrades			\$100,000
Reservoir 1 (WTP) Upgrades			\$200,000
Woodworth Booster/Reservoir			\$260,000
Woodworth Master Meter			\$20,000
Streeter Master Meter			\$37,500
SCADA			\$210,000
City of Carrington Connection			\$250,000
Streeter Meter Vault/VFD Booster			\$225,000
<b>Subtotal Rural Distribution System Construction Cost</b>			<b>\$14,432,500</b>
Additional Project Costs at 30%			\$4,329,800
<b>Total Project Cost</b>			<b>\$18,762,300</b>

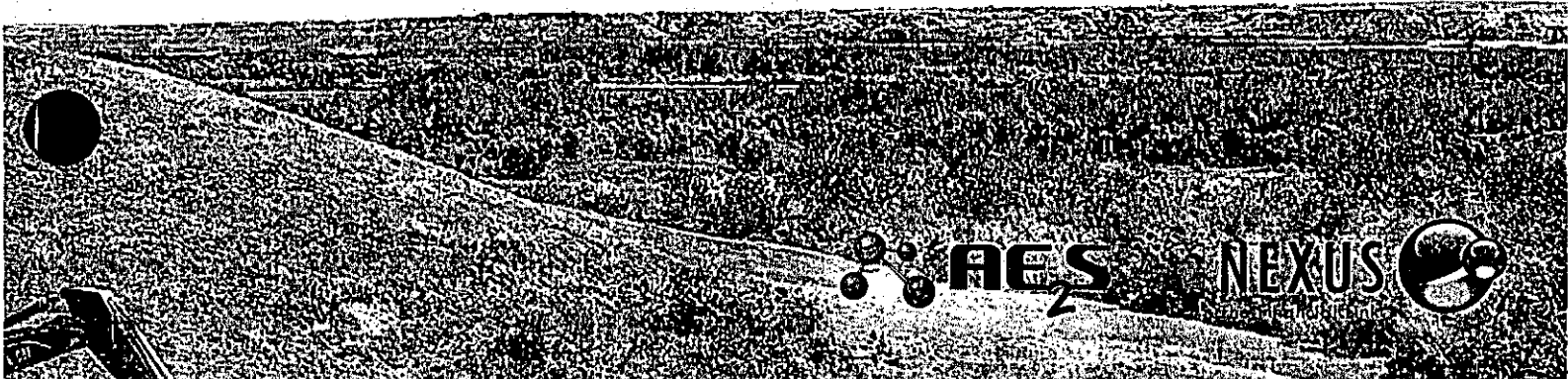
NOTE: Expansion Consists of:

- 1) 566 miles of 8" - 1½" PVC Pipe
- 2) 550 new rural users and the Towns of Woodworth and Streeter





# Western Area Water Supply Project



## THE NEED

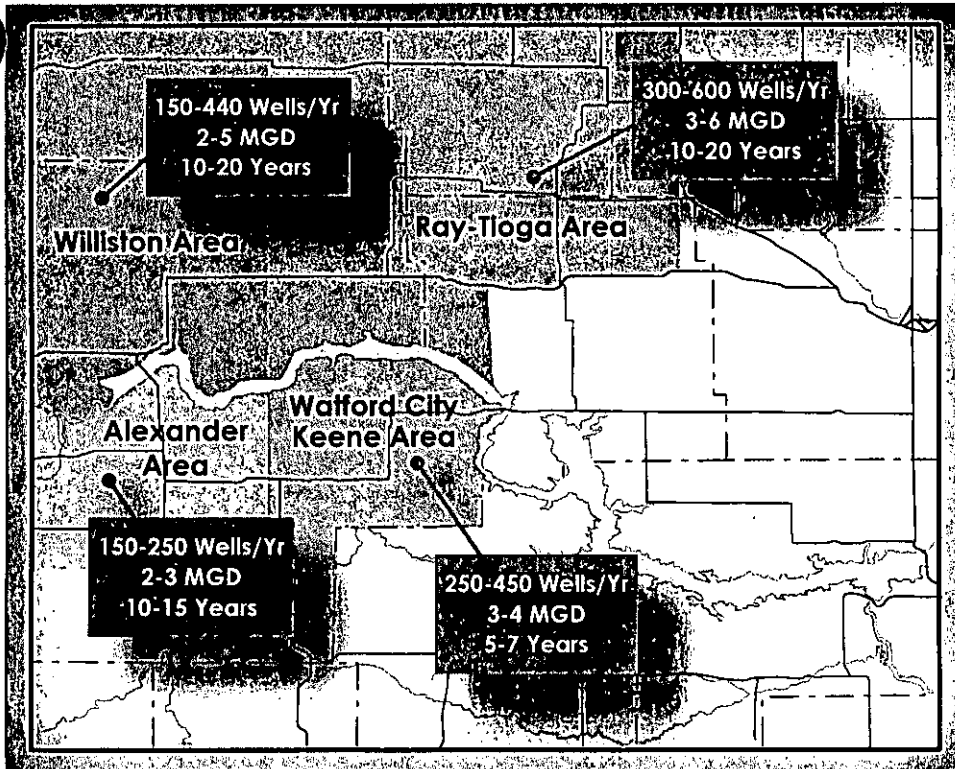
**Poor Water Quality.** The drinking water quality of existing supplies for rural residents and small municipalities does not meet drinking water standards.

**Insufficient Water Quantity.** Drinking water supplies for rural residents and small municipalities do not meet the increasing water demands in the region.

**Limited Capacity.** The existing water system infrastructure has limited excess capacity to accommodate the rapid economic expansion fueled by a 454% increase in oil production in this project area since January 2007.

**Large Industry Demands.** Demand from the oil industry for water to be used in hydraulic fracturing (fracking) continues to increase. It is estimated to take 10 to 18 million gallons of water each day to meet the needs of the oil industry.

### Estimated Oil Well "Fracking" Water Demand



\*Source North Dakota Department of Mineral Resources & AE2S - August 2010

## Insufficient Aquifers

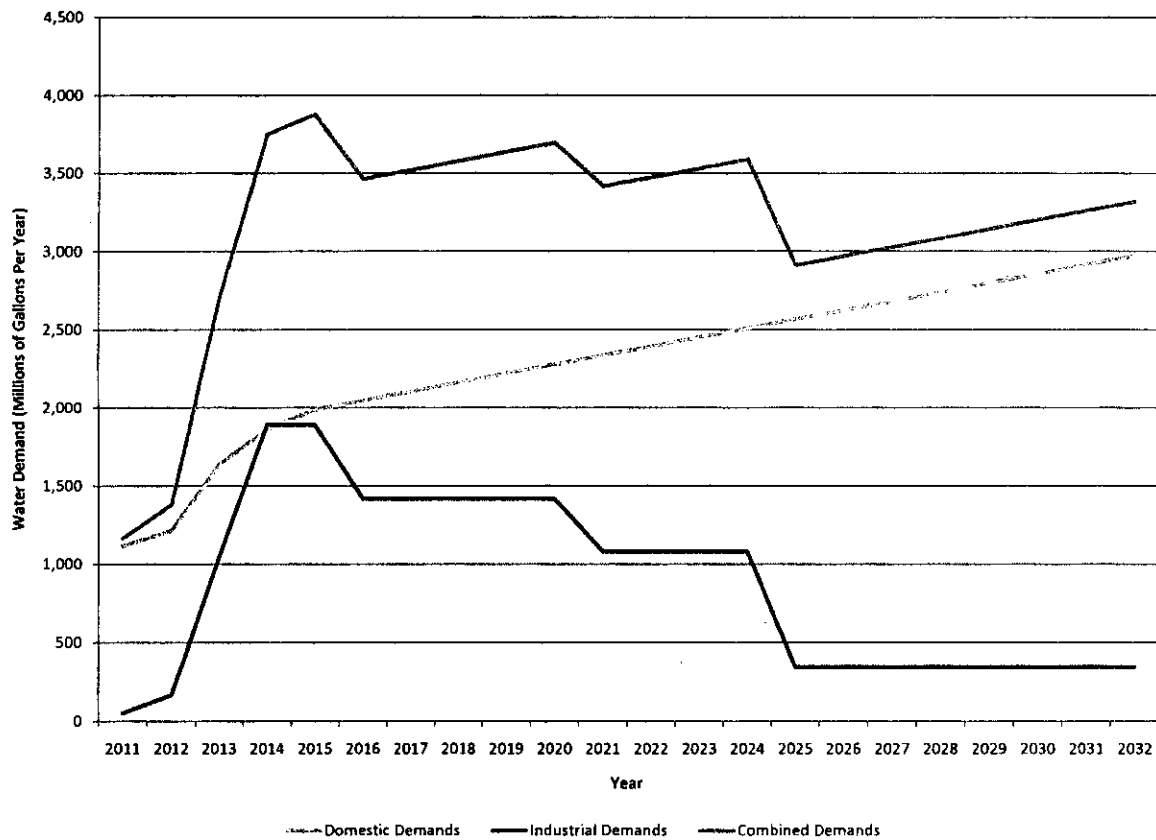
The State Water Commission concluded the aquifers in this area are insufficient to supply the requirements of the region at the proposed rate of development. Water from the Missouri River is a key element to continued development and growth of this area.

## Does This Project Affect Lake Sakakwea?

At peak demand the project may use approximately .023 million acre-feet of water annually from Lake Sakakwea. The total maximum storage volume of the reservoir is 23.8 million acre feet of water. In comparison to the volume of water Lake Sakakwea can store, the amount of water used for this project is only 0.1% of the volume in the lake.

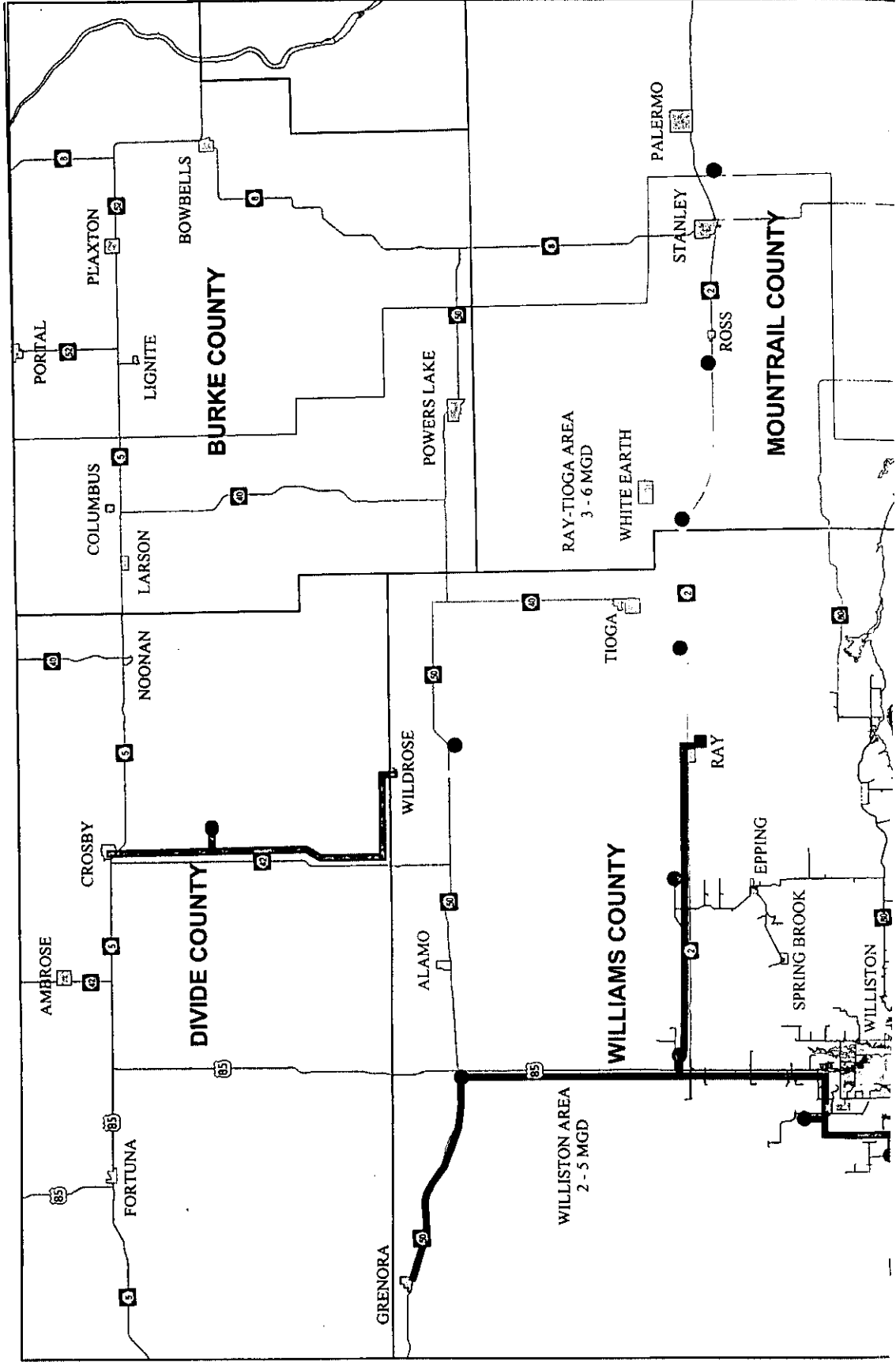
PROJECTIONS

The Western Area Water Supply Project is a comprehensive MR&I project capable of supplying current projections for municipal, rural, and industrial water needs. Beyond that, the project is also designed with the flexibility to expand to meet increasing water demands with the ever expanding populations and energy industry.



# WESTERN AREA WATER SUPPLY PROJECT

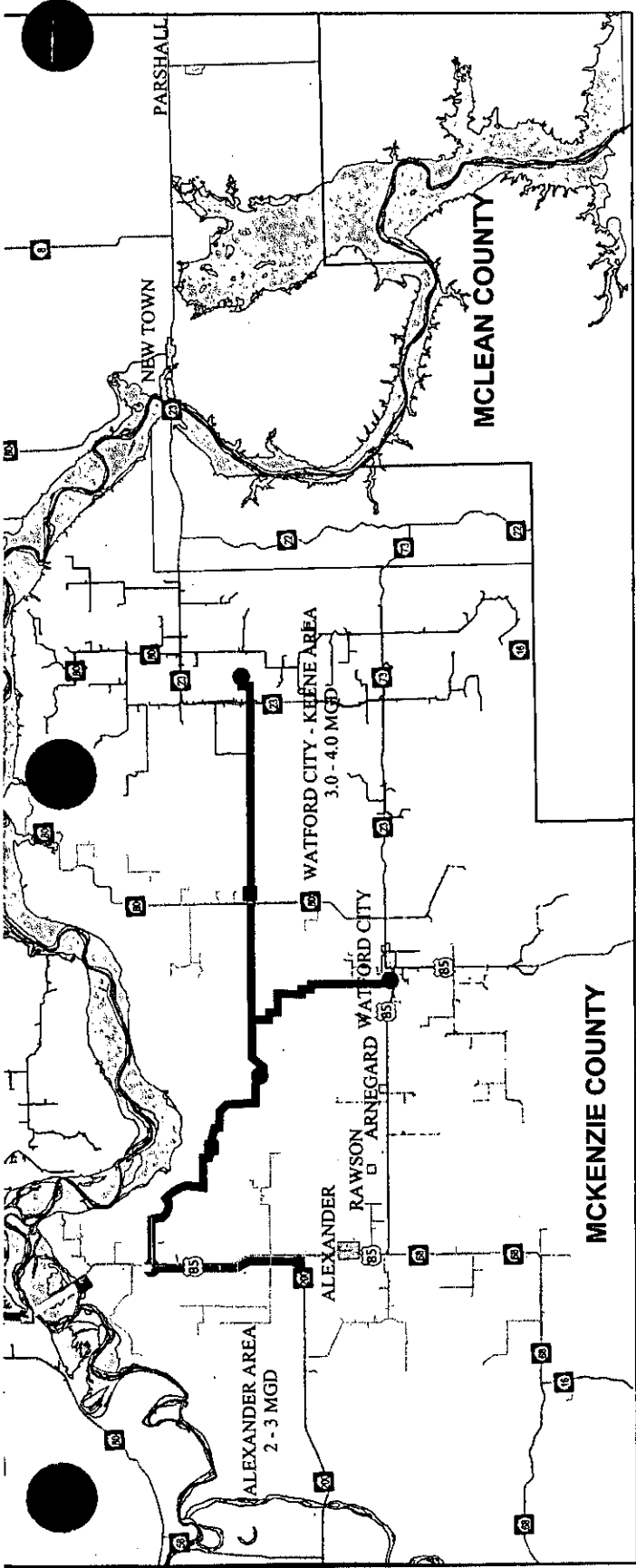
CANADA



MONTANA

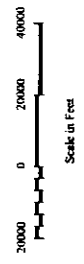
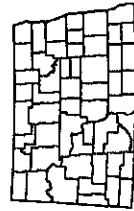
OF

STATE



- WTP INTAKE EXPANSION IMPROVEMENTS
- PUMP STATION
- RESERVOIR/BULK FILL
- R&T WATER SUPPLY ASSOCIATION IMPROVEMENTS PROJECT
- EXISTING DISTRIBUTION SYSTEM
- DISTRIBUTION SYSTEM UNDER CONSTRUCTION
- PROPOSED DISTRIBUTION SYSTEM

- NORTH SERVICE AREA (8 MGD OIL INDUSTRY WATER DEMAND)
- SOUTH SERVICE AREA (4 MGD OIL INDUSTRY WATER DEMAND)
- EXISTING UNFUNDED TRANSMISSION LINES
- MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT
- EDW RURAL WATER DISTRICT IMPROVEMENT PROJECT
- CITY OF WILLISTON IMPROVEMENTS PROJECT



## THE REGIONAL SOLUTION

**Common Sense Approach.** The most viable solution is to utilize the plentiful water supply of the Missouri River and enhance the infrastructure already in place. The Western Area Water Supply Project can provide additional water supplies and distribution points to the area in need. This project will:

1. Utilize the Missouri River resource to benefit the people of North Dakota.
2. Relieve pressure on local aquifers which are insufficient to completely supply required water.

**Strong Support.** This Plan has the support of the key water infrastructure stakeholders in the region. The communities and water districts shown to the right agree that this water will address their challenges while providing the key benefits below.

## BENEFITS OF PLAN

- Meets the rapidly expanding domestic water needs of the region.
- Provides quality drinking water to the rural areas
- Provides water to support the exponential growth of the oil industry.
- Reduces the hauling distance for water to the oil fields and therefore lessening the impact on area roads.
- Most economical long-term solution.
- Serves the long term needs of the state and region
- Project pays for itself. Projected revenues from bulk sales are anticipated to fund a majority of the project without increasing residential rates.

### Who Does This Plan Benefit?

The Western Area Water Supply Project meets existing and expanding domestic, commercial, and industrial water needs to:

### Project Sponsors

Williston  
Williams Rural Water District  
McKenzie County Water District  
R&T Water Supply Association

### Other Beneficiaries

Watford City  
Ray  
Tioga  
Stanley  
Crosby  
BDW  
Grenora  
Wildrose

Ultimately, this Plan benefits the entire State by providing the essential resources needed to continue the economic development of oil and other energy sources in the region.

## THE FINANCIAL PLAN

### Project Request Overview

<u>Total Project Cost:</u>	<u>State Grant:</u>	<u>Local Bond Issue:</u>
\$150 million	\$30 million	\$120 million

### Payback Period:

Revenue projections support covering operation, maintenance, and debt service over a 10-30 year period.

### North Dakota Support Needed:

In order to secure local funding, State backing is required in case of a sudden down turn in oil development.

### Start Date:

2011

### Completion Date:

2014

## FORWARD THINKING PLAN

The project will provide the area with water infrastructure and distribution to domestic and industrial users. This plan will provide the area with adequate water resources to create economic diversity to potentially include potash processing, gasification plants, or agriculture processing facilities. Therefore, this plan not only helps the area prosper in the immediate future but for years following in the oil and gas drilling in the Bakken and Three Forks Formations.

**January 12, 2011**

**The Honorable Senator Ray Holmberg  
Appropriations Committee**

**Re: Support for Senate Bill 2020**

**Mr. Chairman Holmberg and Members of the Committee:**

**Thank you for this opportunity to testify in support of Senate Bill SB 2020.**

I am Brent Bogar and I serve as the Water, Sewer, Airport, Building and Planning Commissioner for the City of Williston. I am keenly aware of the infrastructure challenges our region is facing, specifically those that face our City and I want to start by thanking Governor Dalrymple and the bill sponsor for including funding for the Western Area Water Supply Project in the Water Commission budget. Williston serves as a major hub and service center for the oil industry and the region. The development taking place in our City and our region is unprecedented and at that heart of the development is the need for infrastructure, including water infrastructure.

Williston has always worked towards being a proactive community through water infrastructure master planning. When we developed the last master plan for the water treatment plant we interviewed the rural systems and included their needs in our plan. In the past ten years, we have completed major water system construction projects including adding a redundant transmission main, increasing capacity at our water treatment plant, and improving the quality of water through a state-of-the-art ultra violet treatment technology, the first of its kind in the Upper Midwest.

Currently we use approximately 3 million gallons per day on average and our peak day demand is estimated to be approximately 6.5 million gallons per day. Our current water treatment plant has the capacity to treat 10 million gallons per day and is planned for expansion to 14 million gallon per day. So, currently we can meet the existing capacity demand at our treatment plant.

The demand for the region is currently forecasted to be 11 million gallon per day on average with peak day demands of 23 million gallon per day by the year 2015 if the facility is used for the Western Area Water Supply Project. Our water intake facility takes water from the Missouri River, is permitted for ample quantities of water, is reliable, and ready to serve the needs of the



region as well. We are confident that our treatment plant will perform at 14 million gallon per day and has a design capacity to serve 21 million gallon per day. We are also currently evaluating actual performance of the intake to verify that it will serve the full 21 million gallon per day. **In summary, we have built solid infrastructure that is well positioned to serve as the foundation for supplying water to the region, which can be readily expanded to meet the projected need.**

Just as important the Western Area Water Supply Authority will tear down district boundaries and promote regional planning and coordination to solve the problem in the most efficient manner. This is very important to Williston because we are surrounded by the Williams Rural Water District which serves the rural areas and does not have fire flow protection. As we expand it is important that the City be allowed to provide fire protection. In addition our growth areas are not serviceable from the City's existing water distribution system due to elevation issues. The Western Area Water Supply Project will address several of these distribution pressure problems so that the City can develop in the most appropriate manner.

The Western Area Water Supply Project is the solution to the water supply and distribution problems of the region and Williston. Through this project we will be able to make more efficient use of our treatment plant for the benefit of the region, and if the region benefits the City of Williston and the State of North Dakota benefits. The funding plan for the \$150 million project includes \$25 million grant from the state, bonding that will be issued by the Western Area Water Authority, and a moral obligation from the state in the unlikely event that the required debt reserves cannot be maintained by the system. Through this partnership of state, local and regional entities we will be able to solve the water supply and treatment problems of the region, while paying for the improvements primarily through water rates.

We are proud to serve as a major stakeholder in this endeavor and excited to be part of the solution for our city, region, and state.

Thank you for your consideration....



**WILLISTON**

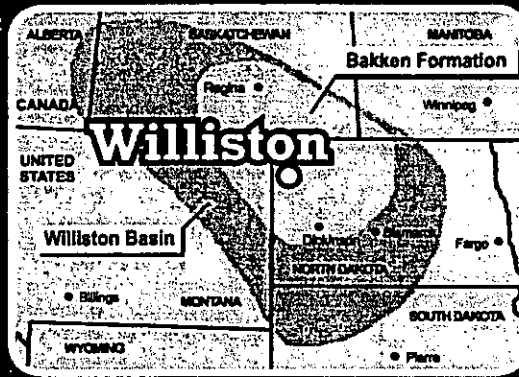
**CAPITAL IMPROVEMENTS PLAN**

**INVEST IN THE WEST | To Help Fund The Rest**

JANUARY 2011

# BUILD WILLISTON

CENTER OF THE WILLISTON BASIN



## WILLISTON | Capital Improvements Plan

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# INVEST IN THE WEST | To Help Fund The Rest

The City of Williston has been, and continues to be, the service center for oil activity in northwest North Dakota. Over the past several years, the City has experienced significant growth due to increased oil activity associated with the Bakken Formation. Current estimates indicate that the population has increased by nearly 40 percent since 2006, with a substantial amount of this new growth living in temporary housing. To support the current and projected future growth, the City of Williston has estimated that more than \$185,000,000 in fundamental infrastructure investments are necessary to address critical challenges related to transportation, wastewater, water, storm sewer, solid waste, and institutional services.

**EXPERIENCED LEADERS**

As the service center for oil activity in northwest North Dakota over the past decades, the City of Williston has extensive experience accommodating and fostering oil development. Therefore, it is prudent that Williston continue to serve as the experienced veteran and center for the oil producing activities.

**SPREADING THE WEALTH**

A myriad of support services for oil development and production are provided by companies across the region. Although Williston is the service center for the Bakken Formation, companies from across the region contribute to the commerce of the area.

**FINANCIAL ASSISTANCE IS NEEDED**

To meet the critical infrastructure needs of sustaining oil development and production in northwest North Dakota, the City of Williston is seeking financial assistance from the State of North Dakota. The assistance is needed to extend critical infrastructure at the pace necessary to support growth in an orderly fashion, provide quality location for houses to be built and businesses to locate, and provide a safe environment with quality services for the people.

**LONG-TERM GROWTH EXPECTED**

The current population for the City of Williston has been estimated to be nearly 17,000, with more than 1,000 people living in temporary housing. Many people from the oil industry have compared the City of Williston to Midland, Texas, a service center for the oil activity in Texas. Midland has been the center of the Texas oil industry for the past 70 years, and has grown from a population of just over 9,000 people in 1940 to an estimated population of nearly 109,000 in 2009. Many have attempted to estimate the population for the City of Williston, and all future indications are that the population in the next five years could exceed 25,000, with a 20-year projection of 40,000 to 50,000 not out of the question.

WILLISTON   Improvements	
Project	Total Estimated Project Costs
Transportation	\$112,600,000
Wastewater	\$52,950,000
Stormwater	\$400,000
Water	\$550,000
Buildings	\$16,350,000
Solid Waste	\$2,400,000
<b>SUBTOTAL</b>	<b>\$185,250,000</b>

TRANSPORTATION   System Improvements		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
East Williston Truck Route	\$5,600,000	\$5,600,000			
26th Street West	\$7,500,000	\$2,500,000	\$5,000,000		
Highway 2 Corridor	\$35,500,000	\$35,500,000			
Northwest Bypass	\$33,000,000	\$33,000,000			
32nd Ave. West	\$31,000,000			\$31,000,000	
Airport Improvements	FAA				
<b>SUBTOTAL</b>	<b>\$112,600,000</b>	<b>\$76,600,000</b>	<b>\$5,000,000</b>	<b>\$31,000,000</b>	<b>\$0</b>

WASTEWATER   System Improvements		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Wastewater Treatment Plant Upgrade	\$41,800,000	\$15,000,000	\$19,900,000		\$6,900,000
Collection System Extensions (Trunkline, Force Mains and Lift Station)					
NORTH SERVICE AREA	\$4,900,000	\$4,900,000			
WEST SERVICE AREA	\$5,900,000	\$5,900,000			
East Side Lift Station	\$350,000	\$350,000			
<b>SUBTOTAL</b>	<b>\$52,950,000</b>	<b>\$26,150,000</b>	<b>\$19,900,000</b>	<b>\$0</b>	<b>\$6,900,000</b>

STORM WATER   System Improvements		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Storm Water System Master Planning	\$400,000	\$400,000			
<b>SUBTOTAL</b>	<b>\$400,000</b>	<b>\$400,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>



IR   System Improvements		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Northwest Pumping Station	\$250,000	\$250,000			
Northeast Pumping Station	\$300,000	\$300,000			
<b>Northwest ND Regional Water Supply</b>					
NW Regional Water -West Service Connection	\$2,500,000				
Water Treatment Expansion	\$6,000,000				
Surface Water Supply Intake Improvements	\$1,500,000				
Horizontal Collector Well and Transmission Pipe	\$15,000,000				
NW Area Regional Water Treatment	\$25,000,000				
		All estimated project costs for City of Williston Water Treatment and Supply System are included in the Regional Water System Improvement Plan, which will be funded through water rates.			
		*Not included in Total			
<b>SUBTOTAL</b>	<b>\$550,000</b>	<b>\$550,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

BUILDINGS   Emergency Response & Government Services		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
<b>Fire/Ambulance</b>					
Fire Substation	\$2,350,000	\$2,350,000			
Highway 2 West Substation	\$2,350,000		\$2,350,000		
Highway 2 North Substation	\$2,350,000			\$2,350,000	
Government Services Building Space	\$9,300,000	\$3,100,000	\$1,550,000	\$1,550,000	\$3,100,000
<b>SUBTOTAL</b>	<b>\$16,350,000</b>	<b>\$5,450,000</b>	<b>\$3,900,000</b>	<b>\$3,900,000</b>	<b>\$3,100,000</b>

SOLID WASTE   Landfills		Population			
Project	Total Estimated Project Costs	20,000	25,000	30,000	40,000
Landfill Expansion	\$2,400,000	\$2,400,000			
<b>SUBTOTAL</b>	<b>\$2,400,000</b>	<b>\$2,400,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

TOTAL	Total Estimated Project Costs	Population			
		20,000	25,000	30,000	40,000
	\$185,250,000	\$111,550,000	\$28,800,000	\$34,900,000	\$10,000,000

**PRIMARY GOALS**

Safety, Efficient Movement of People and Goods, Multimodal Transportation, Land Use/Development, Coordination between Local and State Jurisdictions, and Economic Development.

Through comprehensive planning, the City of Williston has developed transportation planning tools to address six primary goals: safety, efficient movement of people and goods, multimodal transportation, land use/development, coordination between local and state jurisdictions, and economic development. Numerous studies have been developed over the past several years to address the transportation improvements as they relate to the City of Williston and the surrounding areas. Exhibit A illustrates the five major transportation improvement projects that have been included in the Capital Improvements Plan.

Additional information regarding the studies can be found at:

<http://www.willistonplan.com/FinalPlans/Default.aspx>



**East Williston Truck Route**

This project is a Truck Route designation that realigns 51st Street NW along the north side of the industrial park to elongate the east/west segment and reduce grade conflicts. Improvements will be constructed to increase pavement thickness and increase shoulder widths throughout the remainder of the corridor to facilitate designation as a Truck Route. This project is intended to reduce traffic on East Dakota Parkway. (\$5,600,000)

**26th Street West**

This project involves the construction of 26th Street West. The project will include a paved two-lane arterial roadway with urban sections from 138th Avenue NW to 139th Avenue NW as well as the construction of a paved two-lane roadway with rural sections from 139th Avenue NW to 141st Avenue NW. (\$7,500,000)

**Highway 2 Corridor**

Improvements to the Hwy 2 Corridor will include upgrades as identified in the Hwy 2/85 Corridor Study. In general, the improvements will include a realignment of various segments of the roadway to increase turning radii and create improved intersections, eliminate several intersections to

minimize potential traffic/pedestrian conflicts, and improve traffic control by improving turning lanes and adding signalized intersections where necessary. (\$35,500,000)

**Northwest Bypass**

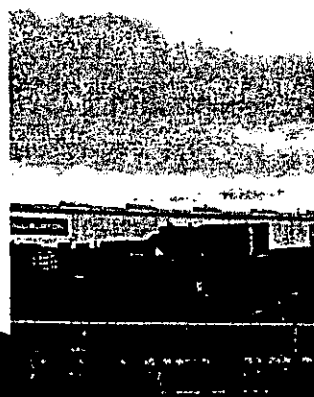
The Northwest Bypass is a recommended roadway that will bypass the City of Williston and allow traffic to flow without interference from local traffic, as well as reduce congestion within the City, while improving roadway safety. The bypass will begin west of Williston at the intersection of Highway 85 and Highway 2 and extend north and east to a point north of Williston at the intersection of Highway 2 and County Highway 7. Funding for this project will require considerable coordination and collaboration between the Federal, State, and Local agencies. (\$33,000,000)

**32nd Avenue West**

The 32nd Avenue West project provides a critical north/south connection between Highway 2/85 and 53rd Street NW. The project will involve paving a two-lane arterial through the project corridor, with an urban section from 53rd Street NW to 26th Street NW. In addition, the project will also preserve the right-of-way for the construction of three to five-lane arterial (including bridge over Sand Creek) as needed to serve further development in the area. (\$31,000,000)

**Airport/Railroad**

The City of Williston relies on consistent and reliable air services for both passenger travel and freight delivery. To continue to provide this service, it is critical that the City continue to work with the Federal Aviation Administration to ensure that proper planning and funding are made available for future improvements or expansions to the airport as deemed necessary. In addition, air service and railroads play a critical role in providing delivery of goods to the City of Williston. Consideration should be given to a future intermodal transport station to allow for integrated and efficient transportation of freight using multiple modes of transportation such as rail, and truck.



The City of Williston has developed comprehensive Wastewater Master Plans to address the Wastewater Treatment Facility (WWTF) as well as the sanitary sewer collection system. The Capital Improvements Plans (CIP) for the Wastewater system were developed to prioritize the projects that were identified.

**Wastewater Treatment Facility**

The Williston WWTF is currently operating at capacity. To address capacity limitations at the WWTF, it is anticipated that the City of Williston will be required to complete a multi-phased expansion. Each phase builds upon the previous phase until ultimate capacity of the existing WWTF site and treatment type is reached. (\$41,800,000)

Each phase builds upon the previous phase until ultimate capacity of the existing WWTF site and treatment type is reached.

<b>PHASE 1</b>	Expansion of the pond storage facilities, improvements to the headworks facility, expansion of the aerated pond system, and expansion of the effluent pumping system. (\$15,000,000)
<b>PHASE 2</b>	Conversion of the facility to a continuous discharge facility. This will require additional aerated pond capacity, tertiary treatment, new disinfection system, and expanded effluent pumping. (\$19,900,000)
<b>PHASE 3</b>	The third phase will include the conversion of existing storage ponds to aeration ponds. At this time, the facility will be expanded to the maximum limits of the site. (\$6,900,000)

**Collection System Extensions**

The wastewater collection system has been divided in to two separate service areas and one individual lift station. Major collection system improvements (typically gravity sewer greater than 15-inches in diameter, forcemains, and major lift stations) have been included in the CIP. Exhibits of each service area have been provided to illustrate

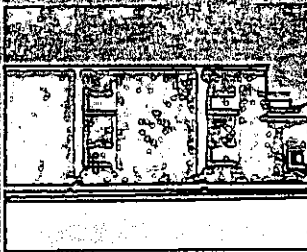
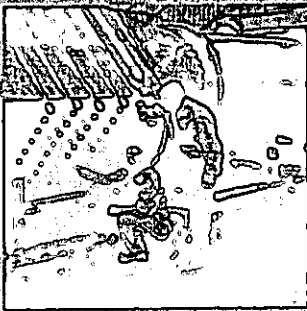
the proposed improvements that are necessary to serve the areas. It should be noted that projects included in the CIP have been shown with the bold lines. Other infrastructure will be necessary for development but has not been incorporated into the CIP, as it will typically be addressed through developer fees or special assessments. (\$11,500,000)

**Storm Water System Master Planning**

To address the eminent impacts of future development on the storm water system, it is imperative that the City develop a storm water runoff evaluation and concept-level storm water master plan. The evaluation will address existing system limitations, as well as identify the future regional storm water infrastructure that will be required as new properties are developed. Two specific devel-

opment areas have been identified as needing immediate attention. These areas are Pheasant Run Development and Sand Creek Development. In addition, it is recommended that the capital improvements budget include dollars for the City to purchase critical regional storm water detention/retention areas that are identified during the master planning process. (\$400,000)





**Regional Water System Improvements**

As a regional water stakeholder in northwest North Dakota, the City of Williston has been collaborating on a regional water development plan for the past several years. The efforts have resulted in the development of a regional water supply plan centered on the Missouri River and the Williston Regional Water Treatment Facility as the source for the regional water demands. A detailed discussion of the projects necessary to implement the water development plan are not included in this plan since it is to be funded through water sales.

**Note: The Regional Water System Improvements are not included in the Capital Improvements Plan**

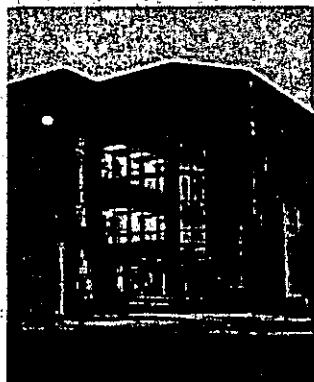
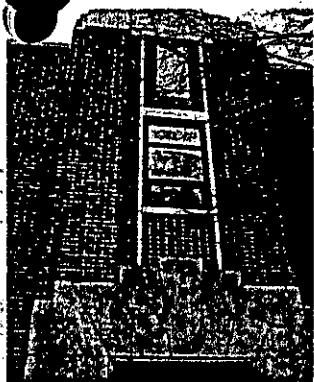
**Northwest Pumping Station**

The Northwest Pumping Station is an interim pumping station required to provide adequate domestic supply to developing areas in Northwest Williston. Although this area will be served by the future regional water system improvements, it is critical that this pumping station be constructed in the interim to provide adequate pressure and flow to the existing and proposed developments. Exhibit E illustrates the proposed location of the Northwest Pumping Station, as well as the proposed service area. (\$250,000)

**Northeast Pumping Station**

The Northeast Pumping Station is an interim pumping station required to provide domestic supply to existing and proposed development along the northeastern portion of Williston. This area is illustrated in Exhibit B. Proposals for development within this area have been delayed due to the inability of the City's water system to provide adequate flow and pressure. Therefore, it is proposed that a pumping station be constructed to provide service to this area and allow development to occur. (\$300,000)





As the City is expanding, the service areas for emergency services are also expanding. It is critical that the emergency services are located in strategic locations to ensure that the emergency services can respond in a timely manner.

**Public Services**

The City of Williston is served by law enforcement from the City Police Department, Williams County Sheriff's Department, and the State Highway Patrol. The City recently constructed a new Law Enforcement Center. This facility is expected to handle the future needs with minor equipment upgrades.

Ambulance service is provided through an Ambulance District located in Williston in partnership with the Williston Fire Department. Fire Protection is provided by the Williston Fire Department located on 11th Street West.

As the City is expanding, the service areas for emergency services are also expanding. It is critical that the emergency response facilities are located in strategic locations to ensure that the emergency services can respond in a timely manner.

**Fire /Ambulance Substations**

Three new Emergency Service Substations have been identified in the Capital Improvements Plan. A map of the existing fire station with a 1.5 mile service area is provided in Exhibit F. This Exhibit also identifies proposed locations for three new fire/ambulance substations as well as the proposed service boundaries for each of the substations. (\$7,050,000)

**Government Buildings**

The City of Williston's planning, engineering, and inspection services along with its finance and utility billing departments are experiencing extreme demand and growth. The current City Hall is crowded and the space to intake, review plans, and meet with developers, engineers, and contractors is inadequate to handle the current number of requests not to mention the projected growth. Additionally, the Economic Development and Job Development offices are lacking adequate facilities to conduct meetings internally and with external groups. In consideration of these departments and their ability to successfully perform their duties, additional building space has been included in the CIP (\$9,300,000)



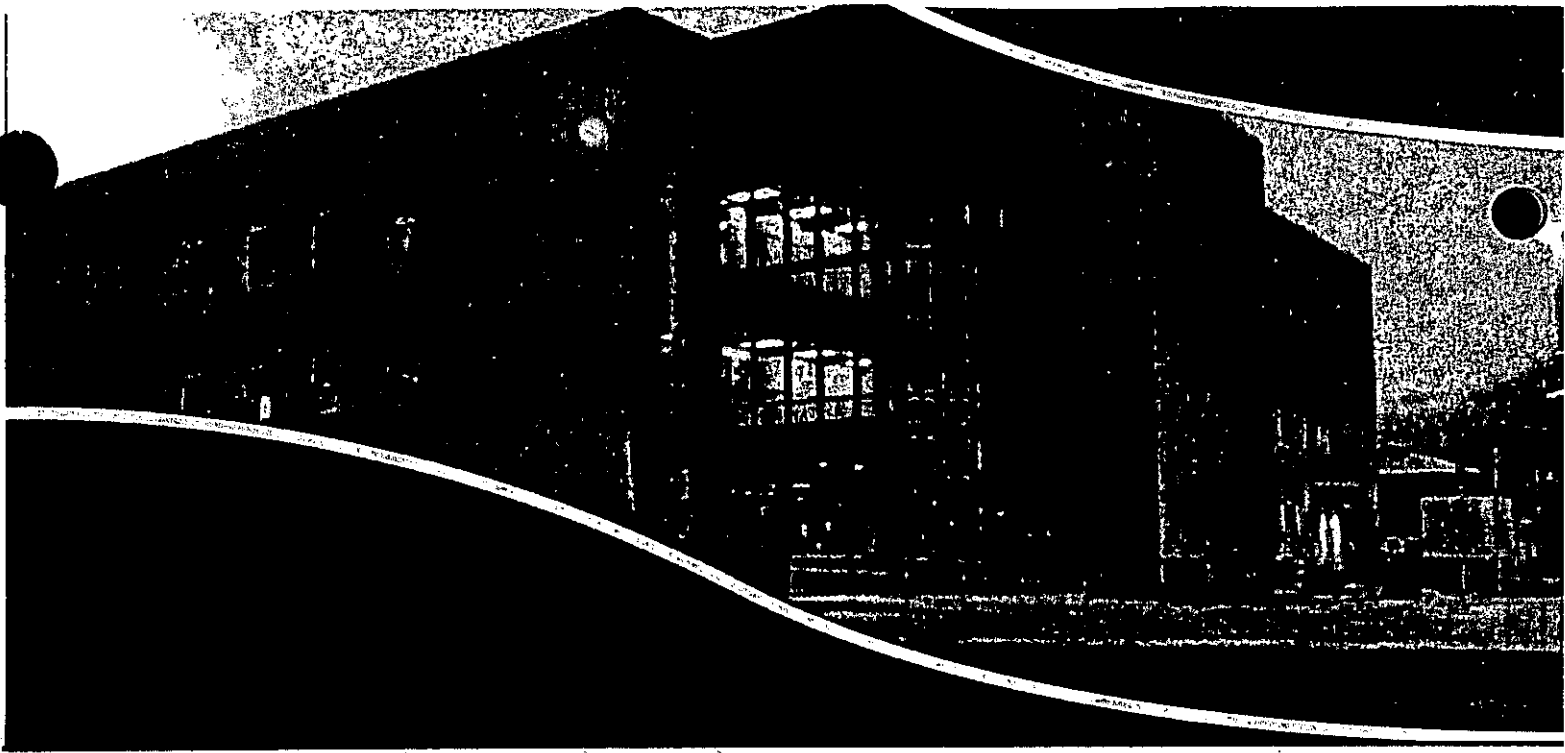
**SOLID WASTE | Landfills**



**Landfill Expansion**

To ensure that the City has the capacity to dispose of the increased volume of solid waste, it is anticipated that an expansion of the solid waste disposal facility will be necessary. The expansion will involve a new solid waste disposal cell that is estimated to cover approximately 10 acres. The expansion will occur adjacent to the existing landfill and will not require additional acquisition of property

or rezoning, which can be two major hurdles in landfill expansions. The project will involve the excavation of the new landfill cell, preparation of the cell with an appropriate liner, and the installation of a leachate collection system to meet US Environmental Protection Agency, Municipal Solid Waste, Subtitle D Regulations (\$2,400,000)



## INVEST IN THE WEST | To Help Fund The Rest

### **WILLISTON'S INVESTMENT IN NORTH DAKOTA'S OIL INDUSTRY**

- Williston is the center of North Dakota's oil industry.
- Williston was prepared to handle a 40% growth population increase as a result of previous local investments.
- Unprecedented growth rate has consumed all existing City capacity and state assistance is needed to catch up and support the anticipated oil industry growth.
- State investment is needed for **CORE INFRASTRUCTURE ONLY**.
- Subdivision distribution and streets will be paid for through assessments, general obligation bonds, or developer investments.

## WILLISTON IMMEDIATE CORE INFRASTRUCTURE NEED

(As shown in the tables under the 20,000 population)

Transportation	\$76,600,000
Wastewater	\$261,500,000
Storm Water	\$400,000
Water (temporary facility)	\$550,000
Buildings	\$5,450,000
Solid Waste	\$2,400,000
<b>TOTAL</b>	<b>\$111,550,000</b>

Governors Budget  
Provides funds for  
\$20,000,000 of the need.

## WILLISTON PRIORITY PROJECTS THAT REQUIRE STATE INVESTMENT TO PROVIDE THE CORE INFRASTRUCTURE

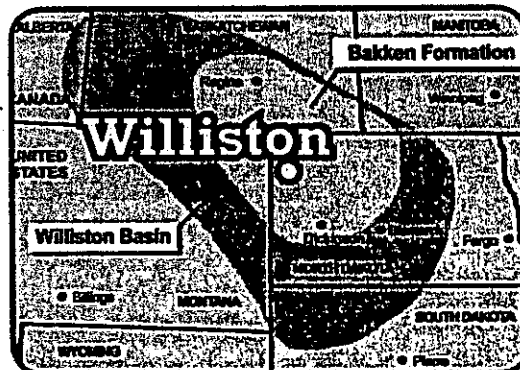
East Williston Truck Route	\$5,600,000
26th Street West Extension	\$2,500,000
North Sanitary Sewer Collection System Extension	\$4,900,000
West Sanitary Sewer Collection System Extension	\$5,900,000
Wastewater Treatment	\$15,000,000
Transportation (planning and right of way)	\$6,800,000
<b>TOTAL INVESTMENT NEEDED</b>	<b>\$40,700,000</b>

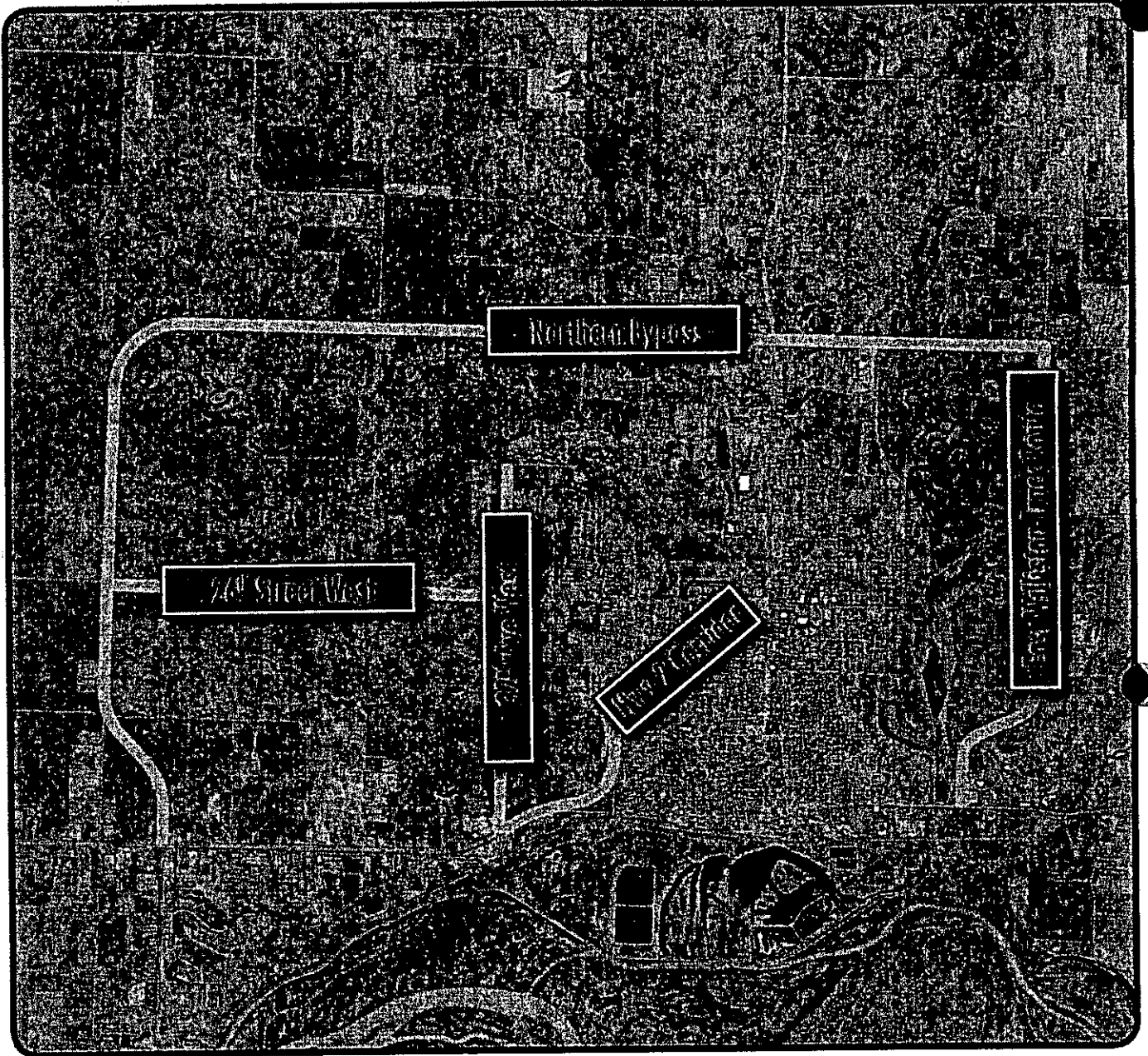
An additional investment of  
\$20,000,000 above the Governors  
Budget is needed.

\* 10% of estimate for Highway 2 Corridor and Northwest Bypass

# BUILD WILLISTON

### CENTER OF THE WILLISTON BASIN





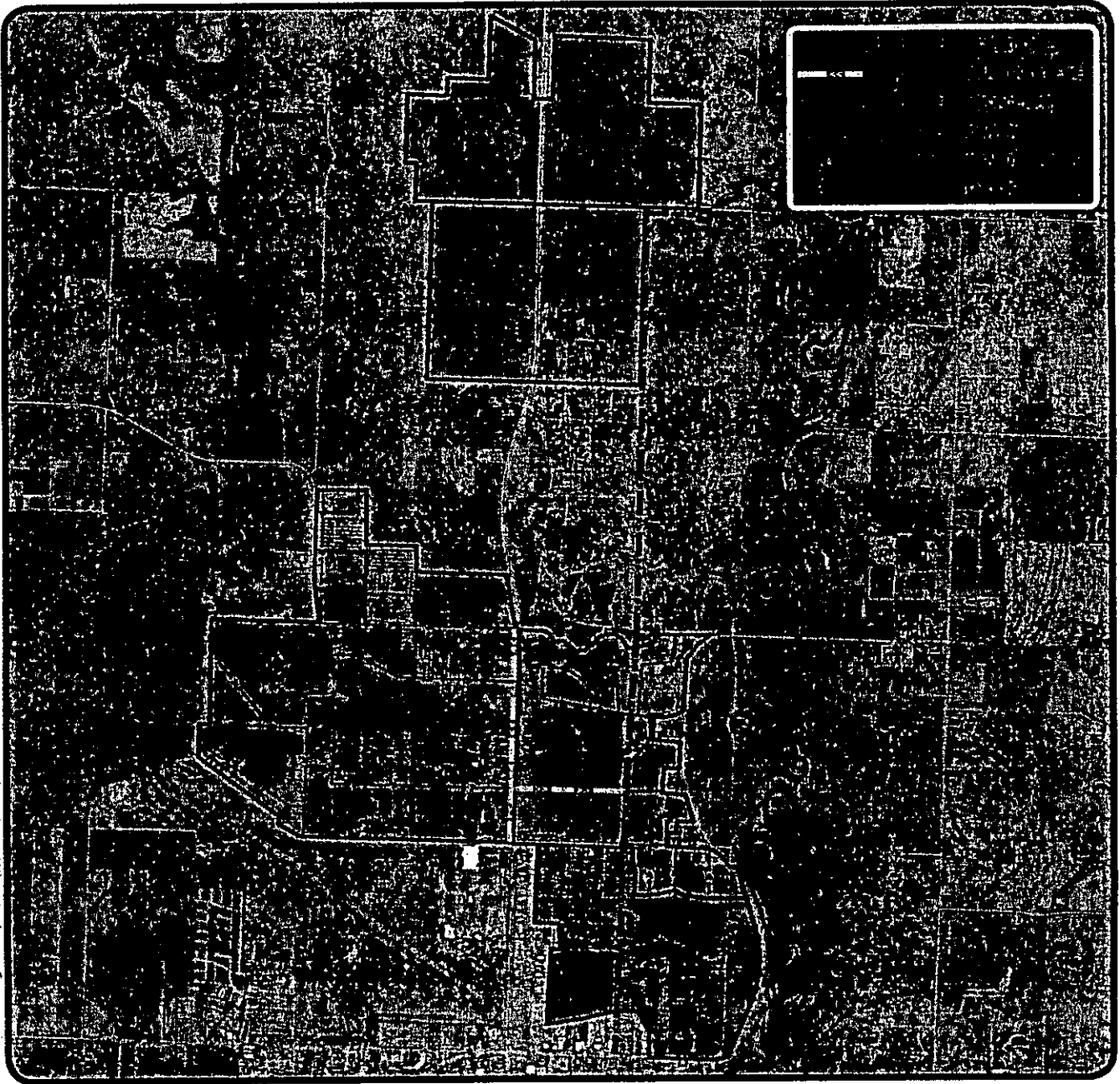
TRANSPORTATION | Improvements

	Total Estimated Project Costs
<b>SUBTOTAL</b>	\$112,600,000



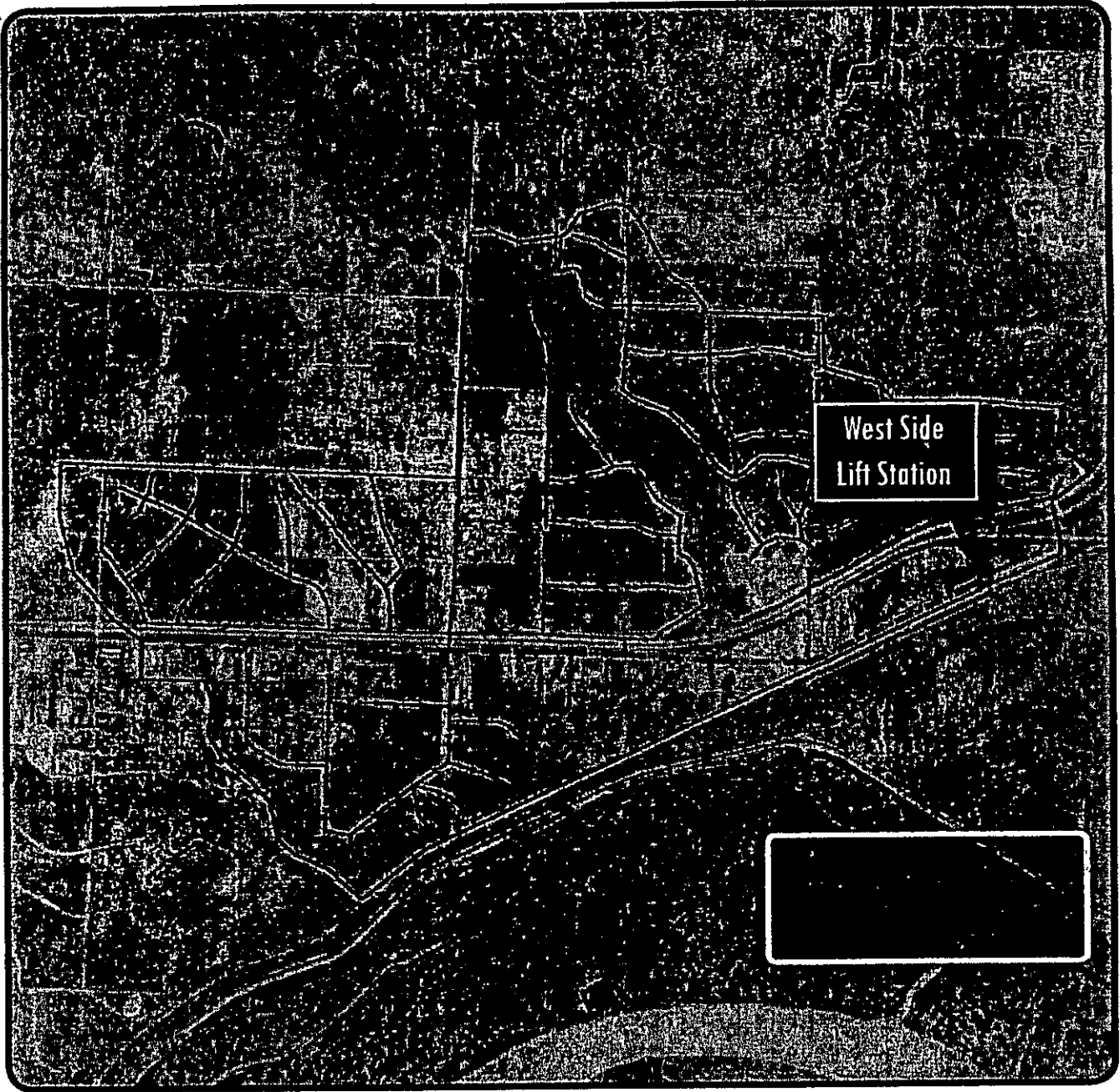
WASTEWATER | Treatment Plant Upgrade

	Total Estimated Project Costs
<b>SUBTOTAL</b>	\$41,800,000



WASTEWATER | North Service Area

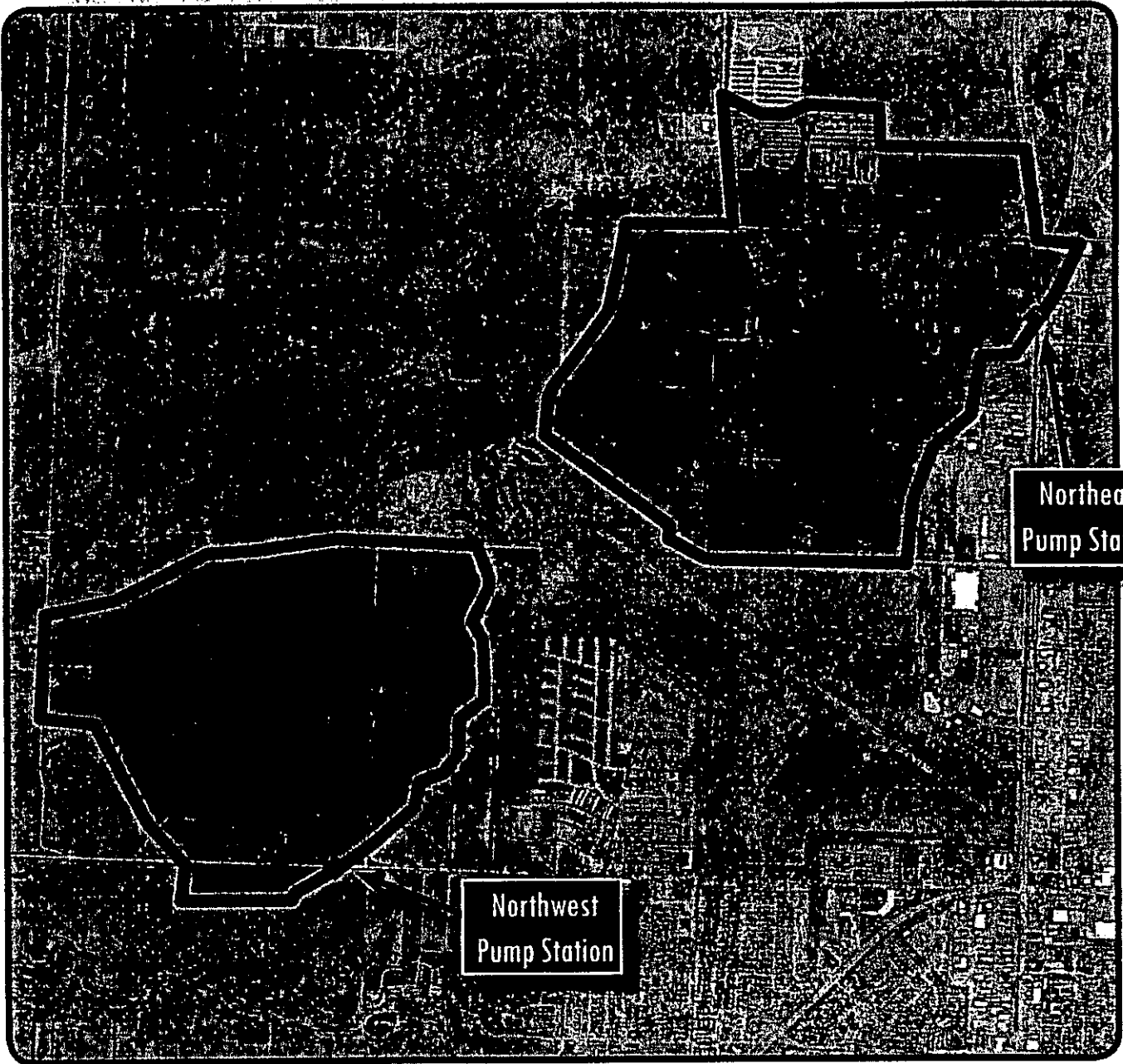
	Total Estimated Project Costs
SUBTOTAL	\$4,900,000



WASTEWATER | West Service Area

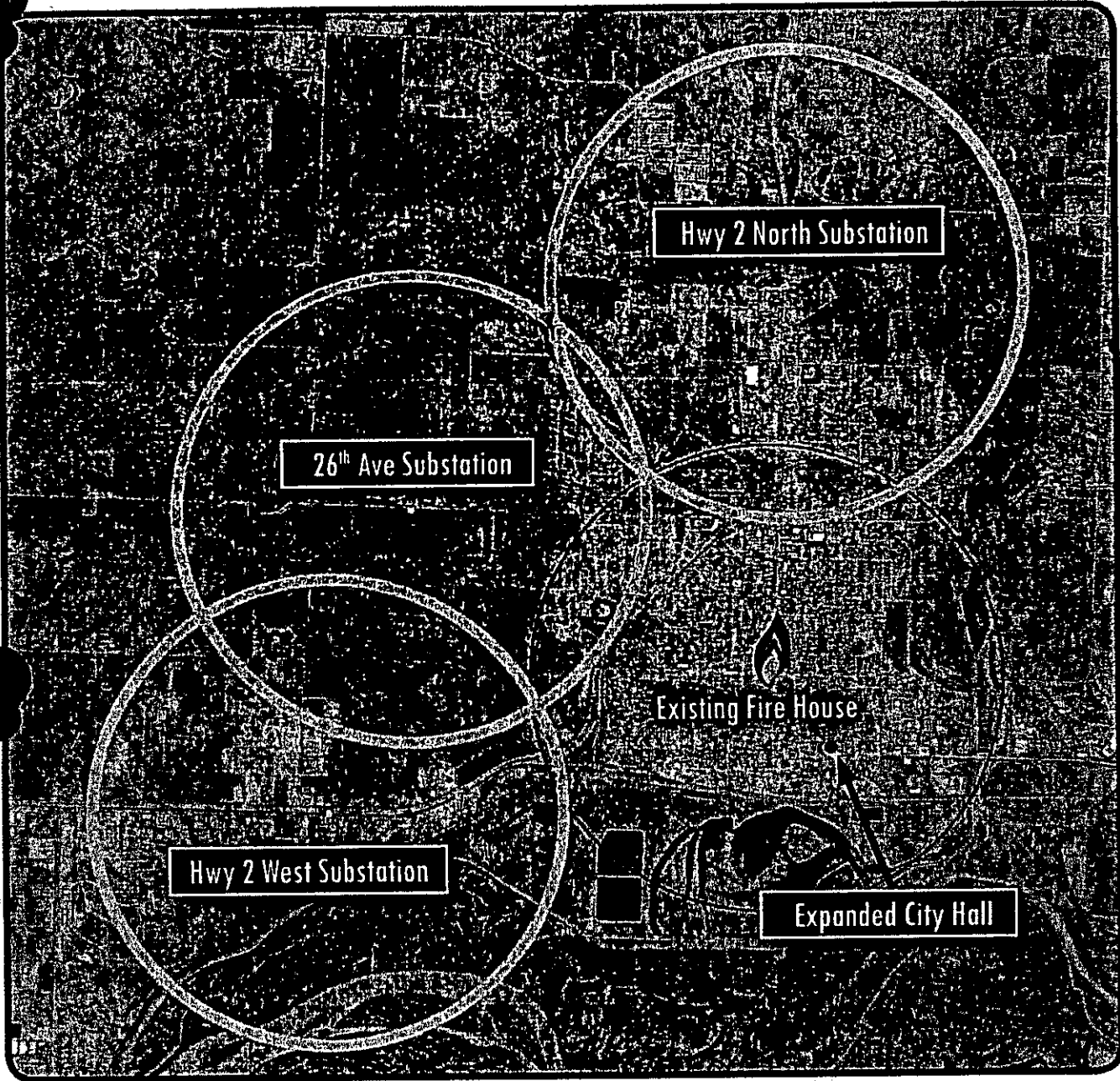
		Total Estimated Project Costs
<b>SUBTOTAL</b>		\$5,900,000





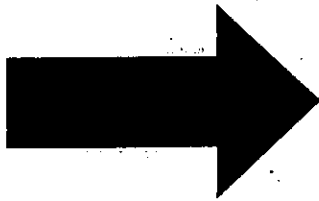
WATER | System Improvements

	Total Estimated Project Costs
<b>SUBTOTAL</b>	\$550,000



**BUILDINGS** | Emergency Response and Government Services

	<b>Total Estimated Project Costs</b>
<b>SUBTOTAL</b>	\$16,350,000

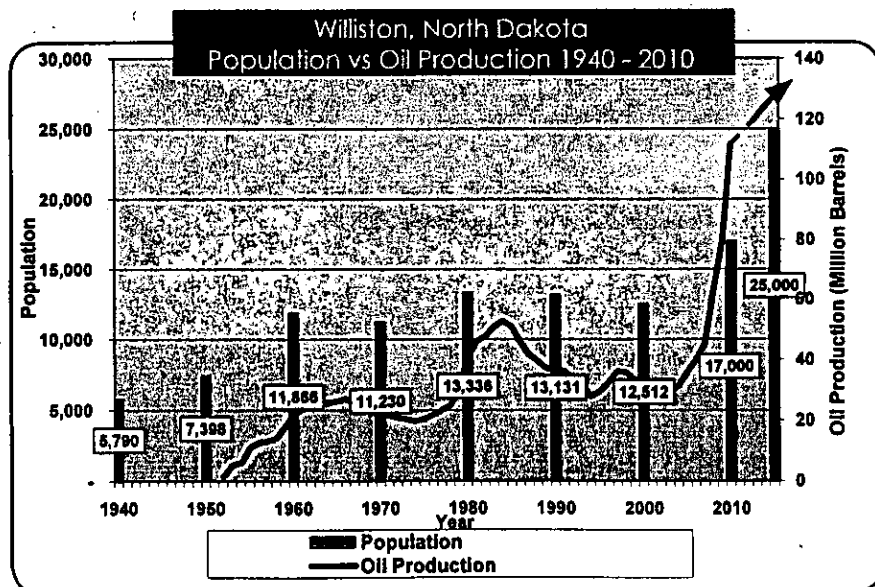
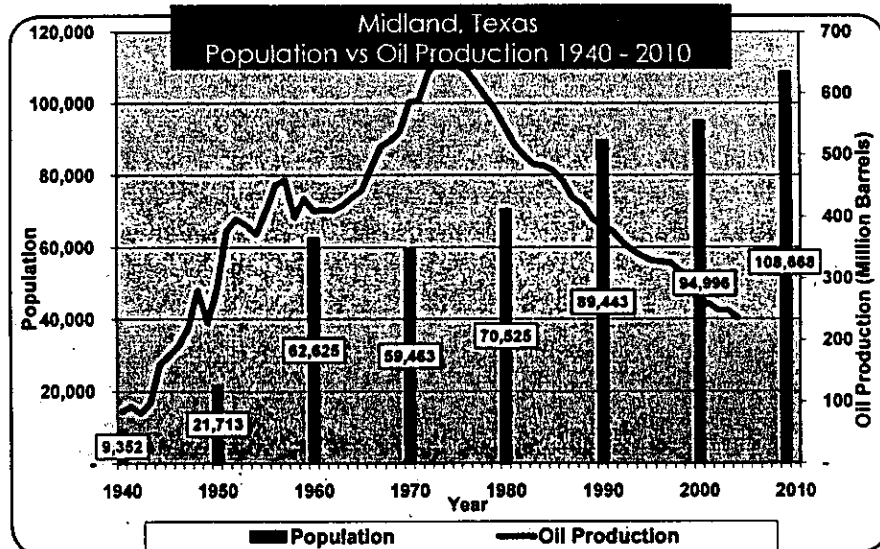


## HOW DO WE PROJECT POPULATION?

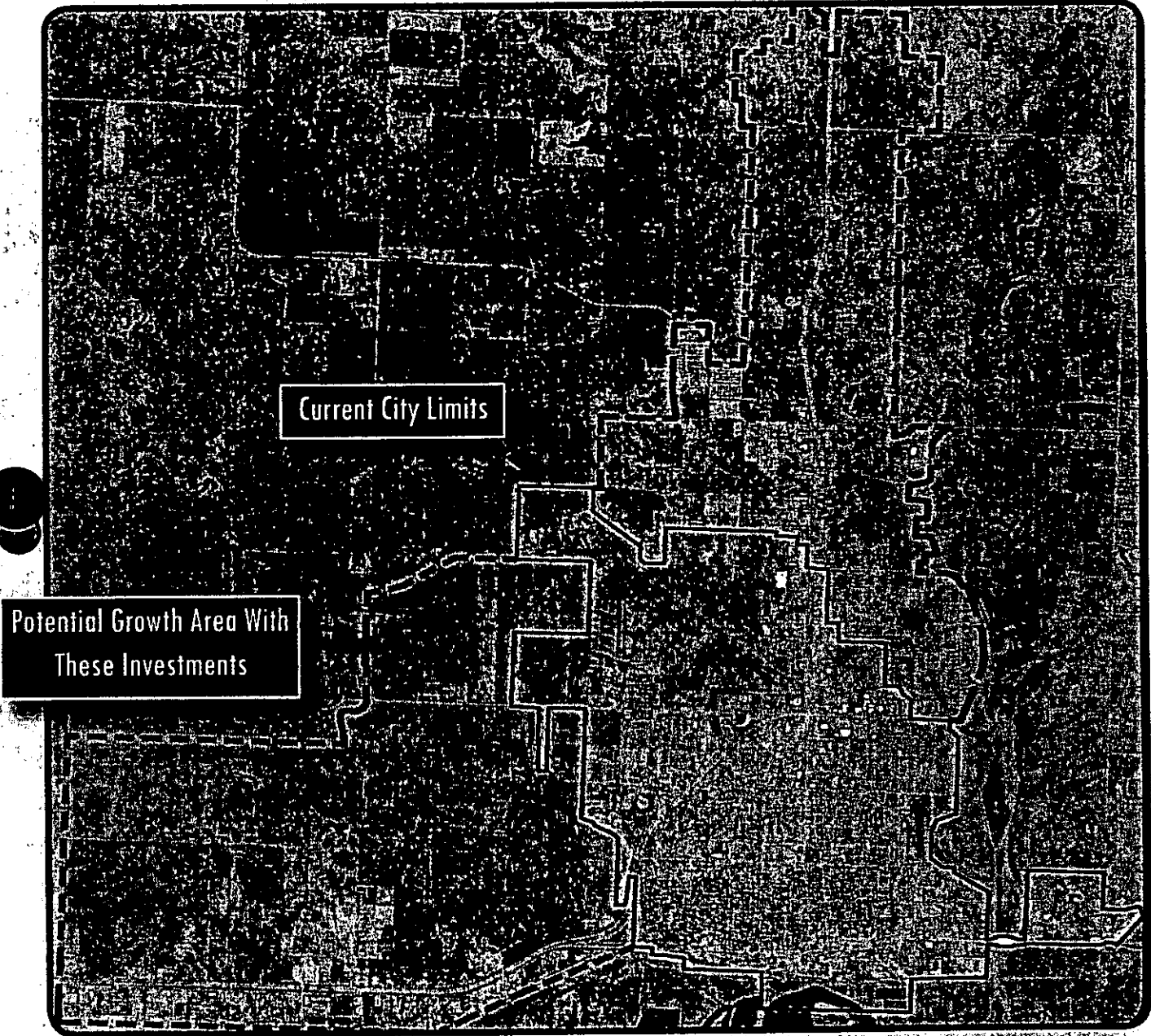
Much has been said in comparing Williston, ND to Midland, TX.

Midland, Texas is located in the heart of Texas and has been defined as a community rooted in the petroleum industry. From 1940 to 1960 the population grew from 9,352 people to 62,625 people. At this same time the oil production in the area increased from less than 100 million barrels in 1940 to nearly 400 million barrels in 1960.

Much like Midland, the City of Williston is located in the center of oil production in northwestern North Dakota and is experiencing similar growth patterns. As an economic hub, Williston is projected to continue to grow as the oil production is estimated to increase. What lies ahead for the City of Williston is unknown, but based on historical trends and oil production projections, it appears that significant growth is eminent.



WILLISTON | Projected Growth Area



Testimony by Carlyle and Sally Hillstrom, Oliver County Residents  
On behalf of the  
**Southwest Pipeline Project**  
to the  
**Senate Appropriations Committee**  
**Hearing on Senate Bill 2020**

Bismarck, ND  
January 13, 2011

Good afternoon Chairman Holmberg, members of the committee and guests. My name is Carlyle Hillstrom and this is my wife, Sally. We have been married 43 years and 37 of those 43 we have lived on the family farm near Center. This is where we have raised our one son and three daughters.

Both of us were raised on a farm and taught to be hard workers. We were also taught that "family" was one of the most important priorities in your life. After having a family of our own, we better understood the importance of working hard and family and taught our own children the same. We also taught our children the importance of helping others, such as volunteering or working on a project that will make the community better. Everyone needs to do their part before good things can happen. Sally and I have both been active in our community and worked on many committees and boards to improve our area. While serving on the Oliver County Water Resource Board in particular, I became more aware of the hardships in our area resulting from poor quality water or the lack of supply. There are many

farmers and ranchers who have to haul water daily for household use or for their livestock. While we do not have to haul water, we have had our share of difficulties as a result of poor quality or the lack of water. We have always gotten our water from an artesian well. The well produces water that is extremely high in sodium and very soft. Water high in sodium will cause your fixtures to corrode, and it is tough on appliances, especially the washing machine. Throughout the years, we have had to replace our fixtures and purchase many more washing machines than other households. Another concern we have about our water is the cost of high levels of sodium on our health. Here's where I will let Sally take over and explain how we are trying to minimize the sodium problem. Sally...

Thank you, Carlyle. Hello, Mr. Chairman, members of the committee and guests. As you know, my name is Sally Hillstrom, and I am Carlyle's wife. As Carlyle said, our well water is very high in sodium and soft. About 15 years ago, I just couldn't handle worrying about what the high sodium was doing to my family's health any longer, so I asked Carlyle about getting a distiller. We both agreed to give it a try and we purchased a distiller. We have been distilling our water for drinking and cooking ever since. The distiller works well; however, there are still some disadvantages. For an example, when everyone is home for the holidays and

they bring their kids, as well, we have to plan ahead and begin filling gallon jugs a few days before for reserve. Unfortunately, the distiller just cannot keep up with the amount of water used. So, if you stop by one day and we have water jugs lined up in the hallway, you know our kids are coming home! Even the distiller gets corroded from the high sodium, and we have been forced to replace it several times over the past 15 years. This is just another expense that we will no longer have after the Southwest Pipeline Project is complete in our area. (Back to Carlyle)

The Southwest Pipeline Project will also help cattlemen in our area. To date, I have used dugouts as the source of water for my cattle. When we have dry years, it becomes more difficult due to the shortage of water supply. The quality is questionable, as well. Without rain to fill the dugouts and keep it fresh, quality becomes a concern.

As you have heard, a good water supply is definitely in need in our area, as well as many other areas in North Dakota. We ask that you continue to support water development projects, such as the Southwest Pipeline Project. With your support, the many families who live and work in southwest North Dakota will one day have a reliable source of quality water available right from their tap! Please support

Senate Bill 2020, *as well as the additional water needs*  
*Thank you.*  
*Presented by the Water Coalition. Thank you.*

Testimony by Cliff Ferebee, Dunn County Resident  
On behalf of the  
**Southwest Pipeline Project**  
to the  
**Senate Appropriations Committee**  
**Hearing on Senate Bill 2020**

Bismarck, ND  
January 13, 2011

Good afternoon Chairman Holmberg, members of the committee and guests. My name is Cliff Ferebee, and I am here this afternoon to ask for your continued support of water development projects, more specifically, the completion of the Southwest Pipeline Project in southwest North Dakota.

Currently, my wife and I live on the family farm two miles north of Halliday. We are located in Dunn County, and it is here where we raised our children.

Our farm/ranch operation includes small grains and a feedlot for cattle. Feedlots require an adequate supply of quality water at all times. Water is the most critical nutrient for all classes of beef cattle. Both water accessibility and quality have an impact on adequate water consumption. When streams, creeks, springs or ponds are used as the water source for cattle, it is important for the operator to assess the reliability and quality of the supplies.



Reduced stream or creek flows and low pond water levels, due to periods of little or no precipitation, can be expected in southwest North Dakota. That is why successful feedlot operators in this area search for other, more reliable sources of water for their operations. Unfortunately, there are not many other water supply options in southwest North Dakota. Thus, I ask that you support the completion of the Southwest Pipeline Project to ensure farmers and ranchers have access to a consistent supply of quality water, not only for household purposes, but livestock, as well. Bringing quality water to pastures will result in benefits such as increased daily weight gains and more effective use of available forage. Producers who have installed pasture taps, in an earlier stage of pipeline construction, have already been able to capitalize on having a reliable source of quality water when the natural sources became stagnant.

Even though I am busy running the family farm and feedlot operation, I feel it is important to be involved in projects that can improve the overall quality of life for area residents, as well as the entire region. Over the years, I have been active in many local, district and state organizations. Most recently, I have served on the Executive Board for the North Dakota Association of Oil and Gas Producing Counties and the Dunn County Commission.

As you know, southwest North Dakota is currently experiencing tremendous growth as a result of the increased oil production in the area. With rapid growth, area leaders can expect many challenges, and that is exactly what is happening right now. We have challenges with declining infrastructure from the increased demand on our roadways to the limited water sources in our region.

Whether a farmer, rancher, feedlot operator, family or oil company...the need remains the same...a reliable source of quality water. Please support Senate Bill

2020 to provide funding for the completion of the Southwest Pipeline Project ~~and~~  
*as well as the additional water needs presented*  
~~bring our most precious resource, water, to those in need. Thank you.~~  
*by the Water Coalition. Thank you*

**SOUTHWEST PIPELINE PROJECT  
OMND CONSTRUCTION BY BIENNIUM**



**LEGEND**

- EXISTING RAW WATER PIPELINE
- EXISTING SWWP PIPELINE
- EXISTING OMND PHASE 1
- EXISTING MWWS PIPELINE
- EXISTING MCCRW'S PIPELINE
- PROPOSED FBRW PIPELINE
- PROPOSED OMND PIPELINE
- SERVICE AREA BOUNDARY
- COUNTY BOUNDARY

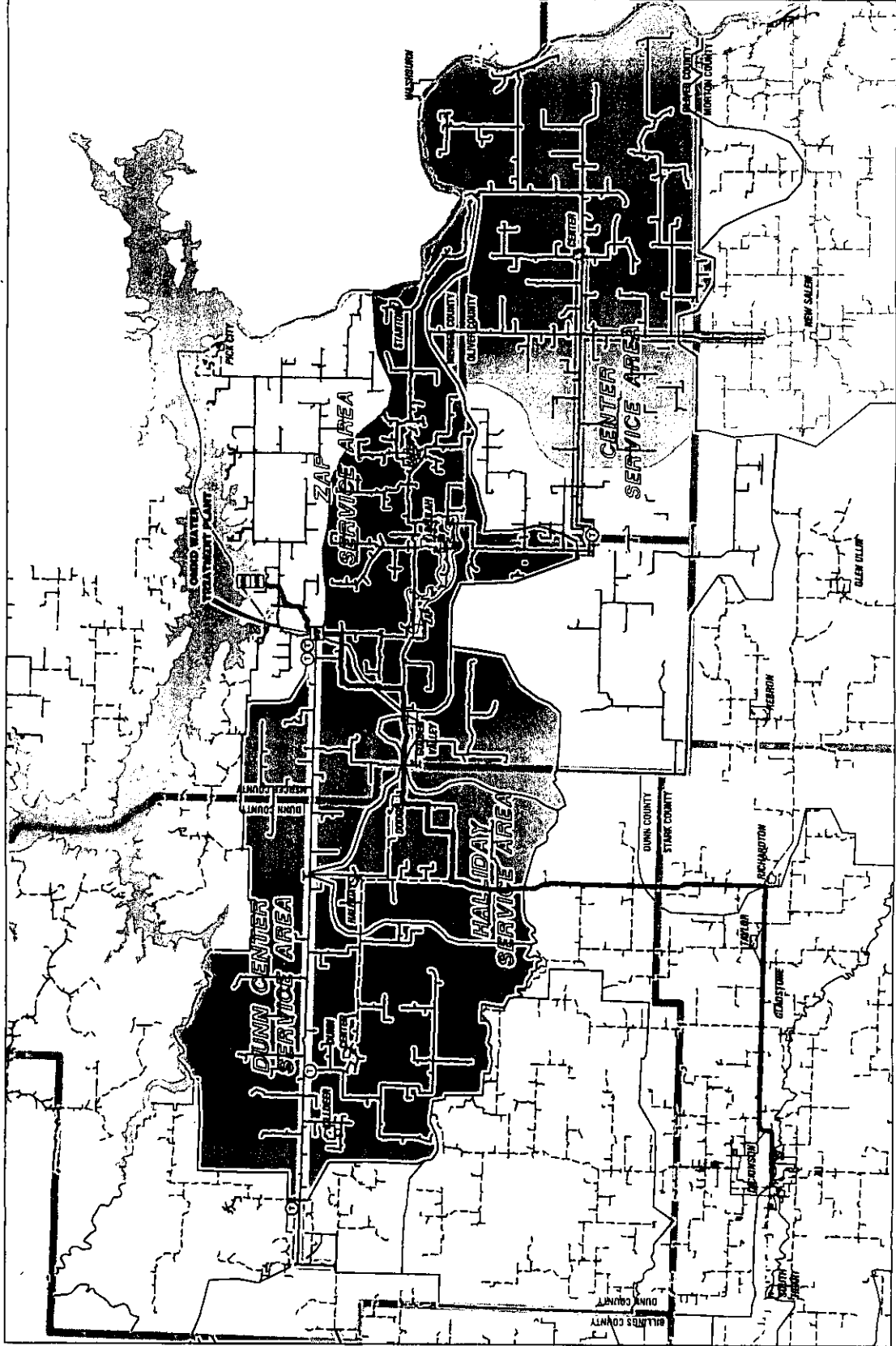
- PREVIOUSLY FUNDED
- 2011-2013 BIENNIUM \$25 MILLION
- 2013-2015 BIENNIUM \$22.6 MILLION
- 2015-2017 BIENNIUM \$19.4 MILLION

- INTAKE
- WATER TREATMENT PLANT
- NEW TANK

**SEE TABLES  
FOR ITEMS  
NOT SHOWN  
ON MAP**

**Oliver-Mercer**  
North-Dunn Region  
Biennium Phase Map  
BARTLETT  
WEST | **AECOM**

UPDATED JANUARY 2011



**Southwest Pipeline Project  
Remaining Construction by Biennium**

Contract	Description	Type of Facility	Miles of Pipe or Units	Bulk Users	Number of Connections	Opinion of Project Cost
<b>2011-2013</b>						
7-9D	Zap SA Rural Distribution System, Phase 2	Rural Dist. Pipeline, Zap SA Ph 2	140 miles 10"-1½" PVC	Lakeshore Estates, Beulah Park	232	\$5,801,700
7-9E	Center SA Rural Distribution System, Phase 1	Rural Dist. Pipeline, Center SA Ph 1	133 miles 4"-1½" PVC		100	\$3,994,200
2-8E	MTL from WTP to Killdeer Mtn Booster	MTL	44.5 miles 12" - 8" PVC	Twin Buttes, Water Depot		\$6,610,765
2-8E	Upsize	Upsize from 526 gpm to 825 gpm				\$2,936,393
5-17	Dunn Center Potable Water Reservoir	475 kgal Ground Storage Tank (added 225kgal)				\$1,489,250
5-15B	2nd Zap Potable Water Reservoir	1.67 Mgal Ground Storage Tank (added 225kgal)				\$2,004,600
1-1B	Intake PS Genset	Intake Backup Generator	102' dia. x 28' high			\$1,190,000
6	SCADA Modifications Contract 6	Telemetry 2-8E booster, 2 tanks, Intake Genset				\$130,000
	Agency Operations					\$800,000
Totals			317.5		332	\$25,000,000
<b>2013-2015</b>						
7-9F	Center SA Rural Distribution System, Phase 2	Rural Dist. Pipeline, Center SA Ph 2	260 miles 8"-1½" PVC	Minnkota, Ole Johnson	277	\$7,898,200
1-1A	2nd Raw Water Intake	Supplemental Intake To Meet OMND Needs				\$6,000,000
3-1F	Phase 2 WTP 1.5MGD Capacity Upgrade	Phase 2 of WTP				\$4,336,500
6	SCADA Modifications Contract 6	1.5 MGD of ultimate 4.4 MGD				\$74,500
4-5	Dickinson WTP HS Pump Station	Telemetry, Intake, WTP Upgrade				\$3,484,000
	Agency Operations	Move HS and RCPS Transfer Pumps to New Facility, and Piping	2 SWPP Pumps, 3 Dickinson Pumps			\$800,000
Totals			260		277	\$22,600,000
<b>2015-2017</b>						
7-9H	Dunn Center SA Rural Distribution System	Rural Dist. Pipeline	191 mi. 6"-1½" PVC	Dunn Center	160	\$5,942,000
7-9G	Halliday SA Rural Distribution System	Rural Dist. Pipeline	42 mi. 6"-1½" PVC	Dodge, Halliday, Golden Valley	33	\$1,369,800
5-9A	2nd Belfield Reservoir	750 Kgal Ground Storage Reservoir	52' dia. X 47' high			\$1,075,500
8-3	Golva Tank	150 Kgal Standpipe	25' dia. x 41' high			\$537,800
5-13A	2nd Davis Buttes Reservoir	1 Mgal Ground Storage Reservoir	60' dia. X 47' high			\$1,434,000
4-3A	Fairfield, Grassy Butte, & Killdeer Mtn Upgrades	Upsize pumps	350 hp SZ, 125 NZ			\$759,500
7-9I	Killdeer Mtn. Tank Elevated Tank	Parallel pipe, boosters	9.6 mi. 6" & 8" PVC			\$829,900
8-6	2nd Dickinson Reservoir	120 Kgal Elevated Tank				\$723,300
5-2A	2nd Richardton Reservoir	3.2 MG Ground Storage Reservoir	130' dia. X 32' high			\$3,824,000
5-1A	SCADA Modifications Contract 6	1.3 MG Ground Storage Reservoir	98' dia. X 24' high			\$1,864,200
6	Agency Operations	Telemetry, 7 tanks, 2 Interconnects, Killdeer Mtn BPS				\$215,000
Totals			242.6		193	\$19,400,000

Testimony by Merri Mooridian, Administrative Officer  
**Garrison Diversion Conservancy District**

To the

**Senate Appropriations Committee Hearing on SB 2020**

Bismarck, North Dakota  
January 13, 2011

Mr. Chairman, members of the committee, thank you for this opportunity to testify in support of Senate Bill 2020. My name is Merri Mooridian, and I serve as the Administrative Officer 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 changed the Garrison Diversion Unit 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 Unit 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.

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, the Valley also experienced drought conditions. Fortunately, these were not prolonged droughts as the consequences could have been severe.

We have invested a significant amount of time and money to determine the water supply needs and evaluate the impacts of a severe drought in the Red River Valley. Studies show it is only a matter of time before a 1930s-type drought hits the Red River Valley. This type of drought would result in a \$2.4 billion annual economic impact. With the current population, a drought longer than two years will create water shortages for the cities in eastern North Dakota.

The chosen solution relies on three elements to meet the projected water shortages; water conservation measures, drought management plans, and a supplemental water supply from the Missouri River.

The Missouri River accounts for 95% of North Dakota's available surface water. But, currently we only consume slightly over 1% of that water flowing through our state. We send one of our most important natural resources downstream to other states.

A small amount of Missouri River water is needed to help secure the future of the Red River Valley. A study shows that the Red River Valley Water Supply Project would lower the level of Lake Sakakawea by about an inch a year. That study assumed the lake was half full and there was a 1930s-type drought in both the Missouri and Red River basins.

Another way to measure the impact on the Missouri River is to look at the amount in acre-feet used by the Southwest Pipeline Project (6,800 ac-ft), the Northwest Area Water Supply Project (15,000 ac-ft), the Western Area Water Supply (23,000 ac-ft), North Dakota industrial use (45,000 ac-ft), and the Red River Valley Water Supply Project (80,000 ac-ft). A total of 169,800 ac-ft compared to the

average annual Missouri River flows available at Bismarck of 16,700,000 ac-ft. This leaves 98.9% in the system for other water uses downstream.

The Missouri River, with its complex of six dams, including Garrison Dam, provides the nation's largest water storage system. If North Dakota is to claim its rightful share of Missouri River water, we must first put that water to beneficial use and the Red River Water Supply Project does exactly that.

It is important to keep this project moving forward. We have made substantial progress in the last few years, including completing the pre-final design, developing the operational plan, permitting and environmental tasks, and acquiring right-of-way options. Our work plan for 2011-13 calls for \$20 million to complete the final design of the pipeline, continue work on the financial plan for the user's cost-share, exercise the right-of-way options, and set \$10 million aside for future biennium. The earliest date the project would be able to deliver water, under the current four biennium funding plan, is 2020.

We are also requesting \$5 million for irrigation development during the 2011-13 biennium. Garrison Diversion is assisting the Dickey-Sargent Irrigation District on a plan that would use a combination of surface water and groundwater to irrigate 5,000 acres in the Oakes Test Area. And, Garrison Diversion is developing irrigation along the McClusky Canal at about 2,500 acres per year. We started construction on the first phase of the Mile Marker 7.5 Irrigation Project in 2010. This project will irrigate over 3,400 acres.

Mr. Chairman, members of the committee; Thank you for your time, I will be happy to answer any questions you might have.



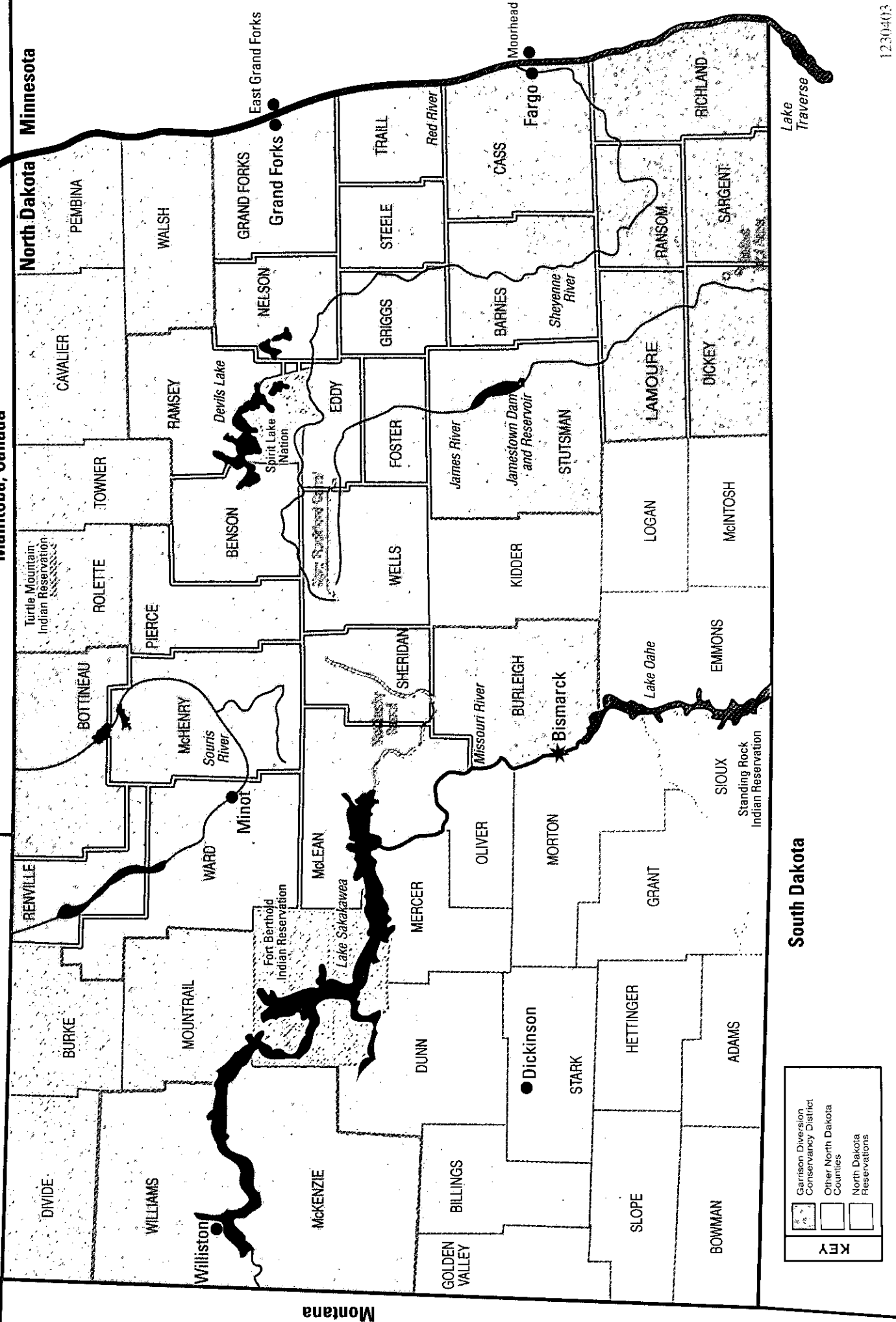
# GARRISON DIVERSION MAP

Saskatchewan, Canada

Manitoba, Canada

North Dakota

Minnesota



**KEY**

- Garrison Diversion Conservancy District
- Other North Dakota Counties
- North Dakota Reservations

South Dakota

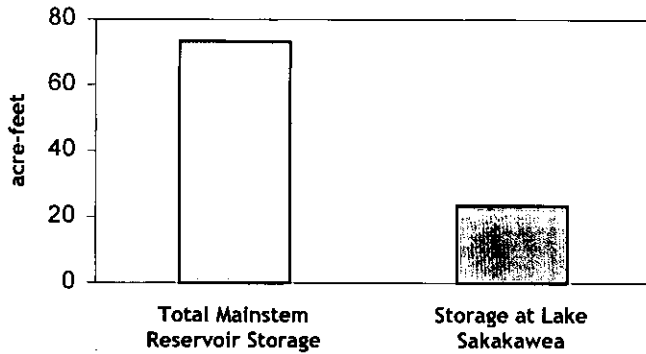


# North Dakota's Usage of the Missouri River

The Missouri River accounts for 95% of North Dakota's surface water. North Dakota currently utilizes slightly over 1% of the Missouri River that flows through the state.



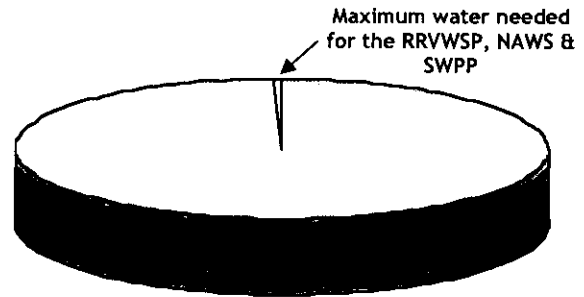
### Missouri River Reservoir Storage



The Missouri River System is the largest reservoir system in North America, with the capacity to store 73.4 million acre-feet of water. In North Dakota, Lake Sakakawea (Garrison Dam) has the capacity to store nearly 24 million acre-feet of water, almost 1/3 of the storage capacity of the entire six dam reservoir system.

(Source: RRVWSP Final Environmental Impact Statement)

### Missouri River Flows at Bismarck



Missouri River average annual flows at Bismarck 16.7 MAF

Maximum water needed for regional water supply projects: .101 MAF

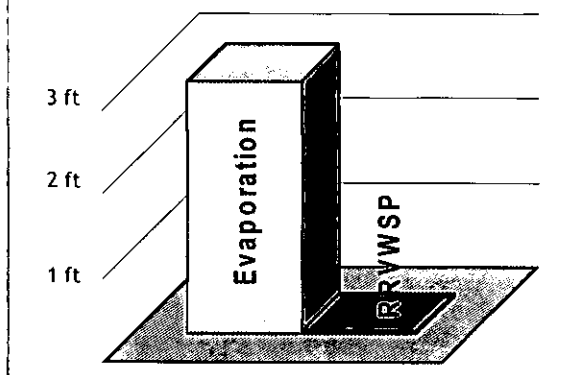
Red River Valley Water Supply Project .08 MAF

Northwest Area Water Supply .015 MAF

Southwest Pipeline Project .007 MAF

MAF = million acre-feet (Source: North Dakota State Water Commission)

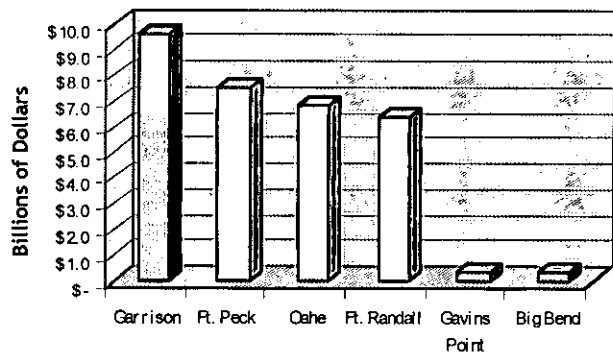
### Change in Elevation of Lake Sakakawea



The average annual water loss due to evaporation on Lake Sakakawea is about three feet. 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 per year during a severe drought.

(Source: RRVWSP Final Environmental Impact Statement)

### Flood Damages Prevented



The Missouri River mainstem dams have prevented over \$31 billion in flood damages. This has been especially significant in the lower Missouri River basin states, where over \$25 billion in damages have been prevented. The Garrison Dam is credited for over \$9 billion of this total.

(Source: US Army Corps of Engineers, Summary of 2006 Actual Regulation, Indexed to 2006 dollars)

## 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

- o This is a supplemental water supply, not replacement water. It's used only when needed.
- o The plan is adaptable to different growth patterns in the Valley.

### It's reliable

- o Stored water is delivered by gravity (no pumps).
- o Using Lake Ashtabula provides 22.4 billion gallons of storage.
- o State-of-the-art water treatment plants currently exist in the Valley and will continue to be used.

### It's cost-effective

- o Using the Snake Creek Pumping Plant and the McClusky Canal saves approximately \$150 million in construction costs.
- o 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.
- o It's the least costly to operate and maintain.

### It's environmentally friendly

- o Using Lake Ashtabula and the Sheyenne and Red Rivers to convey water provides significant benefits to the aquatic environment, including fish, muskells and riparian habitat.
- o Minimally impacts the Missouri River; a maximum of 0.5% of flows are used, and Missouri River water is used only when needed.

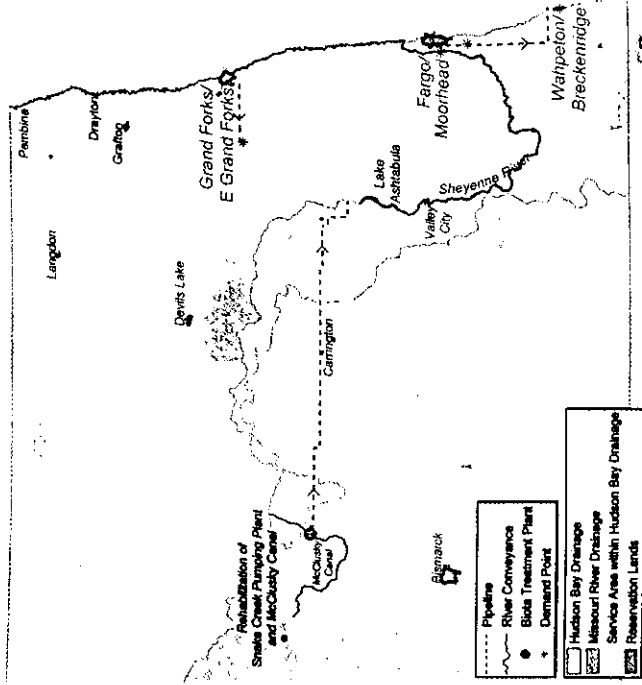
## A [SMART] Choice

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 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.



# Lake Agassiz Water Authority

Planning today for tomorrow's water

The [RED RIVER] Valley  
Fertile. 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.

- o Rooted in research
- o Backed by sound data
- o Supported by unbiased experts
- o 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

The [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.



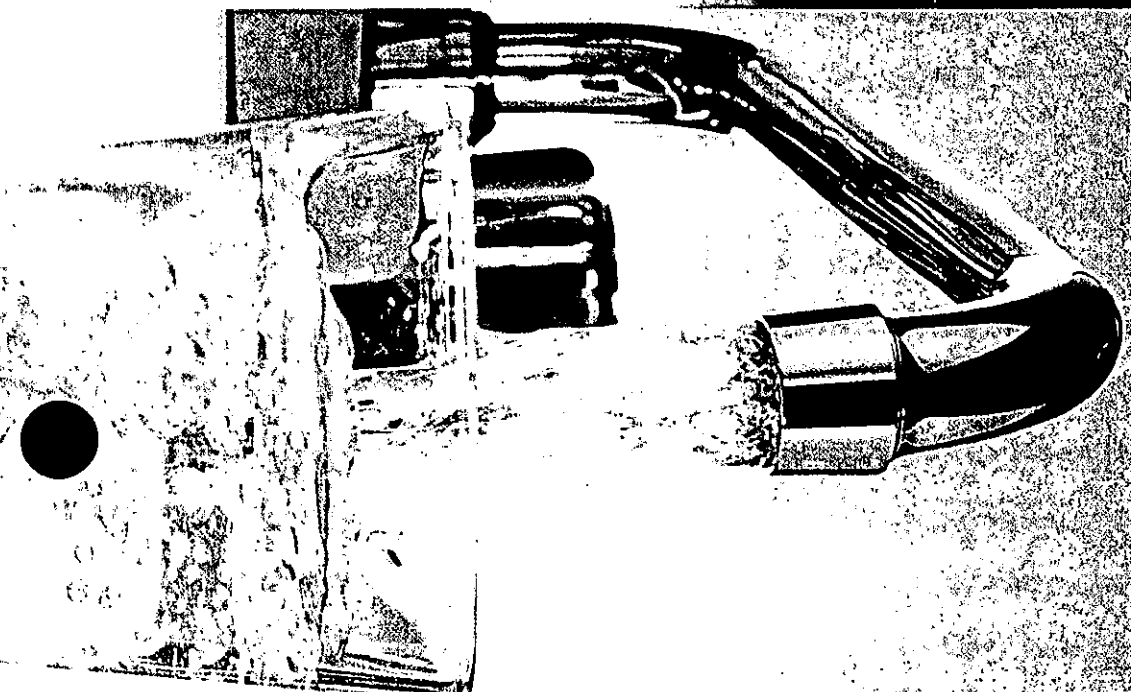
Lake Agassiz Water Authority

Planning today for tomorrow's water

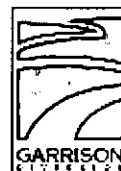
(800) 532-0074  
P.O. Box 140 Carrington, ND 58421  
www.lakeagassiz.org

The Red River Valley Water Supply Project

Securing Our [FUTURE] Today



# MM 7.5 Irrigation Project



0.2 0.4 0.8 Miles

Pumping Plant

Power Lines

**Main Pipeline**

**Diameter**

10

12

15

18

21

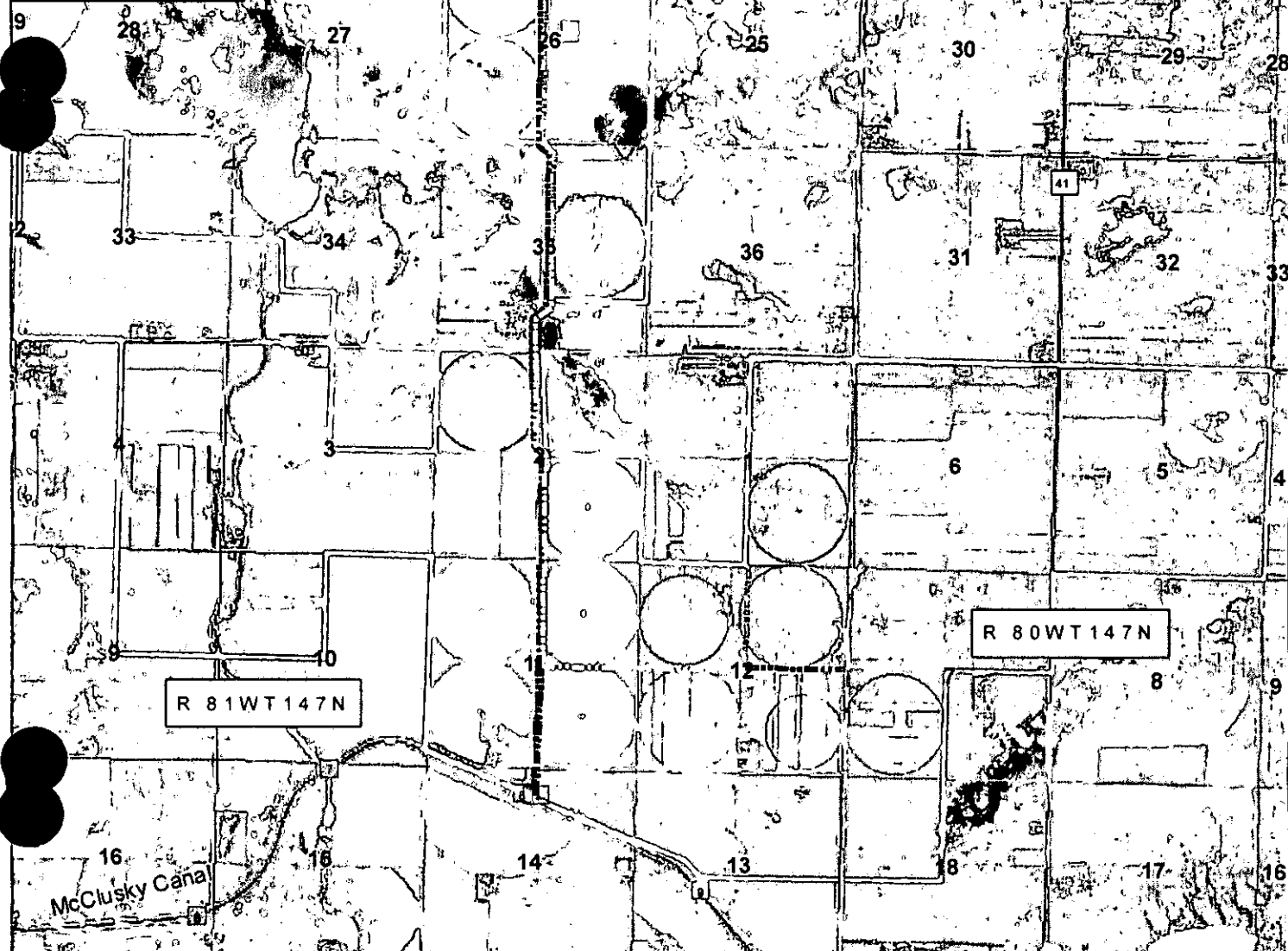
24

Phase2\_Boundary WT 14 8 N

Phase1\_Boundary

Townships\_poly

State Route





# North Dakota Irrigation Association

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Dedicated to strengthening and expanding irrigation to build and diversify our economy.

Testimony on Senate Bill No. 2020

Senate Committee on Appropriations

Robert Vivatson, Chairman, North Dakota Irrigation Association  
2:30 p.m. January 13, 2011

Mr. Chairman and members of the Senate Appropriations Committee my name is Robert Vivatson, Chairman of the North Dakota Irrigation Association. The Association is made up of members who are irrigators, potential irrigators, irrigation equipment dealers, and others who wish to support irrigation development.

North Dakota has approximately 260,000 acres of irrigation on which not only conventional cereal crops and livestock forage are produced, but also high value crops such as potatoes and sugar beets. The french fry plants at Grand Forks and Jamestown rely almost exclusively on irrigated production, and all of the sugar beets produced in the northwest part of the state are irrigated. The processing plants associated with these two crops provide important employment in their respective areas. Data from the North Dakota Crop Statistics Service shows that on the average approximately 4 dryland acres are needed to equal the gross returns from one acre of irrigation. Irrigation is an important component of North Dakota's agricultural base, and the soil and water resources are available to expand that base.

New opportunities for irrigated crops are also being explored. Research is currently underway to determine the feasibility of using energy beets to produce ethanol. This research has been underway 4 years with production trials occurring in 5 areas across the state. In addition, further research is being conducted on the processing side. The results of this work are very encouraging and the project sponsors are investigating the feasibility of constructing a pilot plant to prove the process. Some European countries are successfully producing ethanol using energy beets. North Dakota has the potential for supporting up to 5 full size plants requiring as much as 100,000 acres of irrigation for beet production. It is estimated that at least one-half of the beets would be produced under irrigation.

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We are seeking \$6 million dollars for the support of irrigation development. These funds will be used through irrigation districts or other entities for the construction of the primary water supply infrastructure for new irrigation. The infrastructure consists of pipelines, intake structures, pumps, power units, power lines and related appurtenances.

The Dakota Water Resources Act authorizes the irrigation of 23,700 acres using Missouri River water from the McClusky Canal. Landowners in the Turtle Lake area are engaged in developing this opportunity under the sponsorship of the Garrison Diversion Conservancy District. Construction of the first stage of the project consisting of approximately 3,000 acres is currently underway. It is planned that 15 center pivots will be operational this year. Construction of the remaining two stages involving 4,940 acres will take place during the 2011-13 Biennium at an estimated cost of \$7.3 million dollars for the primary water supply infrastructure. The State Water Commission will be asked to share 50% of this cost. One of the energy beet irrigated trial production plots is in the Turtle Lake area and one of the future production plants is planned for this area.

It is intended that development of the remaining 15,700 acres will follow closely after the completion of the first phase. Further planning and design is needed before the acreage is fully identified and cost estimates are available. If all goes well, some construction on the second stage may be possible in the 2011-13 Biennium.

The funds will also support other programs for irrigation development. The State Water Commission has partnered with the Bank of North Dakota AgPace Program by providing funds for an additional \$20,000 per loan to buy down interest for new irrigation development. This program may be used to finance the purchase of the center pivot system, construct on-farm pipelines, and for related equipment. It is anticipated that \$300,000 will be requested for that program in the next biennium.

Operating irrigation districts sometimes make improvements to infrastructure or expand principal supply works to accommodate new acreage or improve efficiency. It is estimated the State Water Commission will need \$500,000 to fund a 50% cost share for these improvements.

Resources Trust Fund  
2009-2011 Biennium

1/28/2011

Month/Year	Budgeted Oil Revenue	Actual /Projected Oil Revenue	Actual /Projected Interest
July, 2009	\$0.00	\$0.00	\$68,597.14
August, 2009	4,166,020.00	3,708,878.37	117,736.33
September, 2009	4,166,020.00	3,620,364.36	107,810.97
October, 2009	4,031,633.00	4,266,877.89	91,291.65
November, 2009	4,060,781.00	3,651,341.16	92,867.44
December, 2009	3,929,789.00	4,147,701.62	87,833.41
January, 2010	4,060,781.00	4,324,658.70	90,552.78
February, 2010	3,699,893.00	4,358,549.88	89,894.73
March, 2010	3,341,839.00	3,964,772.75	87,552.86
April, 2010	3,699,893.00	5,245,925.14	95,252.97
May, 2010	3,684,303.00	5,693,976.86	90,423.98
June, 2010 (INC A/B)	7,491,353.00	11,847,486.65	124,811.32
July, 2010	0.00	0.00	56,224.25
August, 2010	4,437,021.00	5,600,893.32	95,063.02
September, 2010	4,437,021.00	6,343,686.25	91,213.51
October, 2010	4,293,891.00	6,513,182.98	91,277.45
November, 2010	4,094,269.00	6,256,551.40	94,317.99
December, 2010	3,962,196.00	7,520,245.44	88,398.74
January, 2011	4,094,269.00	7,235,586.76	26,073.00
February, 2011	3,939,215.00	3,939,215.00	30,602.00
March, 2011	3,558,001.00	3,558,001.00	18,225.00
April, 2011	3,939,215.00	3,939,215.00	11,677.00
May, 2011	3,947,981.00	3,947,981.00	5,987.00
June, 2011 (INC A/B)	7,681,020.00	7,681,020.00	448.00
Totals	\$94,716,404.00	\$117,366,111.53	\$1,754,132.54

	Approved Budget	Current Estimate
Beginning Balance	\$90,294,872	\$87,378,167
Oil Extraction Taxes	94,716,404	117,366,112
MRI Loan Repayments	995,000	995,000
SWPP Revenue	1,000,000	2,000,000
Interest Revenue	1,465,000	1,754,133
Oil Royalties	14,000	7,500
Total Available Funds	<u>\$188,485,276</u>	<u>\$209,500,911</u>
Legislative Authorization	<u>\$188,400,000</u>	<u>\$188,400,000</u>
Ending Balance	<u>\$85,276</u>	<u>\$21,100,911</u>

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**ND State Water Commission**  
**Preliminary List Of Projects**  
**2011-2013 Biennium**  
**\*Internal Use Only\***

Fargo Flood Control	30,000,000
MR&I Water Supply	15,000,000
Western Area Water Supply	25,000,000
Irrigation Development	5,000,000
General Water Management	26,000,000
Missouri River Management	1,000,000
Red River Water Supply	5,000,000
Devils Lake Outlet	75,000,000 <sup>*(1)</sup>
Downstream Impacts	
Fargo	15,000,000
SWPP/NAWS	37,000,000
Weather Modification	<u>1,000,000</u>
<b>Total</b>	<b>235,000,000</b>

<sup>\*(1)</sup> This amount includes operations and estimated construction of the gravity flow outlet.  
It does not include a control structure or expansion of the west end outlet.

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STATE WATER COMMISSION  
PROJECTS/GRANTS/CONTRACT FUND  
2009-2011 BIENNIUM

Dec-10

	BUDGET	SWC/SE APPROVED	OBLIGATIONS EXPENDITURES	REMAINING UNOBLIGATED	REMAINING UNPAID
CITY FLOOD CONTROL					50,941
FARGO/RIDGEWOOD	2,084,750	2,084,750	2,033,809	0	45,000,000
FARGO	45,000,000	45,000,000	0	0	300,000
FARGO/MOOREHEAD STUDY	300,000	300,000	0	0	7,175,000
GRAFTON	7,175,000	7,175,000	0	0	
WATER SUPPLY	44,432,887	44,432,887	12,262,018	0	32,170,869
PERMANENT OIL TRUST FUND	2,442,000	2,442,000	1,375,561	0	1,066,439
IRRIGATION DEVELOPMENT	1,605,370	1,605,370	150,532	0	1,454,838
GENERAL WATER MANAGEMENT					13,717,284
OBLIGATED	20,601,926	20,601,926	6,884,641	0	0
UNOBLIGATED	1,595,963			1,595,963	
MISSOURI RIVER MANAGEMENT	372,000	372,000	24,619	0	347,381
FLOOD CONTROL					86,694
BALDHILL DAM	92,832	92,832	6,138	0	1,478,190
RENWICK DAM	1,478,190	1,478,190	0	0	112,500
UPPER MAPLE RIVER DAM	112,500	112,500	0	0	
RED RIVER WATER SUPPLY	3,200,000	3,200,000	2,982,035	0	217,965
DEVILS LAKE					78,666
BASIN DEVELOPMENT	102,000	102,000	23,334	0	20,502,000
DIKE	25,350,000	25,350,000	4,848,000	0	3,133,843
OUTLET	15,961,325	15,961,325	12,827,482	0	2,224,944
OUTLET OPERATIONS	4,900,000	4,900,000	2,675,056	0	16,000
DL USGS MODEL STUDY	16,000	16,000	0	0	500,000
DL TOLNA COULEE DIVIDE	500,000	500,000	0	0	0
CITY OF MINNEWAUKAN	15,000	15,000	15,000	0	2,199,970
DL EAST END OUTLET	2,200,000	2,200,000	30	0	627,572
NELSON COUNTY	636,064	636,064	8,492	0	
WEATHER MODIFICATIONS	225,000	225,000	0	0	225,000
SOUTHWEST PIPELINE PROJECT	12,782,474	12,782,474	4,295,957	0	8,486,517
NORTHWEST AREA WATER SUPPLY	10,832,918	10,832,918	2,211,481	0	8,621,437
<b>TOTALS</b>	<b>204,014,199</b>	<b>202,418,236</b>	<b>52,624,187</b>	<b>1,595,963</b>	<b>149,794,049</b>

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STATE WATER COMMISSION  
PROJECTS/GRANTS/CONTRACT FUND  
2009-2011 Biennium

PROGRAM OBLIGATION

Approve SWC		Dept		Initial	Total	Total	Dec-10
By	No			Approved			Approved
				Date			
<i>City Flood Control:</i>							
SWC	1927	5000	Fargo/Ridgewood Flood Control Project	6/22/2005	2,084,750	2,033,809	50,941
SWC	1928	5000	Fargo Flood Control Project	6/23/2009	45,000,000	0	45,000,000
SWC	583	5000	Fargo/Moorhead Study	3/29/2010	300,000	0	300,000
SWC	1771	5000	Grafton Flood Control Project	3/11/2010	7,175,000	0	7,175,000
<i>Subtotal City Flood Control</i>					<b>54,559,750</b>	<b>2,033,809</b>	<b>52,525,941</b>
<i>Water Supply Advances:</i>							
SWC	2373-04	5000	Lakota WS (Tri-Co WD)	7/17/2007	212,065	202,062	10,003
	2373-09	5000	South Central RWD (Phase II)	6/23/2008	2,350,000	832,029	1,517,971
	2373-13	5000	All Seasons Rural Water - (Upham)	7/17/2007	128,000	76,734	51,266
	2373-15	5000	North Central Rural Water Consortium (S. Benson Cou	12/7/2007	916,000	863,121	52,879
	2373-15	5000	North Central Rural Water Consortium (Anamoose/Ber	6/23/2008	3,295,000	0	3,295,000
	2373-27	5000	Trail Regional Rural Water (Phase I)	1/25/2008	3,199,000	3,156,676	42,324
	2373-16	5000	Trail Regional Rural Water (Phase II)	6/23/2008	2,305,748	2,157,139	148,609
	2373-24	5000	Trail Regional Rural Water (Phase III)	8/18/2009	2,750,000	316,034	2,433,966
<i>Water Supply Grants:</i>							
	2373-19	5000	City of Washburn Water Supply	4/28/2009	1,500,000	1,299,364	200,636
	2373-17	5000	City of Parshall	6/23/2008	1,920,274	1,142,078	778,196
	2373-18	5000	Ray & Tioga Water Supply Association	12/17/2008	4,200,000	1,445,166	2,754,834
	2373-25	5000	McKenzie Phase II	6/23/2009	1,500,000	0	1,500,000
	2373-28	5000	McKenzie Phase IV	3/11/2010	3,500,000	0	3,500,000
	2373-30	5000	McKenzie WAWS	10/26/2010	0	0	0
	2373-26	5000	Valley City Water Treatment Plant	8/18/2009	15,386,800	0	15,386,800
	2373-29	5000	City of Wilrose - Crosby Water Supply	7/28/2010	1,270,000	771,615	498,385
<i>Subtotal Water Supply</i>					<b>44,432,887</b>	<b>12,262,018</b>	<b>32,170,869</b>
<i>HB No. 1305 Permanent Oil Trust Fund</i>							
	2373-21	5000	Burke, Divide, Williams Water District	6/23/2009	985,000	748,636	236,364
	2373-22	5000	Ray & Tioga Water Supply Association	6/23/2009	864,000	206,974	657,026
	2373-23	5000	City of Wildrose	6/23/2009	593,000	419,951	173,049
<i>Subtotal Permanent Oil Trust Fund</i>					<b>2,442,000</b>	<b>1,375,561</b>	<b>1,066,439</b>
<i>Irrigation Development:</i>							
SWC	1389	5000	BND AgPace Program	10/23/2001	194,439	75,532	118,907
SWC	AOC/IRA	5000	ND Irrigation Association	7/20/2009	100,000	75,000	25,000
SWC	1968	5000	2009-11 McClusky Canal Mile Marker 7.5 Irrigation Pro	6/1/2010	1,310,931	0	1,310,931
<i>Subtotal Irrigation Development</i>					<b>1,605,370</b>	<b>150,532</b>	<b>1,454,838</b>
<i>General Water Management</i>					<b>880,000</b>		
<i>Hydrologic Investigations:</i>							
SWC	1400/7	3000	Houston Engineering Water Permit Application Review	4/2/2009	1,325	800	525
	1400/8	3000	Houston Engineering Water Permit Application Review	6/2/2009	7,500	7,473	27
	1400/9	3000	Houston Engineering Water Permit Application Review	1/1/2010	6,759	6,759	0
	1400/10	3000	Houston Engineering Water Permit Application Review	1/0/1900	5,870	5,870	1
	1400/11	3000	Houston Engineering Water Permit Application Review	10/10/2010	6,500	6,249	251
	862	3000	Arlotta Herman	4/7/2008	2,856	2,856	0
	1690	3000	Mary Lou McDaniel	5/6/2009	4,301	4,301	0
	1703	3000	Neil Flaten	4/7/2008	4,771	4,771	(0)
	1707	3000	Neil Flaten	4/7/2008	3,628	3,628	(0)
	1714	3000	David Robbins	5/7/2009	1,143	1,143	0
	1761	3000	Gloria Roth	5/6/2009	1,208	1,208	0
	1761	3000	Fran Dobits	4/7/2008	2,001	2,001	0
	1393	3000	US Geological Survey, US Dept. Of Interior StreamStat	7/16/2009	39,008	21,675	17,333
	1395A	3000	US Geological Survey, US Dept. Of Interior Stream Ga,	11/12/2009	381,980	381,980	0
	1395	3000	US Geological Survey, US Dept. Of Interior Water Qua	10/21/2009	13,205	0	13,205
	1395D	3000	US Geological Survey, US Dept. Of Interior Eaton Irrige	10/1/2009	15,300	15,300	0
<i>Hydrologic Investigations Obligations Subtotal</i>					<b>86,869</b>	<b>68,732</b>	<b>18,137</b>
<i>Remaining Hydrologic Investigations Authority</i>					<b>793,132</b>		
<i>Hydrologic Investigations Authority Less Payments</i>							
<i>General Projects Obligated</i>					<b>17,558,469</b>	<b>4,255,173</b>	<b>13,303,296</b>
<i>General Projects Completed</i>					<b>2,163,456</b>	<b>2,163,456</b>	<b>0</b>
<i>Subtotal General Water Management</i>					<b>20,601,926</b>	<b>6,884,641</b>	<b>13,717,284</b>

STATE WATER COMMISSION  
PROJECTS/GRANTS/CONTRACT FUND  
2009-2011 Biennium

PROGRAM OBLIGATION

Approve SWC By	No	Dept		Initial Approved Date	Total Approved	Total Payments	Dec-10 Balance
<b>Missour River Management:</b>							
SWC	1943	5000	Missouri River Siltation Assessment Study	10/12/2006	30,000	0	30,000
SWC	1963	5000	Beaver Bay Embankment Feasibility Study	8/10/2009	342,000	24,619	317,381
<b>Subtotal</b>					<b>372,000</b>	<b>24,619</b>	<b>347,381</b>
<b>Flood Control:</b>							
SWC	300	5000	Baldhill Dam Flood Pool Raise	4/30/1998	92,832	6,138	86,694
SWC	849	5000	Renwick Dam Rehabilitation	5/17/2010	1,478,190	0	1,478,190
SWC	1878-02	5000	Upper Maple River Dam Project Dev & Preliminary Eng	9/29/2008	112,500	0	112,500
<b>Subtotal Flood Control</b>					<b>1,683,522</b>	<b>6,138</b>	<b>1,677,384</b>
<b>Red River Water Supply:</b>							
SWC	1912	5000	2007-09 (GDCC'S) Red River Valley Water Supply Pro	3/17/2008	3,000,000	2,982,035	17,965
SWC	1912	5000	2009-11 (GDCC's) RRVWSP Value Engineering Study	6/1/2010	200,000	0	200,000
<b>Subtotal</b>					<b>3,200,000</b>	<b>2,982,035</b>	<b>217,965</b>
<b>Devils Lake Basin Development:</b>							
SWC	416-01	5000	2009-11 Devils Lake Basin Joint Water Resource Man	6/23/2009	60,000	0	60,000
SWC	416-02	5000	City of Devils Lake Levee System Extension & Raise	12/6/2002	25,350,000	4,848,000	20,502,000
SWC	416-05	2000	2009-11 Devils Lake Outlet Awareness Manager	6/23/2009	42,000	23,334	18,666
SWC	416-07	5000	Devils Lake Outlet	2/20/2002	15,961,325	12,827,482	3,133,843
SWC	416-10	4700	Devils Lake Outlet Operations	8/18/2009	4,900,000	2,675,056	2,224,944
SWC	416-11	5000	USGS/US Dept of Interior UnTRIM model on water-qua	8/13/2010	16,000	0	16,000
SWC	416-13	5000	DL Tolna Coulee Divide	10/26/2010	500,000	0	500,000
SWC	416-14	5000	City of Minnewaukan Flood Risk Reduction Analysis St	6/3/2010	15,000	15,000	0
SWC	416-15	5000	DL East End Outlet	10/26/2010	2,200,000	30	2,199,970
SWC	1932**	5000	Michigan Spillway Rural Flood Assessment Drain	8/30/2005	508,492	8,492	500,000
SWC	1932**	5000	Nelson Co. Emergency Pumping Peterson to Dry Run	5/23/2010	112,219	0	112,219
SWC	1131*	5000	Nelson County Central Hamlin Rural Flood Control	9/17/2009	8,940	0	8,940
SWC	1131	5000	Nelson County Channel Maintenance & Misc	9/17/2009	6,413	0	6,413
<b>Devils Lake Subtotal</b>					<b>49,680,389</b>	<b>20,397,395</b>	<b>29,282,994</b>
SWC		7600	<b>Weather Modification</b>	7/1/2009	225,000	0	225,000
SWC	1736	8000	<b>Southwest Pipeline Project</b>	7/1/2009	12,782,474	4,295,957	8,486,517
SWC	2374	9000	<b>Northwest Area Water Supply</b>	7/1/2009	10,832,918	2,211,481	8,621,437
<b>TOTAL</b>					<b>202,418,236</b>	<b>52,624,187</b>	<b>149,794,049</b>



STATE WATER COMMISSION  
PROJECTS/GRANTS/CONTRACT FUND  
2009-2011 Biennium  
Resources Trust Fund

GENERAL PROJECT OBLIGATIONS

Approver		SWC No	Dept	Project Description	Initial	Total	Total	Dec-10
By	No				Approved Date	Approved	Payments	Balance
				(2008) Drought Disaster Livestock Water Supply	5/14/2008	571,747	157,134	414,613
SWC	18502	5000		2009-11 Maple-Steele Upper Maple River Dam PE & PD	12/10/2010	75,210	0	75,210
SWC	1878-02	5000		2009-11 (ESAP) Extended Storage Acreage Program	12/16/2010	6,285	2,936	3,349
SWC	1882-01	5000		2009-11 NDSU Development of SEBAL	9/1/2010	61,404	0	61,404
SWC	1882-07	5000		2009-11 NDSU Development of SEBAL	3/23/2009	882,030	0	882,030
SWC	1921	5000		Square Butte Dam No. 6/Recreational Facility	12/7/2007	24,500	0	24,500
SWC	1934	5000		2007-08 Traill County WRD Elm River Snagging	12/5/2008	3,266	0	3,266
SWC	1934	5000		2009 Elm River Snagging & Clearing Project Trial	9/21/2009	81,594	81,594	0
SWC	1941	5000		Walsh County Assessment Drain 4A Construction	9/21/2009	273,056	235,789	37,267
SWC	1942	5000		Walsh County Assessment Drain 10, 10-1, 10-2	8/10/2009	12,000	0	12,000
SE	1943	5000		2009-11 Missouri River/Oahe Delta Flood Hazard Mitigation Evaluation Project	8/18/2009	96,990	0	96,990
SWC	1953	5000		2009-11 Walsh County Drain No. 73 Construction Project	8/18/2009	796,976	0	796,976
SWC	1960	5000		2009-11 Puppy Dog Flood Control Drain Construction	8/10/2009	7,793	0	7,793
SE	1961	5000		2009-11 Pembina County Drain No. 69 Extension Construction Project	11/12/2009	50,000	28,908	21,092
SWC	1964	5000		2009-11 Hydraulic Effects of Rock Wedges Study- UND	11/12/2009	75,000	21,212	53,788
SWC	1965	5000		2009-11 ND Silver Jackets Team Charter & Action Plan	6/1/2010	188,400	0	188,400
SWC	1966	5000		2009-11 City of Oxbow Emergency Flood Fighting Barrier System	11/30/2010	9,652	0	9,652
SE	1967	5000		2009-11 Grand Forks County Legal Drain No. 55 2010 Construction	9/17/2009	47,020	37,541	9,479
SWC	1131*	5000		Nelson County Central-Hamlin Rural Flood	8/30/2005	1,012,219	80,069	932,150
SWC	1932**	5000		Michigan Spillway Rural Flood Assessment	1/29/2010	1,000	0	1,000
SE	PBS	5000		2009-11 PBS Documentary on Soil Salinity/Lake Agassiz RC & D	3/8/2010	6,000	3,000	3,000
SE	AOC/ARB/ND	5000		2009-11 NDSU Dept of Soil Science - NDAWN Center	6/30/2010	5,000	0	5,000
SE	AOC/RRBC	5000		2009-11 Red River Basin "A River Runs North"	7/1/2009	200,000	150,000	50,000
SWC	AOC/RRBC	5000		2009-11 Red River Basin Commission Contractor	7/20/2009	36,000	18,000	18,000
SWC	AOC/WEF	5000		2009-11 North Dakota Water Magazine	3/22/2010	16,500	0	16,500
SE	AOC/WRD	5000		2010 Water Managers Handbook	8/24/2009	70,000	27,730	42,270
SWC	CON/WILL-CA	5000		2009-11 Will & Carlson Consulting Contract	12/5/2008	14,829	0	14,829
SE	PS/WRD/MRJ	5000		Missouri River Joint Water Board, Start up	6/30/2009	20,000	21,030	(1,030)
SE	PS/WRD/MRJ	5000		Missouri River Joint Water Board (MRRIC) T. FLECK	7/10/2009	12,000	500	11,500
SE	PS/WRD/USR	5000		2009-11 Upper Sheyenne River WRB Administration				
TOTAL						17,558,469	4,255,173	13,303,296

STATE WATER COMMISSION  
PROJECTS/GRANTS/CONTRACT FUND  
2009-2011 Biennium  
Resources Trust Fund

COMPLETED GENERAL PROJECTS

Approver By	SWC No	Dept		Initial	Total	Total	Dec-10
				Approved Date			Approved
SWC	249	5000	2009 Mott Dam Emergency Action Plan	6/23/2009	25,000	12,757	12,243
SWC	281	5000	2007-09 Three Affiliated Tribes/Fort Berthold Irrigation Study	3/23/2009	80,000	80,000	0
SE	353	5000	2009-11 Cedar Lake Dam, Emergency Action Plan	7/15/2009	9,600	9,600	0
SE	420	5000	2009 Mirror Lake Dam Safety Repair	10/14/2009	12,220	11,887	333
SE	420	5000	Mirror Lake One-Foot Pool Raise	9/17/2009	18,281	18,281	0
SE	450	5000	2007-09 Sykeston Dam 2008 Emergency Action Plan	11/25/2008	7,839	7,839	0
SE	560	5000	2009 Blacktail Dam Emergency Action Plan	5/28/2009	9,600	6,733	2,867
SWC	568	5000	2009 Sheyenne River Snagging & Clearing Project	12/5/2008	135,000	75,085	59,915
SWC	568	5000	2009-11 Richland Co. Sheyenne River Snagging & Clearing Project	12/11/2009	47,500	35,449	12,051
SWC	568	5000	2009-11 Richland Co. Sheyenne River Snagging & Clearing Project	3/11/2010	47,500	47,409	91
SWC	568	5000	2009 Richland Co. Sheyenne River & Wild Rice River Snagging & Clearing #184	12/11/2009	39,500	28,488	11,012
SWC	568	5000	2009-11 SE Cass Sheyenne River Snagging & Clearing	3/11/2010	175,473	173,350	2,123
SWC	568	5000	2009-11 Southeast Cass WRD Sheyenne River Snagging & Clearing Project	12/11/2009	165,000	137,888	27,112
SWC	571	5000	2009-11 Oak Creek Bank Stabilization Project	8/18/2009	33,250	25,365	7,885
SWC	576	5000	2009-11 City of Mandan - Missouri River Emergency Bank Stabilization	12/11/2009	33,429	33,370	59
SE	576	5000	2009-11 Mandan City Flood Controls Works	6/18/2010	2,000	2,000	0
SE	586	5000	2009 Short Creek Dam Emergency Action Plan	5/28/2009	9,600	9,600	0
SWC	620	5000	2009-11 City of Manan - Lower Heart River Bank Stabilization	12/11/2009	63,808	63,808	0
SE	662	5000	2009 WCWRD'S Park River Snagging & Clearing Project	6/30/2009	1,948	0	1,948
SE	671	5000	2007-09 Harvey Dam 2008 Emergency Action Plan	11/25/2008	7,840	7,837	3
SWC	847	5000	Maple River - Retention Study Rush River Joint WRD	8/15/2002	25,000	24,927	73
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 5 Emergency Action Plan	7/20/2009	20,000	11,397	8,603
SE	847	5000	2009-11 Swan Buffalo Detention Dam No. 8 Emergency Action Plan	8/7/2009	20,000	10,496	9,504
SE	870	5000	2009-11 Crown Butte Dam Emergency Action Plan	7/10/2009	9,600	9,600	0
SWC	988	5000	Southeast Cass WRD Antelope Creek Eng Feas	10/12/2006	40,000	40,000	0
SWC	1084	5000	2008 Cass Co. Drain No. 32 Partial Improvement Recon	3/17/2008	68,538	13,150	55,388
SWC	1140	5000	Pembina County Drain No 11 Outlet Improvement	9/21/2009	70,846	70,846	0
SWC	1155	5000	2008 Pembina Co. Drain No. 42 Partial Impr.Recon.	3/17/2008	11,386	11,386	0
SWC	1176	5000	2008 Richland Co. Drain No. 2 Partial Improvement Recon.	3/17/2008	5,791	2,964	2,827
SWC	1238	5000	2009-11 Traill County Drain No. 19 Legal/Ext Outlet	8/18/2009	46,187	46,187	0
SWC	1249	5000	2008 Traill Co. Drain No. 34 Partial Improvement Recon	3/17/2008	255,629	192,250	63,379
SWC	1334	5000	Traill County Drain No. 38 Reconstruction	6/30/2009	57,631	0	57,631
SE	1378	5000	2009-11 Clausen Springs Dam Incremental Risk Assessment Report	12/22/2009	9,179	9,179	0
SE	1378	5000	2009-11 Clausen Springs Dam Feasibility Study of Improvement Options	12/10/2009	7,921	7,921	0
SE	1378	5000	2009-11 Clausen Springs Dam Emergency Watershed & Dam Hydraulics Repor	8/31/2009	9,418	9,418	0
SWC	1378	5000	2009-11 Barnes Co. Clausen Springs Dam Construction Repair	12/11/2009	1,300,000	0	1,300,000
SE	1382	5000	2009-11 Camel Butte Dam Emergency Action Plan	7/24/2009	9,600	9,600	0
SWC	1403	5000	2009-11 ND Water Resources Research Institute Fellowship Program	12/11/2009	13,850	13,850	0
SWC	1413	5000	2009 TCWRD Buffalo Coulee Snagging & Clearing Project	6/23/2009	49,000	28,874	20,126
SWC	1431	5000	2009-11 US Geological Survey - Supplemental Flood info	3/11/2010	11,000	11,000	0
SWC	1431	5000	2009-11 US Geological Survey, DOI Report Describing Peak Discharge Period:	8/5/2009	20,000	20,000	0
SWC	1461	5000	2008 Pembina River Area Bank Stabilization Project	12/5/2008	24,307	0	24,307
SE	1471	5000	2009-11 Erie Dam Emergency Action Plan	7/24/2009	20,000	7,093	12,907
SE	1515	5000	2009-11 US Geological Survey - monitoring gages Cottonwood Creek Dam	10/18/2009	8,260	8,260	0
SWC	1515	5000	2009-11 Cottonwood Creek Dam	7/28/2010	373,440	188,702	184,738
SWC	1523	5000	2008 Souris River Golf Course Area Bank Stabilization	9/29/2008	31,612	31,612	0
SE	1527	5000	2009-11 Daub Dam Emergency Action Plan	8/16/2010	9,600	7,680	1,920
SE	1556	5000	2009 Indian Creek Dam Emergency Action Plan	5/28/2009	9,600	9,600	0
SWC	1572	5000	Burnt Creek Floodway Diversion Channel	4/30/2008	121,091	112,637	8,454
SE	1625	5000	2009-11 Missouri River Contract - Environmental Service Bartlett & West	9/21/2009	5,900	5,900	0
SWC	1667	5000	2009-11 Traill County Goose River Snagging & Clearing Project	12/11/2009	46,500	30,873	15,627
SE	1808	5000	2009-11 Beaver Creek Dam Emergency Action Plan	7/14/2009	20,000	20,000	0
SE	1808	5000	2009-11 U.S. Dept of Interior/Beaver Creek Gaging Stations	9/7/2010	11,710	11,710	0
SWC	1842	5000	2009-10 SCWRD Wild Rice River Snagging & Clearing	12/11/2009	115,000	72,676	42,324
SE	1849	5000	2008 Tongue River Diversion Channel Rock Project	11/25/2008	19,087	17,994	1,093
SWC	1869	5000	2008 McDowell Dam Emergency Action Plan	9/29/2008	25,000	25,000	0
SWC	1921	5000	2009 Square Butte Dam No. 6/Emergency Action Plan	3/9/2009	16,000	11,040	4,960
SWC	1936	5000	Nash Drain Extension Construction Proj	10/12/2006	19,913	14,399	5,514
SWC	1947	5000	Cass County Drain No. 62, Maple River WRD	4/30/2008	39,787	3,687	36,100
SWC	1948	5000	2008 Cass Co. Drain No. 67 Construction Project	3/25/2008	334,250	199,888	134,362
SWC	1950	5000	2008 Cypress Creek Drain No. 2 Construction	6/23/2008	22,400	22,400	0
SWC	1951	5000	2007-09 Lynchburg- Buffalo Drain Improvement	8/31/2009	1,000,000	0	1,000,000
SWC	1751-06	5000	2009-11 Southeast Cass WRD/Flood Imagery Project	1/18/2010	30,014	30,014	0
SE	AOC/WI	5000	2010 Summer Water Tours Sponsorship	3/1/2010	2,500	2,500	0

**ND State Water Commission**  
**Preliminary List Of Projects**  
**2011-2013 Biennium**  
**\*Internal Use Only\***

Fargo Flood Control	30,000,000
MR&I Water Supply	15,000,000
Western Area Water Supply	25,000,000
Irrigation Development	5,000,000
General Water Management	26,000,000
Missouri River Management	1,000,000
Red River Water Supply	5,000,000
Devils Lake Outlet	75,000,000 <sup>*(1)</sup>
Downstream Impacts	
Fargo	15,000,000
SWPP/NAWS	37,000,000
Weather Modification	<u>1,000,000</u>
<b>Total</b>	<b>235,000,000</b>

<sup>\*(1)</sup>This amount includes operations and estimated construction of the gravity flow outlet. It does not include a control structure or expansion of the west end outlet.

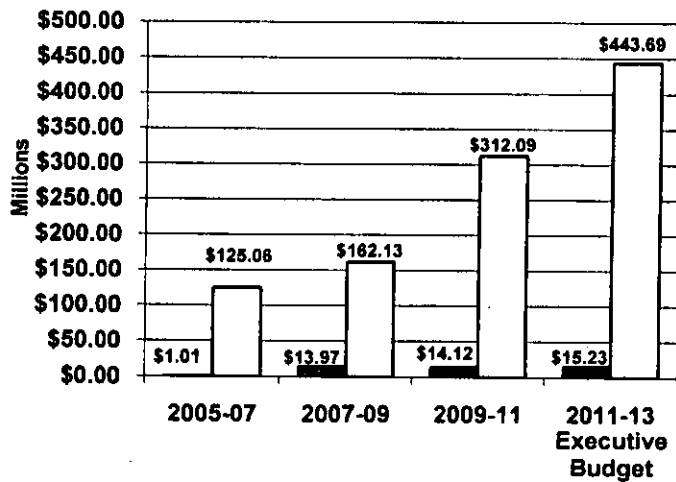
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**Department 770 - State Water Commission  
 Senate Bill No. 2020**

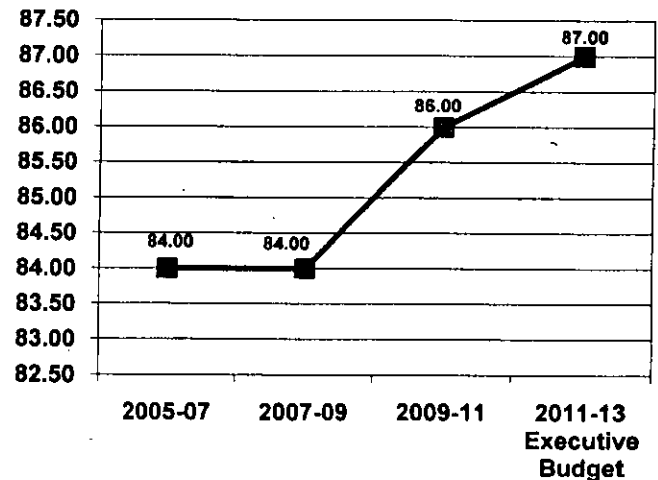
	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	87.00	\$15,227,098	\$443,688,322	\$458,915,420
2009-11 Legislative Appropriations	86.00	14,123,899	312,085,809	326,209,708 <sup>1</sup>
Increase (Decrease)	1.00	\$1,103,199	\$131,602,513	\$132,705,712

<sup>1</sup>The 2009-11 appropriation amounts include \$330,000, \$300,000 of which is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees. The 2009-11 appropriation amounts do not include \$325 from the general fund for the agency's share of an internship program and have not been reduced by \$265,555 of special funds authority resulting from the expenditure of federal fiscal stimulus funds appropriated for the 2009-11 biennium with an emergency clause and spent in the 2007-09 biennium.

**Agency Funding**



**FTE Positions**



■ General Fund □ Other Funds

**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$15,227,098	\$0	\$15,227,098
2009-11 Legislative Appropriations	14,123,899	0	14,123,899
Increase (Decrease)	\$1,103,199	\$0	\$1,103,199

**First House Action**

Attached is a summary of first house changes.

**Executive Budget Highlights  
 (With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Adds 1 FTE Water Development Division director position to address the increase in statewide water issues. <b>The Senate changed the funding source of the director position to provide funding from the resources trust fund.</b>	\$231,899		\$231,899
2. Increases various operating expenses, including utilities by \$4.5 million and professional services by \$3.9 million	\$175,283	\$8,371,539	\$8,546,822
3. Removes federal fiscal stimulus funding provided in the 2009-11 biennium relating to the Southwest Pipeline Project's water treatment plant		(\$12,000,000)	(\$12,000,000)



4. Provides one-time funding for federal fiscal stimulus funds anticipated to be continued from the 2009-11 biennium for the Southwest Pipeline Project's water treatment plant		\$7,271,773	\$7,271,773
5. Removes funding for capital assets for the 2009-11 biennium	(\$95,198)	(\$95,100,944)	(\$95,196,142)
6. Provides funding for capital payments, including equipment (\$95,000), bond payments (\$16,881,750), and water projects (\$81,440,055)	\$85,000	\$98,331,805	\$98,416,805
7. Removes funding from the resources trust fund for a Beaver Bay embankment feasibility study		(\$342,000)	(\$342,000)
8. Decreases one-time funding for local cost-share grants to provide \$500,000 for the Ray/Tioga, Burke/Divide/Williams, Wildrose, and Stanley water projects		(\$2,292,000)	(\$2,292,000)
9. Increases grants due to increase in funds available in the resources trust fund to provide a total of \$314 million		\$127,026,445	\$127,026,445

### Other Sections in Bill

**Sovereign lands enforcement grant** - Section 3 directs the State Water Commission to provide a grant of \$200,000 from the general fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state.

**Resources trust fund and water development trust fund** - Section 4 provides that in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund any additional amounts that become available in those funds are appropriated to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2011-13 biennium.

**Grant and water project carryover authority** - Section 5 authorizes the State Water Commission to continue any unexpended 2011-13 appropriation authority for grants or water-related projects in the 2013-15 biennium.

**Fargo flood control project funding** - Section 6 provides that of the funds appropriated to the State Water Commission for grants and projects for the 2011-13 biennium, \$30 million is for Fargo flood control projects. The section also provides that any funds not spent by June 30, 2013, are not subject to North Dakota Century Code 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. This funding is in addition to \$45 million provided for Fargo flood control by the 2009 Legislative Assembly for a total of \$75 million. **The Senate amended this section to remove land purchases, revise spending limitations, and provide for expenditure approval.**

**Emergency** - Section 7 provides that funds appropriated to the State Water Commission in the water and atmospheric resources line item are declared to be an emergency measure. **The Senate amended this section to make the entire bill an emergency measure.**

**The Senate also added the following sections:**

**Fargo flood control project** - Sections were added to amend 2009 Session Laws Chapter 20, Section 7, relating to Fargo flood control project funding and to provide for retroactive application.

**Grand Forks Corporate Center** - A section was added to repeal 1999 Session Laws Chapter 535, Section 5, relating to the pledge of revenues from the Grand Forks Corporate Center. The State Water Commission reported on the fiscal note for this bill that an analysis prepared when 1999 Senate Bill No. 2188 was enacted estimated \$12.2 million in corporate center revenues would be available to partially repay the water development trust fund over 21 years beginning in 2018.

**Legislative intent** - Sections were added to provide legislative intent regarding a grant to Wildlife Services for animal control (\$250,000), flood-related water projects in the Nelson County Water Resource District (\$250,000), and the allocation of funding to the Garrison Diversion Conservancy District.

### Continuing Appropriations

No continuing appropriations for this agency.

### Significant Audit Findings

There are no significant audit findings for this agency.

### Major Related Legislation

**House Bill No. 1107** - Relates to informational and adjudicative proceedings on water permit applications.

**House Bill No. 1206** - Establishes a western area water supply authority to provide for the supply and distribution of water to western North Dakota for domestic, rural water, municipal, livestock, industrial, oil and gas development, and other uses. In addition, the bill provides for funds to be deposited in a debt service reserve fund and for the repayment of any State Water Commission grant made to the western area water authority.

**House Bill No. 1318** - Relates to the creation of special assessment districts for irrigation works by the Garrison Diversion Conservancy District.

**House Bill No. 1335** - Relates to exemptions from enforcement actions for water transfers used to control flooding.

**Senate Bill No. 2068** - Authorizes the State Engineer to execute contracts on behalf of the State Water Commission.

**Senate Bill No. 2101** - Provides an increase in testing, certification, and renewal fees for water well contractors, pump and pitless installers, and geothermal drilling contractors.

**Senate Bill No. 2282** - Relates to compensation of members of the State Water Commission and members of the North Dakota Atmospheric Resource Board.

ATTACH:1

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - Funding Summary**

	Executive Budget	Senate Changes	Senate Version
<b>State Water Commission</b>			
Grants local cost-share	\$500,000		\$500,000
Administrative and support services	3,229,873		3,229,873
Water and atmospheric resources	447,913,774		447,913,774
Federal stimulus funds	<u>7,271,773</u>		<u>7,271,773</u>
Total all funds	\$458,915,420	\$0	\$458,915,420
Less estimated income	<u>443,688,322</u>	<u>231,899</u>	<u>443,920,221</u>
General fund	\$15,227,098	(\$231,899)	\$14,995,199
FTE	87.00	0.00	87.00
<b>Bill Total</b>			
Total all funds	\$458,915,420	\$0	\$458,915,420
Less estimated income	<u>443,688,322</u>	<u>231,899</u>	<u>443,920,221</u>
General fund	\$15,227,098	(\$231,899)	\$14,995,199
FTE	87.00	0.00	87.00

**Senate Bill No. 2020 - State Water Commission - Senate Action**

	Executive Budget	Senate Changes	Senate Version
Grants local cost-share	\$500,000		\$500,000
Administrative and support services	3,229,873		3,229,873
Water and atmospheric resources	447,913,774		447,913,774
Federal stimulus funds	<u>7,271,773</u>		<u>7,271,773</u>
Total all funds	\$458,915,420	\$0	\$458,915,420
Less estimated income	<u>443,688,322</u>	<u>231,899</u>	<u>443,920,221</u>
General fund	\$15,227,098	(\$231,899)	\$14,995,199
FTE	87.00	0.00	87.00

**Department 770 - State Water Commission - Detail of Senate Changes**

	Changes Funding Source of New Division Director Position <sup>1</sup>	Total Senate Changes
Grants local cost-share		
Administrative and support services		
Water and atmospheric resources		
Federal stimulus funds		
Total all funds	\$0	\$0
Less estimated income	<u>231,899</u>	<u>231,899</u>
General fund	(\$231,899)	(\$231,899)
FTE	0.00	0.00

This amendment changes the funding source of the Water Development Division director position added in the executive recommendation from the general fund to the resources trust fund.

Sections are added to the bill to:

Amend Section 7 of Chapter 20 of the 2009 Session Laws relating to Fargo flood control project funding and to provide for retroactive application.

- Repeal Section 5 of Chapter 535 of the 1999 Session Laws relating to the pledge of revenues from the Grand Forks Corporate Center.
- Provide legislative intent regarding a grant to Wildlife Services for animal control (\$250,000), flood-related water projects in the Nelson County Water Resource District (\$250,000), and the allocation of funding to the Garrison Diversion Conservancy District.

The emergency clause in the bill is amended to make the entire bill an emergency measure.

SB 2020  
State Water Commission  
3/17/11  
attachment #1



# **North Dakota State Water Commission Testimony Relative to Engrossed Senate Bill 2020**

**Presented to the  
Education and Environment Division  
of the House Appropriations Committee**

**62nd Legislative Assembly**

**March 17, 2011**

**By Todd Sando, P.E.  
North Dakota State Engineer and Chief Engineer-Secretary  
to the North Dakota State Water Commission**

**NORTH DAKOTA STATE WATER COMMISSION TESTIMONY  
RELATIVE TO ENGROSED SENATE BILL 2020**

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

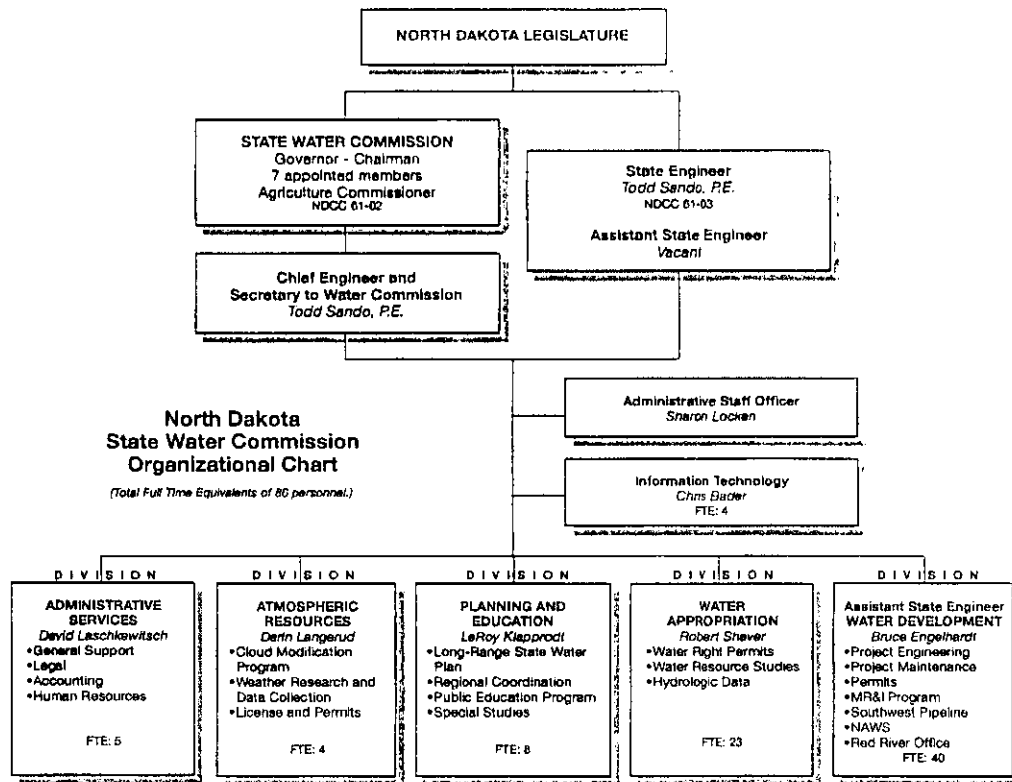
**MARCH 17, 2011**

Mr. Chairman, members of the Education and Environment Division of the House Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding Engrossed Senate Bill 2020. 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 pertinent issues for the upcoming biennium.

## ORGANIZATIONAL OVERVIEW

As illustrated by our organizational chart, the State Water Commission is separated into five divisions, with 86 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 Bruce Engelhardt, is responsible for project engineering, construction, 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 construction and 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; and manages the agency's information and education programs, including public outreach, and Project WET.

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 2009-2011 biennium so far, great progress has been made in several facets of water management and development – including flood control, water supplies, weather modification, and numerous general water management projects. I would like to take a few moments to outline some key water management and development efforts that have occurred this biennium, along with a brief overview of efforts we intend to pursue in the future.



## **Flood Control**

In flood control efforts, one of the most urgent issues facing the state is the ongoing flooding crisis in the Devils Lake basin. On April 2, 2010, Devils Lake set a new record level of 1450.74 feet above mean sea level. From there, the big lake continued with its relentless rise, peaking at a new record level of 1452.02 feet on June 27. Since then, Devils Lake has receded slightly, going into freeze-up at about 1451.5 feet.

I would like to report that we can expect a reprieve from rising lake levels, but unfortunately, the outlook for this spring and summer is potentially disastrous. According to the latest National Weather Service long-range probabilistic forecast released in February, there's a fifty percent chance Devils Lake will reach 1454.7 feet, which is over two and a half feet above the previous record set last June. If the lake reaches that elevation, another 35,000 acres will be flooded, and the lake will cover 213,000 acres in total. Even more troubling is the fact that the Weather Service is giving a one percent chance of the lake reaching 1456.7 feet – only 1.3 feet below the lake's natural spill elevation.

In response, we will continue to pursue a comprehensive, three-pronged approach to the Devils Lake area's flood-related problems - including upper basin water management, infrastructure protection, and outlet operations. With regard to outlet operations, we are pursuing additional capacity as soon as possible, which I will explain in more detail.

In August 2005, construction on the state's emergency Devils Lake outlet was completed, and it was operated in 2005, 2007, 2008, 2009, and 2010. The outlet was originally completed

with an operational capacity of 100 cubic feet per second (or cfs). However, last June we completed a major expansion to the outlet; which increased the outlet's capacity to 250 cfs. Over the course of the 2010 operating season, we were able to remove about 63,000 acre-feet from the lake.

However, current and forecasted conditions require even more to be done. Therefore, in addition to the state's existing outlet on the west end of Devils Lake, the Water Commission is moving forward with a 250 cfs east end outlet that will take water via underground pipeline from East Devils Lake to the downstream side of Tolna Coulee (See Map Appendix). This project is scheduled for completion in the spring of 2012, and is expected to cost between \$62 million and \$90 million.

In addition, we are also preparing designs for a 100 cfs expansion of the west end outlet, and working to develop a control structure on Tolna Coulee to limit discharge, while allowing natural erosion to occur, should the lake spill. With the existing 250 cfs west end outlet in place, a 250 cfs east end outlet, and a 100 cfs west end expansion, the state could be releasing up to 600 cfs via outlets in the coming years. While any combination of outlets will reduce the risk of a natural overflow and the resulting impacts, they do not guarantee that a natural overflow can be prevented.

With regard to upper basin water management, the Water Commission has continued to provide assistance to the Devils Lake Joint Water Resource Board in their basin-wide efforts. In addition, we have continued to implement and fund the Extended Storage Acreage Program that stores floodwater in the upper portions of the basin.

Infrastructure protection and relocation efforts also continue to be an issue throughout the Devils Lake basin. The U.S. Army Corps of Engineers is making progress on raising the city of Devils Lake levee to 146<sup>b</sup> feet, at a newly estimated total cost of about \$150 million. Of that amount, the state, through the Water Commission, will need to contribute \$35 million, which is \$10 million more than initially planned. This project is scheduled for completion in 2012.

The city of Minnewaukan recently received a \$6 million federal grant through the Department of Education to relocate the school. They have since purchased a piece of land one mile north of town, and are going through the beginning stages of the construction process. The community itself has been working with the school to purchase lots on their property. In addition, the Department of Emergency Services is working with Minnewaukan residents.

Moving our attention to other flood control efforts in the Red River basin, I am happy to report that the Grand Forks flood control project performed extremely well during our most recent large-scale flood events in 2009 and 2010.

In Wahpeton, Stages 1 and 2 of their flood control project have been completed, and construction on Stage 3a, which began in the summer of 2009, is 95% complete.

Construction on Stage 3b, the only remaining in-town levee alignment, will begin this coming summer. As in the past, construction efforts in Wahpeton will 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-Moorhead metro area flood control project. After the flood of 2009, it is apparent that a permanent, large-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the U.S. Army Corps of Engineers, Fargo, West Fargo, Moorhead (MN), Cass County, and Clay County (MN) have been jointly working toward the completion of a study that assesses potential measures that will reduce the entire metro area's flood risk. The two primary projects that are being evaluated are a 35,000 cfs diversion channel through North Dakota, and a 35,000 cfs diversion channel through Minnesota. The preferred alternative of local project sponsors is the North Dakota diversion (See Map Appendix).

According to the U.S. Army Corps' Draft Feasibility Report, the locally preferred plan would be a 36-mile long diversion channel that would start approximately four miles south of the confluence of the Red and Wild Rice Rivers and would re-enter the Red River north of the confluence of the Red and Sheyenne Rivers.

The estimated cost of the North Dakota diversion alternative is \$1.46 billion, with a non-federal share of \$564 million. The Water Commission has budgeted \$30 million in the 2011-2013 biennium, in addition to \$45 million from the previous biennium, to cover a portion of North Dakota's non-federal share of this project, which could total \$300 million.

One final flood-related item I would like to cover is the recent implementation of North Dakota's new Silver Jackets program. The Silver Jackets program was initiated in January

2010 in response to the extensive flooding of 2009 to provide local interests, including smaller communities, with a single point of contact to help them through their flood recovery and mitigation efforts. This new program has already seen a number of successes, including the advancement of levee certifications in Hazen, Pembina, Enderlin, and Velva; progress on a James River Recon Study; and various forms of flood mitigation support in Linton, Lisbon, LaMoure, Oxbow, Beulah, Hazen, Minnewaukan, Kindred, and Fargo.

### **Water Supply**

In water supply efforts, a huge challenge facing North Dakota right now is providing enough water to support the oil industry. To put this growth into perspective, there were ten water permits issued for water depots out west over the course of 27 years from 1980 to 2007. In the last three years alone, we've issued 34 permits and have 70 under review. With oil companies being forced to truck water in for their drilling operations, and sometimes over great distances, the development of additional water depots helps to reduce trucking miles, and more importantly, it spreads out supply and demand for water resources.

As the oil industry continues to grow in the western portion of the state, so does the need for water development projects to support drilling processes, and a growing workforce. Even with current drilling activity in that region, existing water supplies are being stretched to their limits. And, with future drilling expected to expand substantially in the coming years, the strain on water supplies is only expected to intensify. This is particularly true of areas that are relying heavily on groundwater resources. For that reason, development of water supply systems that utilize abundant Missouri River water have become a priority in the region.

In response, the Western Area Water Supply project has been proposed as part of the solution. This project is being advanced through a collaborative effort between the city of Williston, Williams Rural Water District, McKenzie Water Resource District, and Ray and Tioga Water Supply. The focus of this collaborative effort has been to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant to areas throughout the northwest, oil-producing region of the state for municipal, rural, and industrial purposes (See Map Appendix).

The total estimated cost of the Western Area Water Supply project is approximately \$150 million, and a business plan is currently in the works that will more accurately detail their funding requirements and sources.

With the Northwest Area Water Supply (NAWS) project, the first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot - that also serves North Prairie Water District. But, until Missouri River water can be accessed, NAWS is getting an interim water supply through a ten-year contract with Minot, which expires in 2018.

This spring, Mohall, Sherwood, and All Seasons Water District will be connected to NAWS, and we will move forward on another 30 miles of pipeline north of Minot to the Air Force Base, Glenburn, and the Upper Souris Water District. These projects are all scheduled for completion in the 2011-2013 biennium (See Map Appendix).

Regarding the NAWS-related lawsuit, the federal court issued an order in March 2010, requiring the Bureau of Reclamation to take a closer look at the cumulative impacts of water withdrawals on Lake Sakakawea and Missouri River water levels; and the consequences of biota transfer into the Hudson Bay basin, including Canada. As a result, a Supplemental Environmental Impact Statement is underway and initial public scoping meetings have been completed. A draft of that report should be released about a year from now. More recently, an October 2010 court order allowed us to proceed with filter work in Minot's water treatment plant, and that work is under design.

In the last couple of years, we have continued with our track-record of substantial progress on the Southwest Pipeline Project. As you will notice on the Southwest Pipeline Project map in the Appendix, this project now covers much of southwest North Dakota west of the Missouri River. Today, Southwest Pipeline serves over 35,000 people, including 28 communities, and about 4,000 rural hook-ups.

Funding from the current 2009-2011 biennium will advance several Southwest Pipeline projects in the next few years, including: the Oliver, Mercer, North Dunn Water Treatment Plant; and main transmission facilities in the Zap and Center Service Areas. New 2011-2013 funding will be put toward the Zap Service Area rural distribution pipeline; design and bidding of the Center Service Area rural distribution pipeline; and to begin construction on transmission facilities in the Dunn Service Area.

In addition to NAWS and Southwest Pipeline, State Water Supply Program and federal MR&I funds, totaling about \$52 million and \$44 million, respectively, were invested in nine

design and/or construction projects so far this biennium. Those projects involved several systems across the state, including: South Central Regional Water District; McKenzie County Regional Water; Traill Rural Water; West Area Water Supply; Red River Valley Water Supply; Tri-County, Lakota; Crosby, Burke-Divide-Williams Rural Water Supply; and the cities of Parshall and Valley City. The federal government also invested another \$42 million for tribal-related projects on reservations.

Thanks to North Dakota's Water Supply Program, regional and rural water systems have continued to expand throughout the state. There are now 30 regional water systems in North Dakota, providing water to over 200,000 residents, including 319 cities, 64 various water systems, 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.

With regard to the Red River Valley Water Supply, the Water Commission has continued to work in cooperation with the Garrison Diversion Conservancy District to advance this project, although a Record of Decision has not been signed for the EIS that was completed back in 2007.

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). However, the project still needs two major steps to occur before construction can start: 1) Congress must authorize the project; and 2) the Record of Decision must be signed.



## **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 34th year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 754 active volunteer observers throughout the state, and precipitation data, charts, and maps can now be easily accessed on the Water Commission website.

This winter, a new snow-reporting program was launched through ARB's Cooperative Observer Network. There are 414 observers participating this year, and snowfall will be reported in inches, liquid water equivalent, and total snowpack water equivalent. This information will be extremely valuable as it will fill data gaps and improve forecasting of spring runoff and flood risks.

## **General Water Management**

Significant progress was also made on statewide general water management projects through our cost-share program. These efforts included 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.

In addition, it should be noted that dam repairs continue to be a high priority in North Dakota and throughout 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. During the last two construction seasons, the Water Commission was involved in repairs at 15 dams across the state.

### **2009-2011 Funding Summary**

To cap off our discussion of activities in the current biennium, I would like to provide a brief summary of 2009-2011 project expenditures. The State Water Commission spent \$89.2 million on water projects through January 2011. It is anticipated that an additional \$48.9 million will be spent through June 2011. Of that \$138.1 million, approximately \$89.2 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, and \$48.9 million will come from federal and local funds. We estimate that we will carry \$114.8 million of the committed contract fund projects forward and into the 2011-2013 biennium.

To update you on the Water Commission's bonding, we have six bond issues outstanding on the Southwest Pipeline Project. These have provided the project with \$24 million, of which \$20.4 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by water sales.

We also have two 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 \$73.9 million remains outstanding. The Water Development Trust Fund provides the funding to make these payments. Payments for the 2011-2013 biennium will total \$16.9 million.

**ENGROSSED SENATE BILL 2020**

Engrossed Senate Bill 2020 contains the budget recommendation for the State Water Commission for the 2011-2013 biennium. The recommendation totals \$458,915,420.

Administrative and Support Services	\$3,229,873
Water and Atmospheric Resources	447,913,774
Federal Stimulus Funds	7,271,773
Grants Local Cost-share	<u>500,000</u>
Total	\$458,915,420
General Funds	\$14,995,199
Federal Funds	53,984,383
Other Funds	<u>389,935,838</u>
Total	\$458,915,420

Our agency budget contains four 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 most project funding. The remaining one-time project funding is included in the line items titled Federal Stimulus Funds and Grants Local Cost-share. The Federal Stimulus Funds line contains the estimated unexpended stimulus funds carried forward from the 2009-2011 biennium for the Southwest Pipeline water treatment

plant. The Grants Local Cost-share line contains the estimated unexpended funds for the Ray-Tioga, Burke-Divide-Williams, Wildrose and Stanley water projects. The Grants Local Cost-share funds are from the Permanent Oil Trust Fund and are also carried forward from the 2009-2011 biennium. In the 2009-2011 biennium, general funds totaling \$14.1 million were included in the budget. The 2011-2013 budget recommendation contains \$15 million, an increase of \$0.9 million from the 2009-2011 budget. This increase in general fund dollars provides the funding required for the salary and benefit package included in Engrossed Senate Bill 2020.

Federal funds totaling \$54 million have been included in Engrossed Senate Bill 2020. This is a decrease of \$13.1 million from the 2009-2011 biennium. This decrease is due to the anticipated reduction of federal funding 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 \$204.4 million in new Resources Trust Fund revenue for the 2011-2013 biennium. This included \$199.8 million of oil revenues, and \$4.6 million from other sources. This projection assumes prices averaging \$72 per barrel for fiscal year 2012, with production ranging from 390,000 to 405,000 barrels per day, and \$75 per barrel for fiscal year 2013, with production ranging from 405,000 to 425,000 barrels per day. The most recent oil extraction deposit into the Resources Trust Fund, which was received in February, totaled about \$8.2 million. The Commission closely monitors revenues throughout the biennium to ensure that project commitments do not exceed the projected revenues.

The other large funding source for the Water Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in \$20.6 million in new

revenue this biennium. This is an increase of \$900,000 from the 2009–2011 biennium. The Commission, with authorization from the Legislature, issued bonds that use future Water Development Trust Fund revenues to make the payments. With the 2011-2013 biennium's bond payments totaling \$16.9 million, only \$3.7 million will be available for water projects from the Water Development Trust Fund.

Also related to the Water Development Trust Fund, it should be noted that the Senate added a section repealing Section 5 of chapter 535 of the 1999 session laws. This section was created by Senate Bill 2188. This bill authorized the Water Commission to issue bonds for statewide water development projects using future tobacco settlement receipts for repayment. One of those projects was the Grand Forks flood control project. Section 5 of that bill required the City of Grand Forks to pledge revenue received from the city-owned corporate center to be paid to the Water Development Trust Fund after all revenue bonds for the corporate center were repaid. No payments were ever made to the Water Development Trust Fund because the corporate center still has outstanding revenue bonds. Payments were not anticipated to begin until 2018, and would have continued through 2039. It was estimated that these payments would have totaled approximately \$12 million.

### **2011 Water Development Report**

The new 2011 Water Development Report has been provided for your reference. This report serves as an update and supplement to the 2009 Water Plan; it provides up-to-date information regarding North Dakota's current and future water development project needs; it provides current information regarding North Dakota's ability to fund those water development needs; and it serves as a formal request for funding from the Resources Trust Fund.

As indicated in the 2011 Water Development Report, the total estimated project and program funding needs submitted by water project sponsors total over \$640 million, with state funding needs of about \$417 million for the upcoming biennium. Thus, prioritization requires very close coordination with the Governor's Office, State Water Commission members, and the water community through the North Dakota Water Coalition.

The following table represents the Water Commission's funding priorities for the 2011-2013 biennium, as outlined in the Water Development Report.

<u>SWC Priority Projects</u>	<u>Potential 2011-2013 Allocations</u>
Devils Lake Outlet	\$75,000,000
Devils Lake Downstream Impacts	15,000,000
Fargo Flood Control	30,000,000
General Water Management	26,000,000
Irrigation	5,000,000
Missouri River Management	1,000,000
Northwest Area Water Supply	12,000,000
Red River Valley Water Supply	5,000,000
Southwest Pipeline Project	25,000,000
State Water Supply Program	15,000,000
Weather Modification	1,000,000
Western Area Water Supply	25,000,000
Project Totals	\$235,000,000

**AGENCY SPECIFICS AND OTHER PERTINENT ISSUES: 2011-2013 BIENNIUM**

In closing, I would like to cover an important staffing issue and some other water management challenges that are currently facing our state.

Engrossed Senate Bill 2020 includes one new position for the Commission, which would bring our total FTEs to 87 for the 2011-2013 biennium. Currently the Assistant State Engineer serves as both the Assistant State Engineer and the Water Development Division

Director. Engrossed Senate Bill 2020 includes a new position for a Water Development Division Director.

The agency has experienced a substantial increase in both funding and workload. With the many critical statewide water issues occurring in North Dakota we believe the additional position would benefit both the agency and the state's citizens. The new position would allow the State Engineer to assign more responsibilities to the Assistant State Engineer because that individual would no longer have the day-to-day responsibilities of managing the Water Development Division, which is our agency's largest division.

With regard to other water management challenges, there are several ongoing Missouri River studies moving forward that will have lasting impacts on how that system is managed. They include the Missouri River Recovery Implementation Committee, the Missouri River Ecosystem Restoration Plan, and the Missouri River Authorized Purposes Study. The Water Commission, several other state agencies, and numerous stakeholder interests have continued to be closely involved in each of the aforementioned efforts, and in fact, we have recently spearheaded a Missouri River stakeholders group to ensure that North Dakota's interests are not overlooked.

Of equal or even greater importance, I would like to bring to your attention a recent U.S. Army Corps of Engineers policy change that will negatively impact many North Dakota water users. Last spring, the Army Corps of Engineers began denying access easements to water users trying to withdraw water from Lakes Sakakawea and Oahe. After decades of allowing that water to be used for municipal, rural, industrial, and irrigation uses, the Corps has now announced its intention to begin charging water storage fees. Under this policy, new and

maybe even existing water users that request land easement modifications, will be subject to a water storage contract with the Corps, which will require them to pay an estimated \$20.91 per acre-foot of water.

Since becoming aware of this new Army Corps policy, the Water Commission, other state agencies, and several stakeholder groups have been working hard to get the Corps to reconsider. In addition, House Concurrent Resolution 3019 has also been developed to address this issue.

The foundation of our argument thus far has been that North Dakota's water users are entitled to water from the Missouri River's natural flow, which is water that would be available without the mainstem reservoirs. Natural flow of the Missouri would be ample to meet all of North Dakota's water needs, and the reservoirs stand in the way of accessing our Missouri River water along vast stretches. For that reason alone, North Dakota water users should never be required to pay for access to Missouri River water whether it be natural flow or stored. In addition to this argument, we have raised several other issues in letters to the Corps, and through public outreach information that I would be happy to make available upon request.

In getting back to Devils Lake, I earlier outlined the urgency of their current flooding crisis. That situation was obviously an important consideration in the drafting of Senate Bill 2020, as you will note a Devils Lake flood-related emergency clause is included. In consideration of predicted lake levels for the coming year, and the reality of what is at stake for residents within the Devils Lake basin and downstream, we appreciate the flexibility that such an emergency clause can provide. As such, I respectfully request your support of this emergency

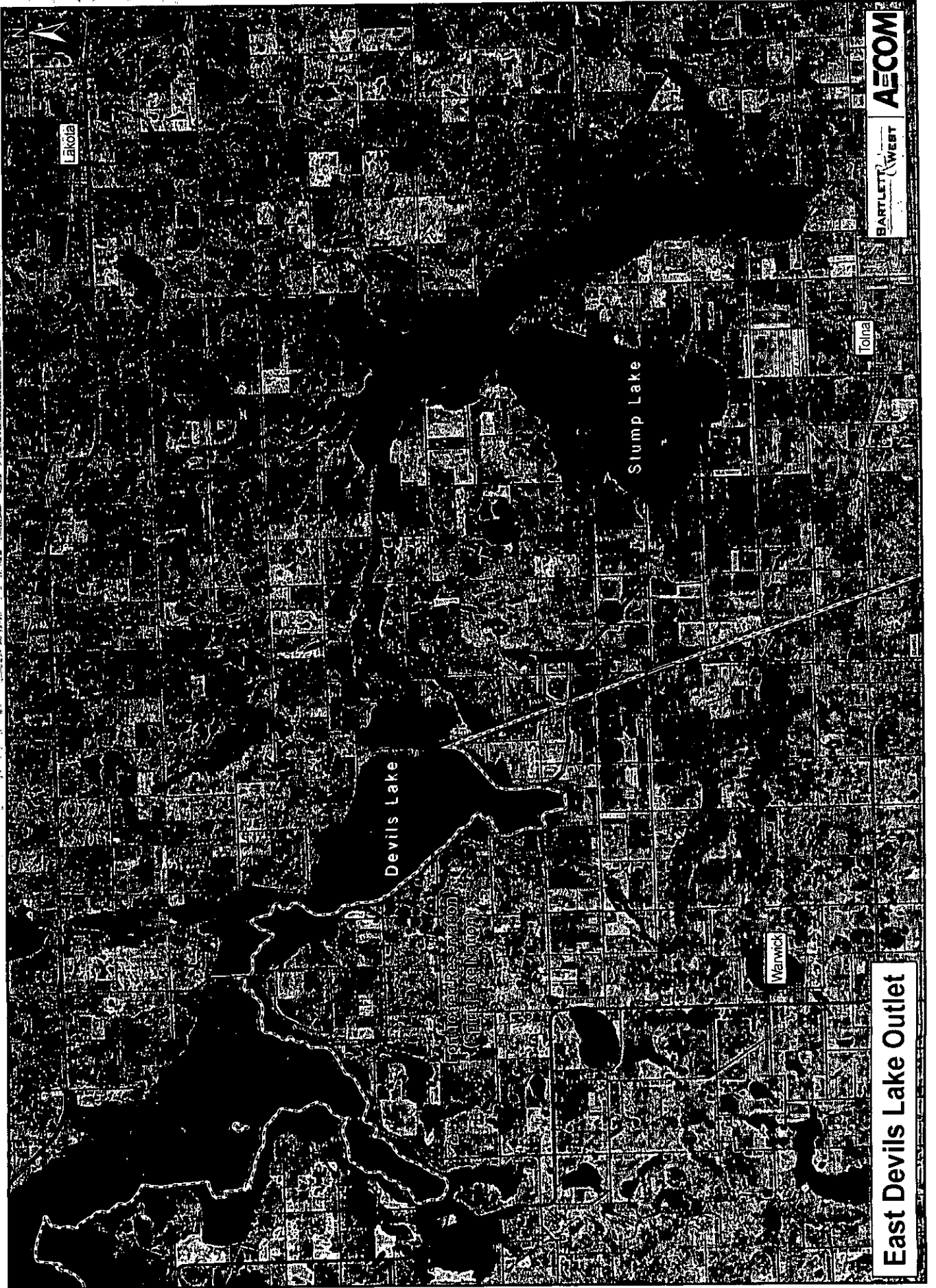


clause in Engrossed Senate Bill 2020 so the Water Commission can respond with appropriate measures as quickly as possible.

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 2011-2013 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 Senate Bill 2020, and I will be happy to answer any questions that you might have.



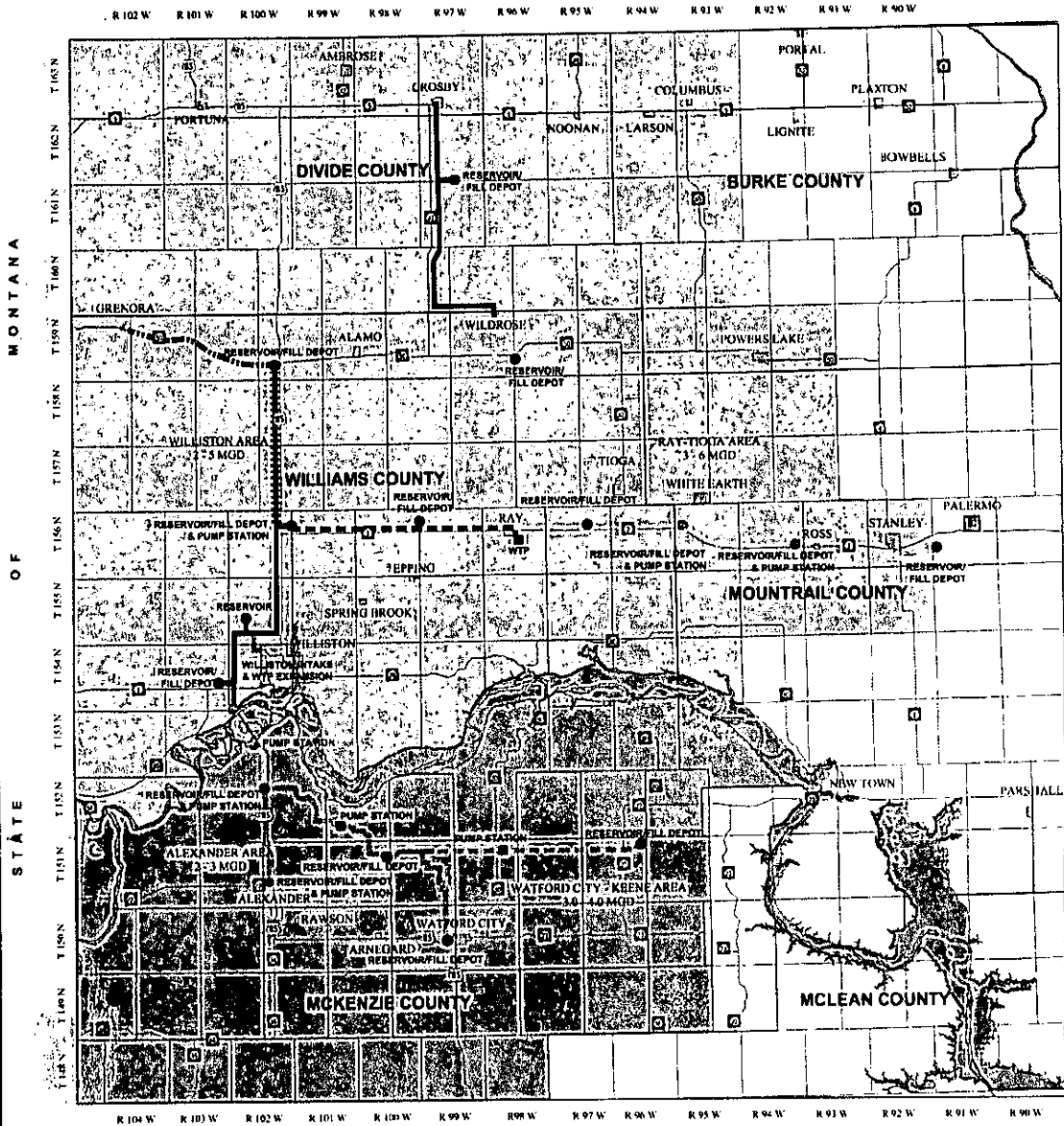


- Streams
- - - Sponsor Proposed Diversion Alignment
- North Dakota Diversion Alignment Tieback Levee
- ▨ Storage Area
- ▨ LPP North Dakota Diversion Alignment
- ▨ DEIS Diversion Alignment

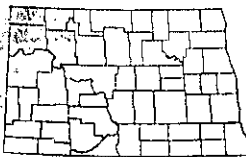

**St. Paul District**  
**GIS CENTER**  
**US Army Corps of Engineers**

# WESTERN AREA WATER SUPPLY PROJECT

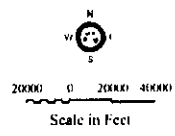
CANADA

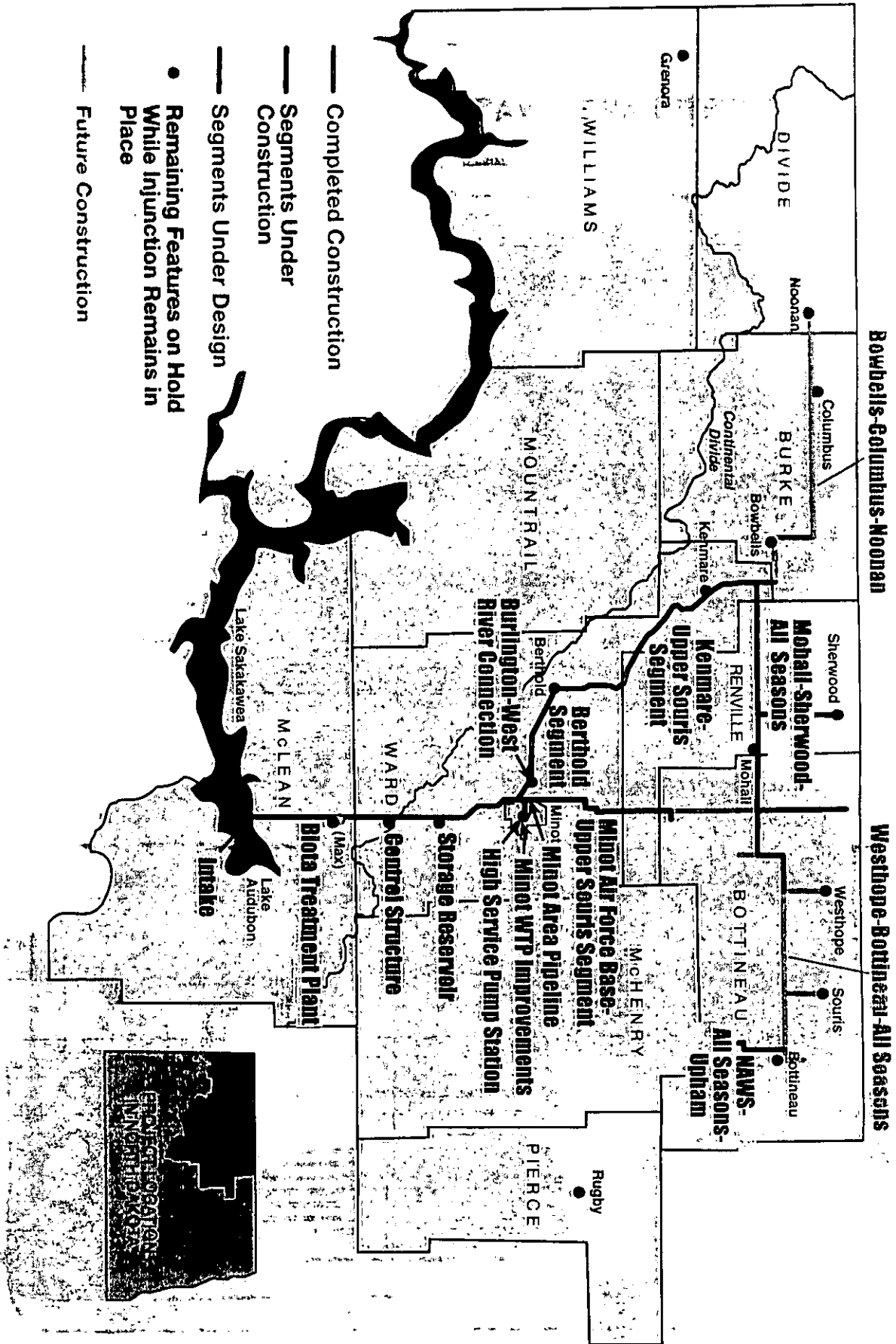


STATE OF MONTANA

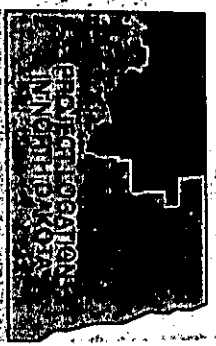


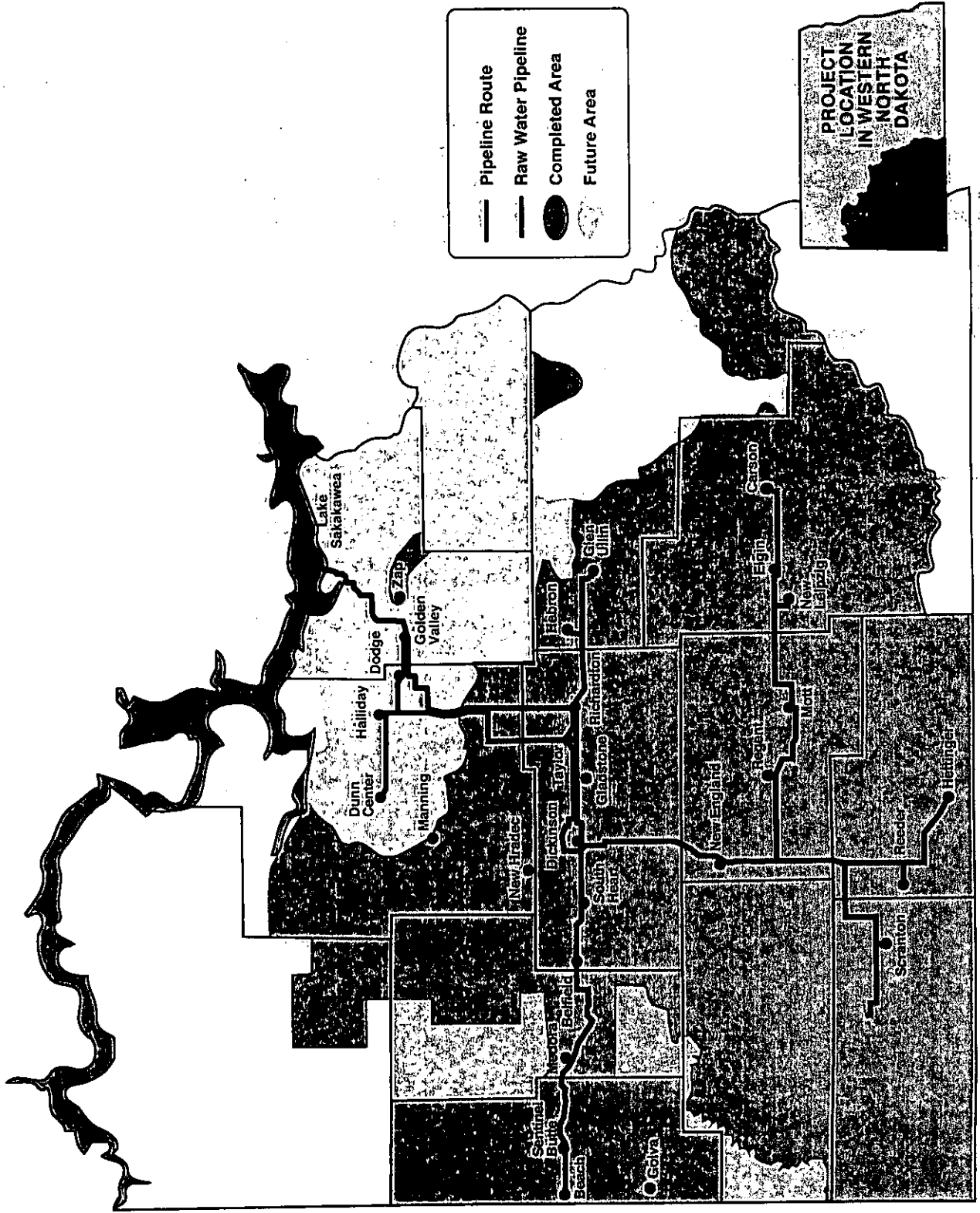
- NORTH SERVICE AREA (5 MOD OIL INDUSTRY WATER DEMAND)
- SOUTH SERVICE AREA (4 MOD OIL INDUSTRY WATER DEMAND)
- EXISTING FUNDED TRANSMISSION LINES
- MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT - PHASE II
- MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT - PHASE III
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE I
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE II
- WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE IV
- BOW RURAL WATER DISTRICT IMPROVEMENTS PROJECT
- CITY OF WILLISTON IMPROVEMENTS PROJECT
- RET WATER SUPPLY ASSOCIATION IMPROVEMENTS PROJECT



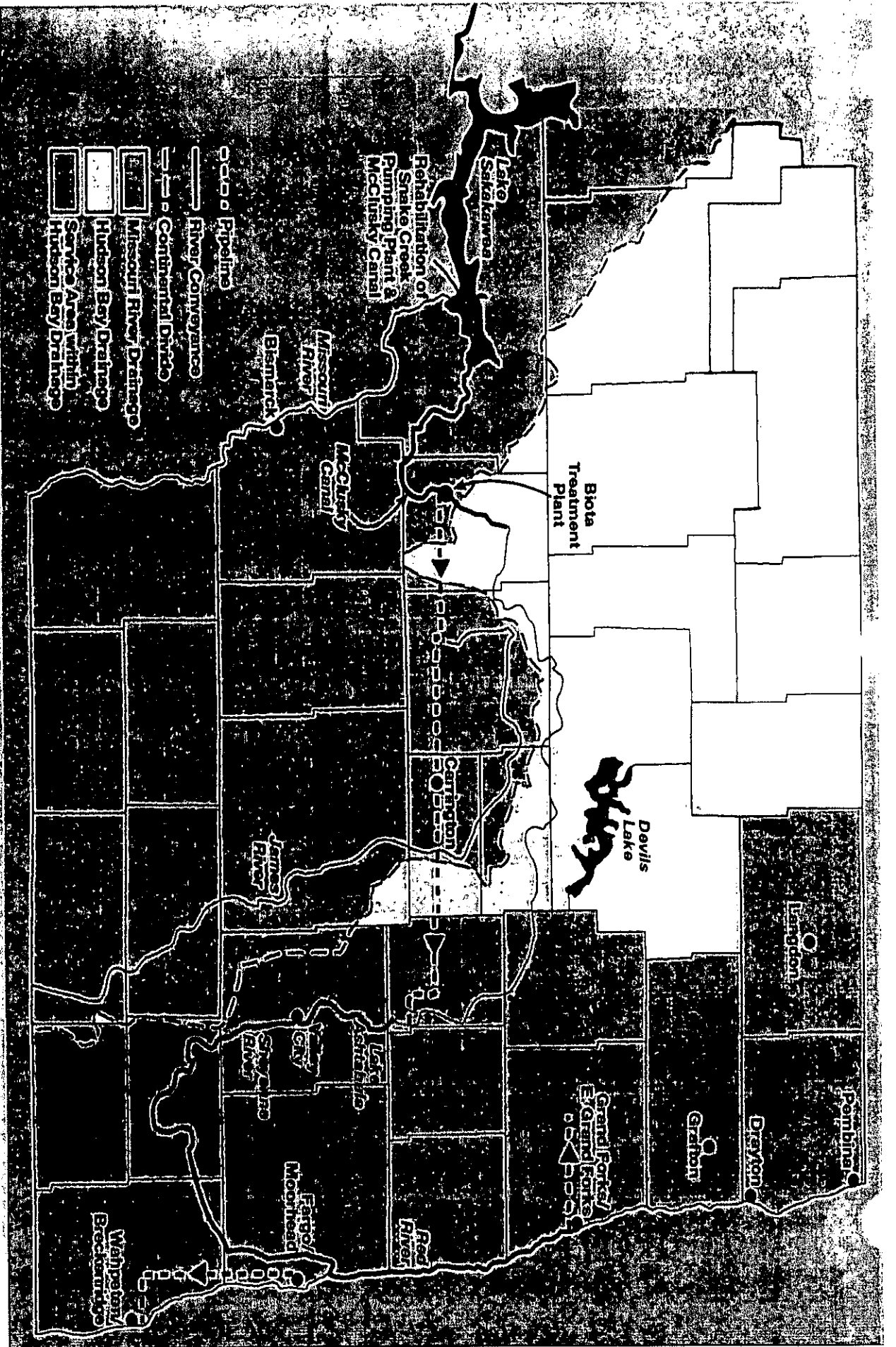


Northwest Area Water Supply





Southwest Pipeline Project



Red River Valley Water Supply

Preferred Alternative

Map No. 100-100-100-100

SB 2020 Water Commission  
3/17/11 attachment # 2

2011-2013



# NORTH DAKOTA Water Development Report



AN UPDATE TO THE  
2009 State Water Management Plan

North Dakota State Water Commission  
December 2010





# 2011-2013 WATER DEVELOPMENT REPORT

an update to the  
**2009 State Water  
Management Plan**  
December 2010

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**A MESSAGE FROM THE STATE ENGINEER:**

*I am pleased to present you with the 2011-2013 North Dakota Water Development Report, which is our first update of the 2009 State Water Management Plan (SWMP).*

*Over the course of the last decade, the State of North Dakota has made unprecedented strides in water development – from flood control and water supplies, to critical water management studies and smaller general water management projects. This success has been accomplished because of the water community's unwavering commitment and cooperation to advance much-needed projects, and through the Legislature's continued support of those efforts.*

*Through that commitment to a common cause, much has been accomplished. But, there still remains a tremendous need for the advancement of water projects of all kinds, in all corners of the state.*

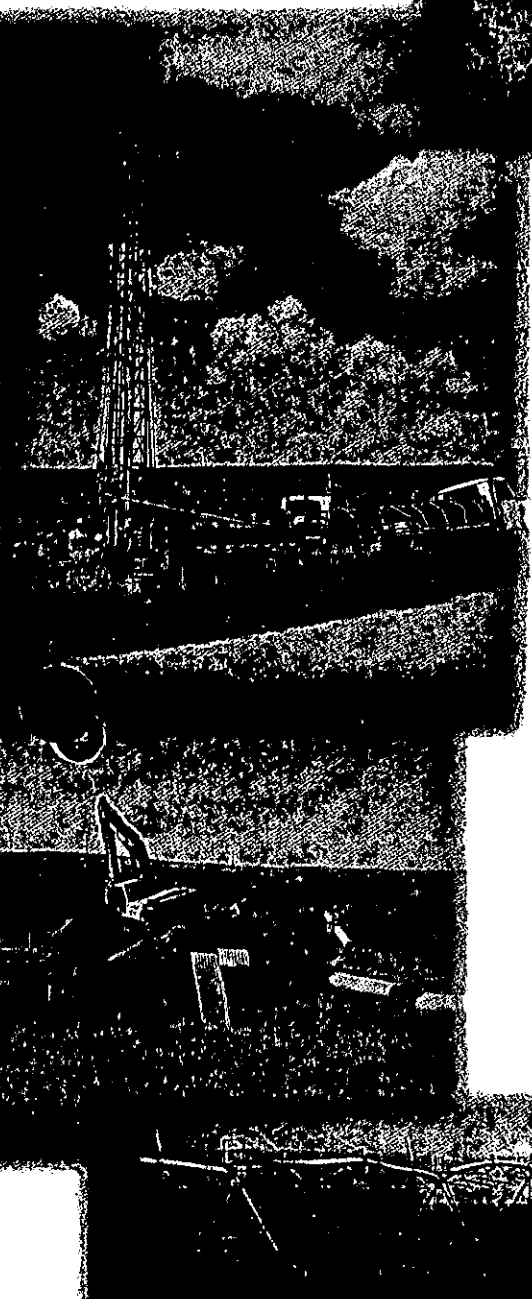
*As you read through this new update of the 2009 SWMP, it will become clear in the following pages that there is still a great deal of financial need out there for water development projects in large and small towns, and rural areas alike. This is particularly true for areas needing flood control and water supply projects.*

*With that, I hope that you will find this report to be informative, and on behalf of North Dakota's Water Commission, I sincerely appreciate your interest and continued support of North Dakota's future water management and development efforts.*

Best regards,

Todd Sando, P.E.

North Dakota State Engineer



# Introduction

## Background and Purpose

In bienniums following the last two North Dakota State Water Management Plans in 1999 and 2009, the State Water Commission (SWC or Commission) has produced Water Development Reports as an interim measure to:

- Serve as supplements to state water plans;
- Provide up-to-date information regarding North Dakota's current and future water development project needs;

- Provide current information regarding North Dakota's revenue sources for water development; and

- Serve as formal requests for funding from the Resources Trust Fund.

This 2011-2013 Water Development Report will also serve those purposes.

## Authority

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 water management plan.

# State Water Development Program

This section briefly describes 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, their progress, and funding needs for the 2011-2013 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 2011-2013 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, the North Dakota Irrigation Association, and communities. The managers of major water projects, including rural water systems; Northwest Area Water Supply Project;

and Southwest Pipeline Project, were also surveyed. 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 2011-2013 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 a 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 2009-2011 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 important tool for budget planning purposes both for the SWC and the Legislature.

## Project Inventories

The following tables will provide an inventory of completed and currently active projects in the 2009-2011 biennium, and future water development needs that were provided by project sponsors for the 2011-2013 biennium.

### Completed Projects, 2009-2011 Biennium

Table 1 lists the projects, programs, and studies that were completed by June 30, 2009, or midway through the 2009-2011 biennium.

### Currently Active Projects, 2009-2011 Biennium

The projects and project categories listed in Table 2 represent water development efforts that are being pursued in the current biennium. Several individual projects are listed in the table. However, a number of others fall under project categories, such as irrigation development or general water management, and therefore, are not individually identified in the table.

**Table 1: Completed Projects  
2009-2011 Biennium**

PROJECT NAME
Antelope Creek Feasibility Study
Blacktail Dam Emergency Action Plan
Buffalo Coulee Snagging and Clearing
Burnt Creek Floodway Diversion Channel
Camel Butte Dam Emergency Action Plan
Cass County Drain #32 Improvement and Reconstruction
Cass County Drain #62
Cass County Drain #67
Cedar Lake Dam Emergency Action Plan
Clausen Springs Dam Emergency Watershed and Dam Hydraulics Report
Clausen Springs Dam Incremental Risk Assessment Report
Clausen Springs Dam Study of Improvement Options
Cottonwood Creek Dam Monitoring Gages
Crown Butte Dam Emergency Action Plan
Cypress Creek Drain #2 Construction
Goose River Snagging and Clearing - Trail County
Harvey Dam Emergency Action Plan
Indian Creek Dam Emergency Action Plan
Lower Heart River Bank Stabilization - Mandan
Maple River Retention Study - Rush River Joint Board
McDowell Dam Emergency Action Plan
Mirror Lake Dam Safety Repair
Mirror Lake Pool Raise
Missouri River Emergency Bank Stabilization - Mandan
Mott Dam Emergency Action Plan
Nash Drain Extension
ND Water Resources Research Institute Fellowship Program
Oak Creek Bank Stabilization
Park River Snagging and Clearing - WCWRD
Pembina County Drain #11 Outlet Improvement
Pembina County Drain #42 Improvement and Reconstruction
Pembina River Bank Stabilization
Richland County Drain #2 Improvement and Reconstruction
Section 319 NPS Project
Sheyenne and Wild Rice Rivers Snagging and Clearing - Richland County
Sheyenne River Snagging and Clearing
Sheyenne River Snagging and Clearing - Richland County
Short Creek Dam Emergency Action Plan
Souris River Golf Course Bank Stabilization
Southeast Cass WRD Flood Imagery Project
Square Butte Dam #6 Emergency Action Plan
Sykeston Dam Emergency Action Plan
Tongue River Diversion Channel
Trail County Drain #19 Outlet
Trail County Drain #34 Improvement and Reconstruction
Trail County Drain #38 Reconstruction

**Table 2: Currently Active Projects & Funding  
2009-2011 Biennium**

PROJECT OR CATEGORY	BUDGET	SWC/SE APPROVED
Fargo Ridgewood Flood Ctrl	\$2,084,750	\$2,084,750
Fargo Metro Area Flood Ctrl	45,000,000	45,000,000
Fargo-Moorhead Metro Study	300,000	300,000
Grafton Flood Control	7,175,000	7,175,000
Irrigation Development	1,605,370	1,605,370
Lakota Water Supply	118,135	118,135
South Central Regional Water - Phase II	2,350,000	2,350,000
All Seasons Rural Water - Upham	128,000	128,000
North Central Rural Water - South Benson County	916,000	916,000
North Central Rural Water - Anamoose & Benedict	3,295,000	3,295,000
Trail Regional Water - Phase I	3,167,000	3,167,000
Trail Regional Water - Phase II	2,137,748	2,137,748
Trail Regional Water - Phase III	1,300,000	1,300,000
Washburn Water Supply	1,500,000	1,500,000
Parshall Water Supply	1,920,274	1,920,274
Ray & Tioga Water Supply	5,064,000	5,064,000
McKenzie Phase II	1,500,000	1,500,000
McKenzie Phase IV	3,500,000	3,500,000
Valley City Water Treatment Plant	9,200,000	9,200,000
City of Wildrose - Crosby Water Supply	1,863,000	1,863,000
Burke, Divide, Williams Water District	985,000	985,000
General Water Management	25,857,819	20,515,285
Missouri River Management	372,000	372,000
Baldhill Dam	92,832	92,832
Renwick Dam	1,478,190	1,478,190
Upper Maple River Dam	112,500	112,500
Red River Valley Water Supply	3,200,000	3,200,000
Devils Lake Basin Development	102,000	102,000
City of Devils Lake Dam	25,350,000	25,350,000
Devils Lake Outlet	16,661,325	16,661,325
Devils Lake Outlet Operations	3,000,000	3,000,000
Devils Lake Flooding - City of Minnewaukan	15,000	15,000
Devils Lake Flooding - Nelson County	636,064	636,064
Weather Modification	225,000	225,000
Southwest Pipeline Project	14,782,474	14,782,474
Northwest Area Water Supply	10,832,918	10,832,918
<b>Total Cost</b>	<b>197,827,399</b>	<b>192,484,865</b>

This table also represents the total 2009-2011 SWC project budget and what the SWC had approved for project funding halfway through the biennium. As the table suggests, the SWC had approved 97 percent of the project budget by June 30, 2009.

### Water Development Funding Needs, 2011-2013 Biennium

Table 3 contains projects that could move forward and request SWC cost share in the 2011-2013 biennium. This accounting of projects simply represents a non-prioritized list of needs as submitted by project sponsors. It does not guarantee, in any way, that all of the projects listed will receive funding.

The list is organized into nine categories based on SWC cost-share policies, including: snagging and clearing, flood control, rural flood control, multi-purpose, rural/regional water supply, municipal water supply, dam repair, irrigation, and studies/planning projects. The total financial need to implement all of the projects in the 2011-2013 inventory is over \$640 million. The state's share of that total is about \$417 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 2011-2013 totals do not account for projects that may not seek funding in the current 2009-2011 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 2011-2013

The potential funding reported by project sponsors beyond the 2011-2013 biennium, through 2017, exceeds a billion dollars in total project costs, with a large share attributed to water supply and flood control projects. Projects included in this timeframe were either identified by project sponsors to move ahead beyond June 30, 2013, or they were placed into a later timeframe by SWC staff based on their knowledge of the project.

Table 3: Water Development Needs in the 2011-2013 Biennium

#### Snagging & Clearing

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Barnes Water Resource District	Sheyenne River Snag and Clear	\$0	\$10,000	\$10,000	\$20,000
Burleigh Water Resource District	Missouri River Debris Removal	\$0	\$720,000	\$480,000	\$1,200,000
Grand Forks Water Resource District	Turtle River Snag and Clear	\$0	\$187,500	\$187,500	\$375,000
Hebron	Snag and Clear (small creek in town)	\$0	\$7,500	\$7,500	\$15,000
Mercer Water Resource District	Knife River Snag and Clear	\$0	\$73,000	\$73,000	\$146,000
Richland Water Resource District	Antelope Creek Snag and Clear	\$0	\$25,000	\$25,000	\$50,000
Richland Water Resource District	Wild Rice River Snag and Clear	\$0	\$50,000	\$50,000	\$100,000
Richland Water Resource District	Sheyenne River Snag and Clear	\$0	\$50,000	\$50,000	\$100,000
Southeast Cass Water Resource District	Sheyenne River Snag and Clear	\$0	\$250,000	\$250,000	\$500,000
Southeast Cass Water Resource District	Wild Rice River Snag and Clear	\$0	\$250,000	\$250,000	\$500,000
Trail Water Resource District	Elm River Snag and Clear	\$0	\$100,000	\$100,000	\$200,000
Trail Water Resource District	Goose River Snag and Clear	\$0	\$100,000	\$100,000	\$200,000
Trail Water Resource District	Buffalo Coulee Snag and Clear	\$0	\$100,000	\$100,000	\$200,000
Walsh Water Resource District	North Branch Lower Park River Snag and Clear	\$0	\$100,000	\$100,000	\$200,000
Ward Water Resource District	Puppy Dog Channel Clean-up Upst. US 52	\$0	\$75,000	\$75,000	\$150,000
Ward Water Resource District	Souris River Clean-up Burlington-Sawyer	\$0	\$150,000	\$150,000	\$300,000
<b>Snagging and Clearing Total</b>		<b>\$0</b>	<b>\$2,248,000</b>	<b>\$2,008,000</b>	<b>\$4,256,000</b>

## Flood Control

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Burleigh Water Resource District	Fox Island Flood Hazard Mitigation	\$0	\$56,250	\$68,750	\$125,000
Burleigh Water Resource District	Sunnyview Flood Control Diversion	\$0	\$33,750	\$41,250	\$75,000
Cavaller Water Resource District	Billings Lake Inlet Channel	\$0	\$90,000	\$60,000	\$150,000
Cavaller Water Resource District	Billings Lake Outlet Channel	\$0	\$90,000	\$60,000	\$150,000
Fargo	Fargo Flood Control	TBD	\$30,000,000	TBD	TBD
Maple River Water Resource District	Upper Maple River Dam	\$0	\$3,600,000	\$2,400,000	\$6,000,000
Marion	City of Marion Flood Control	\$0	\$9,000	\$6,000	\$15,000
Ransom Water Resource District	Lisbon Flood Control	\$0	\$3,000,000	\$2,000,000	\$5,000,000
Rush River Water Resource District	Amenia Flood Control	\$0	\$50,000	\$50,000	\$100,000
Southeast Cass Water Resource District	Wild Rice River Floodwater Retention	\$0	\$15,000,000	\$15,000,000	\$30,000,000
Southeast Cass Water Resource District	Farmstead Ring Dikes	\$0	\$300,000	\$200,000	\$500,000
Southeast Cass Water Resource District	Rural Residential Flood Control	\$0	\$600,000	\$400,000	\$1,000,000
Southeast Cass Water Resource District	Sheyenne Diversion	\$0	\$3,000,000	\$3,000,000	\$6,000,000
State of North Dakota	Devils Lake Outlet Operation	\$0	\$6,200,000	\$0	\$6,200,000
State of North Dakota	Devils Lake Flood Control	\$0	\$75,000,000	\$0	\$75,000,000
<b>Flood Control Total:</b>		<b>\$0</b>	<b>\$137,029,000</b>	<b>\$23,286,000</b>	<b>\$160,315,000</b>

TBD: TO BE DETERMINED

## Rural Flood Control

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Cavaller Water Resource District	Mulberry Creek Phase III	\$0	\$112,500	\$137,500	\$250,000
Cavaller Water Resource District	Mulberry Creek Phase IV	\$0	\$112,500	\$137,500	\$250,000
Cavaller Water Resource District	Hay Drain #1	\$0	\$67,500	\$82,500	\$150,000
Cavaller Water Resource District	Cypress Creek Drain #1	\$0	\$90,000	\$110,000	\$200,000
Cavaller Water Resource District	Edmore #4	\$0	\$90,000	\$110,000	\$200,000
Grand Forks Water Resource District	Drain #9 Channel Improvement	\$0	\$157,500	\$192,500	\$350,000
Grand Forks Water Resource District	Hazenbrook Channel & Erosion Control	\$0	\$900,000	\$1,100,000	\$2,000,000
Grand Forks Water Resource District	Cole Creek Channelization	\$0	\$171,000	\$209,000	\$380,000
Maple River Water Resource District	Cass County Drain #14	\$0	\$45,000	\$55,000	\$100,000
Maple River Water Resource District	Cass County Drain #15 Extension	\$0	\$180,000	\$220,000	\$400,000
Maple River Water Resource District	Cass County Drain #34	\$0	\$45,000	\$55,000	\$100,000
Maple River Water Resource District	Cass County Drain #37	\$0	\$45,000	\$55,000	\$100,000
Maple River Water Resource District	Swan Creek Channel	\$0	\$45,000	\$55,000	\$100,000
North Cass Water Resource District	Cass County Drain #13 Reconstruction	\$0	\$450,000	\$550,000	\$1,000,000
North Cass Water Resource District	Cass County Drain #23 Reconstruction	\$0	\$270,000	\$330,000	\$600,000
North Cass Water Resource District	Cass County Drain #25 Reconstruction	\$0	\$405,000	\$495,000	\$900,000
North Cass Water Resource District	Cass County Drain #26 Reconstruction	\$0	\$450,000	\$550,000	\$1,000,000
North Cass Water Resource District	Cass County Drain #55 Outlet Improvement	\$0	\$225,000	\$275,000	\$500,000
Pembina Water Resource District	Pembina County Drain #73	\$0	\$337,500	\$412,500	\$750,000
Pembina Water Resource District	Pembina County Drain #64 Outlet Recon.	\$0	\$45,000	\$55,000	\$100,000
Pembina Water Resource District	Pembina County Drain #13 Extension	\$0	\$180,000	\$220,000	\$400,000
Pembina Water Resource District	Pembina County Drain #55	\$0	\$90,000	\$110,000	\$200,000
Richland Water Resource District	Richland Drain #2 Partial Reconstruction	\$0	\$450,000	\$550,000	\$1,000,000
Richland-Sargent Water Resource District	Richland-Sargent Drain #1	\$0	\$225,000	\$275,000	\$500,000
Rush River Water Resource District	Rush River Reconstruction	\$0	\$450,000	\$550,000	\$1,000,000
Southeast Cass Water Resource District	Cass County Drain #21	\$0	\$360,000	\$440,000	\$800,000
Southeast Cass Water Resource District	Cass County Drain #53	\$0	\$450,000	\$550,000	\$1,000,000
Trail Water Resource District	Stavanger-Belmont Drain #52 Improvement	\$0	\$1,350,000	\$1,650,000	\$3,000,000
Trail Water Resource District	Moen Drain #27 Improvements	\$0	\$1,440,000	\$1,760,000	\$3,200,000
Trail Water Resource District	Murray Drain #17 Improvements	\$0	\$945,000	\$1,155,000	\$2,100,000
Trail Water Resource District	Nelson Drain #28 Improvements	\$0	\$270,000	\$330,000	\$600,000
Trail Water Resource District	Hillsboro Drain #25 Improvements	\$0	\$112,500	\$137,500	\$250,000
Trail Water Resource District	Mergenthal Drain #5 Improvements	\$0	\$112,500	\$137,500	\$250,000
Walsh Water Resource District	Drain #25 Diversion	\$0	\$45,000	\$55,000	\$100,000
Walsh Water Resource District	Walsh County Drain #67A	\$0	\$450,000	\$550,000	\$1,000,000
Walsh Water Resource District	Drain #70 Construction	\$0	\$112,500	\$137,500	\$250,000
Walsh Water Resource District	Walsh Drain #71	\$0	\$78,750	\$96,250	\$175,000
Walsh Water Resource District	Walsh Drain #72	\$0	\$45,000	\$55,000	\$100,000
Walsh Water Resource District	Miller Drain	\$0	\$45,000	\$55,000	\$100,000
Walsh Water Resource District	Schildberger Drain	\$0	\$135,000	\$165,000	\$300,000
Walsh Water Resource District	Walsh Drain #74	\$0	\$45,000	\$55,000	\$100,000
<b>Rural Flood Control Total:</b>		<b>\$0</b>	<b>\$11,634,750</b>	<b>\$14,220,250</b>	<b>\$25,855,000</b>

### Municipal Water Supply

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Davenport	New Water Reservoir	\$0	\$255,000	\$85,000	\$340,000
Drayton	WTP Advanced Treatment	\$0	\$281,250	\$93,750	\$375,000
Drayton	WTP Clearwell Improvements	\$0	\$694,000	\$231,000	\$925,000
Enderlin	Water System Improvement	\$0	\$11,062,500	\$3,687,500	\$14,750,000
Fargo	Distribution System Flow Control Imp.	\$0	\$0	\$600,000	\$600,000
Fargo	Meter Reading Improvements	\$0	\$1,875,000	\$625,000	\$2,500,000
Fargo	Water Towers	\$0	\$0	\$4,300,000	\$4,300,000
Fargo	Sulfate Treatment Plant	\$0	\$15,000,000	\$15,000,000	\$30,000,000
Fargo	WTP Control System Upgrade	\$0	\$562,000	\$188,000	\$750,000
Fargo	WTP Planning Phases I & II	\$275,000	\$562,500	\$187,500	\$1,025,000
Fargo	Existing WTP Upgrade and Expansion	\$0	\$0	\$33,100,000	\$33,100,000
Grafton	WTP Improvements	\$1,700,000	\$1,700,000	\$570,000	\$3,970,000
Grand Forks	WTP Pilot Testing, Prelim. Eng., Desiqn	\$3,226,234	\$1,726,234	\$3,094,042	\$8,046,510
Killdeer	WTP Rehabilitation	\$0	\$787,500	\$262,500	\$1,050,000
Leonard	Cass Rural Water Connection	\$0	\$990,000	\$2,310,000	\$3,300,000
Mandan	Raw Water Intake	\$1,600,000	\$0	\$0	\$1,600,000
Mandan	Southside Pump Station and Line	\$0	\$900,000	\$300,000	\$1,200,000
Max	Water Tower Rehab.	\$0	\$149,390	\$149,390	\$298,780
Park River	Distribution Improvements	\$1,575,000	\$1,690,000	\$560,000	\$3,825,000
Upham	Water Tower Rehabilitation	\$0	\$75,000	\$25,000	\$100,000
West Fargo	Well Study	\$0	\$2,250,000	\$750,000	\$3,000,000
<b>Municipal Water Supply Total</b>		<b>\$8,376,234</b>	<b>\$40,560,374</b>	<b>\$66,118,682</b>	<b>\$119,055,290</b>

### Dam Repair

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Barnes Water Resource District	Thoreson Wildlife Dam	\$50,000	\$10,000	\$10,000	\$70,000
Pembina Water Resource District	Senator Young Dam Repair	\$0	\$48,750	\$26,250	\$75,000
Sargent Water Resource District	Silver Lake Dam Repair	\$0	\$325,000	\$175,000	\$500,000
Sargent Water Resource District	Brummond Lake Dam Repair	\$0	\$130,000	\$70,000	\$200,000
Sargent Water Resource District	Frenier Dam Repair	\$0	\$130,000	\$70,000	\$200,000
Sargent Water Resource District	Nelson Dam Repair	\$0	\$130,000	\$70,000	\$200,000
Trall Water Resource District	Elm River Dam Repair	\$0	\$325,000	\$175,000	\$500,000
Walsh Water Resource District	Matejcek Dam Repair	\$0	\$650,000	\$350,000	\$1,000,000
Walsh Water Resource District	Bylin Dam Repair	\$0	\$650,000	\$350,000	\$1,000,000
<b>Dam Repairs Total</b>		<b>\$50,000</b>	<b>\$2,398,750</b>	<b>\$1,296,250</b>	<b>\$3,745,000</b>

### Irrigation

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Multi-county	Irrigation Development	\$0	\$5,000,000	\$5,000,000	\$10,000,000
<b>Irrigation Total</b>		<b>\$0</b>	<b>\$5,000,000</b>	<b>\$5,000,000</b>	<b>\$10,000,000</b>

### Studies/Planning

Local Sponsor	Project Name	Federal 2011-2013	State 2011-2013	Local 2011-2013	Total 2011-2013
Burleigh Water Resource District	Missouri River Evaluations Study	\$0	\$1,054,350	\$591,350	\$1,645,700
Fargo	Water Treatment Facility Planning	\$0	\$0	\$500,000	\$500,000
Maple River Water Resource District	Swan Creek Dam Study	\$0	\$100,000	\$100,000	\$200,000
Maple River Water Resource District	Minnie Lake Watershed Dam Study	\$0	\$100,000	\$100,000	\$200,000
Mercer Water Resource District	Knife River Section 22 Study	\$50,000	\$25,000	\$25,000	\$100,000
Rush River Water Resource District	Rush River Water Retention Study	\$0	\$150,000	\$150,000	\$300,000
Southeast Cass Water Resource District	Sheyenne Watershed Study	\$0	\$75,000	\$75,000	\$150,000
Southeast Cass Water Resource District	Feasibility Studies	\$0	\$125,000	\$125,000	\$250,000
Ward Water Resource District	Drainage Analysis of Coulees in Section 30	\$0	\$250,000	\$250,000	\$500,000
Ward Water Resource District	Flaten Coulee Detention	\$0	\$62,500	\$62,500	\$125,000
<b>Studies &amp; Planning Total</b>		<b>\$50,000</b>	<b>\$1,941,850</b>	<b>\$1,978,850</b>	<b>\$3,970,700</b>



Table 3 Cont.: Summary of Water Development Needs, 2011-2013

PROJECT CATEGORY	FEDERAL COST	STATE COST	LOCAL COST	TOTAL COST
Snagging & Clearing	\$ 0	\$ 2,248,000	\$ 2,008,000	\$ 4,256,000
Flood Control	0	137,029,000	23,286,000	160,315,000
Rural Flood Control	0	11,634,750	14,220,250	25,855,000
Multi-Purpose	1,500,000	1,400,000	3,000,000	5,900,000
Rural/Regional Water Supply	10,975,000	215,229,829	85,567,803	311,772,632
Municipal Water Supply	8,376,234	40,560,374	66,118,682	115,055,290
Dam Repair	50,000	2,398,750	1,296,250	3,745,000
Irrigation	0	5,000,000	5,000,000	10,000,000
Studies/Planning	50,000	1,941,850	1,978,850	3,970,700
<b>TOTAL</b>	<b>\$ 20,951,234</b>	<b>\$ 417,442,553</b>	<b>\$ 202,475,835</b>	<b>\$ 640,869,622</b>

# Water Project Funding

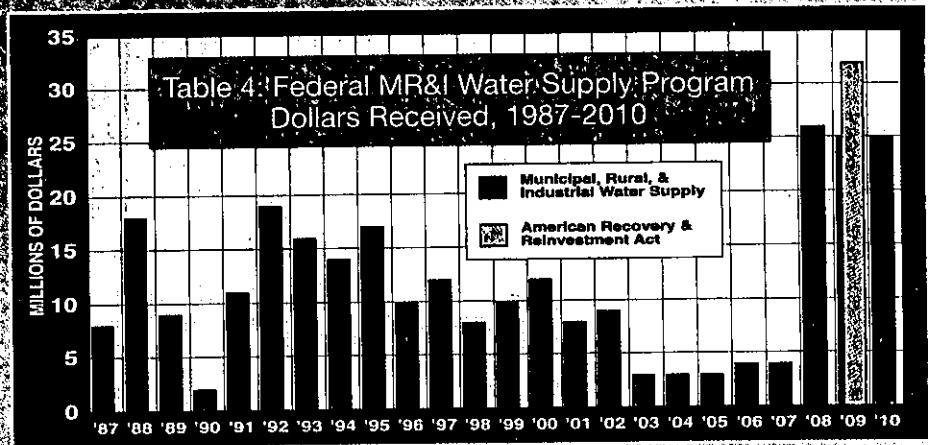
North Dakota funds a majority of its water projects through the SWC. Funding that is funneled through the SWC for water development has come from several sources, including: the state's General Fund; the Dakota Water Resources Act; the Municipal, Rural, and Industrial (MR&I) Water Supply Program; the 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 \$152 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 Con-



gress though the 1986 Garrison Diversion Unit Reformulation Act. The program is jointly administered by the Garrison Diversion Conservancy District, and the Commission.

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. 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. 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.

Annual MR&I funding is dependent upon U.S. Congressional appropriation, and thus, varying annual appropriations result in project delays. As of October 2010, \$318 million in federal funds had been approved for North Dakota's MR&I program with \$83 million for Federal Fiscal Years 2009 and 2010 (Table 4).

## 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 2011 Water Development Report, satisfies that requirement for requesting funding from the RTF for the 2011-2013 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 the Legislature to be used for water-related projects and energy conservation. The SWC budgets 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 2009-2011 biennium are expected to total \$135.7 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 December 2010 forecast of \$199.8 million for

the 2011-2013 biennium from oil extraction.

Additional new revenue into the RTF will come from Southwest Pipeline Project 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 December 2010 projections, RTF revenue available for water development during the 2011-2013 biennium could be \$204.4 million (Table 5).

## 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 2009-2011 biennium are expected to total about \$19.6 million. The Office of Management and Budget estimates revenues of \$20.6 million for the 2011-2013 biennium (Table 6).

The passage of Measure 3 in 2008 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

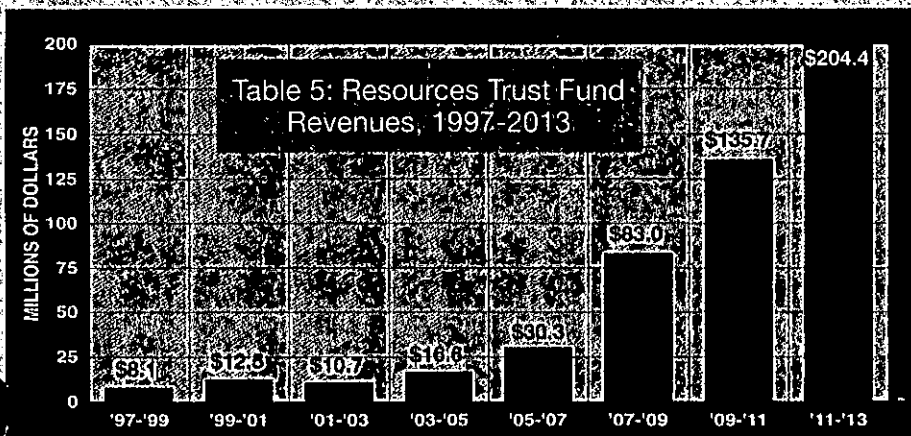
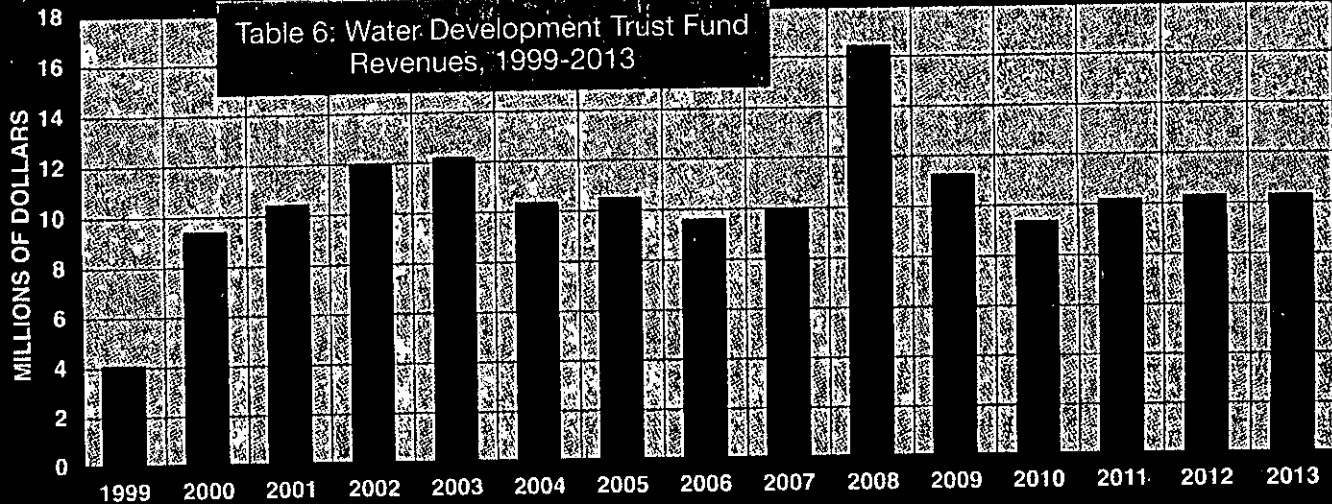


Table 6: Water Development Trust Fund Revenues, 1999-2013



that will be used for the tobacco prevention program. And, reductions in revenue into the Water Development Trust Fund from Measure 3 have been factored into the above projections.

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, 2010, the Commission has outstanding bonds totaling \$20.9 million for the Southwest Pipeline project. There are no outstanding bonds for the Northwest Area Water Supply 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, 2010, the Commission has outstanding bonds totaling \$78.6 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 2011-2013 biennium, however funds must be available to make the August 1, 2013, payment. 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 \$7 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 (DWS-RLF). Funding is distributed in the form of a loan program through the Environmental Protection Agency and administered by the Department of Health. The DWS-RLF 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 DWSRLF 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 2010 comprehensive project priority list includes 173 projects with a cumulative total project funding need of \$387 million. The funded list of 146 projects includes \$280 million in loans from federal grants of \$135 million for fiscal years 1997 through 2010. Available funding for the DWSRLF program for 2011 is anticipated to be approximately \$15 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 and water supply projects. The Environmental Protection Agency, U.S. Bureau of Reclamation (BOR), U.S. Geological Survey, U.S. Army Corps of Engineers, and the Natural Resources Conservation Service also contribute to the state's water development efforts in many different ways, including studies, project design, and construction.

# Funding Priorities for the 2011-2013 Biennium

**T**his section discusses the state's priority water development efforts

and funding for the 2011-2013 biennium. It includes one course of action for water development in North Dakota that is subject to change during the 62nd Legislative Assembly and the biennium.

The Water Commission's prioritized water development funding needs are listed by project or project category in Table 7, and they are summarized hereafter.

### Devils Lake

The state's Devils Lake outlet was initially completed in

Table 7: Water Development Priorities 2011-2013 Biennium

PRIORITY PROJECTS	2011-2013 FUNDING (MILLIONS)
Devils Lake Outlet	\$ 75.0
Devils Lake Downstream Impacts	15.0
Fargo Flood Control	30.0
General Water Management	26.0
Irrigation	5.0
Missouri River Management	1.0
Northwest Area Water Supply	12.0
Red River Valley Water Supply	5.0
Southwest Pipeline Project	25.0
Water Supply Program	15.0
Weather Modification	1.0
Western Area Water Supply	25.0
<b>TOTAL</b>	<b>\$ 235.0</b>

2005 with an operational capacity of 100 cubic feet per second (cfs). In the summer of 2010, an expansion was completed, increasing the outlet's capacity to 250 cfs.

In addition to the state's existing outlet on the west end of Devils Lake, the SWC budget includes \$75 million to move forward on a 250 cfs east end outlet option that would take water from East Devils Lake—likely near the Jerusalem Channel. Water would then travel via channel (circumventing Stump Lake because of water quality issues), and connect to the Toina Coulee, and ultimately empty into the Sheyenne River.

With the state's current 250 cfs west end outlet, and the proposed 250 cfs east end outlet, it is possible that the state could be releasing up to 500 cfs via outlets from the lake in the coming years.

In consideration of potential negative downstream impacts from outlet operations, \$15 million has been budgeted to address those issues.

### Fargo Flood Control

After narrowly escaping extensive damages during the major floods of 1997, 2009, and 2010, the city of Fargo and Cass County have been working diligently toward the development of permanent flood control projects that would protect Fargo and the greater metro area from future flood events.

Initially, the project that the city of Fargo pursued following the 1997 flood was the Southside Red River Wild Rice River Levee Alternative, which was primarily designed to protect areas in south Fargo.

After the flood of 2009, it became apparent that a larger-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the U.S. Army Corps of Engineers, Fargo-Moorhead (MN), Cass County, and Clay County (MN) have been jointly working toward the completion of a study that assesses potential measures to reduce the entire metro area's flood risk. The two primary projects that are being evaluated are a 35,000 cfs diversion channel through North Dakota, and a 35,000 cfs diversion channel through Minnesota. The preferred alternative of local project sponsors is the North Dakota diversion.

According to the U.S. Army Corps' Draft Feasibility Report, the locally preferred plan would be a 36-mile long diversion channel that would start about four miles south of the confluence of the Red and Wild Rice Rivers and would re-enter the Red River north of the confluence of the Red and Sheyenne Rivers. This plan could incorporate the existing Horace to West Fargo Sheyenne River diversion channel, though discussion is still ongoing, and it includes 18 highway bridges, four railroad bridges, and would have a construction footprint of 6,560 acres.

The estimated cost of the North Dakota diversion is \$1.46 billion, with a non-federal share of \$564 million. The state is setting aside \$30 million in the 2011-2013 biennium, in addition to \$45 million from the previous biennium, to cover a portion of North Dakota's non-federal share of the project.

### 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. In many cases, these dams are in serious disrepair.

The \$26 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 2011-2013 biennium, including some dam repairs.

### Irrigation

Irrigation efforts planned for the 2011-2013 biennium include a project at Oakes to construct an open conveyance system for the Dickey-Sargent Irrigation District, and 5,000 acres of irrigation development in the McClusky Canal area. In support of these and other irrigation priorities, \$5 million has been budgeted for them.

### Missouri River Management

The \$1 million budgeted for Missouri River management project efforts will go toward the implementation of various projects that may result from several ongoing U.S. Army Corps of Engineers studies.

### 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 SWC began construction on the NAWS project in April 2002. The first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot - that also serves North Prairie Water District. NAWS is getting an interim water supply through a ten-year contract with Minot, which expires in 2018.

State funding of \$12 million for the NAWS project will go toward completion of the pipeline project to Mohall, Sherwood, and All Seasons Water District, completion of the pipeline from Minot to the Air

Force base and continuing to Upper  
Souris District and Glenburn; assis-  
tance to the BOR with preparation  
of a supplemental EIS to address  
the court's May 2009 order, and  
any necessary court filings.

### Red River Valley Water Supply

With most of the Red River Val-  
ley'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 Gar-  
rison 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  
\$5 million during the 2011-2013 bi-  
ennium to advance elements of this  
critical water development effort  
when they are ready to proceed.

### Southwest Pipeline

The Southwest Pipeline Project is a  
regional water supply system that  
draws water from Lake Sakakawea

and serves over 35,000 people in  
southwest North Dakota, includ-  
ing 28 communities, and about  
4,000 rural hookups – with plans  
to expand.

The \$25 million budgeted for the  
Southwest Pipeline will be used  
to complete the Oliver, Mercer,  
North Dunn Water Treatment  
Plant, construct main transmission  
facilities in the Zap and Center  
Service Areas, construct the Zap  
Service Area rural distribution  
pipeline, design and bid the Cen-  
ter Service Area rural distribution  
pipeline, and begin construction  
on the transmission facilities in the  
Dunn Service Area.

### Water Supply Program

Because of the state's Water  
Supply Program, regional and  
rural water supply systems have  
continued to expand across the  
state, whether federal funding was  
available or not. The \$15 million  
that is currently budgeted for  
water supply could be used to-  
ward a number of projects across  
North Dakota. However, until the  
amount of federal funding avail-  
able for water supply projects is  
more clearly known, state com-  
mitments for the advancement  
of these projects may vary in  
response.

### Weather Modification

State funding in the amount of \$1  
million is budgeted for operational  
cloud seeding costs with counties  
participating in the North Dakota  
Cloud Modification Project. The  
Atmospheric Resources Board  
currently cost-shares approxi-  
mately 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 2011-  
2013 biennium.

### Western Area Water Supply

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 – both for  
drilling processes, and a growing  
workforce.

Even with current drilling activity  
in that region, existing water sup-  
plies are being stretched to their  
limits. And, with future drilling  
expected to expand substantially  
in the coming years, the strain on  
water supplies is only expected to  
intensify. This is particularly true  
of areas that are relying heavily on  
groundwater resources. For that  
reason, development of water sup-  
ply systems that utilize abundant  
Missouri River water have become  
a priority in the region.

The Western Area Water Supply  
project has involved a collab-  
orative effort between the city of  
Williston, Williams Rural Water  
District, McKenzie Water Resource  
District, and R&T Water Supply  
Association (including the com-  
munities of Ray, Tioga, and Stan-  
ley). The focus of this collabora-  
tive effort has been to develop a  
regional water supply system that  
will deliver Missouri River water  
from the Williston Regional Water  
Treatment plant to areas through-  
out the northwest, oil producing  
region of the state.

The total estimated cost of the  
project is approximately \$150 mil-  
lion, with \$25 million budgeted as  
a grant from the state, through the  
Water Commission. The remain-  
ing balance will come from local  
project sponsors – likely through  
bond proceeds.

SB 2020  
Water Commission  
attachment # 3  
3/17/11



North Dakota  
State Water Commission  
and  
Office of the State Engineer



*Strategic Plan*

2011 - 2013

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(Total Full-Time Employees\* ..... 87)

*\*Full-Time Employees (FTEs) have been provided to illustrate relative time and resources devoted to projects/programs.*





A message from the State Engineer:

Once again, we are proud to present the North Dakota State Water Commission and Office of the State Engineer's latest 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 2009.

As in the past, the primary purpose of our 2011-2013 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,

Todd Sando, 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.



## 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.

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.

## MISSION

## 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

NORTH DAKOTA LEGISLATURE

STATE WATER COMMISSION  
 Governor - Chairman  
 7 appointed members  
 Agriculture Commissioner  
 NDCC 61-02

State Engineer  
**Todd Sando (328-4940)**  
 NDCC 61-03

Assistant State Engineer  
**Vacant (328-2752)**

Chief Engineer and  
 Secretary to Water Commission  
**Todd Sando (328-4940)**

Administrative Staff Officer  
**Sharon Locken**

Information Technology  
**Chris Bader**  
 FTE: 4

DIVISION

DIVISION

DIVISION

DIVISION

DIVISION

ADMINISTRATIVE SERVICES  
**Dave Laschkewitsch**  
 (328-1956)  
 •General Support  
 •Legal  
 •Accounting  
 •Human Resources  
 FTE: 5

ATMOSPHERIC RESOURCES  
**Darin Langerud**  
 (328-2788)  
 •Cloud Modification Project  
 •Weather Research and Data Collection  
 •License and Permits  
 FTE: 4

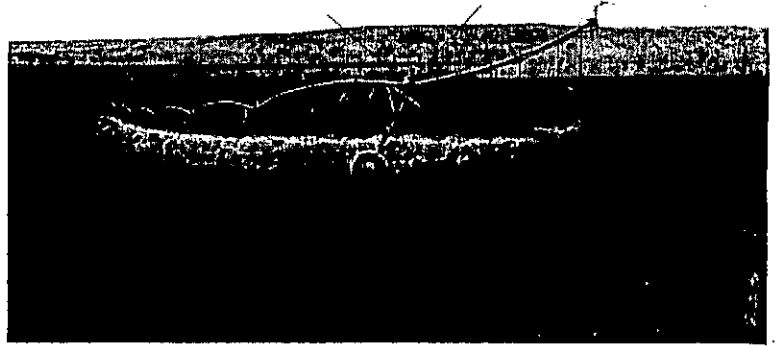
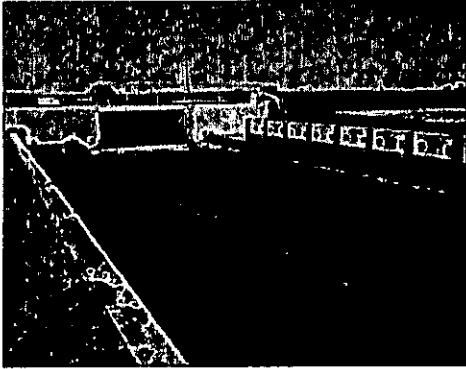
PLANNING AND EDUCATION  
**LeRoy Klapprodt**  
 (328-4989)  
 •Long-Range State Water Plan  
 •Regional Coord.  
 •Public Education  
 •Special Studies  
 FTE: 8

WATER APPROPRIATION  
**Robert Shaver**  
 (328-2754)  
 •Water Rights  
 •Water Resource Studies  
 •Water Permits  
 •Hydrologic Data  
 FTE: 23

WATER DEVELOPMENT  
**Vacant**  
 (328-2752)  
 •Project Engineering  
 •Construction Operations  
 •Permits  
 •MR&I Program  
 •Southwest Pipeline  
 •NAWS  
 •Red River Office  
 FTE: 41

TOTAL FULL TIME EQUIVALENTS OF 87 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

### Atmospheric Research & Development Program

### 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

*Vacant*

- 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
- Silver Jackets Program
- Southwest Pipeline Project

## Planning & Education

*Lee Klapprodt, Director*

- State Water Management Plan
- Water Education for Teachers
- Watershed Plan Coordination

## 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 State Engineer and State Water Commission's operations, as well as accounting, information technology (IT), human resources, records management, legal support, and support services for all agency projects and programs.

## Administration & Support Services

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 financial records, preparation of financial statements and reports, project and program cost accounting, preparation of budgets, responding to audit requests and recommenda-

tions, and proper control of various funds appropriated by the Legislature.

Human Resources works as a business partner with and for the divisions of the State Water Commission 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 supports general agency business operations in areas related to work-flow management and office automation. Information Technology 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	Aug. 2012
Coordinate the timing of agency bonding	As needed
Coordinate development of agency testimony for legislative appropriations hearings	Dec. 2012
Maintain accounting records, and provide information technology and records management services	Ongoing
Bill federal, state, and local entities for their share of project costs	Ongoing
Provide legal support, including research and contract development	Ongoing
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 and technology services that support agency projects and programs.

## 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.

## 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. Since that time, participation has ranged between 700 and 1,000 observers annually, making it one of the highest density precipitation observation networks in the U.S. In all, more than 3,000,000 daily precipitation observations, and nearly 12,000 hail observations have been reported.

# ARB Cooperative Observer Network

## Action Plan:

### TASKS

### TARGET DATES

Manage the program for daily observation of rainfall, hail, and snow, including data entry, quality control, and GIS mapping	Ongoing
Produce growing-season map products and manage volunteer renewal for following years	Fall, annually
Recruit new volunteers	Spring, annually
Send reporting instructions, reporting cards, and rain gauges for reporting seasons	March 2012 and 2013
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.
- Expand 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, seven field research programs have been conducted in the state, most recently through focused campaigns in 2006, 2008, and 2010. 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.

# ARB Cooperative Research 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.

## Assumptions and Obstacles:

Funding is the primary obstacle for the Cooperative Research Program. A multi-state effort is underway through the North American Weather Modification Council to secure federal funding through an authorized program.

## Action Plan:

### TASKS

### TARGET DATES

Work with the North American Weather Modification Council and Weather Modification Association to establish a federally-funded research program

Ongoing

Continue the Polarimetric Cloud Analysis and Seeding Test (POLCAST) hygroscopic seeding research program

Summer 2012





### 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 these 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.

### 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.

# Community Water Supply Studies

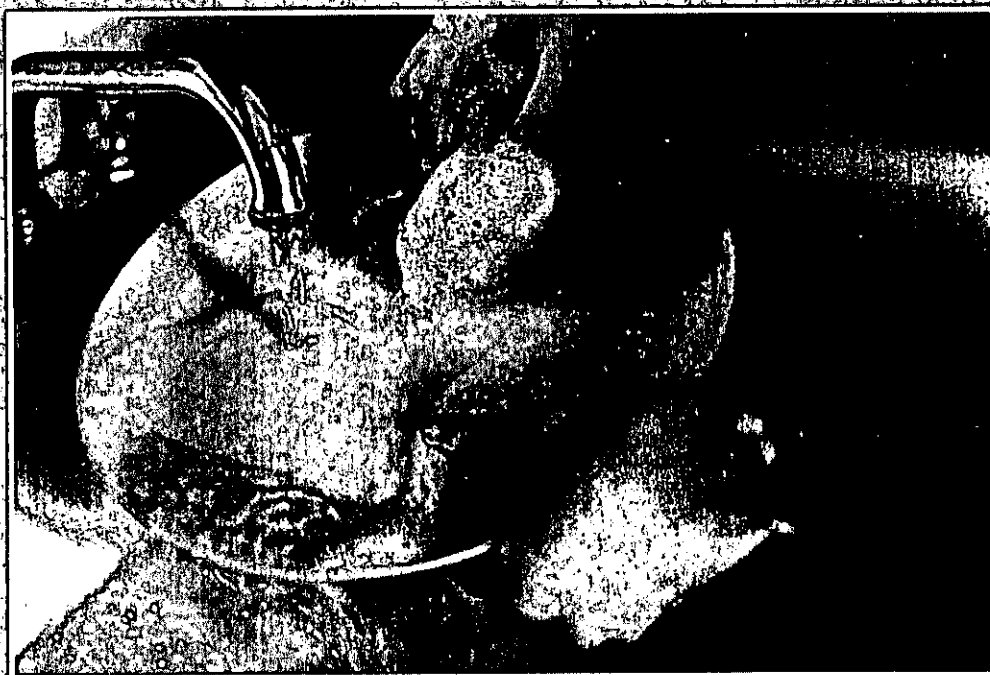
### Action Plan:

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.

## 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 goals of the SWC, and the needs of our constituents.

# Cost-Share Program

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: drainage and diversion channels, ring dikes, water supply pipelines, engineering and other studies, miscellaneous education and research projects, emergency action plans, imagery acquisition, dam safety recon-

structions, recreation-based lake facilities, dikes, levees, woody debris snagging and clearing, non-point source pollution, central irrigation system supply lines, rip-rap bank stabilizations, dam removals, 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, insurance and indemnification requirements, and other terms as applicable. Request for payments are processed per the terms of the agreement. At the discretion of the SWC, projects are reviewed and/or inspected upon 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

## Program Objective:

- To financially assist federal and state agencies and political subdivisions with eligible projects categorized as rural flood control, water supply, flood control, dam safety, recreation, snagging and clearing, studies, irrigation, bank stabilization, dam removal/breach, and technical assistance

## 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.

## Action Plan:

TASKS	TARGET DATES
Review approximately 65-75 cost-share inquiries/applications for cost-share eligibility and assistance	June 30, annually
Present 45-55 cost-share proposals for approval and authorization by SWC	June 30, annually
Develop agreements/contracts for 60-70 approved and authorized projects	June 30, annually
Process requests for payment, monitor agreement/contract compliance, and review and inspect work for approximately 90 active projects	June 30, annually

## 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, 144 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.

# Dam Safety Program

## 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.
- Encourage the development of emergency action plans (EAPs) for dams.

## Assumptions and Obstacles:

- Federal funding through the National Dam Safety Program is used to improve the dam safety program by providing annual funding for training, equipment, salary for one part-time position, and funding for other projects such as the development of EAPs.

## Action Plan:

TASKS	TARGET DATES
Conduct partial inspections of 144 dams each spring	June 30, annually
Conduct full periodic inspections of an average of 21 dams per year	Oct. 31, annually
Report findings and recommendations from the full periodic inspections to dam owners	May 1, annually
Maintain and update North Dakota's dam inventory	Ongoing
Submit data to the National Inventory of Dams	As requested
Assist dam owners with developing EAPs, and review and approve EAPs as they are submitted	Ongoing
Manage federal grant funds used for the development of EAPs as a supplement to the state cost-share program	Ongoing

## 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. 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.

# Design and Construction

## 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.

## 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 opportunities.
- Work with the U.S. Geological Survey to maintain the network of stream gauges throughout the state, thereby ensuring reliable data necessary for managing North Dakota's water resources.

## Assumptions and Obstacles:

Weather is the primary obstacle for timely completion of annual construction and repair efforts.

## 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 efforts with the U.S. Geological Survey

Summer, annually

Conduct general construction projects

Summer, annually



## Project Overview:

Since 1993, Devils Lake has risen about 30 feet. The lake reached a record elevation of 1452 in June of this year and covers over 180,000 acres. The state's approach to solving the flooding problems in the Devils Lake region has involved 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. The state completed an emergency outlet to the Sheyenne River in 2005 that was sized for a maximum discharge of 100 cubic feet per second (cfs), and in the spring of 2010, increased the capacity to 250 cfs. Since the outlet has been in operation it has removed over 50,000 acre-feet of water from the lake.

Regarding the infrastructure portion of the three-pronged approach, the city of Devils Lake continues to face a threat from the swelling lake. The city is working with the U.S. Army Corps, the SWC, and other state and federal agencies to raise the embankment protecting the city.

The city of Minnewaukan is also under threat from the lake, but no final decisions have been made regarding protection alternatives.

## Agency Goal Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota.

## 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 outlet.

## Assumptions and Obstacles:

Water quality constraints on the Sheyenne River have limited outlet operation and will need to be increased in order to remove additional water from the lake.

*For a map of North Dakota's Devils Lake outlet project, see the Appendix.*

# Devils Lake Flood Control



## Action Plan:

TASKS	TARGET DATES
Maintain and operate the Devils Lake Outlet	Ongoing
Develop discharge monitoring reports for outlet operation	As needed
Work with local and federal entities to remove additional water from the lake	Ongoing

# 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 Map Modernization (and its successor program, Risk Map).

The Federal Emergency Management Agency (FEMA) provides funding to states for their role in the Community Assistance Program (CAP) and Map Modernization (and its successor program, Risk Map).

## 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 Modernization and its successor program, Risk Map.

## Assumptions and Obstacles:

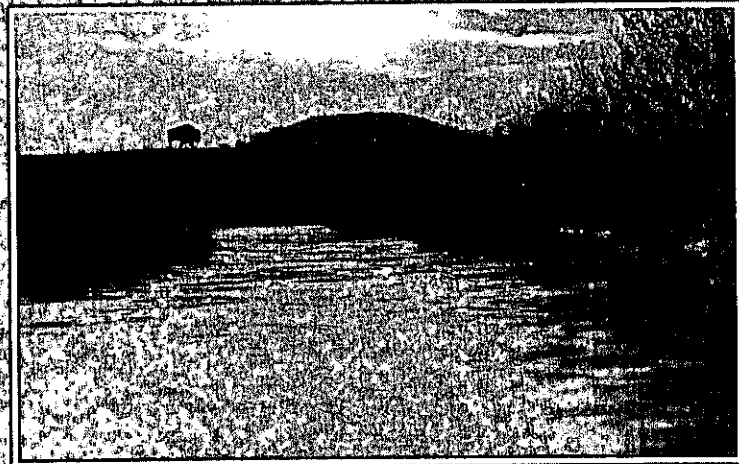
Successful management of the state's floodplain areas will continue to require active participation and involvement of local communities.

## Action Plan:

### TASKS

### TARGET DATES

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 and participate in related training workshops under CAP	Sept. 30 annually
Promote the availability of mapping products produced as part of Map Modernization and its successor program, Risk Map	Sept. 30 annually
Conduct floodplain determinations for the Bank of North Dakota	Quarterly



## 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.

# Investigations

## Action Plan:

### TASKS

Provide technical reviews of Missouri River management issues, especially the Missouri River Authorized Purposes Study

Manage government survey information

Conduct water resource investigations

Provide technical support in response to flooding and other disasters

Review proposals for modifications of regulatory floodways

### TARGET DATES

As needed

Ongoing

As needed

As needed

As needed

## 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.

## Program Objectives:

- Conduct 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 throughout the state (especially in the Devils Lake basin) 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.

## Program Overview:

The Municipal, Rural, and Industrial (MR&I) water supply program is one source of federal funding used for public water systems. 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 and the state has received \$111 million. Funding used for the MR&I program is provided through the U.S. Bureau of Reclamation (USBOR). 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.

# Municipal, Rural, & Industrial Water Supply Program

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 200,000 people in 319 cities, 64 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.

## 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 Regional Water Systems, see the Appendix.*

## 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 appropriations	Ongoing
Coordinate with the Garrison Diversion Conservancy District in the prioritization and allocation of MR&I funds	Ongoing

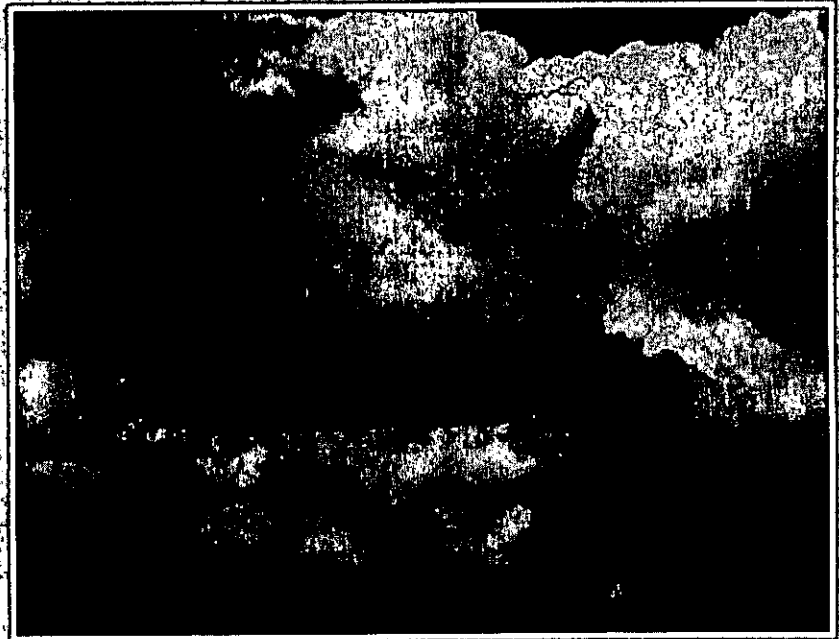


# North Dakota Cloud Modification Project

## 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, employing contractors that 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, and increases rainfall between 5 and 10 percent. A 2009 economic study estimates the NDCMP increases the value of agricultural production by \$12 million to \$19.7 million annually.

## Action Plan:

TASKS	TARGET DATES
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

## Agency Goal Satisfied:

- To manage water resources for the future welfare and prosperity of the people of North Dakota

## Project Objectives:

- Reduce hail damages in the NDCMP target area
- Enhance summer rainfall from thunderstorms in the NDCMP target area

## 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.*

## 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 ..." NDCC 61-24.6 authorizes the SWC to construct, operate, and manage a project to deliver water throughout northwestern North Dakota.

# Northwest Area Water Supply

The SWC began construction on the Northwest Area Water Supply (NAWS) project in April 2002. The first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare,

Burlington, West River Water District, Upper Souris Water District, Mohall, Sherwood, All Seasons Water District, and Minot - that also serves North Prairie Water District. NAWS is getting interim water supply through a ten-year contract with Minot, which expires in 2018.

In 2002, a lawsuit was filed by Manitoba, primarily arguing that NAWS could increase the risk of transferring non-native biota between the Missouri River and Hudson Bay drainage basins. In 2009, Missouri filed against the USBOR and the Corps of Engineers, primarily arguing NAWS would negatively affect depletions of the Missouri River. The Missouri filings were ultimately combined with Manitoba's. Various elements of project construction have been allowed to proceed by court order, despite the pending lawsuit. The Court found that the EIS completed in 2009 was not adequate and needed to address impacts to Canada and Missouri River depletions. Scoping for a Supplemental EIS to address the Court's May 2009 order were started in July 2010. When completed, the project is designed to provide up to 26 million gallons of Missouri River water per day to tens of thousands citizens in northwest North Dakota.

## 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 Supplemental EIS in the fall of 2012, and decisions on the level of treatment greatly affect funding needs, and design and construction schedules.
- If Minot's aquifers continue to decline, and progress is not made in getting the needed water supply from Sakakawea, then the existing communities and rural water systems will need to return to their inadequate ground water supplies.

## Action Plan:

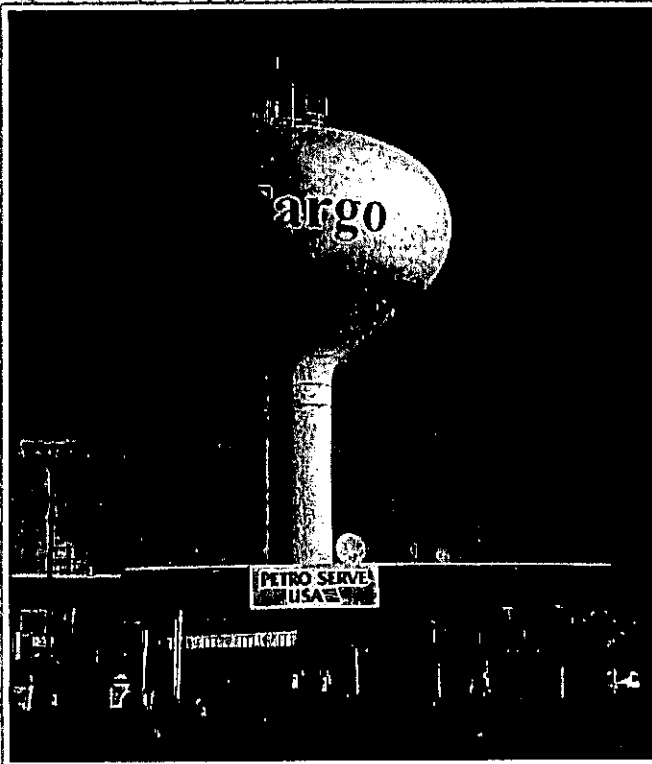
TASKS	TARGET DATES
Complete construction of pipeline between Minot and the Air Force base	2011-2012
Complete construction of pipeline between the Air Force base and the Upper Souris Water District	2011-2012
Assist the USBOR with preparation of a Supplemental EIS to address the Court's May 2009 order	2011-Fall 2012
Complete court filings to lift the injunction	Winter 2012
Initiate design work on a biota treatment plant and intake, and remaining contracts to move water from Lake Sakakawea to Minot	Spring 2013
Develop plans and manuals as required by EIS	Spring 2013

For a map of the Northwest Area Water Supply project, see the Appendix.

**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 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.

# Red River Valley Water Supply Project



As part of the Final EIS, the USBOR 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 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.

**Program Objective:**

- Provide technical expertise and financial assistance toward the development of the Red River Valley Water Supply Project study.

**Action Plan:**

TASKS	TARGET DATES
Provide technical and financial assistance toward the completion of the Red River Valley Water Supply project preferred alternative	Ongoing

**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 USBOR 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.*

## 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.

## Regulatory Program

### 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 continued cooperative efforts with the Game and Fish Department and other law enforcement.

### Action Plan:

TASKS	TARGET DATES
Process 100 percent of all incoming construction, drainage, and sovereign land permit applications	June 30, 2013
Provide technical assistance to WRDs as requested	Ongoing
Address 100 percent of all incoming WRD decision appeals	June 30, 2013
Digitally map 100 percent of all permitted assessment drains and dams that are currently in the agency's database	June 30, 2013
Provide 100 percent of flow determinations requested per NDCC 24-03-08	June 30, 2013
Review 100 percent of incoming Public Service Commission and U.S. Army Corps' Section 404 permits	June 30, 2013
Implement Sovereign Land Management Plan recommendations	Ongoing

# Silver Jackets Program

## Project Overview:

North Dakota's Silver Jackets Program was initiated in January 2010 (in response to the extensive flooding of 2009) with the intent to identify comprehensive, long-term flood solutions through a collaborative, interagency effort between state and federal authorities. A Silver Jackets charter was completed and signed between the SWC, North Dakota Division of Emergency Services, FEMA Region VIII, and the U.S. Army Corps of Engineers (St Paul and Omaha districts) in May 2010. The Corps of Engineers initiated the Silver Jackets concept through a partnership with FEMA in 2005 with a goal of establishing Silver Jackets teams in at least one state in each Corps division, and ultimately one in each state.

## Action Plan:

TASKS	TARGET DATES
Promote awareness of North Dakota's new Silver Jackets Program	Ongoing/As needed
Assist communities with FEMA's levee recertification requirement	Ongoing/As needed
Assist communities with flood control and long-term flood mitigation project requests	Ongoing/As needed
Assist selected counties and communities with Flood Emergency Operation Plan development and maintenance	Ongoing/As needed
Coordinate with Silver Jackets Program charter agencies	Ongoing/As needed

## Agency Goal 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.

## Project Objectives:

- Educate state agencies, county water boards, and communities on the Silver Jackets Program.
- Educate communities on FEMA's levee recertification requirement or Provisionally Accredited Levee (PAL) program.
- Assist communities with project requests in support of flood control or long term flood mitigation projects through the SWC and other federal or state agencies as appropriate.
- Assist communities with flood related Emergency Operation Plans.
- Assist in educating counties and communities on the importance of maintaining current Hazard Mitigation Plans.
- Coordinate with Silver Jacket charter agencies to discuss state flood-related priorities, recommendations, efforts and improve communication.

## Assumptions and Obstacles:

Local, state, and federal coordination in support of comprehensive long-term flood control and mitigation efforts must continue throughout the state to ensure success. Continued funding support of the program is also critical.

# Southwest Pipeline Project

## Project Overview:

The Southwest Pipeline Project (SWPP) is a regional water supply system that draws water from Lake Sakakawea and serves over 35,000 people in southwest North Dakota, including 28 communities, and about 4,000 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.

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:

- Continue construction of the Oliver, Mercer, North Dunn, and Zap/Center Regional Service Areas.

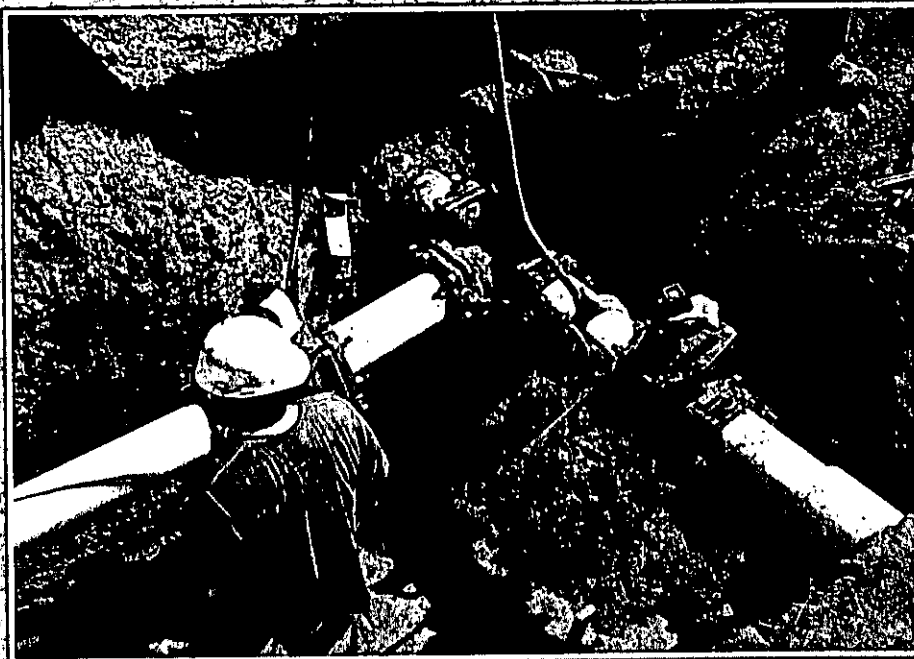
## Assumptions and Obstacles:

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.*

## Action Plan:

TASKS	TARGET DATES
Complete the Oliver, Mercer, North Dunn Water Treatment Plant	Dec. 2011
Construct main transmission facilities in the Zap and Center Service Areas	Sept. 2012
Construct the Zap Service Area rural distribution pipeline	Sept. 2012
Design and bid the Center Service Area rural distribution pipeline	Early 2013
Begin construction on transmission facilities in the Dunn Service Area	Late 2013



## 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 (WDR) 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 recommendations included in the 2009 SWMP
- Develop a 2013-2015 WDR 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 updated water project/program information, including funding timeframes for the 2013-2015 WDR	Jan. 2012
Develop a water resource project/program inventory for the 2013-2015 biennium and beyond	May 2012
Process project information for use in SWC budget development	Aug. 2012
Develop the final 2013-2015 WDR	Dec. 2012
Present the 2013-2015 WDR to the Legislative Assembly - outlining funding needs	Jan. 2013

## Assumptions and Obstacles:

Active participation and accurate input from local water managers and project sponsors regarding project funding needs will be critical to more accurate budget development, and successful 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.

## 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.

## 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, communities, and the public	Ongoing
Complete facilitator leadership training	Feb. 2013
Provide funds for the Keep North Dakota Clean water education poster contest	March 2012 & 2013
Maintain the Project WET facilitator network, and complete all Section 319 EPA grant development and reporting requirements	Ongoing
Complete two Project WET watershed institutes	July 2011 & 2012



## 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.

# Water Resource Data Information Dissemination

## 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:

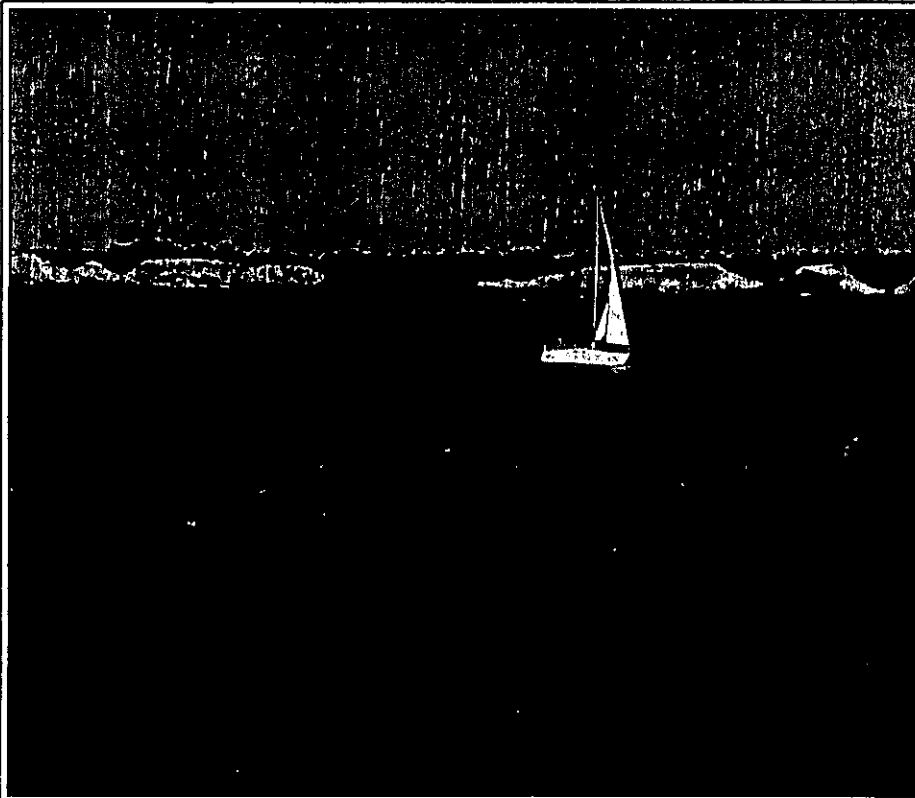
- To educate the public regarding the nature and occurrence of North Dakota's water resources.
- To collect, manage, and distribute information to facilitate improved management of North Dakota's water resources.

## 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:

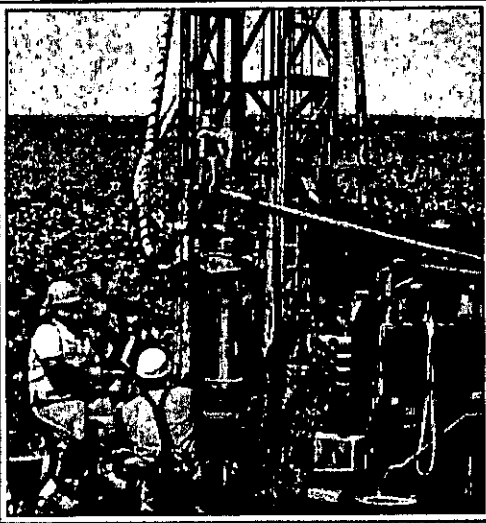
The continuation of the in-house and online retrieval system will depend on the ability of the SWC to maintain the 4-D Database.



## 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 3.9 million water-level measurements, over 34,000 site locations, nearly 65,000 water quality analyses, and 25,000 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 3,500 to 4,000 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:

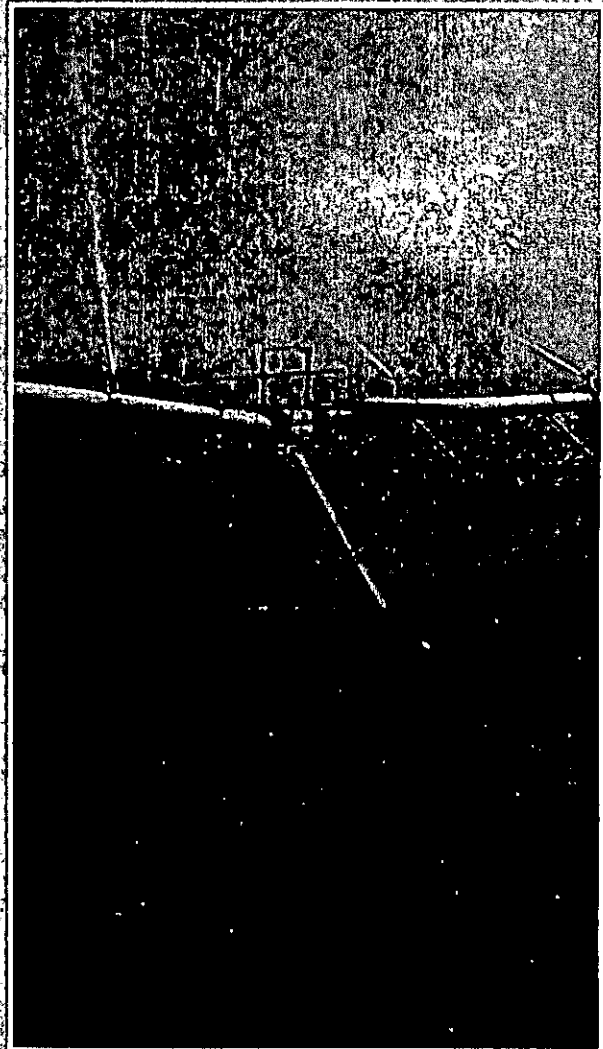
- Identify and evaluate potential water supplies for economic development.
- Support programs to encourage water-using industries.
- Support programs to encourage irrigation.

## 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	Ongoing

## Assumptions and Obstacles:

There is a limited amount of ground water of a quality suitable for irrigation and industry. The one significant water resource in the state, the Missouri River, is not located where most potential water users want to locate their enterprises.



## 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.

# Water Resource Research

## Agency Goal Satisfied:

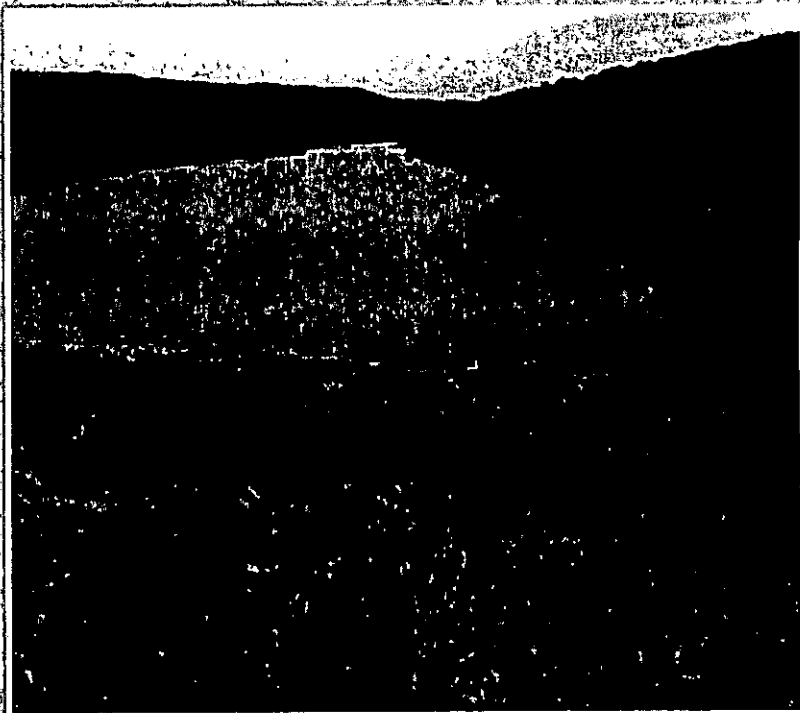
- To conduct research into the processes affecting the hydrologic cycle to improve the management of North Dakota's water resources.

## 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 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
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
Report on water quality and water levels in the Tolna Coulee (Devils Lake Joint Board)	Annually

**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.

# Water Rights Administration & Processing



**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.

### 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.

### Program Objectives:

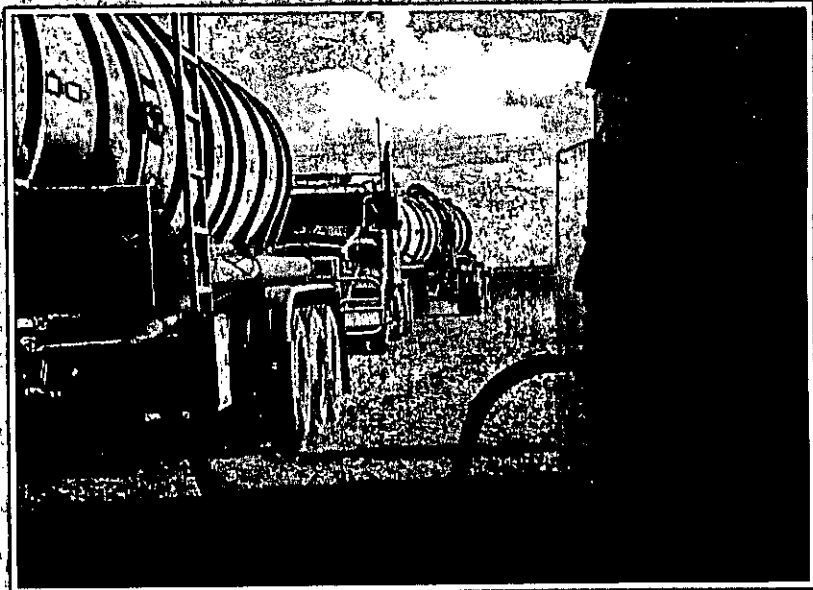
- Pursue cooperative efforts with neighboring states and provinces to plan for beneficial water management of shared water resources.
- Cooperate with agencies that have regulatory authority over North Dakota's water to protect and enhance the quality and quantity of North Dakota's water resources.
- 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 difficult and time-consuming.

### 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



ANGELA MAGSTADT

## 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.

## Watershed Planning & Coordination

### 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

### 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 joint water board water management plans

Ongoing

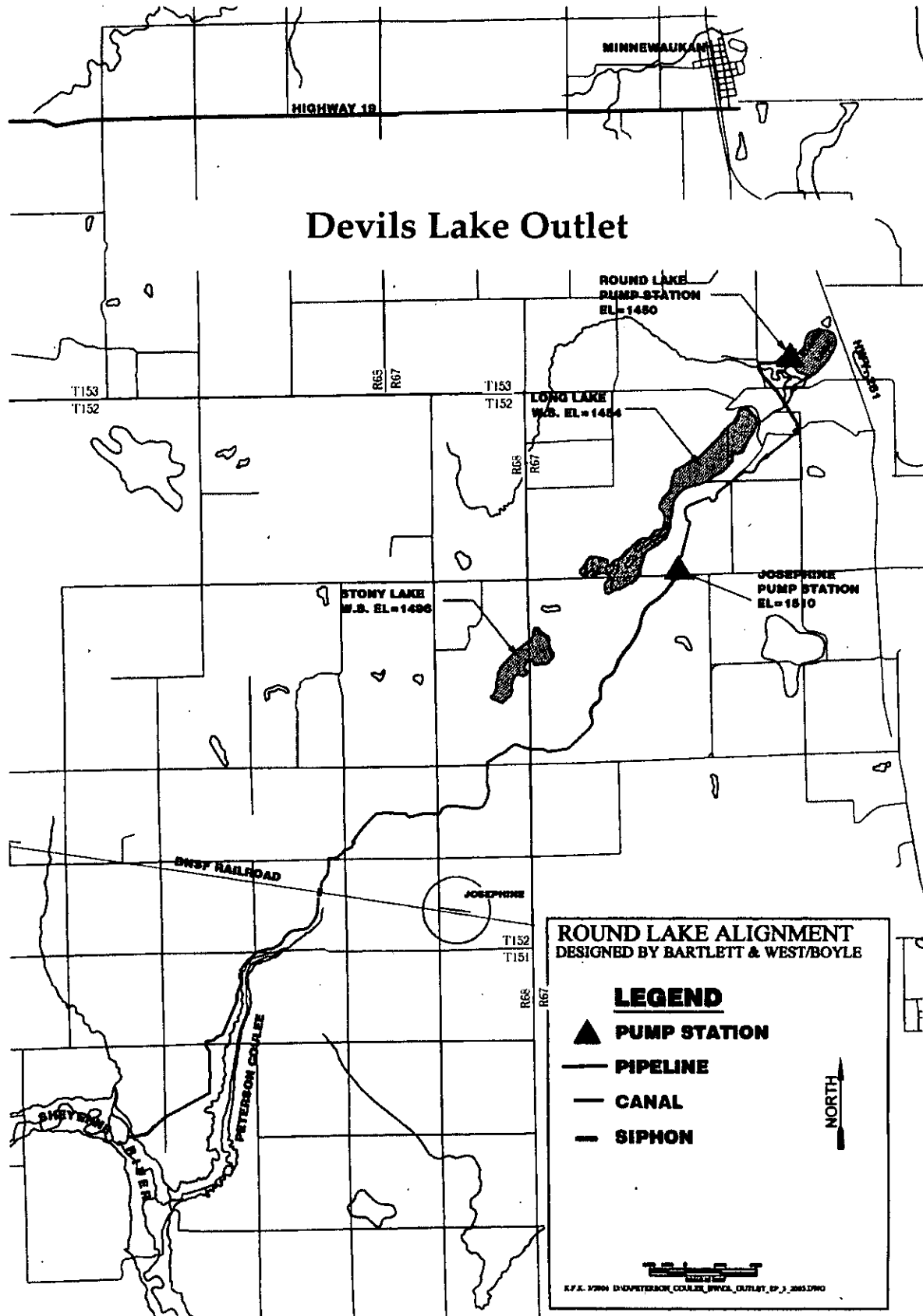
Continue to participate as board members and technical advisors for international and national watershed planning and coordination efforts

Ongoing

### Assumptions and Obstacles:

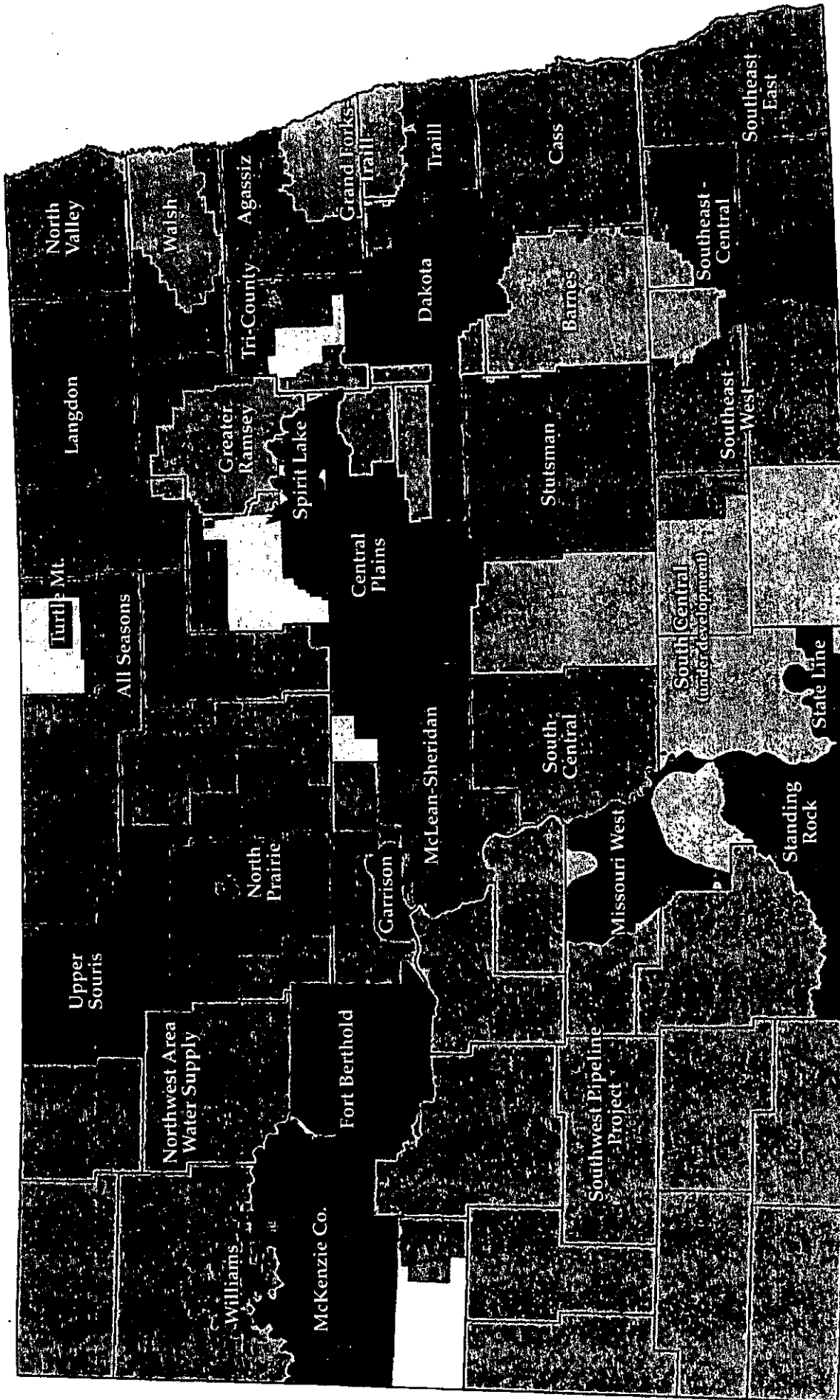
In order for all of the above organizations and planning/coordination efforts to succeed in the future, they will require continued commitment and dedication from all stakeholders involved in those processes.

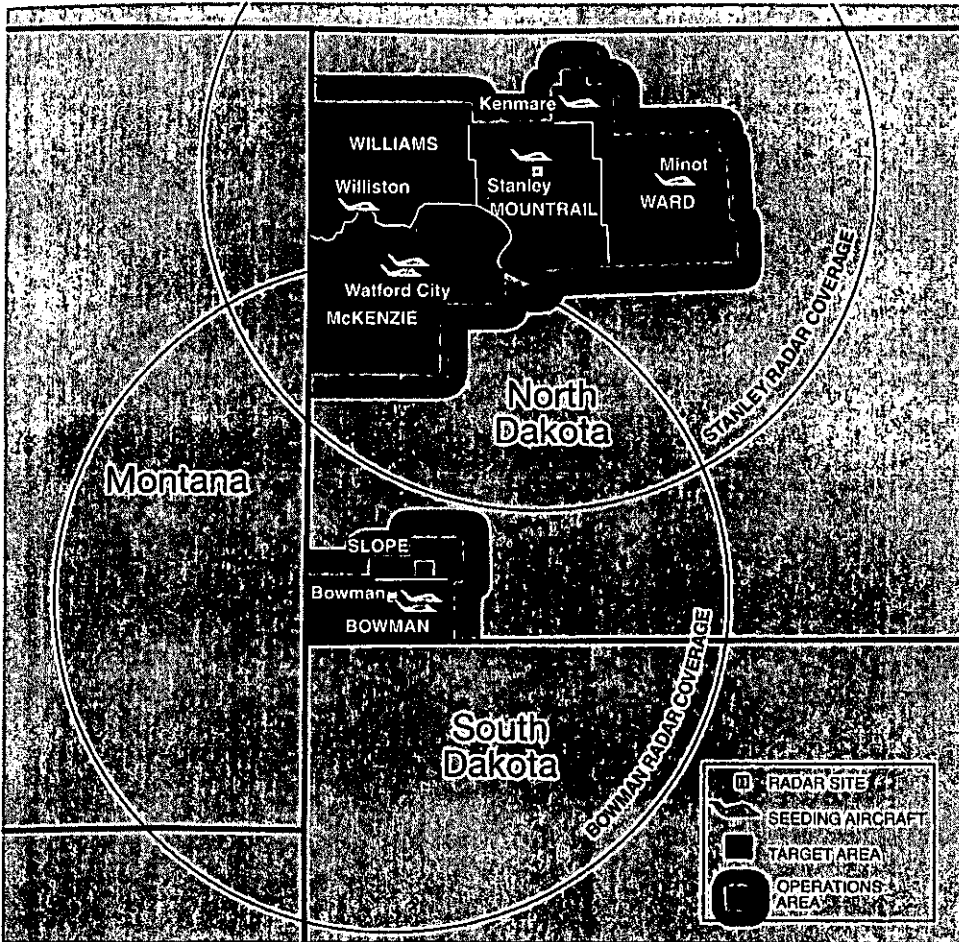
# Appendix



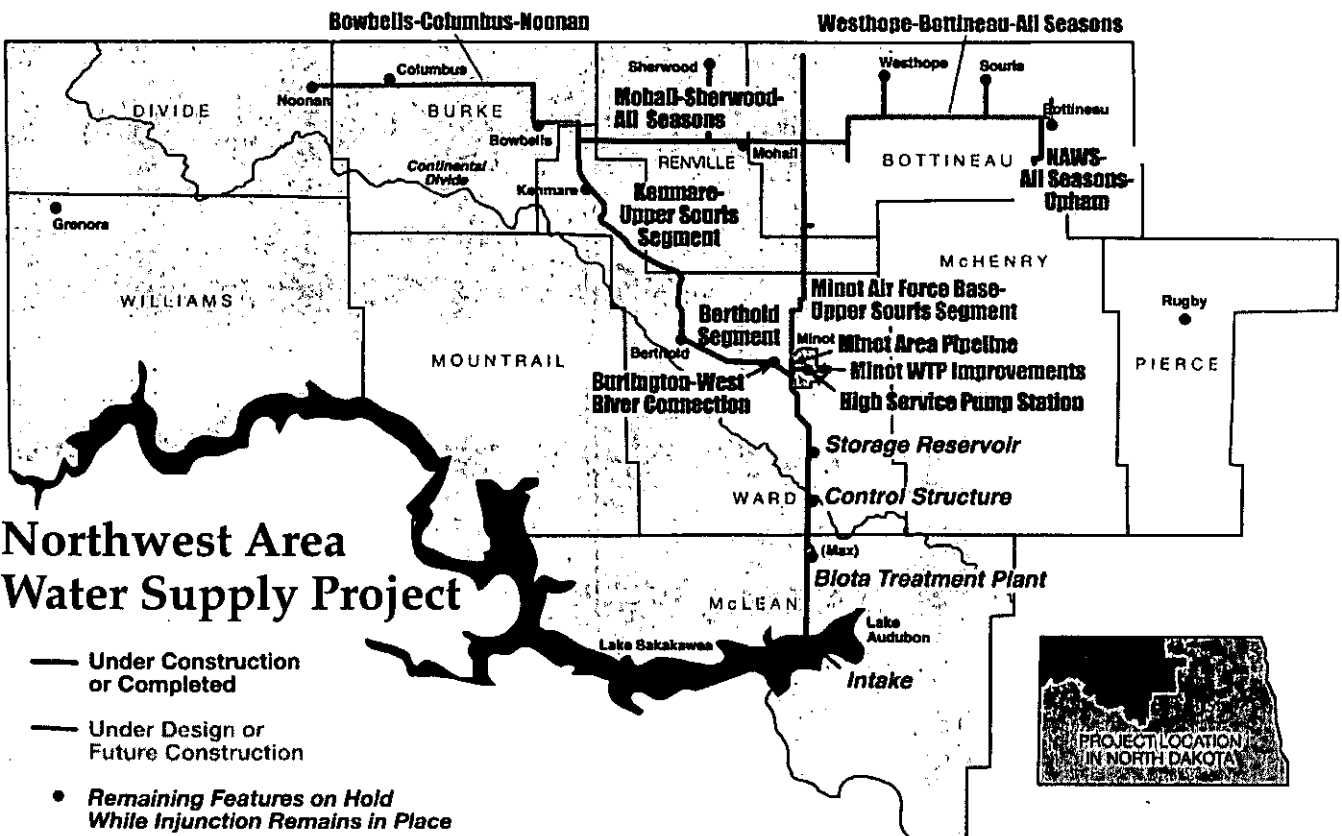


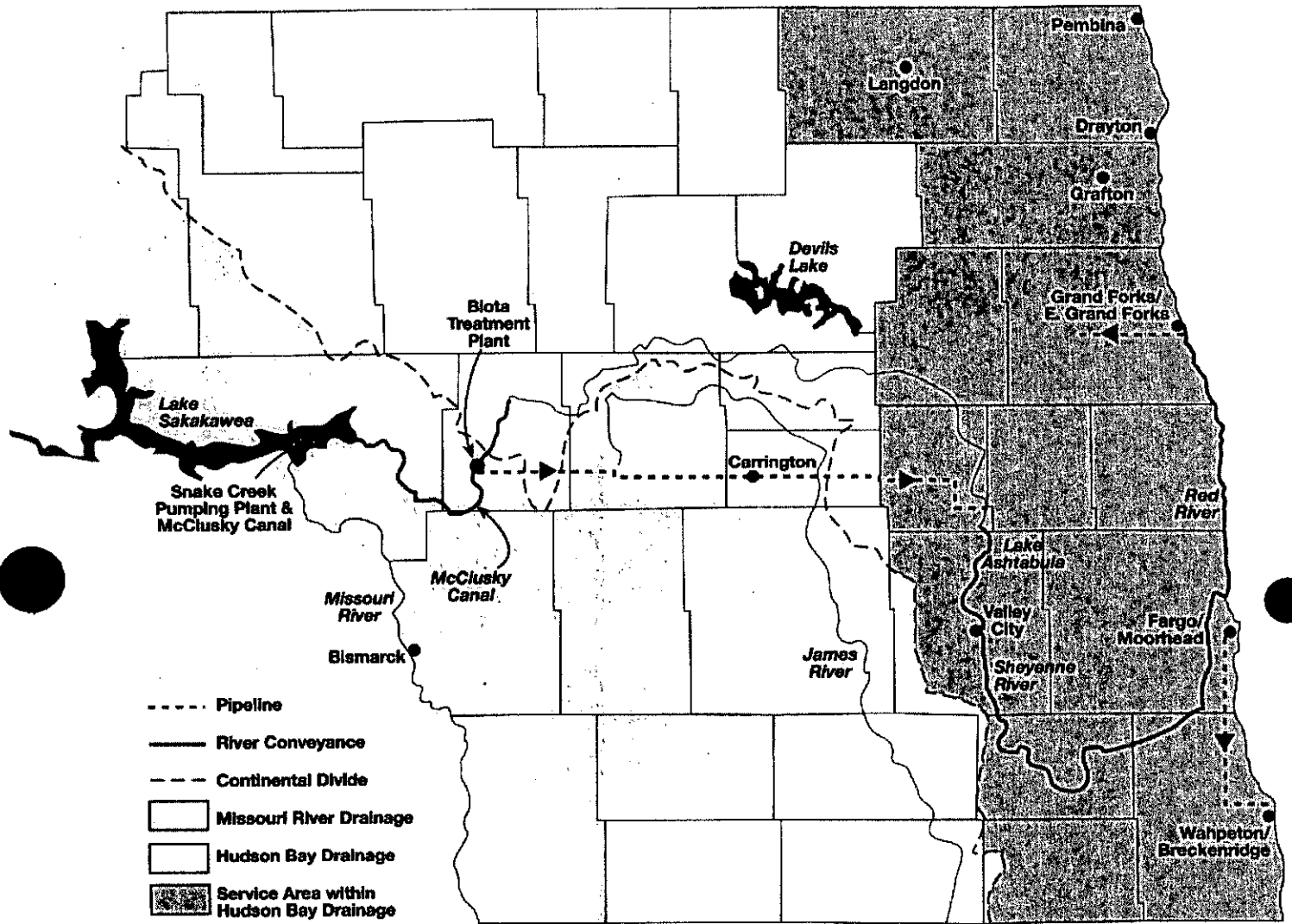
# North Dakota Regional Water Systems





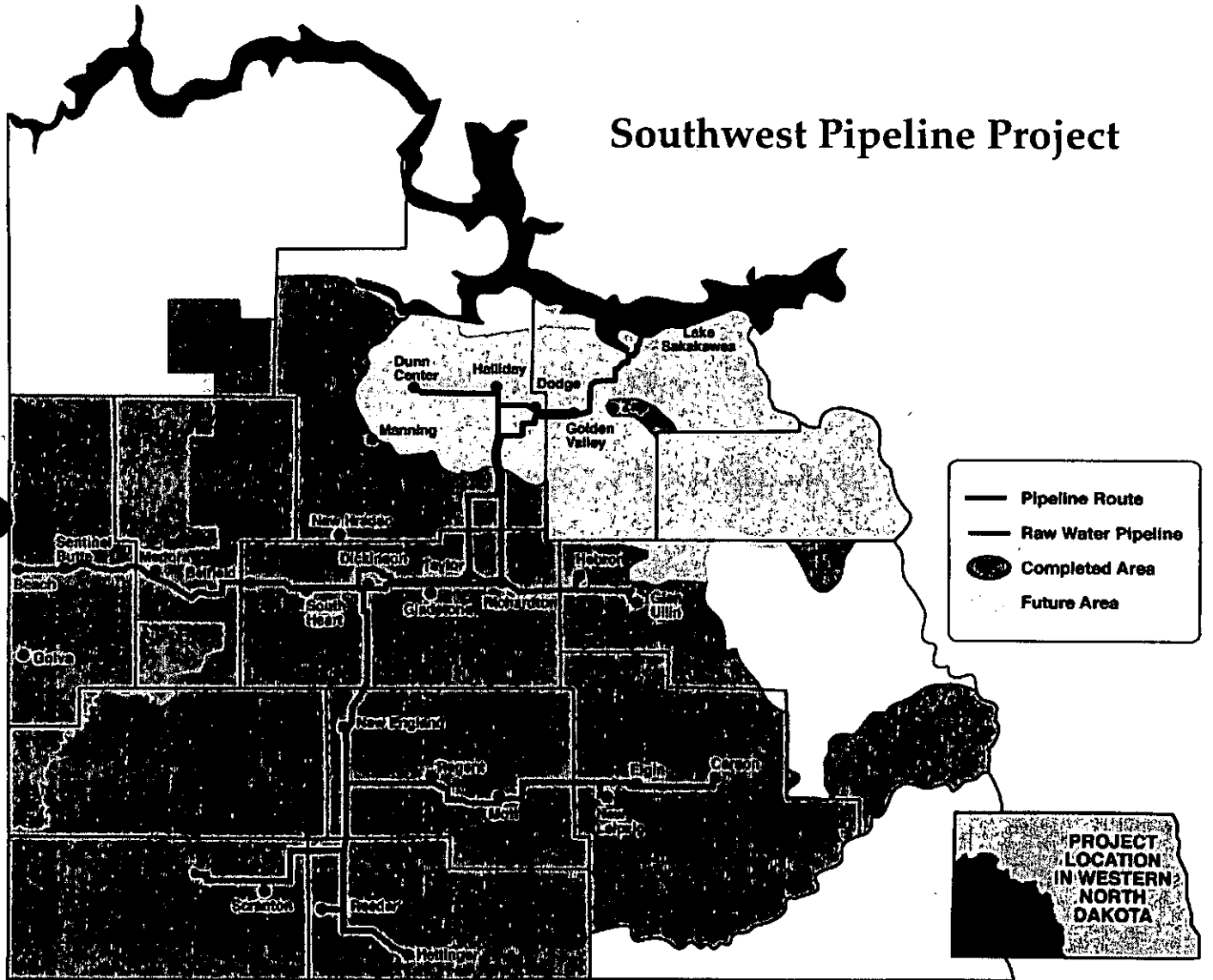
# North Dakota Cloud Modification Project





## Red River Valley Water Supply Project Preferred Alternative

# Southwest Pipeline Project



SB 2020  
Water Commission  
attachment # 4  
3/17/11

# NORTH DAKOTA WATER COALITION SEEKS ADDITIONAL FUNDING

## North Dakota WATER COALITION

PO Box 2254  
Bismarck, ND 58502  
(701) 223-4330  
FAX (701) 223-4645

### MEMBERS

Cass County Joint Board  
City of Bismarck  
City of Devils Lake  
City of Dickinson  
City of Fargo  
City of Grand Forks  
City of Minot  
City of Williston  
Devils Lake Basin Joint Board  
Garrison Diversion  
Conservancy District  
Lake Agassiz Water Authority  
Missouri River Joint Water  
Resource Board  
Mercer County Water  
Resource District  
North Central Rural Water  
Consortium  
North Dakota County  
Commissioners Association  
North Dakota Association of  
Rural Electric Cooperatives  
North Dakota Atmospheric  
Resource Board  
North Dakota Farmers Union  
North Dakota Irrigation  
Association  
North Dakota League of Cities  
North Dakota Public Finance  
Authority  
North Dakota Rural Water  
Systems Association  
North Dakota State Water  
Commission  
North Dakota Water Resource  
Districts Association  
North Dakota Water Users  
Association  
North Dakota Weather  
Modification Association  
Red River Joint Water Board  
Souris River Joint Water  
Resource Board  
South Central Regional Water  
District  
Southwest Water Authority  
Stutsman Rural Water District  
Three Affiliated Tribes  
West River Joint Water Board  
Western Area Water Supply

- A. Water Project Funding: Governors Budget  
Projected Revenues: 235 million (Resources  
Trust Fund)**
- B. Emergency Water Infrastructure Needs.**
  - 1. Devils Lake: 120 million
  - 2. Oil Impact Water Supply: 150 million
  - 3. Fargo Flood Control: 30 million  
(Total State: 300 million)
- C. Other Critical Water Needs**
  - 1. MR&I: 71 million
  - 2. Finish SWPP (Oil Water Needs): 25 million
  - 3. NAWS: 12 million
  - 4. RRVSWP: 5 million
  - 5. Local Flood Control: 26 million
  - 6. Irrigation Development: 5 million
- D. Other Issues**
  - 1. Federal Funding Ends
  - 2. Tribal Water Needs
  - 3. Return on Investment in Public Works Projects
- E. Conclusion: Additional Funding Needed**

*SB 2020  
Water Commission  
Attachment # 5  
3/17/11*

**Testimony to the House Budget Committee**  
by Joe Belford, Ramsey County Commissioner and Downstream Awareness Coordinator  
March 17, 2011

Good morning/afternoon,

My name is Joe Belford, and I am a Commissioner from Ramsey County and have worked as the Devils Lake Coordinator of the state's Downstream Awareness Program for 15 years. I have been deeply involved with Devils Lake flooding issues since the current flooding cycle began in 1993. I thank you for the opportunity to testify today in support of the Water Commission's budget, and their work, which are vital for the survival of my county and my region in North Dakota.

As you are no doubt aware, the Devils Lake flood is the longest in duration and one of the most expensive floods in the history of North Dakota, having started in 1993, and continuing through today, with infrastructure spending rapidly approaching a billion dollars. Local government and private costs would be over and above that.

In 1992, we in the basin were seriously concerned about drought. Quickly, we became aware of the problems that long-term flooding presented. The lake has now risen by nearly 30 feet, and is projected to far outstrip the record elevation set in 2011. We're told there is even a 1% chance that the lake will rise high enough to spill into the Sheyenne River this year.

As the lake has risen, it has covered over 150,000 acres of pasture and cropland; not only devastating the landowners who made their living from the land, but placing a huge financial burden on the city and county governments that depended on their property taxes and purchases of goods to allow them to provide the services expected of them. This spring another 30,000 to 40,000 acres will be inundated. I have attached a new report as part of my testimony that outlines the nearly \$200,000,000 in annual economic losses related to agribusiness in the Devils Lake region.

In addition to the problems with surface flooding are severe issues resulting from the exceedingly high water table in nearly all areas of the basin. Homes in Devils Lake in particular are having water problems in their basements.

Beyond the economic impact are the terrible emotional effects on so many good people, who have worked hard their entire lives to improve their land and holdings, only to see them swallowed up by the seemingly unstoppable advance of the lake cannot be overstated. The stress that these folks are under is hard to imagine, and I am not exaggerating when I say that some have suffered an early grave from facing such impossible problems.

Even if a person's land is not flooded, road after road has either been flooded or battered by relentless waves. While the efforts of state and federal entities have succeeded in elevating the highest traffic roads and bridges again and again; there are perhaps hundreds of miles of rural roads that can not be raised, turning trips that used to take 10 minutes, into one or two hour journeys over treacherous paths. Some people drive their children to school every day, because they fear that the buses might slide off of the road. With nearly every major road into Devils Lake being under construction this summer, many people will simple go elsewhere to do their shopping. Many businesses may not survive another year.

As you can imagine, the stress of living under such difficult conditions with no sign of relief for so many years, has taken its toll. Unfortunately, many people have found this stress too much, and have given up home and land, and left our region, and sometimes our state, likely never to return.

And while people in the basin have had to learn to live with to the reality and hardships of the situation, those living downstream are only now becoming aware of the implications of this flood,

and the potential damages an increasingly likely catastrophic overflow presents to their homes and livelihood.

Despite the grim picture I have just painted, our situation would have been far, far worse, if it were not for the efforts of the Water Commission, and many other agencies. Since the beginning of this catastrophe, the Devils Lake region has relied heavily on the Commission's help and guidance. Whether it is their work on the outlets, the levee that protects Devils Lake, watershed planning efforts, or any of the countless other ways that they provide us with assistance, the Commission has often been all that lies between despair and hope.

Because of the efforts of the Commission, I strongly urge you to continue your support of their activities and provide funding commensurate with the challenges that we all face.

Thank you.

## Agricultural Economic Impact of Devils Lake Area Flooding in 2011

This analysis quantifies the extent of lost agricultural production in the Devils Lake Basin due to rising water levels in Devils Lake and Stump Lake and the surrounding area. Non-agricultural losses or additional expenditures are not included in this analysis. The potential production that will not be produced in 2011 represents lost income to area producers as well as the region's economy. The total impact of this loss to the region is further increased in the form of indirect losses as this money is not available to be spent in other economic sectors of the economy.

Production data for the most recent five-year period, as reported by North Dakota Agricultural Statistics Service, were used in this analysis. Lost income due to increased water levels in the Devils Lake basin was assumed to be the value of the crop production that could have been produced on this acreage if it had been available to plant in 2011. Therefore, this acreage will not contribute to the economic activity in the region in 2011.

Acreage and yield data for 14 major crops grown in Benson and Ramsey counties for the years 2005 through 2009 were summarized. Average yields for the region are shown in Table 1. These yields were weighted based on the production from each county. The average percentage of acreage devoted to each crop is shown in Table 2. This crop mix is based on the sum of all acres produced over this 5-year period.

**Table 1. Weighted Average Yields for Benson and Ramsey Counties, 2005-2009.**

Crop	Average Yield/Acre
Barley	59.4
Corn Grain	97.9
Alfalfa Hay	1.9
Other Hay	1.7
Winter Wheat	49.2
Durum	35.4
Spring Wheat	38.2
Canola	1408.5
Flaxseed	18.2
Soybeans	27.7
Oil Sunflowers	1403.9
Conf Sunflowers	1234.5
Edible Beans	14.1
Dry Edible Peas	18.0

**Table 2. Major Crops Grown in Benson and Ramsey Counties, 2005-2009.**

Crop	Percent of Total Acre
Barley	13.0%
Corn Grain	9.5%
Alfalfa Hay	2.1%
Other Hay	3.5%
Winter Wheat	3.3%
Durum	1.0%
Spring Wheat	28.1%
Canola	6.9%
Flaxseed	1.7%
Soybeans	17.2%
Oil Sunflowers	2.5%
Conf Sunflowers	1.8%
Edible Beans	8.5%
Dry Edible Peas	1.0%



The current estimate of inundated area is 163,450 acres for 2011. This acreage data is from The Devils Lake Basin Joint Water Resources Board's website. The 163,450 acres represents the acreage inundated as the lake level has risen from 1422.9 feet in 1993 to a forecasted level of 1455.0 feet above sea level in 2011. Potential lost production per year is summarized in Table 3. This table includes the average acreage of each crop, the estimated market price, and the total value for each crop. The estimated value of production that could have been produced on this acreage for 2011 is \$52,757,993. This is an estimate of the direct loss that will incur in 2011.

**Table 3. Potential Lost Production per Year in the Devils Lake Basin with 163,450 Acres of Cropland Inundated.**

Crop	Average Yield	Average Acreage	Estimated Price	Value Per Year
Barley	59.4	21,321	4.50	5,696,335
Corn Grain	97.9	15,487	5.00	7,584,470
Alfalfa Hay	1.9	3,427	65.00	425,201
Other Hay	1.7	5,786	45.00	431,803
Winter Wheat	49.2	5,449	7.50	2,009,731
Durum	35.4	1,622	8.50	487,364
Spring Wheat	38.2	45,917	8.50	14,914,236
Canola	1408.5	11,235	0.220	3,481,445
Flaxseed	18.2	2,760	13.00	653,204
Soybeans	27.7	28,053	12.00	9,319,860
Oil Sunflowers	1403.9	4,041	0.240	1,361,571
Conf				
Sunflowers	1234.5	2,954	0.330	1,203,384
Edible Beans	14.1	13,823	25.00	4,877,513
Dry Edible Peas	18.0	1,575	11.00	311,875
<b>Market Value of Lost Production</b>				<b>\$52,757,993</b>

#### Total Economic Loss

The market value of the potential production that will not be produced represents the direct loss to the region's economy. Additional losses accrue in the form of indirect loss throughout the economy. The indirect impact is the economic activity created by the spending and re-spending of the direct impacts.

**Total impact on business activity in the region from both direct and indirect losses is estimated at \$194,419,000. The major losses are \$57.6 million to the crop sector, \$50.9 million to the households sector (personal income), and \$42.9 million to the retail trade sector. The remainder of the \$194.4 million loss is distributed among several other sectors of the economy.**

**This loss of business activity ultimately is reflected in lost jobs in the region. Employment loss is estimated at 1,150 jobs for the region.**

These estimates were prepared by Dwight Aakre and Randal Coon, Department of Agribusiness and Applied Economics, and Bill Hodous Ramsey County Extension Agent, North Dakota State University. February 2011.

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*SB 2020*  
*Water Commission*  
*Attachment # 6 3/17/11*  
City Commission:  
Dick Johnson, President  
Tim Heisler  
Craig Stromme  
Rick Morse  
Dale Robbins

**Testimony of**  
**Dick Johnson,**  
**President of Devils Lake City Commission**  
**In support of SB 2020**  
**March 17, 2011**

As a member of the North Dakota Water Coalition, the City of Devils Lake supports SB 2020. Now, more than ever, funding is needed to complete critical water projects across the state. The state funding will aid in the construction of several flood control measures, including an outlet on the eastern end of our lake, and help develop much-needed water supply projects that are ready for construction.

First and foremost, I would like to thank the State for the ongoing support it has provided our area throughout the years of flooding. The embankment protecting the City, the roads leading to our great community, the development of our new drinking water supply project, and the

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construction of the existing State outlet from Devils Lake would not have been possible without the State's unrelenting support and commitment to addressing this on-going flood disaster.

While much of the work has been done, much more work remains due to the continued rise of Devils Lake. Federal, State and Local officials agree that water needs to be removed from the big lake, as this is the only real solution to our flood-related problems. In addition, citizens across North Dakota agree that water has to be moved off the lake, not only to prevent further devastation in Devils Lake and the Lake Region, but to reduce the risk of a potentially catastrophic downstream disaster should the lake continue to rise.

With the funding provided in SB 2020 we can begin a new era of moving water off Devils Lake in a controlled manner. More than a billion dollars has been spent on roads, embankments, buy-outs and other infrastructure to save the Lake Region. An east end outlet, coupled with the existing west end outlet is a very significant step to get

Devils Lake under control. Additional releases from Devils Lake will not only relieve pressure from the dam protecting our City, but will reduce flood devastation occurring or our neighboring communities and prevent further loss of agricultural land. Yes, we are behind the 8 ball but for the first time ever, there is a grass roots, combined effort to get relief to our region.

The new east end outlet has a wide support base and affords us the best opportunity to get water off the lake in a timely fashion. Several entities have come together to support this new outlet plan for the betterment of the entire eastern part of the State. Support has been received from the City of Devils Lake, Ramsey County, Spirit Lake Nation, State of North Dakota, Nelson County and the Mayor of Valley City, to mention a few.

Again, the City of Devils Lake supports SB 2020 and we ask this committee to give this bill a unanimous "DO PASS". Thank you.

I have printed copies of my testimony that I will pass out to Committee members along with an Agricultural Economic Impact Study that was prepared by NDSU, Department of Agribusiness and Applied Economics, and Bill Hodous, Ramsey County Extension Agent.

I stand to answer any questions Committee members might have of me.

Thank you

Dick Johnson,

Mayor, City of Devils Lake

3/17/11  
Water Commission  
Attachment # 7  
3/17/11

## TESTIMONY ON SENATE BILL 2020

Good afternoon, my name is Darrell Vanyo. I am the current chair of the Cass County Commission. I am here today to speak in favor of SB2020, specifically as it relates to Section 7 - Fargo Flood Control Project Funding. Mayor Walaker is also here as well as other Fargo and Cass County officials in support of this funding and we will be here to add comments or answer questions as time allows.

We have attached a handout for you which provides some background information regarding the North Dakota Diversion; statistics, location, and costs. Much of this may already be familiar to you, but we included it to allow for the basic understanding of this massive project.

Today, we are experiencing a day of thawing. Many of us in the Red River Valley are operating under a spring flood emergency declaration for the third consecutive year. The most recent flood forecast suggests a 35% probability of exceeding the 2009 flood of record for the Red River. Flood forecasts for the Wild Rice, Sheyenne, Maple, and Rush Rivers in Cass County are equally ominous. Fleets of trucks and earth-moving equipment operating 24 hours a day in the spring to construct emergency clay levees have become the norm. The echo of backup alarms throughout the night serves as a constant reminder of the threat and keeps tensions high in the community. If we are fortunate, we will see no more than the flood of 2010. Isn't it odd that we would be hoping for a flood of the magnitude of 2010, the sixth worst flood of record? However, we know that we are prepared for such an event and, even though

thousands of man hours and millions of dollars in expenditures have and will be put toward fighting such an event, we are confident that we can, once again, win such a fight. When we begin approaching levels close to or over the record setting flood of 2009, we remain confident, but "cautiously" confident so as to remain humble and respectful of the terrible force which Mother Nature can wield at any time. One only has to reflect upon the devastation in Japan to know that these things can and do happen.

Cass County and Fargo have been saying for years that permanent protection is absolutely necessary for the protection of our citizens and for the protection of the economic engine which brings so many benefits to the entire state. Knowing that the United States Army Corps of Engineers (USACE) has now indicated that the 2009 event was only a 50-year event, one has to agree that the population and economic importance of the metro area warrants more than the annual building of levees and the mass production sandbags. In a recent meeting, Mark Bittner, Fargo City Engineer, acknowledged that over \$145 million dollars has been spent since 1990 for flood fighting and flood protection measures. During the same period Cass County has spent over \$71 million (see attachment for 2009/2010). Fargo has purchased and removed about 250 homes and Cass County has purchased nearly 140 homes since 1997. Both Cass County and Fargo have constructed permanent levees where appropriate. It has been estimated that 1100 structures would have to be purchased and moved if a levee system were to be created similar to the one in Grand Forks. The Corps of Engineers has further concluded that the soil conditions would limit

the level of protection possible with a levee system to less than a 100-year event. The sheer magnitude of such an endeavor, coupled with unstable soil conditions for building the levee, the costs of buyouts and mitigating any negative upstream/downstream impacts, and the resulting risks of a levee system during a catastrophic event, make this an unattractive alternative to the diversion project selected by the Metro Flood Study Work Group well over a year and a half ago.

USACE estimates that the damages from a failed flood fight in the F-M area for a 100-year event could be \$6 billion dollars. The average annual damages without a project are \$195 million. With an estimated \$2.4 billion in annual taxable sales resulting in \$120 million in sales tax for the state, \$4 billion in annual wages, \$76 million in state income tax, \$10 billion in annual gross domestic production, and a \$10 billion valuation of property, surely it is now time to protect the citizens and these valuable assets.

Over the past two years, approximately \$17 million dollars have been expended for engineering studies, analysis, and diversion plan development. There may be another \$5 to \$7 million expended prior to the end of 2011. The timeline for this project calls for the plan design to receive final approval and authorization by year end. Although there have been federal dollars for half of these expenditures, the remainder has largely been paid by Fargo. Cass County has committed to paying our share once the sales tax for the county begins April 1, 2011. This continues to be a huge financial burden for the community amidst the home buyouts, construction of levees, and other flood protection measures which have depleted many of the sales tax revenues.



Cass County and Fargo appreciate, very much, the \$45 million dollars that the last legislative session committed to the Fargo Flood Control Project. And, we appreciate the \$30 million dollars currently being considered by this legislative body.

There are several important points that I would like to make regarding the past and current amount being considered:

1) Not one dime has been spent from the \$45 million appropriated from the 2009 legislative session due to the specificity of the language and the fact that our project was not far enough for land or right-of-way acquisitions.

2) Cass County and Fargo fully support the recommended language changes to Section 7 of Chapter 20 of the 2009 Session Laws. These changes will allow us to use some dollars for engineering and legal costs as well as land acquisitions which could take place before the next legislative session.

3) The previously appropriated \$45 million and the current \$30 million dollars being considered as part of Section 7 for the 2011 Session Laws is needed so that land acquisitions, engineering, legal, and early construction costs do not place the project in jeopardy for any lack of funding.

Cass County and Fargo have made a commitment to fund half of the non-Federal, non-Minnesota costs through the passage of two separate sales tax measures (one in 2009, one in 2010). We humbly and respectfully ask this body to support the funding requested in SB2020, so that our goal of long-term flood protection for the Red River Valley can be realized.

There have been many challenges which will have to be met and resolved in order to bring this project to fruition. We, as local officials, commit to you that we will continue to work with all communities and landowners to ensure concerns from adversely impacted residents are addressed in a satisfactory manner. In an effort to be proactive, we have plans to meet (scheduling underway) with the communities and school districts outside the current diversion alignment in an attempt to reach common ground in mitigating any negative impacts.

Please understand that very few projects of this magnitude are pleasing to everyone, and we will work hard to achieve the support of those outside of the diversion by mitigating negative impacts to the largest degree possible. I was a City Commissioner in West Fargo when the Sheyenne Diversion was constructed and opened. Although there were some who did not think the Sheyenne Diversion was necessary and some who were negatively impacted but, the project went on and was completed nearly 18 years ago. When the new census figures come out, I am certain that West Fargo will be around the 26,000 in population. I strongly believe that without the diversion, West Fargo would never have grown to be much more than half of their current population. Permanent flood protection has proven itself over and over again for the communities who have completed significant projects, with the help of the state. The Cities of West Fargo, Wahpeton, and Grand Forks can attest to that. Cass County and Fargo need that same protection. But we cannot do it alone. Once again, please support SB2020. We would really appreciate it. Thank you. We are available for questions, if you have any.

### Cass County Flood Costs for the 2009 and 2010 Events

2009 Flood Fight and Recovery						Total
<u>Expenditures:</u>	<u>Year</u>	<u>Dollars Spent</u>	<u>Expenditures:</u>	<u>Year</u>	<u>Dollars Spent</u>	<u>Dollars Spent</u>
Fund 213 Flood Fighting (dikes, sandbags, overtime)	2009	2,646,856.02	Fund 214 Flood Recovery (road and bridge repair)	2009	3,598,363.62	6,245,219.64
				2010	980,381.17	980,381.17
				2011	34,143.55	34,143.55
		2,646,856.02			4,612,888.34	7,259,744.36
<u>Reimbursements:</u>	<u>Year</u>	<u>Dollars Received</u>	<u>Reimbursements:</u>	<u>Year</u>	<u>Dollars Received</u>	<u>Dollars Received</u>
Fund 213 Flood Fighting (Federal and State Dollars)	2009	2,293,085.68	Fund 214 Flood Recovery (Federal and State Dollars)	2009	2,176,207.18	4,469,292.86
	2010	112,470.27		2010	570,830.18	683,300.45
	2011	81,396.75		2011	1,259,431.39	1,340,828.14
Reimbursements		2,486,952.70			4,006,468.75	6,493,421.45
<b>County Cost</b>		<b>\$ 159,903.32</b>			<b>\$ 606,419.59</b>	<b>\$ 766,322.91</b>

2010 Flood Fight and Recovery						Total
<u>Expenditures:</u>	<u>Year</u>	<u>Dollars Spent</u>	<u>Expenditures:</u>	<u>Year</u>	<u>Dollars Spent</u>	<u>Dollars Spent</u>
Fund 217 Flood Fighting (dikes, sandbags, overtime)	2010	909,556.19	Fund 218 Flood Recovery (road and bridge repair)	2010	2,501,116.00	3,410,672.19
	2011	2,579.25		2011	31,625.85	34,205.10
		912,135.44			2,532,741.85	3,444,877.29
Reimb						
Fund 217 Flood Fighting (Federal and State Dollars)	2010	678,905.04	Fund 218 Flood Recovery (Federal and State Dollars)	2010	1,099,541.60	1,778,446.64
	2011	-		2011	-	-
Reimbursements		678,905.04			1,099,541.60	1,778,446.64
<b>County Cost</b>		<b>\$ 233,230.40</b>			<b>\$ 1,433,200.25</b>	<b>\$ 1,666,430.65</b>

Total Dollars Spent for the 2009 and 2010 Events

\$ 10,704,621.65

Total Reimbursements Received for the 2009 and 2010 Events

\$ 8,271,868.09

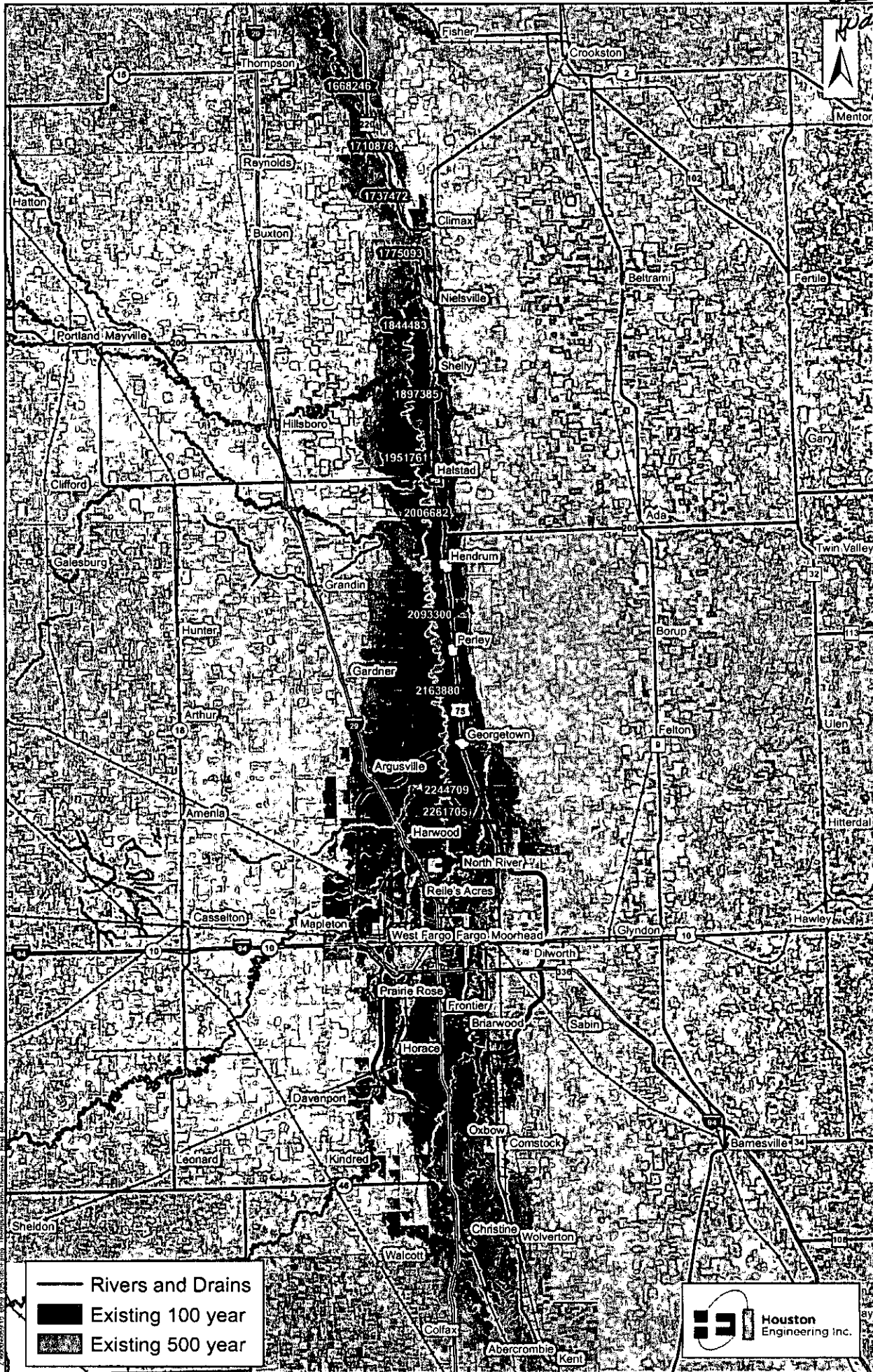
Total County Dollars for 2009 and 2010 Events

\$ 2,432,753.56

Note: These are the dollars spent that are eligible for reimbursement with the county paying some matching dollars, it does not include all the ineligible costs such as regular time for county employees during flood fighting (only overtime dollars are eligible).

In addition, the county committed \$3,000,000 as the local share in home buyouts to reduce future flood costs.

SR 2020.  
Water Commission  
3/17/11  
attachment  
#7A



— Rivers and Drains  
■ Existing 100 year  
■ Existing 500 year

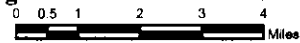
 Houston Engineering Inc.



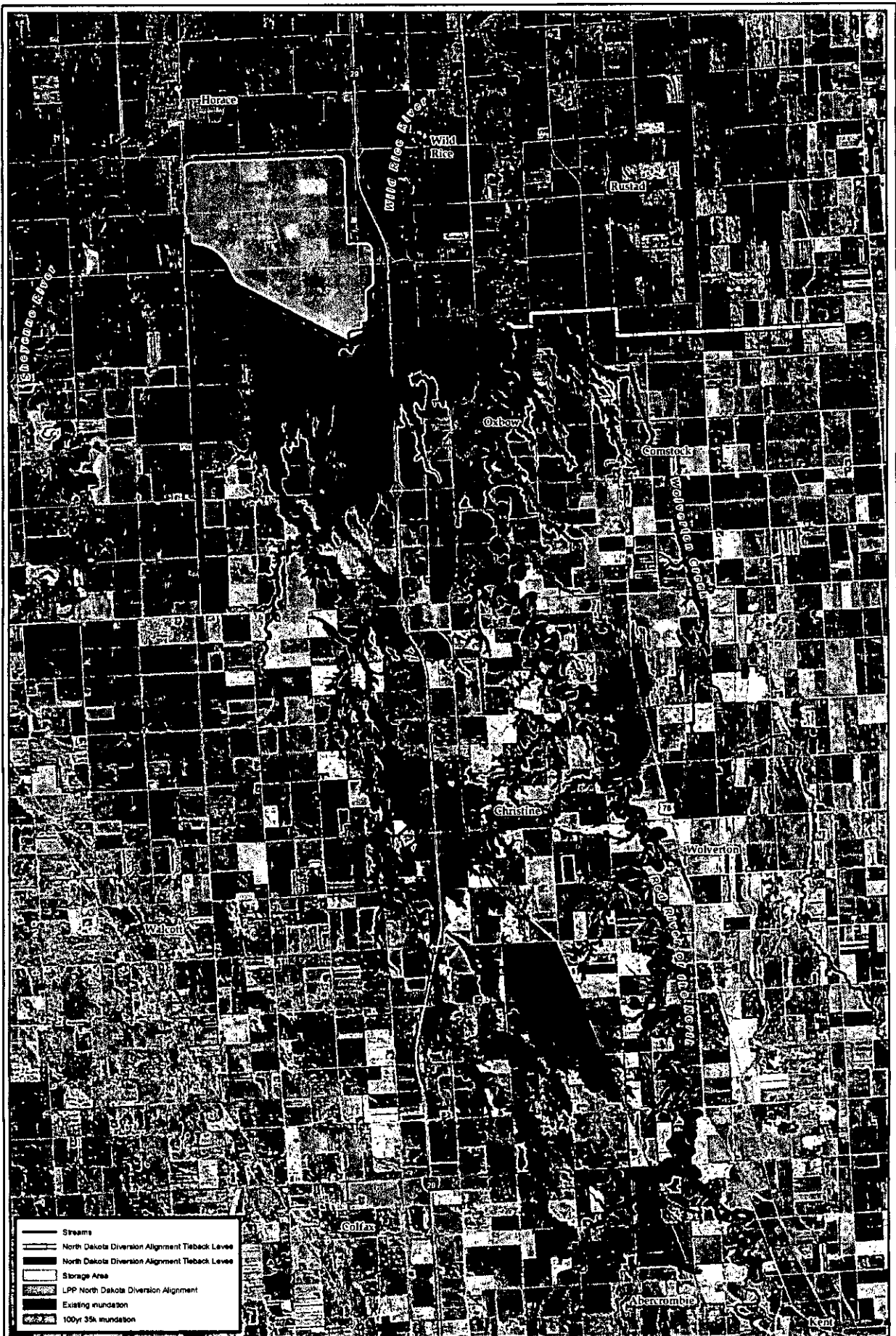
- Streams
- North Dakota Diversion Alignment Tieback Levee 17
- North Dakota Diversion Alignment Tieback Levee
- LPP North Dakota Diversion Alignment
- Storage Area
- Existing Inundation
- 100yr 35k inundation

**Proposed North Dakota Diversion Alignments**

**Fargo - Moorhead Metro Study**



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- Streams
- North Dakota Diversion Alignment Tieback Levee
- North Dakota Diversion Alignment Tieback Levee
- Storage Area
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- Existing inundation
- 100yr 35k inundation

Proposed North Dakota Diversion Alignments  
 Fargo - Moorhead Metro Study

0 0.5 1 2 3 4 Miles



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 US Army Corps  
 of Engineers



## Funding

- ✓ **Federal Share will be capped at 65% of eligible costs associated with the Federal Comparable Plan (FCP)**
  - ✓ All costs in excess of 65% of FCP are 100% Local Costs
  - ✓ Currently Federal Share estimated at \$710 Million
- ✓ **Locally Preferred Plan (LPP)**
  - ✓ Current Cost Estimate \$1.27 Billion
  - ✓ Current Non Federal Share Estimated at \$560 Million
  - ✓ Potential non federal mitigation \$100+ Million
    - ✓ This number is preliminary and will change with the impacts of the project
- ✓ **Non Federal Split \$660+ Million**
  - ✓ MN (Currently \$66+ Million)
  - ✓ 10% State of non fed share
  - ✓ ND (Currently \$594+ Million)
  - ✓ 50% State of ND (\$297+ Million)
  - ✓ 50% Local Government (\$297+ Million)



## ***F-M Metro Study Timeline:***

✓	26 Nov 10	Unsteady model updated
✓	10 Jan 11	Refinement of LPP
✓	Feb/Mar 11	Meetings in impacted areas (up or downstream)
✓	27 Apr 11	Supplemental Draft EIS to EPA for publication
✓	May 11	Public Meeting(s)
✓	20 Jun 11	Complete 45-day NEPA public comment period
✓	1 Aug 11	Division Engineer's Transmittal
✓	7 Sept 11	Submit Draft Chief's Report and Final EIS to EPA for publication
✓	1 Dec 11	Sign Chief's Report





March 17, 2011

Members of the House Appropriations Committee:

As Mayor of Fargo, I wish to add my name in support of SB 2020. Addressed below are reasons for the City's support. Mr. Darrell Vanyo, Cass County Commissioner, will be making the formal presentation on behalf of Cass County and the City. Your support of funding for permanent flood protection in Cass County is appreciated.

Attached to this document is a series of charts and maps indicating the flooding issues Fargo and Cass County have had to deal with since 1997. We have also presented to you a proposed diversion plan to address long term flood protection for the Fargo metro area and surrounding properties. The final plan is not yet solidified. Downstream concerns have been analyzed, upstream concerns are now being studied, and the final diversion route is being discussed.

As you know, the largest metropolitan area on the Red River not to have permanent flood protection is the Fargo-Moorhead and Cass-Clay County metro. After the 1997 flood that had devastating impacts to Grand Forks and Wahpeton, Governor Ed Shafer approached then Mayor Bruce Furness and requested that Fargo delay requesting State support for permanent flood protection until those two communities recovered from their flood impacts. That request was honored and little did we know at that time that the Red River Valley would experience even higher water in the spring of 2009.

Since 1993, the City of Fargo has directed over \$114 million in flood protection within the community. We have purchased and removed homes along the Red River (over 210 homes have been purchased); we have elevated our flood protection along the Red River so that our flood fight now begins in earnest at about 38' above flood stage (flood stage in Fargo is when the Red River leaves its bank at 18'). In 1997, the City's flood fight effort had to begin protecting homes when the flood stage reached 30', so we've come a long way in terms of emergency flood fighting to protect Fargo's citizens' homes.

Because of our southerly growth and our experience with overland flooding, we have also had to extend legal drains, elevate roadways and develop detention ponds that hold water back away from new housing subdivisions. This allows for the staging of water coming into the City from breakout water from the Wild Rice and Sheyenne Rivers.

The cost of permanent flood protection is estimated to be \$1.5 billion at this time. A federally sponsored project, planned and designed by the Corp of Engineers, is in the latter stages of approval. An Environmental Impact Statement (EIS) has been drafted and currently is being reviewed internally by the Corps personnel in preparation for review by

other federal agencies. The Corps goal is to have a final EIS approval in the summer of 2011. Once accepted, the EIS record of decision (ROD) will be forwarded on for approval and then Congressional authorization. If all goes according to the current schedule, design of a diversion plan could begin early winter of 2012.

At this time the Corps of Engineers funding plan calls for the federal government participating at 65% of a National Economic Development (NED) planned diversion in Minnesota - which is the Corps preferred option. A locally preferred option calls for a diversion in North Dakota. Intercepting water from the Red River south of Fargo, the proposed diversion would extend west of West Fargo intersecting with the Wild Rice, Sheyenne, lower and upper Rush and Maple Rivers, re-entering the Red River north of Harwood, North Dakota. This diversion would be approximately 36 miles in length, would have a capacity of about 35,000 cubic feet per second (by comparison the West Fargo diversion has a capacity of about 6,000 cubic feet per second), and would protect Fargo, West Fargo, and Moorhead, Minnesota to a 500 year event.

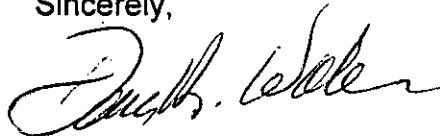
The \$1.5 billion cost estimate for the project anticipates federal cost participation to be about \$800,000,000 and the State of Minnesota at about \$100,000,000, with the balance of the \$600 million funding to be split evenly between the State of North Dakota and local funding.

Sales tax votes have been passed in both Fargo and Cass County (1/2 cent in Fargo and 1/2 cent in Cass County). The 1 cent taxes should generate about \$21 million a year and each have been put in place for 20 years.

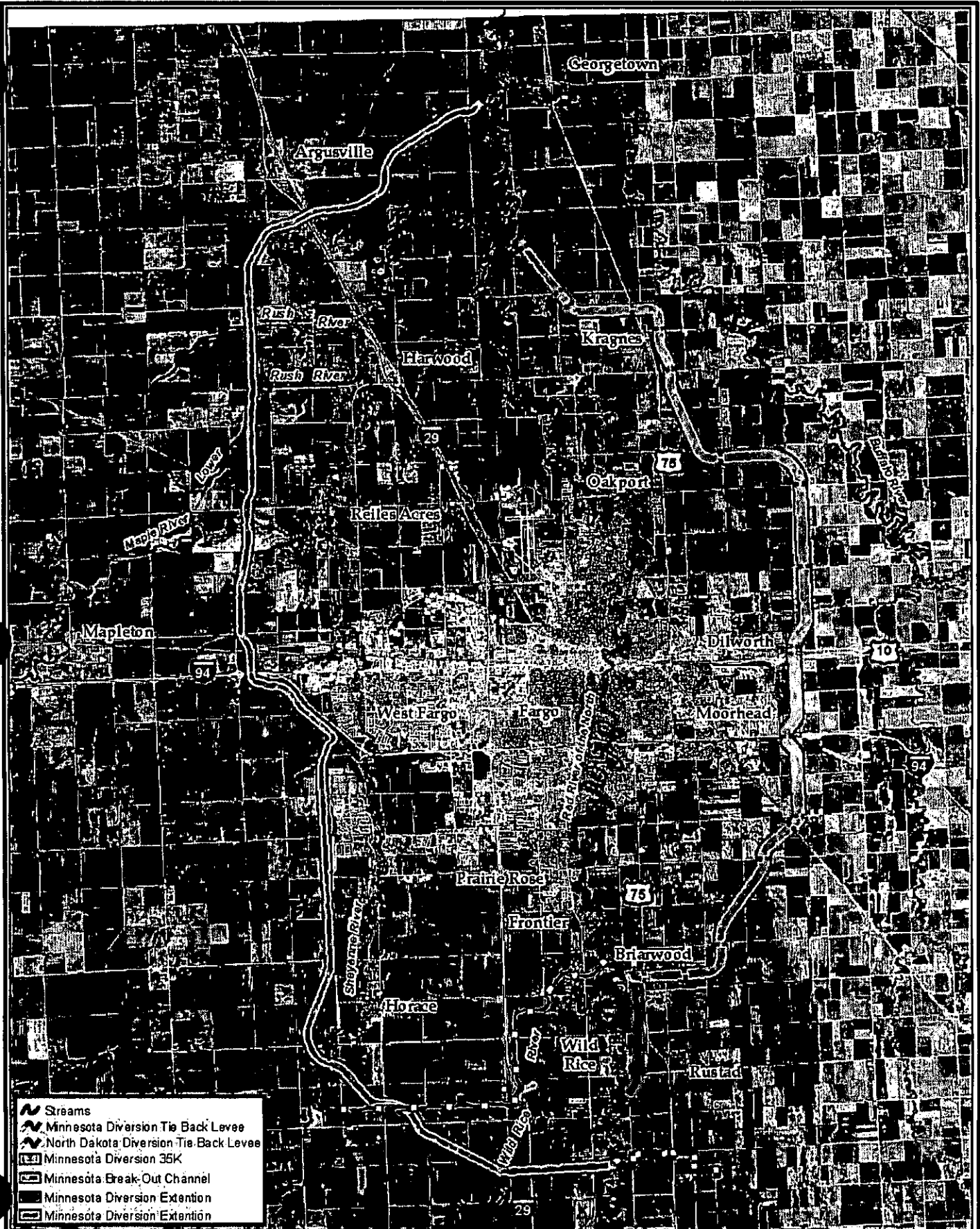
To date, Governors Hoeven and Dalrymple and previous legislative bodies have been generous in recognizing the need for permanent flood protection and have authorized \$75 million. The 2009 legislature appropriated \$45 million and today I am here requesting that the balance of the authorization (\$30 million) be appropriated in this legislative session. I believe Governor Dalrymple's budget has the \$30 million in it for flood protection in Fargo/Cass County and we encourage you to support that funding level. Moreover, we know current legislatures cannot commit future legislatures; however, we respectfully request some language be put in place recognizing the need for additional funding in future legislative sessions for this project.

I thank you for giving me the opportunity to present this information to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis R. Walaker". The signature is fluid and cursive, written over a white background.

Dennis R. Walaker  
Mayor



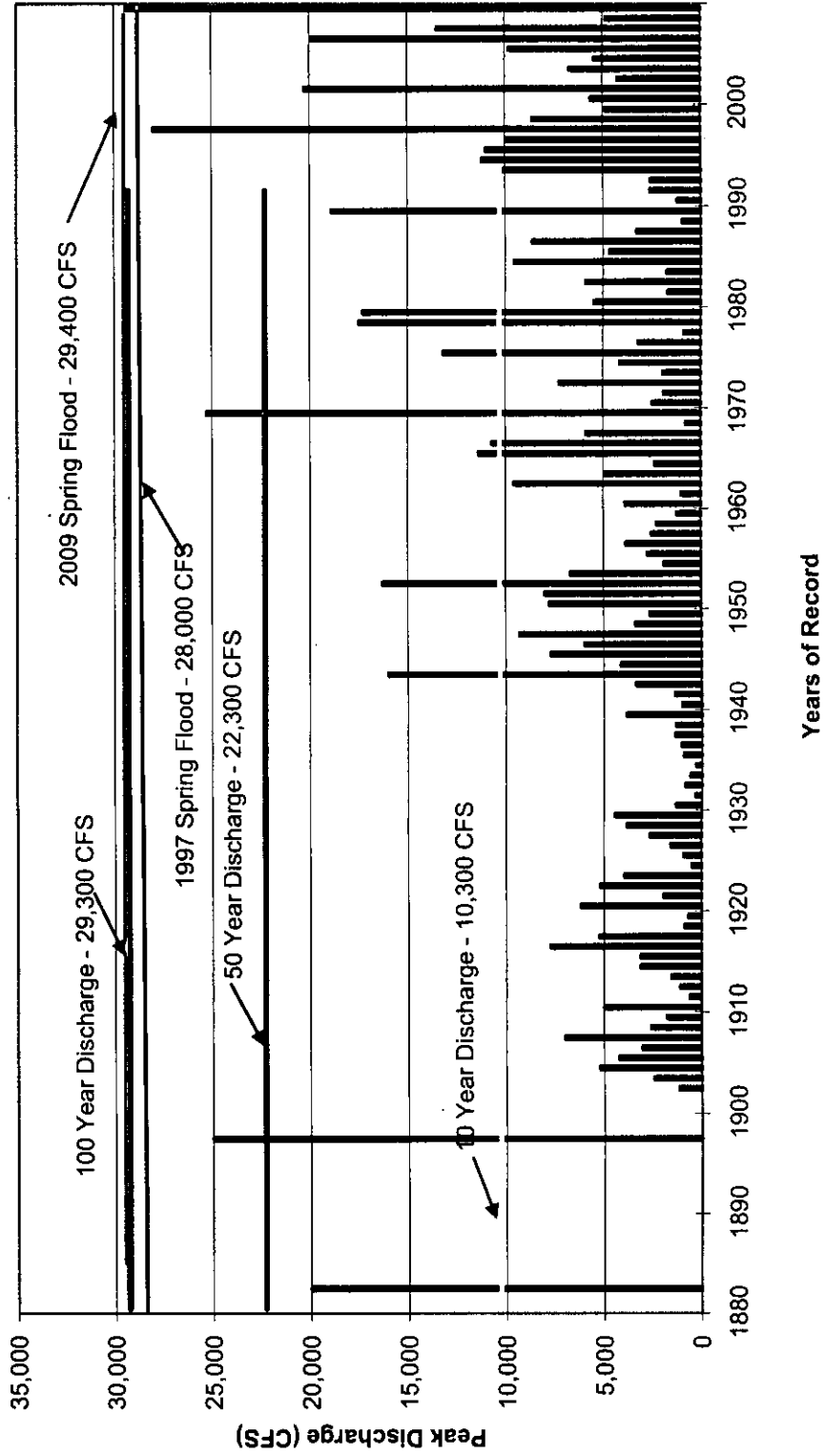
Fargo - Moorhead Metro Study  
Alignments


 St. Paul District  
 GIS CENTER  
 US Army Corps  
 of Engineers





**RED RIVER AT FARGO - USGS GAGING STATION  
HISTORICAL FLOOD DATA**



# FLOOD GRAPH

**APPROX. AVG. RISE**

1969	-3.22 ft./Day
1975	-1.07 ft./Day
1979	-2.39 ft./Day
1989	-2.47 ft./Day
1997	-1.45 ft./Day
2001	-1.87 ft./Day
2006	-3.20 ft./Day
2007	-1.84 ft./Day
2009	-3.26 ft./Day
2010	-2.37 ft./Day

**APPROX. MAX. RISE/DAY**

1969	-5.10 ft./Day
1975	-4.55 ft./Day
1979	-3.42 ft./Day
1989	-3.94 ft./Day
1997	-4.02 ft./Day
2001	-3.85 ft./Day
2006	-5.03 ft./Day
2007	-3.26 ft./Day
2009	-4.92 ft./Day
2010	-3.26 ft./Day

**APPROX. AVG. DECLINE**

1969	-0.77 ft./Day
1975	-1.15 ft./Day
1979	-1.05 ft./Day
1989	-1.44 ft./Day
1997	-0.75 ft./Day
2001	-0.62 ft./Day
2006	-1.28 ft./Day
2007	-0.56 ft./Day
2009	-0.43 ft./Day
2010	-0.58 ft./Day

17' Gauge = 881.33 Elev. (City of Fargo)  
 17' Gauge = 878.80 Elev. (U.S.G.S.)

Friday (1:00 A.M.) - April 16, 1997 (39.72)

**RED RIVER**

1. 40.84 feet March 28, 2009
2. 40.10 feet April 17, 1997
3. 39.57 feet April 17, 1997
4. 37.80 feet April 11, 1982
5. 37.34 feet April 15, 1969
6. 37.13 feet April 5, 2006
7. 36.99 feet March 21, 2010
8. 36.69 feet April 14, 2001
9. 35.30 feet April 6, 1989
10. 34.93 feet April 19, 1979

Source: National Weather Service



BASED ON 1969 FLOOD (April 6 to May 12)

BASED ON 1975 FLOOD (June 20 to July 18)

BASED ON 1979 FLOOD (April 13 to May 4)

BASED ON 1989 FLOOD (April 3 to April 17)

BASED ON 1993 FLOOD (March 28 to April 12)

BASED ON 1993 FLOOD (July 14 to Aug. 18)

BASED ON 1994 FLOOD (March 21 to April 15)

BASED ON 1997 FLOOD (April 2 to May 30)

BASED ON 1999 FLOOD (March 17 to April 5)

BASED ON 2001 FLOOD (April 4 to June 4+)

BASED ON 2005 FLOOD (June 8 to July 22+)

BASED ON 2006 FLOOD (March 30 to April 20+)

BASED ON 2007 FLOOD (March 20 to July 10)

BASED ON 2009 FLOOD (March 20 to May 20)

BASED ON 2010 FLOOD (March 13 to April 23)

Days

River Stage

Flood Stage

Action Stage

Major

Moderate

40.87/2009

40

38

36

34

32

30

28

26

24

22

20

18

16

14

12

10

0 2 4 6 8 10 12 14 16 18 20 22 24 26 28 30 32 34 36 38 40 42 44 46 48 50 52

44

42

40

38

36

34

32

30

28

26

24

22

20

18

16

14

12

10

Days

40.87/2009

40

38

36

34

32

30

28

26

24

22

20

18

16

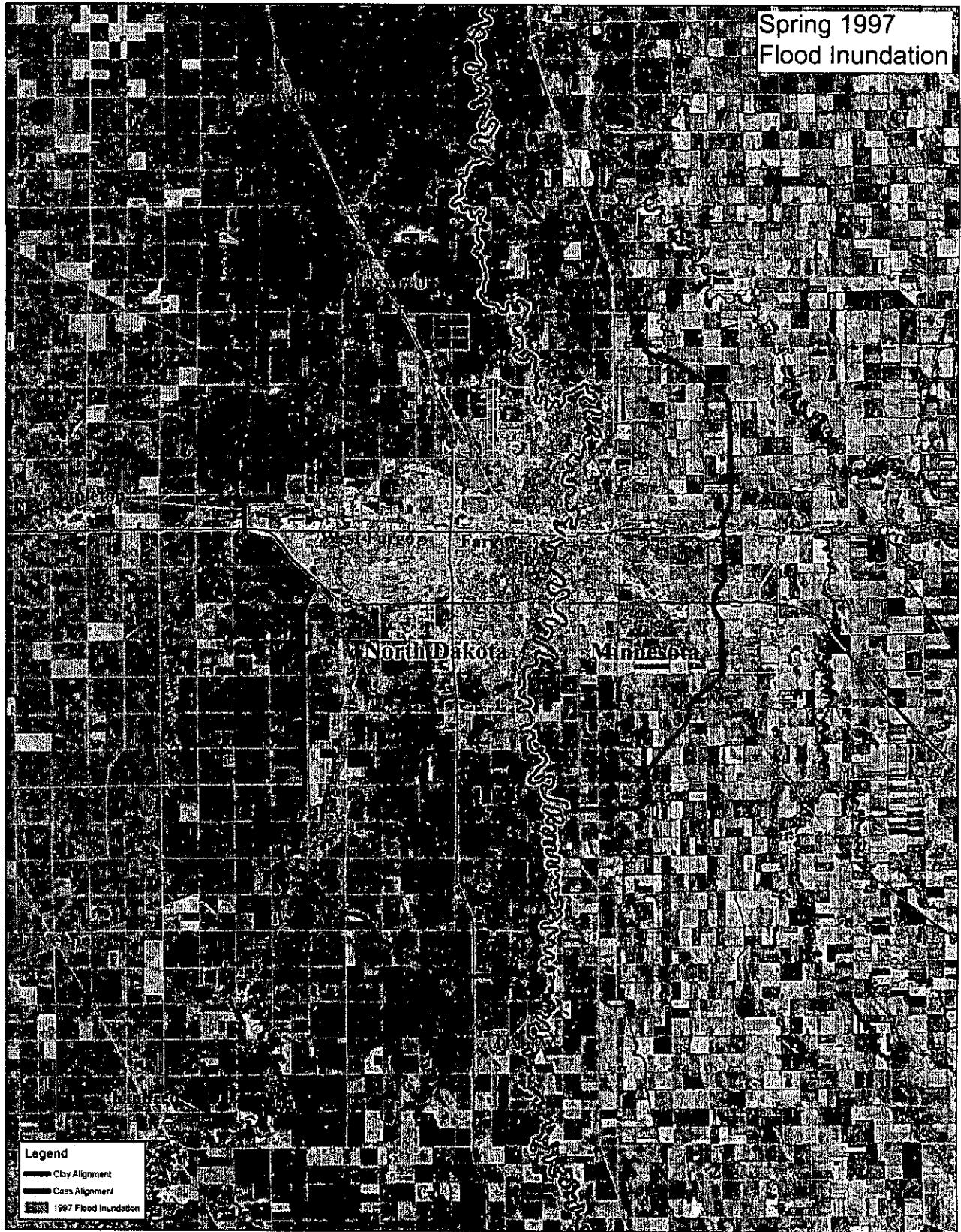
14

12

10

Days

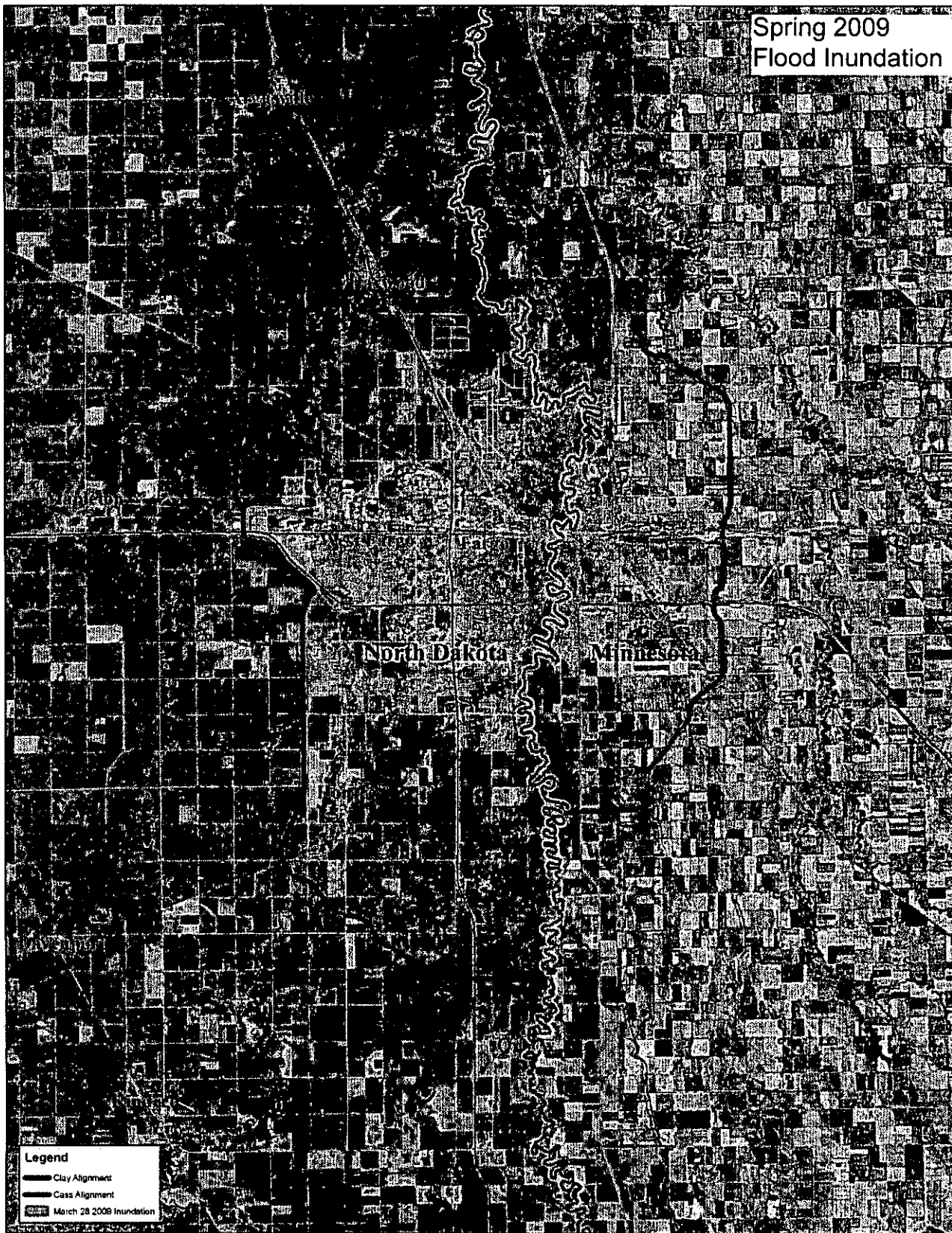
Spring 1997  
Flood Inundation



Spring 1997 Cass County Inundation



Spring 2009  
Flood Inundation

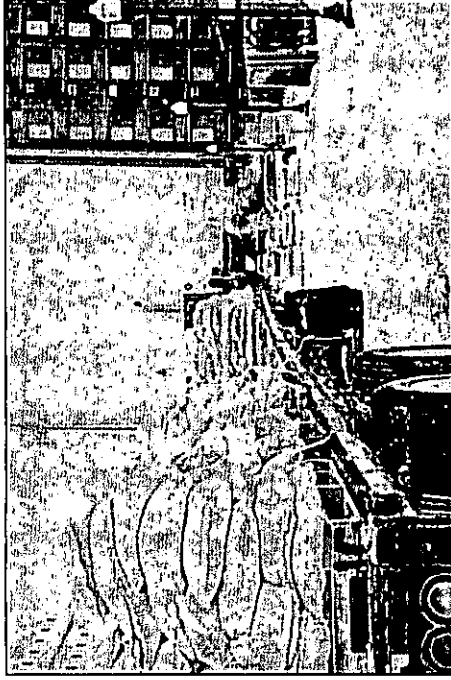


Spring 2009 Cass County Inundation.  
Derived from Advanced Land Imager IR  
Imagery Date: March 28, 2009



## Effectiveness of Diversions:

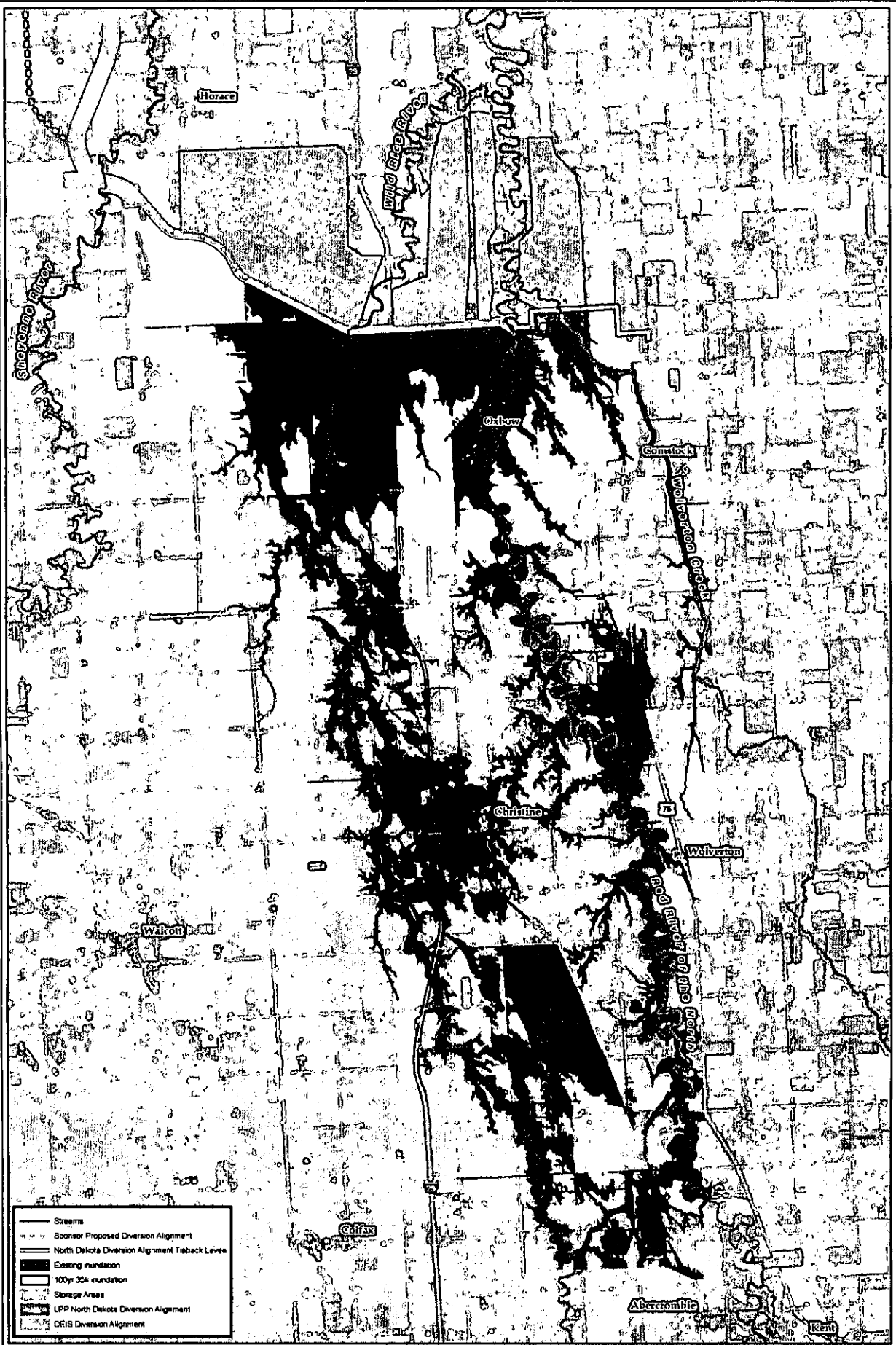
	Stage at Fargo Gage (ft)	
	1% Chance (100- year)	0.2% Chance (500- year)
Existing Condition (Stage)	42.4	46.7
Existing Condition (CFS)	34,700	61,700
Work Group Goal	30	36
20K MN Diversion Channel	36.9	43.7
25K MN Diversion Channel	34.8	42.4
30K MN Diversion Channel	33.6	41.9
35K ND Diversion Channel	30.6	40
35K MN Diversion Channel	31.9	39.6
40K MN Diversion Channel	31.9	37.6
45K MN Diversion Channel	31.9	35.3



Fargo, N.D., March 26, 2009

Stage	Impacts
27	Fargo Elm Street closed
30	Fargo 2nd Street Dike installed
31	Moorhead 1st Ave. North closed
32	First homes in Moorhead threatened
35	First homes in Fargo threatened
40.8	2009 Flood Record Stage

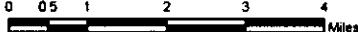





 St. Paul District  
 GIS CENTER  
 US Army Corps  
 of Engineers

**Proposed North Dakota Diversion Alignments**

**Fargo - Moorhead Metro Study**





## ***F-M Metro Study Timeline:***

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SB 2020  
Water Commission  
3/17/11  
attachment #9

**Testimony of Eric Volk, Executive Director**

**ND Rural Water Systems Association**

**Senate Bill 2020**

**House Appropriations Committee - Sakakawea Room - March 17, 2011**

Chairman and members of the committee, my name is Eric Volk. 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.

The NDRWSA is committed to ensuring North Dakota's residents receive affordable drinking water of excellent quality and sufficient quantity. 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 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 large expansion of Stutsman Rural Water District, the further development of the North Central Rural Water Consortium, and the three county expansion of South Central Regional Water District, 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 over \$70 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 & replacing aging infrastructure and complying with rules & regulations are 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. This does offer a challenge in finding affordable ways to bring quality water to rural areas. 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.

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.

2011-2013 Funding Needs

Regional and Rural Water Projects

Project	Estimated Cost	Funding Request	Project Description
<b>Rural/Regional Water Systems</b>			
All Seasons Rural Water District	\$500,000	\$375,000	Reservoir Pump and SCADA Improvement Project
Central Plains Water District	\$1,270,000	\$952,500	Finished Water Storage Improvements at Two Reservoirs and Backup Power Generation for Distribution System
Garrison Rural Water District	\$955,485 \$1,841,289	\$716,614 \$1,380,967	Southwestern Expansion Project Western Water Expansion
Grand Forks-Trail Water District	\$5,000,000	\$3,750,000	System Expansion
Greater Ramsey Water District	\$2,000,000	\$1,500,000	System Expansion to 80 new users and the city of Pekin
McKenzie County Rural Water	\$6,500,000	\$4,875,000	System I & IV Expansions-Alexander and Watford City Areas
McLean-Sheridan Water District	\$350,000 \$450,000 \$2,000,000 \$1,800,000	\$262,500 \$337,500 \$1,500,000 \$1,350,000	Mine Reclamation Project North System Expansion Project Water Treatment Facility Improvements 410 new users in Mercer and McClusky area
North Central Rural Water Consortium	\$4,200,000 \$3,400,000	\$3,150,000 \$2,550,000	Berthold-Carpio Phase Deering Phase
North Prairie Rural Water District	\$1,833,333	\$1,375,000	Reservoir rehabilitation to improve efficiency and to increase storage
North Valley Water District	\$2,189,000 \$636,000	\$1,641,750 \$477,000	93rd Street pipeline improvements (Includes city of St. Thomas facility improvements) Residential Automated Meter Read System
South Central Regional Water District	\$12,341,000	\$9,255,750	Three County Distribution System
Southeast Water Users District	\$453,333	\$340,000	Stage 2 Disinfection Byproducts Requirements
Stutsman Rural Water District	\$18,762,300	\$13,133,610	System Expansion
Trail Rural Water District	\$1,733,333	\$1,300,000	Additional Well Field Improvements and Hillsboro/TRWD Water Treatment Plant Upgrades
Tri-County Rural Water District	\$1,040,000	\$780,000	Water Treatment Plant Improvements
Walsh Rural Water District	\$1,200,000	\$900,000	New Ground Water Storage Reservoir
<b>TOTAL</b>	<b>\$70,455,073</b>	<b>\$51,903,191</b>	

# ND Rural/Regional Water Funding Requests

## **All Seasons Rural Water District – Bottineau**

### Reservoir Pump and SCADA Improvement Project:

Some facilities within the system are in need of improvements in order to continue to provide clean, safe, drinking water to the District's customers and to meet the growing peak needs. An addition of 16 Variable Frequency Drives (VFDs) will allow the pumps to run at varying speeds, only utilizing the power required at a particular time throughout the day, allowing the system to experience lower power costs, and less wear and tear on the pumps and motors. The SCADA system, through local control, operates each reservoir site independently to provide pressure and flow to the user's respective area. Recent FCC regulations are requiring the District to change their current operating radio frequency, which will require new radios at each site, and programming modifications at the Central Terminal Unit.

**Estimated Project Cost: \$500,000**

**Funding Request (75%): \$375,000**

## **Central Plains Water District – Fessenden**

### Finished Water Storage Improvements at Two Reservoirs and Backup Power Generation for Distribution System:

Booster stations No. 3 and No. 5 empty and fill approximately 15 to 20 times a day as they push water further into the system. As there is only 10,000 gallons of storage at each station, any power disruption or breakdown in the system feeding these reservoirs cause domino effects throughout the system. The project would consist of constructing additional storage at these two stations, adding backup power generation at the water treatment plant and at each booster station to improve system reliability.

**Estimated Project Cost: \$1,270,000**

**Funding Request (75%): \$952,500**

## **Garrison Rural Water District – Garrison**

### Southwestern Expansion project:

The project would expand the existing infrastructure of the Garrison Rural Water District to serve a 20 lot subdivision and a 42 lot subdivision that are being planned for the SW area of the territory. Along this route the project would also serve 8 farmsteads at this time with a few more potential customers.

**Estimated Project Cost: \$955,485**

**Funding Request (75%): \$716,614**

### Western Water Expansion:

The project would expand the western reaches of the present system. Included in this project is a water storage reservoir and pump station to better serve existing customers. The project would also give the Garrison Rural Water District the opportunity to serve the expanding oil industry by installing a water salesmen/depot.

**Estimated Project Cost: \$1,841,289**

**Funding Request (75%): \$1,380,967**

## **Grand Forks-Trail Water District – Thompson**

### System Expansion:

The Water District is seeking to undertake a number of improvements that would provide wa service to an additional 100-200 new water users throughout the system. These new users are currently on individual wells. Many of these individual wells have high nitrate and/or arsenic levels.

**Estimated Project Cost: \$5,000,000**

**Funding Request (75%): \$3,750,000**

## **Greater Ramsey Water District-Devils Lake**

### System Expansion

Water system expansion to connect approximately 80 new customers and the community of Pekin.

**Estimated Project Cost: \$2,000,000**

**Funding Requested (75%): \$1,500,000**

## **McKenzie County Water Resource District - Watford City**

### System I & IV Expansions-Alexander and Watford City Areas:

Concerns over existing well water quantity and quality utilized by rural residents for domestic and livestock consumption in west-central and northwestern McKenzie County prompted residents in the area to investigate the possibility of constructing a rural water system to provide for their water needs. Residents fortunate enough not have to haul water for domestic needs in this region, typically are utilizing groundwater supplies with very high concentrations of iron, hardness, fluoride, sulfates, and sodium. As a result, residents in this region initiated a grass roots effort to persuade the McKenzie County Water Resource District (MCWRD) to evaluate rural water service to west-central northwestern McKenzie County. Approximately 220 domestic, commercial (ranching), and indust. (oil) users have expressed interest in rural water service in this region. The MCWRD and the City of Williston have agreed on a bulk water purchase agreement for Williston to become a regional water supplier for the area.

**Estimated Project Cost: \$6,500,000**

**Funding Request (75%): \$4,875,000**

## **McLean-Sheridan Water District - Turtle Lake**

### Water Treatment Facility Improvements:

Project consists of plant upgrades including replacement of aged infrastructure including filter media, pumps, chemical equipment, and electrical systems. The project also includes the installation of a new treatment train expansion and water storage.

**Estimated Project Cost: \$2,000,000**

**Funding Request (75%): \$1,500,000**

### Mine Reclamation Project:

Project consists of approximately 8 miles of 4-inch pipe to serve reclaimed coal mine land. The proposed project will allow expansion of the District into areas previously removed for industrial use. The reclamation has been completed; however the lack of potable water service is a major obstacle to re-population and land use.

**Estimated Project Cost: \$350,000**

**Funding Request (75%): \$262,500**

North System Expansion Project:

Project consists of approximately 9 miles of 2-inch pipe to serve 50-100 users located north of Turtle Lake within the District service boundary.

**Estimated Project Cost: \$450,000**

**Funding Request (75%): \$337,500**

East System Expansion:

Proposed project would extend the existing distribution system to provide service to the Blue Lake and Brush Lake areas. The project will include the installation of approximately 10 miles of 4-inch pipeline. This project will provide safe and reliable for up to 410 new users in the Mercer/McClusky area.

**Estimated Project Cost: \$1,800,000**

**Funding Request (75%): \$1,350,000**

**North Central Rural Water Consortium II – Minot & Fessenden**

Berthold - Carpio Phase:

This project extends from Des Lacs to Carpio. The water supply would be the NAWS pipeline and would extend into the rural areas of western Ward County. This project would serve approximately 180 rural users and the community of Carpio. The community of Carpio does not have a centralized water system as each resident is on their own well or shared wells. The community reports that this is limiting their ability to grow with the oil boom in the area as businesses and residents will not locate in the community. Water quality generally has high iron, manganese and total dissolved solids. Some residents report hauling all their drinking water due to lack of quality sources.

**Estimated Project Cost: \$4,200,000**

**Funding Request (75%): \$3,150,000**

Deering Phase:

This project extends from Granville to the Deering area. The project would serve approximately 100 users and the community of Deering. The community of Deering has a deteriorating water system with a large water loss and low pressures. Water supply would be from North Prairie Rural Water District and the future NAWS pipeline north of Minot Air Force Base. Water quality generally has high iron, manganese and total dissolved solids. Some residents also report hauling all their drinking water due to lack of quality sources.

**Estimated Project Cost: \$3,400,000**

**Funding Request (75%): \$2,550,000**

**North Prairie Rural Water District-Minot**

Water Storage Reservoir Rehabilitation

Project will rehabilitate existing reservoirs to improve efficiency and will add storage capacity to benefit 2,500 existing rural connections as well as the communities of Surrey and Max.

**Estimated Project Cost: \$1,833,000**

**Funding Requested (75%): \$1,375,000**



## **North Valley Water District – Cavalier**

### 93<sup>rd</sup> Street pipeline improvements (Includes city of St. Thomas facility improvements):

Project includes a 13-mile pipeline (8 & 10 inch diameter) from North Valley's Water Treatment Plant and east along 93<sup>rd</sup> Street NE. Purpose of the project is to improve capacity of rural Cavalier, Hensel, Hamilton, Glasston, and St. Thomas areas. Also includes improvements at the City of St. Thomas to improve delivery to the City.

**Estimated Total Project Cost - \$2,189,000**

**Funding Request (75%) - \$1,641,750**

### Residential Automated Meter Read System:

Project involves replacement of all residential water meters to radio-head meters (1,400). North Valley Water District has already invested \$45,000 for installation of Radio-Frequency chips on approximately 1,050 Nodak Rural Electric meters as the first stage of this project. Nodak meters and power lines will carry data back to North Valley's office. This "green" tool will help conserve water and energy by properly monitoring usage.

**Estimated Project Cost - \$636,000**

**Funding Request (75%) - \$477,000**

## **South Central Regional Water District – Bismarck**

### Three County Distribution System:

The project is the continued development of a regional water supply system within Emmons, Logan, and McIntosh Counties. This phase of the work will provide potable water service to nearly 300 rural residences in Logan and McIntosh Counties. Supply will also be provided to the communities of Ashley, Wishek, and Napoleon. The work includes the installation of approximately 350 miles of 1½"-12" P pipe, a prefabricated booster station, and the construction of a storage reservoir.

**Estimated Project Cost - \$12,341,000**

**Funding Request (75%) - \$9,255,750**

## **Southeast Water Users District – Mantador**

### Stage 2 of the Disinfectants-Disinfection Byproducts (D/DBP) Rule Compliance:

SEWUD currently experiences elevated concentrations of disinfectant by-products (DBPs) in various outlying and far reaching portions of their systems. These areas will not be able to meet compliance with Stage 2 Disinfectants-Disinfection By-Products (D/DBP) Rule without modifications to the reservoirs, pumps, controls, monitoring, and chemical feed systems within SEWUD system. The project includes conducting testing to determine what areas will be out of compliance with the upcoming Stage 2 D/DBP Rule.

**Estimated Project Cost - \$453,333**

**Funding Request (75%) - \$340,000**

## **Stutsman Rural Water District – Jamestown**

### System Expansion:

Expansion project will bring water to 550 individual users and the cities of Woodworth and Streeter. These residents are currently experiencing quantity and quality deficiencies in the water supply. The Water District will use a combination of its existing water treatment plant and purchased water from the cities of Jamestown and Carrington. By utilizing existing city infrastructure, the Water District becomes a more efficient regional water system.

**Estimated Project Cost: \$18,762,300**

**Funding Requested (70%): \$13,133,610**

### **Trail Rural Water District – Clifford**

#### Additional Well Field Improvements and Hillsboro/TRWD Water Treatment Plant Upgrades:

Continuation of the Trail Regional Water Supply Project. Additional funds are required for increased construction costs (addition ND Department of Health waste water disposal requirements) and to bring the total funding package to a level of 75%.

**Estimated Project Cost: \$1,733,333**

**Funding Requested (75%): \$1,300,000**

### **Tri-County Rural Water District – Petersburg**

#### Water Treatment Plant Improvements:

The Water District is experiencing problems with supplying an adequate quantity of potable water through its existing water treatment plant. Expansion of the water treatment plant (constructed 1982) to increase water production, storage and distribution from the water treatment facility to keep up with the water needs of the district is necessary. Additional onsite storage will alleviate some of the peak demands, along with improvements within the plant, including pump replacement, filter expansion, and piping modifications.

**Total Estimated Project Cost - \$1,040,000**

**Funding Request (75%) - \$780,000**

### **Walsh Rural Water District-Grafton**

#### New Water Storage Reservoir

A 500,000 gallon concrete ground storage reservoir to supplement an existing 80,000 gallon storage/pumping facility.

**Estimated Project Cost: \$1,200,000**

**Funding Requested (75%): \$900,000**

Rural Water System Rates  
March 2011

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	1630	\$29.00	0	\$4.75	\$57.50	
Barnes Rural Water District -New		\$47.00	0	\$5.75	\$81.50	
Cass Rural Water District	3500	\$25.00	0	\$3.75	\$47.50	
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 Trail Water District	2390	\$24.50	0	\$4.50	\$51.50	
Greater Ramsey Water District	792	\$30.00	0	\$3.25	\$49.50	
Greater Ramsey Water District Expansion	826	\$42.00	0	\$3.25	\$61.50	
Langdon Rural Water District Phase I, II & III	680	\$44.00	0	\$5.00	\$74.00	
Langdon Rural Water District Phase IV	263	\$57.00	0	\$5.00	\$87.00	
Langdon Rural Water District Phase Cando Expansion	21	\$50.00	0	\$5.00	\$80.00	
McKenzie Water Resource District	120	\$42.00	0	\$1.90	\$53.40	
McLean Sheridan Rural Water	500	\$46.00	0	\$5.91	\$81.46	
Missouri West Water System	1425	\$35.00	0	\$4.45	\$61.70	
North Central Rural Water Consortium	612	\$52.00	0	\$5.30	\$83.80	
North Prairie Rural Water District	2000	\$38.00	0	\$6.15	\$74.90	
North Valley Water District	1340	\$30.00	0	\$4.70	\$58.20	
R&T Water Supply Association	27	\$17.00	0	\$4.00	\$41.00	
South Central Regional Water District	4133	\$30.00	0	\$6.50	\$69.00	
Southeast Water Users District West	510	\$45.00	0	\$3.00	\$63.00	
Southeast Water Users District Central	770	\$45.00	0	\$5.25	\$76.50	
Southeast Water Users District East	1335	\$26.00	0	\$4.00	\$50.00	
Southwest Water Authority	3897	\$42.10	2000	\$3.75	\$57.10	
State Line Water Cooperative	138	\$25.00	0	\$4.00	\$49.00	
Stutsman Rural Water District	1216	\$37.00	0	\$4.00	\$61.00	
Trail Rural Water District	770	\$55.00	0	\$6.00	\$91.00	
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	560	\$24.00	0	\$8.00	\$72.00	
Walsh Rural Water District R1	1181	\$31.00	0	\$6.00	\$67.00	
Walsh Rural Water District R2	11	\$45.00	0	\$6.00	\$81.00	
Walsh Rural Water District R3	137	\$48.00	0	\$6.00	\$84.00	
Walsh Rural Water District R4	15	\$55.00	0	\$6.00	\$91.00	
Williams Rural Water District	972	\$35.00	0	\$8.40	\$85.40	
	37296					
<b>Median</b>		\$37.50		\$5.00	\$65.75	
<b>Average</b>		\$36.99		\$4.88	\$65.84	
** \$4.50/1000 for 1st 5000 gallons & then \$4.00/1000						

SB 2020  
Water Commission  
3/17/11  
attachment # 10

Testimony on HB 2020  
Hearing Date: <sup>March 17</sup> January 13, 2011

By: Teresa Sundsbak, General Manager of North Prairie Rural Water District and Vice President of the NCRWC

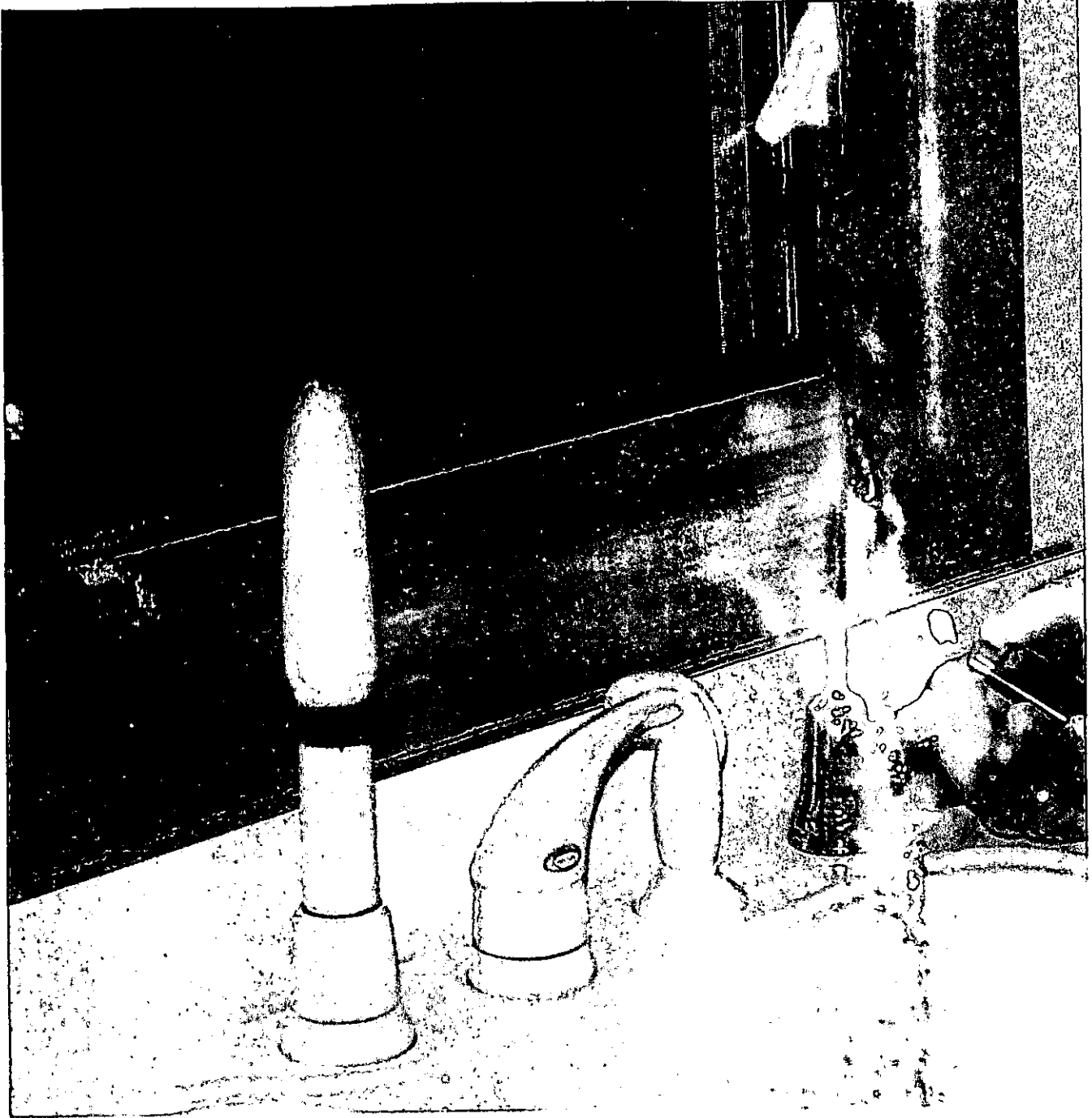
Good afternoon Mr. Chairman and committee members. I am Teresa Sundsbak, General Manager of North Prairie Rural Water District and Vice President of NCRWC, a regional water system in north central North Dakota. We provide water service to a large portion of Ward, Wells, Benson and a smaller area of Mclean, McHenry, Pierce, and Mountrail Counties, and I ask for your support on House Bill 2020.

You will hear a lot of testimony today concerning the larger water needs around the state. I am here today representing the Rural Water systems of North Dakota. Keep in mind that it is the rural water systems that take that water off of the larger projects and are delivering it to the rural people of ND. In the Berthold/ Carpio area we have the NAWS line running through our District and yet we have not been able to secure funding to utilize this line to its full potential. Many of the people in this area gave easement to allow this line to run through their land and they have not been able to get water because of lack of funding. In the Deering/ Granville area they are surrounded by water districts but cannot get water because of lack of funding. How long do they have to wait?

In this day and age can you imagine a young mother drawing a bath for her children and when she puts them in the tub you cannot see their toes for the water is too brown, or when you run water out of your faucet you can light it on fire. I grew up in this area and I know what it is like to take a bath in that brown water. Many of us who have good potable water take it for granted. But for those who don't it becomes priceless. These families have been waiting for water for over 30 years.

As you may know most of the rural water systems in central ND were built in the 80's. These projects were mainly funded by the Federal government. It takes 60 to 75% grant dollars to make most rural water projects feasible. With all the changes that have taken place on the Federal level, we know that we cannot rely upon them in the future. The eastern part of the state has no gaps. With the continued growth of Western and Central ND due to the oil industry it is crucial that we secure funding to be able to support the continued growth of this region. Agriculture and the oil industry remain a key driver of North Dakota's economy. Quality water is critical to the growth of North Dakota. Please support rural water systems in House bill 2020.

Thank you



Richard and Mary Thompson  
4120 20th Ave. S.E.  
Minot, ND 58701



The real true innocence  
of Children.

If they only knew  
what they were taking  
a bath in.

SB 2020  
Water Commission  
3/12/11  
attachment # 11

**Testimony on SB 2020**

**Hearing Date: March 17, 2011**

**By: Geneva Kaiser, Manager – Stutsman Rural Water District, Jamestown, ND**

Good afternoon, Mr. Chairman and committee members. I am Geneva Kaiser, Manager of Stutsman Rural Water District, which provides quality water to portions of Stutsman, Foster, Griggs, LaMoure and Logan Counties. Stutsman Rural Water District is a growing regional water system currently serving 1241 rural residences, farmsteads, and businesses, as well as 16 small towns.

The District has made application to the MR & I Program and has been waiting for grant funding which would allow us to add another 560 rural residences and farms to the water system as well as the towns of Woodworth and Streeter.

The rural resident's need for a high quality potable water supply is extensive. Many of these individuals purchase bottled water for drinking and in some areas the water quality is so poor that they must bring water in from an outside source for something as simple as bathing, and often to meet the needs of their livestock. There are really no other opportunities for rural residents to obtain affordable high quality water other than being included in a grant funded project constructed by a regional rural water system. They do not reside in highly populated areas that have the ability to generate their own funds with sales tax dollars, special assessments and property taxes. The rural resident stands alone and patiently waits for a basic necessity of life that many of us take for granted.

As North Dakotans, we are very fortunate that our economy is thriving and that we have the ability to use some of those surplus dollars to benefit the residents of our state. I can think of no other investment toward the future of North Dakota that would benefit the rural resident more than investing in infrastructure; particularly water infrastructure, that would help insure the stability of the rural population for many years to come.

Thank you for the opportunity to testify before you today in support of SB 2020 and I urge you to support the additional funding request as well.



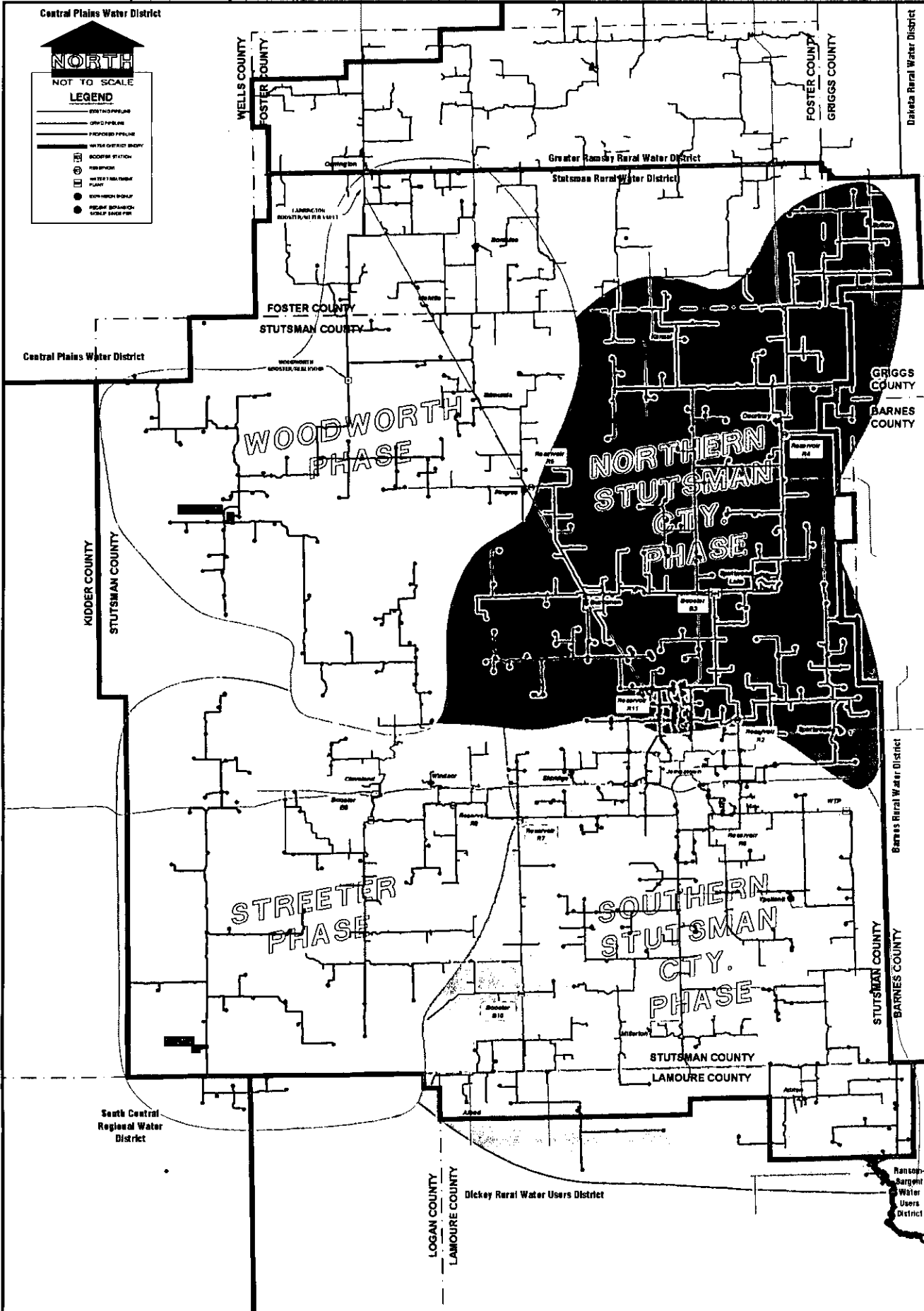
Central Plains Water District

**NORTH**

NOT TO SCALE

**LEGEND**

- EXISTING PIPELINE
- PROPOSED PIPELINE
- WATER DISTRICT BOUNDARY
- BOOPEE STATION
- WATER TREATMENT PLANT
- EXISTING BRANCH
- PROPOSED BRANCH



11/15/2010 10:58 AM C:\Users\jwagner\Documents\Stutsman Rural Water\Expansion Phase Map.dwg User: jwagner Date: 11/15/2010 10:58 AM

**Stutsman Rural Water District**  
 PO Box 547 Phone: 701-252-7727  
 Jamestown ND 58402-0547 Fax: 701-252-9711

RURAL WATER

**EXPANSION PHASE MAP**

NOVEMBER 2010

**BARTLETT & WEST**

**Construction Cost Estimate  
Stutsman Rural Water Users  
Woodworth Expansion Area**

<b>Rural Water Distribution System</b>			
<b>Description</b>	<b>Quantity (ft.)</b>	<b>Unit Price / Ft.</b>	<b>Extension</b>
8" Cl. 250 PVC	10,800 '	\$ 11.50	\$124,200
8" Cl. 200 PVC	67,250 '	\$ 10.25	\$689,313
8" Cl. 160 PVC	31,500 '	\$ 9.50	\$299,250
6" Cl. 250 PVC	5,850 '	\$ 7.40	\$43,290
6" Cl. 200 PVC	7,000 '	\$ 6.90	\$48,300
6" Cl. 160 PVC	69,000 '	\$ 6.10	\$420,900
4" Cl. 200 PVC	47,000 '	\$ 4.50	\$211,500
4" Cl. 160 PVC	71,900 '	\$ 4.00	\$287,600
3" Cl. 250 PVC	45,300 '	\$ 3.25	\$147,225
3" Cl. 200 PVC	35,000 '	\$ 2.90	\$101,500
3" Cl. 160 PVC	48,600 '	\$ 2.60	\$126,360
2" Cl. 250 PVC	55,100 '	\$ 2.35	\$129,485
2" Cl. 200 PVC	89,700 '	\$ 2.25	\$201,825
2" Cl. 160 PVC	212,000 '	\$ 2.10	\$445,200
1½" Cl. 200 PVC	13,000 '	\$ 4.55	\$59,150
Subtotal Pipe	809,000 '		\$3,335,098
Appurtenances at 30%			\$1,000,500
Woodworth Booster/Reservoir			\$260,000
Woodworth Master Meter			\$20,000
SCADA			\$40,000
<b>Subtotal Rural Distribution System Construction Cost</b>			<b>\$4,655,600</b>
Additional Project Costs at 30%			\$1,396,700
<b>Total Project Cost</b>			<b>\$6,052,300</b>

NOTE: *Woodworth Area Expansion Consists of:*

- 1) 153 miles of 8" - 1½" PVC Pipe
- 2) 93 new rural users and the Town of Woodworth (42 meters currently)
- 3) Improvements to Reservoir 5 and 11 Areas.

**Construction Cost Estimate  
Stutsman Rural Water Users  
Northern Stutsman County Expansion Phase**

<b>Rural Water Distribution System</b>			
<b>Description</b>	<b>Quantity (ft.)</b>	<b>Unit Price / Ft.</b>	<b>Extension</b>
6" Cl. 200 PVC	45,000 '	\$ 6.90	\$310,500
6" Cl. 160 PVC	23,500 '	\$ 6.10	\$143,350
4" Cl. 160 PVC	73,615 '	\$ 4.00	\$294,460
3" Cl. 200 PVC	35,200 '	\$ 2.90	\$102,080
3" Cl. 160 PVC	72,500 '	\$ 2.60	\$188,500
2" Cl. 250 PVC	3,900 '	\$ 2.35	\$9,165
2" Cl. 200 PVC	185,800 '	\$ 2.25	\$418,050
2" Cl. 160 PVC	307,900 '	\$ 2.10	\$646,590
1½" Cl. 200 PVC	18,700 '	\$ 4.55	\$85,085
Subtotal Pipe	766,115 '		\$2,197,780
Appurtenances at 30%			\$659,300
<b>Subtotal Rural Distribution System Construction Cost</b>			<b>\$2,857,100</b>
Additional Project Costs at 30%			\$857,100
<b>Total Project Cost</b>			<b>\$3,714,200</b>

NOTE: *Northern Stutsman County Expansion Phase Consists of:*

- 1) 145 miles of 6" - 1½" PVC Pipe
- 2) 151 new rural users
- 3) Improvements to Reservoir 2, 3, and 4 Areas

**Construction Cost Estimate  
Stutsman Rural Water Users  
Southern Stutsman County Expansion Phase**

<b>Rural Water Distribution System</b>			
<b>Description</b>	<b>Quantity (ft.)</b>	<b>Unit Price / Ft.</b>	<b>Extension</b>
8" Cl. 200 PVC	21,200 '	\$ 10.25	\$217,300
8" Cl. 160 PVC	68,800 '	\$ 9.50	\$653,600
6" Cl. 200 PVC	33,700 '	\$ 6.90	\$232,530
6" Cl. 160 PVC	9,100 '	\$ 6.10	\$55,510
4" Cl. 160 PVC	32,800 '	\$ 4.00	\$131,200
3" Cl. 200 PVC	54,000 '	\$ 2.90	\$156,600
3" Cl. 160 PVC	178,800 '	\$ 2.60	\$464,880
2" Cl. 200 PVC	134,200 '	\$ 2.25	\$301,950
2" Cl. 160 PVC	267,900 '	\$ 2.10	\$562,590
1½" Cl. 200 PVC	26,000 '	\$ 4.55	\$118,300
Subtotal Pipe	826,500 '		\$2,894,460
Appurtenances at 30%			\$868,338
Reservoir 6 Upgrades			\$100,000
Reservoir 1 (WTP) Upgrades			\$200,000
<b>Subtotal Rural Distribution System Construction Cost</b>			<b>\$4,062,800</b>
Additional Project Costs at 30%			\$1,218,800
<b>Total Project Cost</b>			<b>\$5,281,600</b>

NOTE: *Southern Stutsman County Expansion Consists of:*

- 1) 157 miles of 8" - 1½" PVC Pipe
- 2) 196 new rural users
- 3) Improvements to Reservoirs 1, 6, 7, and 10 Service Areas

**Construction Cost Estimate  
Stutsman Rural Water Users  
Streeter Area Expansion Phase**

<b>Rural Water Distribution System</b>			
<b>Description</b>	<b>Quantity (ft.)</b>	<b>Unit Price / Ft.</b>	<b>Extension</b>
6" Cl. 160 PVC	57,000 '	\$ 6.10	\$347,700
4" Cl. 250 PVC	5,500 '	\$ 4.90	\$26,950
4" Cl. 200 PVC	5,300 '	\$ 4.50	\$23,850
4" Cl. 160 PVC	14,000 '	\$ 4.00	\$56,000
3" Cl. 250 PVC	47,000 '	\$ 3.25	\$152,750
3" Cl. 160 PVC	134,600 '	\$ 2.60	\$349,960
2" Cl. 250 PVC	63,400 '	\$ 2.35	\$148,990
2" Cl. 200 PVC	20,000 '	\$ 2.25	\$45,000
2" Cl. 160 PVC	232,000 '	\$ 2.10	\$487,200
1½" Cl. 250 PVC	1,700 '	\$ 4.75	\$8,075
1½" Cl. 200 PVC	5,750 '	\$ 4.55	\$26,163
Subtotal Pipe	586,250 '		\$1,672,638
Appurtenances at 30%			\$501,791
Street Meter Vault/VFD Booster			\$225,000
<b>Subtotal Rural Distribution System Construction Cost</b>			<b>\$2,399,400</b>
Additional Project Costs at 30%			\$719,800
<b>Total Project Cost</b>			<b>\$3,119,200</b>

NOTE: *Streeter Area Expansion Phase Consists of:*

- 1) 111 miles of 6" - 1½" PVC Pipe
- 2) 56 new users and service to City of Streeter
- 3) Tie-in to South Central Water District Also will serve part of current Reservoir 9 SA
- 4) Improvements to Reservoir 9 Area

SB 2020  
Water Commission  
3/12/11  
attachment # 12

March 17, 2011

Re: Support for Senate Bill 2020

**Mr. Chairman and Members of the Committee:**

**Thank you for this opportunity to testify in support of Senate Bill SB 2020.**

My name is Gene Veeder and I am a board member on the McKenzie County Water Resource District. I am here today as the lead entity from the four entities, City of Williston, R&T Water Association, Williams Rural Water District, and the McKenzie County Water Resources District, that have signed a memorandum of understanding to proceed with the development of the Western Area Water Supply Project. The region that these entities serve is experiencing rapid growth and also has primary and secondary drinking water problems that need to be solved.

McKenzie County became aware of a growing water demand in the oil field prior to the rapid increase in needs for the extraction of oil through hydraulic fracturing of the Bakken.

We saw growing conflict between agricultural users and the energy industry over the use of Fox Hills water in western McKenzie County over 7 years ago.

Working with the State Water Commission, we explored alternatives and it became evident the natural solution to protecting aquifers in our county was to look to the Missouri River and Lake Sakakawea which borders our county to the north and east. We saw a solution to the high cost of delivering water to rural residents through the inclusion of volume customers in the oil field. Those volume sales spread that infrastructure cost over more users and increase sales to support loans to build the project. Our first project is under construction in eastern McKenzie County, partnering with the Three Affiliated Tribes, State Water Commission and Hess and the county water district.

Since that time, water needs for hydraulic fracturing have exploded. Exploration companies have become concerned about availability of water to continue the expansion of drilling in the Williston Basin. Our communities are growing, oil companies are looking for consistent and reliable sources of water and our citizens are concerned about expanded industrial use of water while they remain with low quantities and quality water to farms and small towns. As we explored solutions, we became aware that this situation existed in rural communities north of McKenzie County as well.

The following is a summary of the water supply problems that the region is facing.

Crosby and BDW are in need of a new water treatment plant and the current water supply is of poor water quality, limited in supply and expensive to treat.

R&T Water Association that currently serves Ray, Tioga, Stanley, Wildrose and in the near future Crosby and BDW Rural Water District is constructing a water treatment plant but the future water demand projections exceed the safe yield capacity of their aquifer.

Williams Rural Water District has several rural water users that have been waiting for water for several years and they also have had several requests for water in their growth area around Williston that they had to turn down because they have no capacity.

Williston is growing, needs to provide fire flow in its growth area, and has pressure problems in its growth areas.

The demand for industrial water is and distribution of that water to drilling rigs is tremendous road damage.

McKenzie Rural Water System has rural water users that have been waiting for water and is currently using water from the City of Watford City. The Watford City water supply quality has been deteriorating and the City has voted to change its source to the Missouri River.

In other words, the entire region needs a quality water supply of robust quantity and good quality. The only supply to meet these requirements is the Missouri River and the City of Williston has graciously stepped forward to be a partner in assisting the region with their existing supply and treatment facilities. This is very important because it is a supply that has ample permitted capacity and is currently in place and does not need any further permits from the Corp of Engineers to access the Missouri River.

For the last 2.5 years we have been doing our due diligence to develop this project and to make sure that it is economically feasible. To date the following efforts have been completed.

We participated in an economic study with the Garrison Diversion Conservancy District to determine if the regional system or individual high tech water treatment plants would be the most cost effective.

We have had engineering cost estimates and completed for the project. We have had the existing intake and water treatment plant at Williston evaluated

We have completed a financial plan and looked at several water demand scenarios to evaluate the financial viability of the funding plan

We are currently examining the available water supplies to ensure that there is a need for the industrial water supply.

Two years ago, we participated in an economic feasibility study with the assistance of the Garrison Diversion Conservancy District and the State Water Commission to determine the most economical way to solve the water supply and treatment issues in the region. The study showed that the solution to these issues is a regional approach that goes beyond the boundaries of McKenzie County Water District. The solution is the Western Area Water Supply Project or WAWSP. WAWSP is a comprehensive regional approach that will supply quality water for new customers, future economic development, and industrial demands.

Besides serving the citizens of the region, the Northwest area is in the middle of the largest oil development in the history of the State of North Dakota. The economic impacts are tremendous to our area and to the State as a whole. Water is a critical component to this success. Providing water to the oil industry will allow continued growth and is the first step in supplying infrastructure needs that will allow controlled growth, housing, and stabilize the regional economy


This approach has the support of the key water infrastructure stakeholders in the region. McKenzie County Water District, the City of Williston, Williams Rural Water District, and R&T Water Supply Association, Burke Divide Water District and the Cities of Watford City, Ray, Tioga, Stanley, Crosby, and Genora . The communities and water districts mentioned agree that WAWSP will address their challenges while providing numerous benefits. The oil industry and other oil related agencies also support this project as it creates a water supply for drilling and other growth; reduce the hauling distance of water to the oil fields, and increases safety.

The WAWSP working group has spent considerable time analyzing numerous financial scenarios in order to be able to suggest the best use of state and local dollars. We remember the 80's oil boom and bust and how it affected our communities, we refuse to commit to any plan that may put undue burden on our systems, our communities, and our State. The total project is proposed to cost \$150 million with a \$25 million grant from the state, bonding that will be issued by the Western Area Water Authority, and a moral obligation from the state in the unlikely event that the required debt reserves cannot be maintained by the system. Through rigorous analysis, we have determined that the project has a potential payback period of 10 years through sufficient income for debt services (water rates) if started immediately. The need is immediate, so the start date must be immediate.

The result of the project will provide the area with water infrastructure and distribution to the people as well as the capability of supplying future needs following the success of the Bakken drilling. Consequently, when drilling declines, the area will have adequate resources to potentially provide water for a potash plant, gasification plant, or agriculture processing plant. Therefore, this plan not only helps the area prosper in the immediate future but for years following the Bakken drilling.

Overall, WAWSP has the potential to solve water challenges on multiple levels, while positioning the region for an economic windfall. The grant funding requested from the State of North Dakota is critical to meeting the needs of the





rural citizens and communities in the region, the oil and energy sector, and the growth associated with it. We, the members of WAWSP, respectfully request funding to meet these needs and propel the region, and ultimately the State of North Dakota in economic prosperity.

Thank you for your time and consideration of this project.



SB 2020  
Water Commission  
3/17/11  
attachment #13

Testimony by Cliff Ferebee, Dunn County Resident  
On behalf of the  
**Southwest Pipeline Project**  
to the  
**Education and Environment Division of the House**  
**Appropriations Committee**  
**Hearing on Senate Bill 2020**

Bismarck, ND  
March 17, 2011

Good afternoon Mr. Chairman and members of the committee. My name is Cliff Ferebee, and I am here this afternoon to ask for your continued support of water development projects, more specifically, the completion of the Southwest Pipeline Project in southwest North Dakota.

Currently, my wife and I live on the family farm two miles north of Halliday. We are located in Dunn County, and it is here where we raised our children.

Our farm and ranch operation includes small grains and a feedlot for cattle. Feedlots require an adequate supply of quality water at all times. Water is the most critical nutrient for all classes of beef cattle. Both water accessibility and quality have an impact on adequate water consumption. When streams, creeks, springs or ponds are used as the water source for cattle, it is important for the operator to assess the reliability and quality of the supplies.

Reduced stream or creek flows and low pond water levels, due to periods of little or no precipitation, can be expected in southwest North Dakota. That is why successful feedlot operators in this area search for other, more reliable sources of water for their operations. There are not many other water supply options in southwest North Dakota. Thus, I ask that you support the completion of the Southwest Pipeline Project to ensure farmers and ranchers have access to a consistent supply of quality water, not only for household purposes, but livestock, as well. Bringing quality water to pastures will result in benefits such as increased daily weight gains and more effective use of available forage. Producers who have installed pasture taps, in an earlier stage of pipeline construction, have already been able to capitalize on having a reliable source of quality water when the natural sources became stagnant.

Even though I am busy running the family farm and feedlot operation, I feel it is important to be involved in projects that can improve the overall quality of life for area residents, as well as the entire region. Over the years, I have been active in many local, district and state organizations. Most recently, I have served on the Executive Board for the North Dakota Association of Oil and Gas Producing Counties and the Dunn County Commission.

As you know, southwest North Dakota is currently experiencing tremendous growth as a result of the increased oil production in the area. With rapid growth, area leaders can expect many challenges, and that is exactly what is happening right now. We have challenges with declining infrastructure from the increased demand on our roadways to the limited water sources in our region.

Whether a farmer, rancher, feedlot operator, family or oil company...the need remains the same...a reliable source of quality water. Please support Senate Bill 2020 to provide funding for the completion of the Southwest Pipeline Project as well as the additional water needs presented by the Water Coalition. Thank you.

SB 2020  
Water Commission  
3/17/11  
attachment # 14

Testimony by Marie Johnson, Southwest Water Authority  
Board Member for Mercer County  
On behalf of the  
**Southwest Pipeline Project**  
to the  
**Education and Environment Division of the House**  
**Appropriations Committee**  
**Hearing on Senate Bill 2020**

Bismarck, ND  
March 17, 2011

Good afternoon Mr. Chairman and members of the committee. My name is Marie Johnson. I am the director for the Southwest Water Authority Board of Directors for Mercer County. I am from the very last service area, the Oliver, Mercer, North Dunn Regional Service Area of the Southwest Pipeline Project. We have waited a long time to receive quality water. I am here this afternoon to ask for your continued support of water development projects in our state, and more specifically, the completion of the Southwest Pipeline Project in southwest North Dakota.

I live at Lake Shore Estates in Mercer County, one of the areas that will be receiving Southwest Pipeline Project water soon. Our area has been waiting for years for this to happen. Lake Shore Estates has more than a dozen year-round residents. We have an artesian well with very high fluoride. It is highly recommended that children abstain from drinking the water. It is even recommended that adults limit their intake of this water. Consequently, it is necessary to haul drinking water to our home.

Our water is tested four times per year and sent to the North Dakota Department of Health (NDDOH) for testing. They have allowed the use of this water only because we have an agreement with the Southwest Water Authority for the Southwest Pipeline Project to provide water to Lake Shore Estates. If it were not for this agreement, we would be forced to look at other options, all of which would be expensive to our residents. Development in our region would not be where it is today without the promise of Southwest Pipeline Project water. The poor quality water in this area also hampers many projects across our counties. We need to see the Southwest Pipeline Project to completion, not only for quality water for the residents of these counties, but also for the sustainability and economic development of our region.

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 is the first large multi-county regional rural water project developed in the state. We serve more than 4,000 rural customers, 28 communities, 15 businesses, Perkins County Rural Water System in South Dakota, and 18 raw water contract customers, including Dodge Water Depot and Red Trail Energy.

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 meet those needs.

Construction is underway for the Oliver, Mercer, North Dunn Regional Service Area. The water treatment plant north of Zap and the Zap reservoir are currently under construction. The Zap Water Treatment Plant will supply water to more than 1,100 rural residences and the cities of Hazen, Stanton, Center, and Zap. This Regional Service Area will serve six energy sector users which include: Dakota Gasification, Coteau Mine, Antelope Valley Station, Leland Olds, Coyote, and Great River Energy power plants. This Regional Service Area will also serve two bulk users which include: Lakeshore Estates, which is where I live, and the Missouri West Water System.

The cities of Golden Valley, Dunn Center, Halliday, and Dodge are currently being served by the Southwest Pipeline Project from the Dickinson water treatment plant, but will be switched over to the new Oliver, Mercer, North Dunn water treatment plant once the necessary facilities have been constructed.

It is essential the Southwest Pipeline Project be completed. A Mercer County resident wrote to me recently to express her desire to see Southwest Pipeline Project water arrive at her home. She has struggled for years to remove discoloration from toilets, showers, and bathtubs. White clothing and linens need to be disposable unless she is willing to drive to town to do laundry. Bleaching her laundry helps to a small degree, but she is unable to maintain the color of her clothing. She expressed she is very supportive of Southwest Water Authority and the Southwest Pipeline Project and anxiously awaits its arrival to her home.

As you have heard, a good water supply is definitely needed in our area, as well as many other areas in North Dakota. We ask that you continue to support water development projects such as the Southwest Pipeline Project. With your support, the many families who live and work in southwest North Dakota will one day have a reliable source of quality water available right from their tap!

Please support Senate Bill 2020, as well as the additional water needs presented by the Water Coalition. Thank you.

SB 2020  
Water Commission  
3/17/11  
Attachment # 15

Testimony by Dave Koland, General Manager  
**Garrison Diversion Conservancy District**

To the

**House Education and Environment Appropriations Committee  
Hearing on SB 2020**

Bismarck, North Dakota  
March 17, 2011

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.

Garrison Diversion is funded by a 1 mil levy in each of the 28 counties that belong to the district. I am here today to talk about three projects that depend on a State Water Commission cost-share in order to move forward.


The State Water Commission has a 50% cost-share program for the development of irrigation water supply works. We have been working with local irrigators to develop two such projects that would use the cost-share program to develop irrigation.

The Dickey-Sargent Irrigation District is working on a plan that would use a combination of surface water and ground water to irrigate 5000 acres in the Oakes Test Area. Garrison Diversion is also developing irrigation along the McClusky Canal at the rate of about 2500 acres per year. These two projects will each need about \$2.5 million in State Water Commission cost-share during the 2011-13 biennium.

We need to continue to move forward with the Red River Valley Water Supply Project. A \$5 million State Water Commission cost-share will allow the closer examination of an alternate route that has the potential to provide a \$30 million savings for the project and also to exercise options on other areas of the planned pipeline route. It is important to keep moving forward with activities that will shorten the construction time of the project. Construction of the pipeline will take about 6 years and the Red River Valley only has a one year backup water supply in Lake Ashtabula.

Section 9 of the bill will need to be removed to enable these projects to move forward and for the MR&I program, which uses a combination of state and federal dollars to fund municipal and rural water projects, to continue a coordinated program.

Garrison Diversion entered into an agreement with the State Water Commission in 2006 for maintenance on the Devils Lake Outlet. Garrison Diversion's Operations & Maintenance staff performs a multitude of activities including mowing and spraying, fence repair, water sampling, weed removal,



cleaning tanks, painting, erosion control, construction activities and outlet operations. The 2011-2013 biennium will see increased operations and expenditures will likely approach or exceed \$1.0 million.

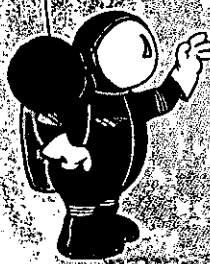
Mr. Chairman, members of the committee; Thank you for your time, I will be happy to answer any questions you might have.





**Southwest Pipeline Project  
Remaining Construction by Biennium**

Contract	Description	Type of Facility	Miles of Pipe or Units	Bulk Users	Number of Connections	Opinion of Project Cost
<b>2011-2013</b>						
7-9D	Zap SA Rural Distribution System, Phase 2	Rural Dist. Pipeline, Zap SA Ph 2	140 miles 10"-1½" PVC	Lakeshore Estates, Beulah Park	232	\$5,801,700
7-9E	Center SA Rural Distribution System, Phase 1	Rural Dist. Pipeline, Center SA Ph 1	133 miles 4"-1½" PVC		100	\$3,994,200
2-8E	MTL from WTP to Killdeer Mtn Booster	MTL	44.5 miles 12" - 8" PVC	Twin Buttes, Water Depot		\$6,610,765
2-8E	Upsize	Upsize from 526 gpm to 825 gpm				\$2,936,393
5-17	Dunn Center Potable Water Reservoir	475 kgal Ground Storage Tank (added 225kgal)				\$1,489,250
5-15B	2nd Zap Potable Water Reservoir	1.67 Mgal Ground Storage Tank (added 225kgal)	102' dia. x 28' high			\$2,004,600
1-1B	Intake PS Genset	Intake Backup Generator				\$1,190,000
6	SCADA Modifications Contract 6	Telemetry 2-8E booster, 2 tanks, intake Genset				\$130,000
	Agency Operations					\$800,000
<b>Totals</b>			317.5		332	\$25,000,000
<b>2013-2015</b>						
7-9F	Center SA Rural Distribution System, Phase 2	Rural Dist. Pipeline, Center SA Ph 2	260 miles 8"-1½" PVC	Minnkota, Ole Johnson	277	\$7,898,200
1-1A	2nd Raw Water Intake	Supplemental Intake To Meet OMND Needs				\$6,000,000
3-1F	Phase 2 WTP 1.5MGD Capacity Upgrade	Phase 2 of WTP				\$4,336,500
6	SCADA Modifications Contract 6	1.5 MGD of ultimate 4.4 MGD				\$74,500
4-5	Dickinson WTP HS Pump Station	Move HS and RCPS Transfer Pumps to New Facility, and Piping	2 SWPP Pumps, 3 Dickinson Pumps			\$3,484,000
	Agency Operations					\$800,000
<b>Totals</b>			260		277	\$22,600,000
<b>2015-2017</b>						
7-9H	Dunn Center SA Rural Distribution System	Rural Dist. Pipeline	191 mi. 6"-1½" PVC	Dunn Center	160	\$5,942,000
7-9G	Halliday SA Rural Distribution System	Rural Dist. Pipeline	42 mi. 6"-1½" PVC	Dodge, Halliday, Golden Valley	33	\$1,369,800
5-9A	2nd Belfield Reservoir	750 kgal Ground Storage Reservoir	52' dia. X 47' high			\$1,075,500
8-3	Golva Tank	150 kgal Standpipe	25' dia x 41' high			\$537,800
5-13A	2nd Davis Buttes Reservoir	1 Mgal Ground Storage Reservoir	60' dia. X 47' high			\$1,434,000
4-3A	Ray Christensen PS Upgrades	Upsize pumps	350 hp SZ, 125 NZ			\$759,500
7-9I	Fairfield, Grassy Butte, & Killdeer Mtn Upgrade	Parallel pipe, boosters	9.6 mi. 6" & 8" PVC			\$829,900
8-6	Killdeer Mtn. Tank Elevated Tank	120 kgal Elevated Tank				\$723,300
5-2A	2nd Dickinson Reservoir	3.2 MG Ground Storage Reservoir	130' dia. X 32' high			\$3,824,000
5-1A	2nd Richardton Reservoir	1.3 MG Ground Storage Reservoir	98' dia. X 24' high			\$1,864,200
6	SCADA Modifications Contract 6	Telemetry, 7 tanks, 2 Interconnects, Killdeer Mtn BP5				\$215,000
	Agency Operations					\$800,000
<b>Totals</b>			242.6		193	\$19,400,000



# Southwest Water Authority

## Mission Possible

### 2011 & Beyond!



## Final Construction Phase

### Oliver, Mercer, North Dunn (OMND) Regional Service Area

Water to be delivered 2012

#### • Construction progress:

- **Contract 2-8A Main Transmission Line from OMND Water Treatment Plant (WTP) to Hazen**
  - Construction substantially complete

- **Contract 3-1C OMND WTP Membrane Procurement**

- Awarded
- To be delivered fall 2011

- **Contract 3-1D OMND WTP Building and Membrane Equipment Installation**

- Awarded
- Work will continue through winter
- Substantial completion date: December 31, 2011

- **Contract 5-15A Zap Potable Reservoir**

- 1,450,000 gallon potable water reservoir
- Awarded
- Work will continue through the winter
- Substantial completion date: June 15, 2011

- **Contract 3-1E OMND WTP Concentrate Disposal Facility**

- 1.5 miles of pipeline and bore
- Bid and construction in 2011
- Awaits completion of survey and easement from Corps of Engineers

- **Contract 2-8B Main Transmission Line from Hazen to Stanton and Beulah to Center Elevated Tank**

- 32.9 miles of pipeline
- Awarded
- Substantial completion date: June 15, 2011

- **Contract 2-8E Main Transmission Line from OMND WTP to Killdeer Mountain Area**

- 44.5 miles of PVC pipeline
- Includes possible capacity for oil industry
- Awaits completion of cultural resource work
- Anticipate advertising for bid 2011

- **Contract 5-16 Center Elevated Tank**

- 750,000 gallon elevated potable reservoir
- Anticipate advertising for bid early 2011

- **Contract 2-8C/D Main Transmission Line from Center Elevated Tank to Center**

- 38.1 miles of PVC pipeline
- Anticipate advertising for bid early 2011
- Design nearly complete

- **Contract 7-9C Zap Rural Service Area Phase I**

- 157 miles of PVC pipeline
- Submittal plan set is complete
- Contract will serve 263 users
- Anticipate advertising for bid early 2011

- **Contract 4-3A/4-4A Jung Lake and Ray Christensen Pump Station Upgrades**

- Back-up generator and switchgear
- Anticipate advertising for bid early 2011
- Higher capacity pumps

- **Contract 7-9D Zap Rural Service Area Phase II**

- 140 miles of PVC pipeline
- Anticipate advertising for bid late 2011
- Contract will serve 232 users

## Mission Critical

Complete the Southwest Pipeline Project!

TAKE SMALL STEP FOR WATER...

## Southwest Water Authority

- Political subdivision established by North Dakota Legislature in 1991
- Manages, operates and maintains the Southwest Pipeline Project
- Governed by a 15-member board of directors representing the following counties and cities:

**Adams** - Jonathon Eaton

**Grant** - Brian Roth

**Slope** - Dave Juntunen

**Billings** - James Odermann\*  
(Vice Chairperson)

**Hettinger** - Ray Bleber

**Stark** - Steve Schneider\*  
(Treasurer)

**Bowman** - Rick Seiferl

**Mercer** - Marie Johnson

**City of Dickinson** - Larry Stang  
and Larry Bares\* (Chairperson)

**Dunn** - Emanuel Stroh

**Morton** - George Saxowsky

**Golden Valley** - Darrel Oech

**Oliver** - Duane Buellingen

**City of Mandan** - Robert Leingang

\* Executive Committee

- Established to bring a reliable source of quality water to southwest North Dakota
- 20th Year of representing Southwest North Dakota

## Southwest Pipeline Project

- Network of pipelines, pump stations, reservoirs and treatment facilities providing a reliable source of quality water to 28 communities, more than 4,000 rural service locations, 15 businesses, Perkins County Rural Water System in South Dakota and 18 raw water customers, including Dodge Water Dept.
- 25th Year of Construction

## Project Funding

- Funding resources include:
  - North Dakota Resources Trust Fund
  - Garrison Diversion Municipal, Rural & Industrial (MR&I)
  - Natural Resources Conservation Service PL-566
  - Revenue Bonds
  - USDA Rural Development Grants and Loans
  - Drinking Water State Revolving Loan
  - Water Development Trust Fund

*Vision*  
People and business  
succeeding with quality water.

*Mission*  
Providing quality water  
for southwest North Dakota.

## Rates

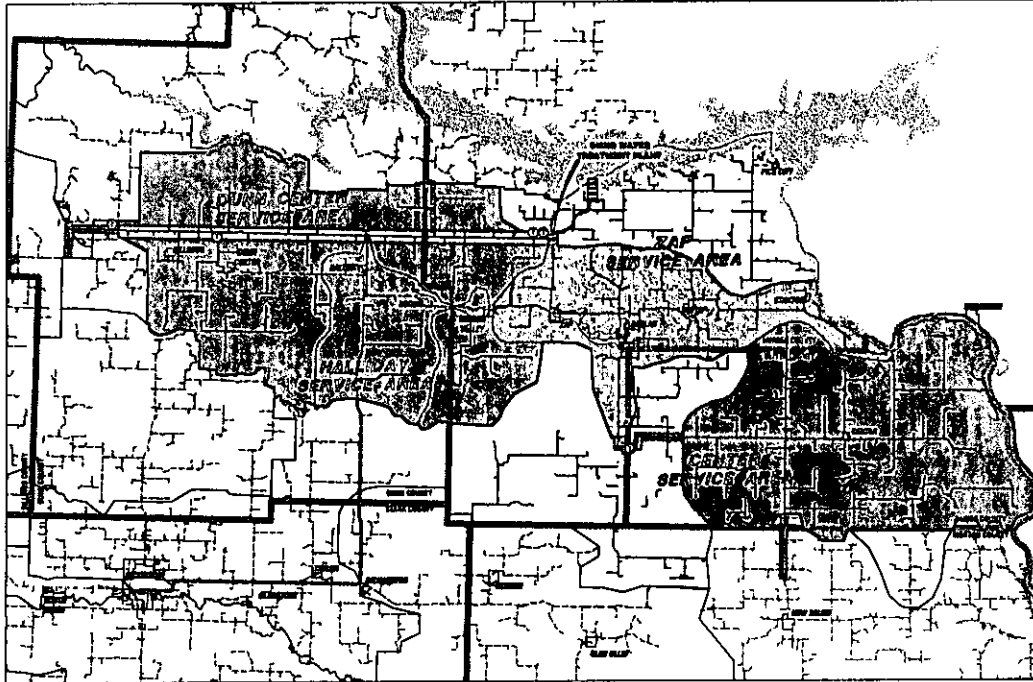
Southwest Water Authority works continuously to stabilize the cost of water; rates are reviewed annually.


### Current Rates

- **Rural Monthly Minimum**
  - \$42.10/2,000 gallons of water with monthly meter reading
  - Rural Monthly Minimum includes capital repayment (\$32.01), meter fee (\$5.00), and operations and maintenance (\$5.09); capital repayment is tied to the Consumer Price Index and adjusted annually by the North Dakota State Water Commission
- **Rural Customer Rate**
  - \$3.75/1,000 gallons up to 10,000 gallons
  - \$2.75/1,000 gallons over 10,000 gallons
- **Demand Contract Customer Rate**
  - \$4.28/1,000 gallons of potable water
- **Raw Water Contract Rate**
  - \$2.55/1,000 gallons of raw water
- **Contract Customer Rate**
  - \$3.23/1,000 gallons of potable water
- **Oil Industry Rate**
  - \$10.00/1,000 gallons of water

# Oliver, Mercer, North Dunn Regional Service Area Biennium Phase

## SOUTHWEST PIPELINE PROJECT OMND CONSTRUCTION BY BIENNIUM





**LEGEND**

- EXISTING RAW WATER PIPELINE
- EXISTING SWWP PIPELINE
- EXISTING OMND PHASE I
- EXISTING OMND PHASE II
- EXISTING SLOOPER PIPELINE
- PROPOSED PHASE I PIPELINE
- PROPOSED PHASE II PIPELINE
- SERVICE AREA BOUNDARY
- COUNTY BOUNDARY

**PREVIOUSLY FINISHED**

- 2011-2012 BIENNIUM FOR SLOOPER
- 2011-2012 BIENNIUM WILD MELLON
- 2013-2014 BIENNIUM WILD MELLON

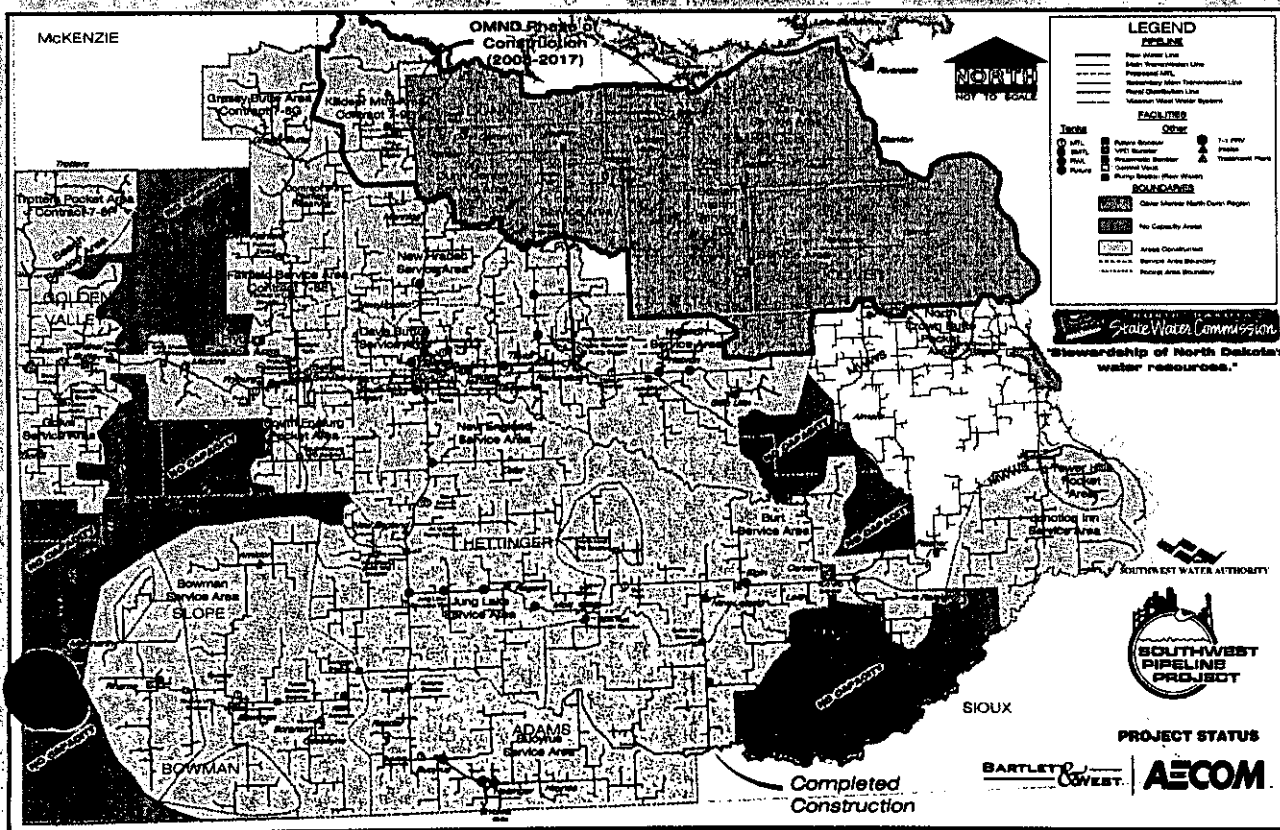
**STATUS**


- WATER TREATMENT PLANT
- NEW TANK

**Oliver-Mercer-North-Dunn Region  
Biennium Phase Map**

BARTLEY & WEST | AECOM

# Southwest Pipeline Project





**LEGEND**

**PIPELINE**

- Raw Water Line
- SWWP Transmission Line
- Proposed SWWP
- Proposed SLOOPER
- Proposed SLOOPER
- Raw Water Transmission Line
- Raw Water Transmission Line

**FACILITIES**

**Other:**

- 1-1 PUMP
- Pressure
- Treatment Plant

**BOUNDARIES**

- Oliver-Mercer-North-Dunn Region
- No Capacity Area
- Area Construction
- Service Area Boundary
- County Area Boundary

**Stewardship of North Dakota's water resources.**

SOUTHWEST WATER AUTHORITY

**SOUTHWEST PIPELINE PROJECT**

**PROJECT STATUS**

BARTLEY & WEST | AECOM

Southwest Water Authority does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or disability in employment or the provision of services.

ONE GIANT LEAP FOR THE PEOPLE OF NORTH DAKOTA





# North Dakota Irrigation Association

Dedicated to strengthening and expanding irrigation to build and diversify our economy.

SB 2020 3/17/11  
Water Commission  
attachment # 16

P.O. Box 2254  
Bismarck, ND 58502  
701-223-4615, 701-223-4645 (fax)  
e-mail: ndirrigation@btinet.net

Testimony on Senate Bill No. 2020

House Committee on Appropriations  
Education and Environment Division

Norman Haak, Director, North Dakota Irrigation Association  
2:15 p.m. March 17, 2011

Mr. Chairman and members of the Senate Appropriations Committee my name is Norman Haak, member of the North Dakota Irrigation Association Board of Directors. The Association is made up of members who are irrigators, potential irrigators, irrigation equipment dealers, and others who wish to support irrigation development.

North Dakota has approximately 260,000 acres of irrigation on which not only conventional cereal crops and livestock forage are produced, but also high value crops such as potatoes and sugar beets. The french fry plants at Grand Forks and Jamestown rely almost exclusively on irrigated production, and all of the sugar beets produced in the northwest part of the state are irrigated. The processing plants associated with these two crops provide important employment in their respective areas. Data from the North Dakota Crop Statistics Service shows that on the average approximately 4 dryland acres are needed to equal the gross returns from one acre of irrigation.

New opportunities for irrigated crops are being explored. Research is currently underway to determine the feasibility of using energy beets to produce ethanol. This research has been underway for about 4 years with production trials occurring in 5 areas across the state. North Dakota has the potential for supporting up to 5 full size processing plants requiring as much as 100,000 acres of new irrigation for beet production. It is estimated that at least one-half of the beets would be produced under irrigation.

We are seeking \$6 million dollars for the support of irrigation development. These funds will be used for the construction of the primary water supply infrastructure for new irrigation. The infrastructure consists of pipelines, intake structures, pumps, power units, power lines and related items.

The Dakota Water Resources Act authorizes the irrigation of 23,700 acres using Missouri River water from the McClusky Canal. Landowners in the Turtle Lake area are engaged in developing this opportunity under the sponsorship of the Garrison Diversion Conservancy District. Construction of the first stage of the project consisting of approximately 3,000 acres is currently underway with 15 center pivots being operational this year. Construction of the remaining two stages involving 4,940 acres will take place during the 2011-13 Biennium.

It is intended that development of the remaining 15,700 acres will follow closely after the completion of the first phase. Further planning and design is needed before the acreage is fully identified and cost estimates are available. If all goes well, some construction on the second stage may be possible in the 2011-13 Biennium.

Engrossed Senate Bill 2020 contains an amendment (Section 9) that limits the State Water Commission to allocating no more than \$1,000,000 to the Garrison Diversion Conservancy District in the 2011-2013 Biennium. The State Water Commission has a long standing program of providing a 50% cost share to irrigation projects. Under the amendment in Section 9, the Garrison Diversion Conservancy District could not receive the measure of funding the State Water Commission program provides. It is pointed out that each project must make application and is subject to the approval of the Commission. This provision will stop the new irrigation development in the Turtle Lake area. Therefore, it is requested that the restricting amendment be removed.

SB 2020 will also support other programs for irrigation development. The State Water Commission has partnered with the Bank of North Dakota AgPace Program by providing funds for an additional \$20,000 per loan to buy down interest for new irrigation development. This program may be used to finance the purchase of the center pivot system, construct on-farm pipelines, and related items. The amount is \$300,000.

Operating irrigation districts sometimes make improvements to infrastructure or expand principal supply works to accommodate new acreage or improve efficiency. It is estimated the State Water Commission will need \$500,000 to fund a 50% cost share for these improvements.

Therefore, we ask for your support of SB 2020.



# Ongstad Farm

Bill Ongstad  
4135 25<sup>th</sup> St NE  
Harvey, ND 58341  
bill.ongstad@gmail.com  
701-341-2937

*SB 2020.  
Water commission  
attachment # 17  
3/17/11*

SB 2020 March 17, 2011 House Appropriations Committee

Mr. Chair and members of the committee, My name is Bill Ongstad and I farm 10 miles east of Harvey. I am the elected director for Wells County on the Garrison Diversion Conservancy District. I lost 17 acres of land to the New Rockford Canal and have to drive over the canal many times every week. I support the perfection of Missouri River Water Rights in irrigation projects and any use of Missouri water in North Dakota. I realize the New Rockford Canal will probably never be used. I support the GDCD in development of water in ND, specifically the Mile Marker 7.5 project south of Turtle Lake. There will be about 10 quarters irrigated this summer and in five years about 50 to 60 quarters irrigated resulting in great gains in ND GDP and the perfection of Missouri River Water Rights.

I support the SB2020 as introduced. I was searching on the net and found this amendment:

## SECTION 9. LEGISLATIVE INTENT - GARRISON DIVERSION

CONSERVANCY DISTRICT. It is the intent of the sixty-second 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 allocate no more than \$1,000,000 to

the Garrison Diversion Conservancy District.

This section 9 Legislative Intent would not be wise to implement. Supporting section 9 would be like being against the progress of irrigation, against the perfection of Missouri River Water Rights. With such a limitation GDCD would not be able to finish the mile marker 7.5 project or make as much progress on bringing water to North Dakotans.

I urge this committee and the House to continue on the road to progress in irrigation development, overall water development by rejecting this section 9 amendment and embracing the bill as introduced. It is important the the 28 elected directors of GDCD continue to direct this work in cooperation with the State Water Commission.

If I am missing something in all this or If you have any question, please contact me at the above phone or email.

Thank you,

Bill Ongstad



11.8151.02002  
Title.

SB 2020  
State Water Commission  
3/22/11 attachment # 2  
Prepared by the Legislative Council staff for  
Representative Belter

March 15, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

Page 1, line 3, after the second semicolon insert "to provide for allocation of a portion of Fargo flood control project funding to reduce bonded indebtedness of an adversely impacted school district;"

Page 3, after line 25, insert:

**"SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - ALLOCATION TO REDUCE INDEBTEDNESS OF ADVERSELY IMPACTED SCHOOL DISTRICT.** From the appropriated funds designated for Fargo flood control project funding under chapter 20 of the 2009 Session Laws and sections 1 and 7 of this Act, the state water commission shall make payment to an adversely impacted school district as provided under this section. For purposes of this section, an adversely impacted school district is one that has outstanding bonded indebtedness as of April 1, 2011, and which, at the time property is acquired for the Fargo flood control project, would lose more than five percent of its taxable valuation. The payment to an adversely impacted school district must be in a percentage of the school district's outstanding and unlevied bonded indebtedness principal and interest, at the time property in the school district is acquired for the Fargo flood control project, equal to the percentage of the taxable valuation of the school district acquired for the Fargo flood control project. After property in a school district is acquired for the Fargo flood control project, the business manager of a qualified school district shall certify to the state water commission the information necessary to determine the payment to the school district under this section. The payment under this section is not subject to approval by the city of Fargo, Cass County, and the Cass County joint water resource district."

Re-number accordingly

SB 2020  
State Water Commission  
attachment #3  
3/22/11

## Fargo Flood Control Project Funding

The following language was included in 2009 Session's HB 1020:

**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).

The language currently included in SB 2020 follows:

**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, \$30,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2011, and ending June 30, 2013. Any funds not spent by June 30, 2013, 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. Except as otherwise provided, these funds may be used only for construction, including right-of-way acquisition costs. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section.

SB2020  
State Water Commission  
3/24/11  
attachment # 1

Installing Remote Read  
Cost Estimate Information  
3/17/2011

Remote monitoring of well meter sites can be accomplished by several means. The most practical method for this application would be to install a Remote Terminal Unit (RTU) at each well site. The RTU would consist of data logger wired to a flow meter, and a data modem. The data modem would use one of two common methods for remote rural areas such as this. One method is cellular, and the other is satellite. Both would do essentially the same thing, but each uses a different method to transmit the data. In either case, the data logger and modem are available as single, integral units.

The choice between cellular and satellite systems depends mainly on signal coverage in the area, since RTU and data plan costs are relatively the same for either system. Cellular is typically preferred, but if an area is so remote that there is no cellular coverage in the area, the best alternative is satellite. There are several manufacturers of these types of RTU's and they are most likely not compatible or interchangeable between different manufacturers.

In either system, the flow meter would be wired to the RTU. The RTU would totalize the flow from the well and record it internally. At predefined intervals, the data would be transmitted to a central data server for permanent data storage. The data for each well site would be viewed over a secure internet connection by a simple web browser such as Internet Explorer. Each site would have a unique ID Number and description. The user could view all remote sites on a single report, or view each site individually.

The RTU would require 120 VAC power, which should be readily available at the site since the well requires power. The RTU would have an integral battery back-up to maintain RTU functions during short term power outages. In case of power or signal loss, the RTU would continue to store the data locally until signal is restored. The RTU's are enclosed in an outdoor, weather proof enclosure and have a typical operating range of -40°F to +150°F.

A single RTU would cost the end user approximately \$2500. Each RTU would also require an additional data plan, which is a monthly fee. The fees range from approximately \$25-\$50 per month, depending on how often the data is transmitted to the main station. A \$25/month (\$300/year) plan would transmit the data at least twice a day on either a cellular or satellite based system. A \$50/month (\$600/year) plan would transmit the data hourly.

The SWC would not need to install any infrastructure. All they need is their office computers.

A website is created as part of the monthly fee paid by the RTU owner. The monthly fee gives access to the website where the data is viewed. To view the data at the SWC office, all they would need to do is go to a website provided by the cellular or satellite system provider, a username, and a password. They could even do it from their home computer. Each RTU would have its own website, and they could also link each RTU to part of a managed system so they could view all of them at once.

If they wanted special customized reports, there would be a nominal fee to get those reports set up. That would probably be \$500-\$1000.

It might be a good idea for the SWC to purchase these RTU's and pass the cost to the well permit holder. They might be able to get a better deal purchasing several at once, rather than each individual permit holder purchasing their own. Plus then the SWC would be the manager of the website, rather than the permit holder. They wouldn't have to do any website administration, but every RTU and website would be under the SWC. It would be easier to manage all of the data.

SB 2020  
April 8, 2011  
Attachment 1

**NORTH DAKOTA STATE WATER COMMISSION TESTIMONY  
RELATIVE TO ENGROSED SENATE BILL 2020**

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

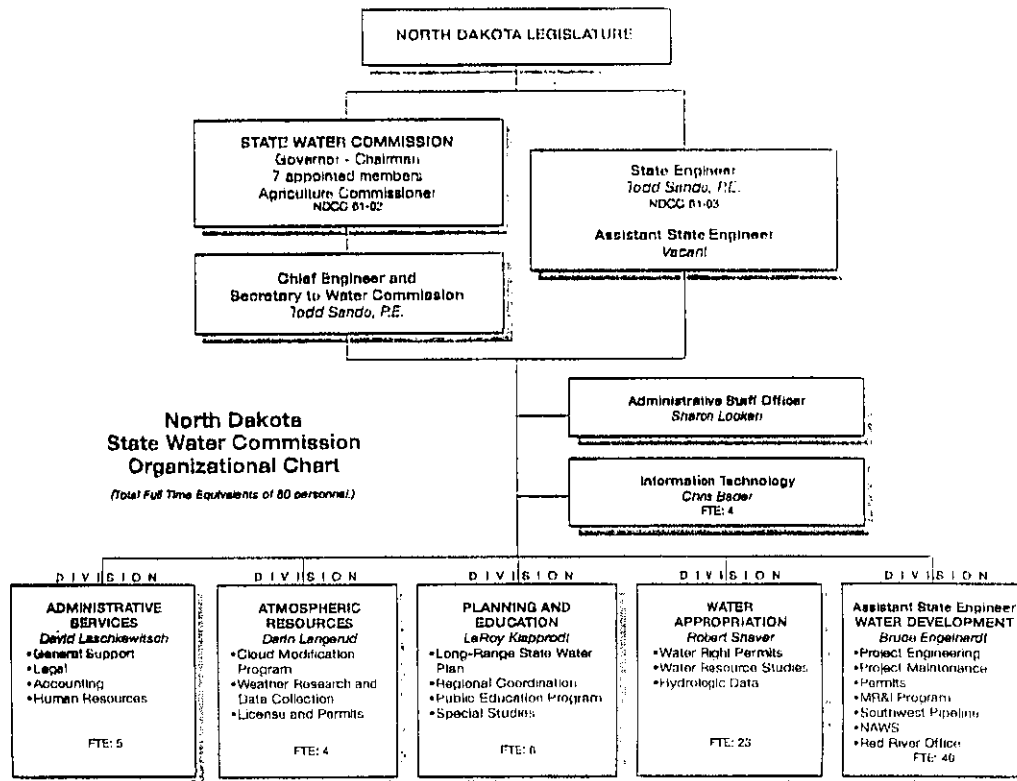
**MARCH 17, 2011**

Mr. Chairman, members of the Education and Environment Division of the House Appropriations Committee, I am Todd Sando, North Dakota's State Engineer and Chief Engineer-Secretary to the North Dakota State Water Commission.

It is my pleasure to appear before you today regarding Engrossed Senate Bill 2020. 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 pertinent issues for the upcoming biennium.

## ORGANIZATIONAL OVERVIEW

As illustrated by our organizational chart, the State Water Commission is separated into five divisions, with 86 Full Time Employees (FTEs).



The Administrative Services Division, directed by Dave Laschewitsch, 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 Bruce Engelhardt, is responsible for project engineering, construction, 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 construction and 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; and manages the agency's information and education programs, including public outreach, and Project WET.

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 2009-2011 biennium so far, great progress has been made in several facets of water management and development – including flood control, water supplies, weather modification, and numerous general water management projects. I would like to take a few moments to outline some key water management and development efforts that have occurred this biennium, along with a brief overview of efforts we intend to pursue in the future.



## Flood Control

In flood control efforts, one of the most urgent issues facing the state is the ongoing flooding crisis in the Devils Lake basin. On April 2, 2010, Devils Lake set a new record level of 1450.74 feet above mean sea level. From there, the big lake continued with its relentless rise, peaking at a new record level of 1452.02 feet on June 27. Since then, Devils Lake has receded slightly, going into freeze-up at about 1451.5 feet.

I would like to report that we can expect a reprieve from rising lake levels, but unfortunately, the outlook for this spring and summer is potentially disastrous. According to the latest National Weather Service long-range probabilistic forecast released in February, there's a fifty percent chance Devils Lake will reach 1454.7 feet, which is over two and a half feet above the previous record set last June. If the lake reaches that elevation, another 35,000 acres will be flooded, and the lake will cover 213,000 acres in total. Even more troubling is the fact that the Weather Service is giving a one percent chance of the lake reaching 1456.7 feet – only 1.3 feet below the lake's natural spill elevation.

In response, we will continue to pursue a comprehensive, three-pronged approach to the Devils Lake area's flood-related problems - including upper basin water management, infrastructure protection, and outlet operations. With regard to outlet operations, we are pursuing additional capacity as soon as possible, which I will explain in more detail.

In August 2005, construction on the state's emergency Devils Lake outlet was completed, and it was operated in 2005, 2007, 2008, 2009, and 2010. The outlet was originally completed

with an operational capacity of 100 cubic feet per second (or cfs). However, last June we completed a major expansion to the outlet, which increased the outlet's capacity to 250 cfs. Over the course of the 2010 operating season, we were able to remove about 63,000 acre-feet from the lake.

However, current and forecasted conditions require even more to be done. Therefore, in addition to the state's existing outlet on the west end of Devils Lake, the Water Commission is moving forward with a 250 cfs east end outlet that will take water via underground pipeline from East Devils Lake, to the downstream side of Tolna Coulee (See Map Appendix). This project is scheduled for completion in the spring of 2012, and is expected to cost between \$62 million and \$90 million.

In addition, we are also preparing designs for a 100 cfs expansion of the west end outlet, and working to develop a control structure on Tolna Coulee to limit discharge, while allowing natural erosion to occur, should the lake spill. With the existing 250 cfs west end outlet in place, a 250 cfs east end outlet, and a 100 cfs west end expansion, the state could be releasing up to 600 cfs via outlets in the coming years. While any combination of outlets will reduce the risk of a natural overflow and the resulting impacts, they do not guarantee that a natural overflow can be prevented.

With regard to upper basin water management, the Water Commission has continued to provide assistance to the Devils Lake Joint Water Resource Board in their basin-wide efforts. In addition, we have continued to implement and fund the Extended Storage Acreage Program that stores floodwater in the upper portions of the basin.

Infrastructure protection and relocation efforts also continue to be an issue throughout the Devils Lake basin. The U.S. Army Corps of Engineers is making progress on raising the city of Devils Lake levee to 146<sup>6</sup> feet, at a newly estimated total cost of about \$150 million. Of that amount, the state, through the Water Commission, will need to contribute \$35 million, which is \$10 million more than initially planned. This project is scheduled for completion in 2012.

The city of Minnewaukan recently received a \$6 million federal grant through the Department of Education to relocate the school. They have since purchased a piece of land one mile north of town, and are going through the beginning stages of the construction process. The community itself has been working with the school to purchase lots on their property. In addition, the Department of Emergency Services is working with Minnewaukan residents.

Moving our attention to other flood control efforts in the Red River basin, I am happy to report that the Grand Forks flood control project performed extremely well during our most recent large-scale flood events in 2009 and 2010.

In Wahpeton, Stages 1 and 2 of their flood control project have been completed, and construction on Stage 3a, which began in the summer of 2009, is 95% complete.

Construction on Stage 3b, the only remaining in-town levee alignment, will begin this coming summer. As in the past, construction efforts in Wahpeton will 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-Moorhead metro area flood control project. After the flood of 2009, it is apparent that a permanent, large-scale flood control project would better serve both Fargo and Moorhead, and the greater metro area. Since that time, the U.S. Army Corps of Engineers, Fargo, West Fargo, Moorhead (MN), Cass County, and Clay County (MN) have been jointly working toward the completion of a study that assesses potential measures that will reduce the entire metro area's flood risk. The two primary projects that are being evaluated are a 35,000 cfs diversion channel through North Dakota, and a 35,000 cfs diversion channel through Minnesota. The preferred alternative of local project sponsors is the North Dakota diversion (See Map Appendix).

According to the U.S. Army Corps' Draft Feasibility Report, the locally preferred plan would be a 36-mile long diversion channel that would start approximately four miles south of the confluence of the Red and Wild Rice Rivers and would re-enter the Red River north of the confluence of the Red and Sheyenne Rivers.

The estimated cost of the North Dakota diversion alternative is \$1.46 billion, with a non-federal share of \$564 million. The Water Commission has budgeted \$30 million in the 2011-2013 biennium, in addition to \$45 million from the previous biennium, to cover a portion of North Dakota's non-federal share of this project, which could total \$300 million.

One final flood-related item I would like to cover is the recent implementation of North Dakota's new Silver Jackets program. The Silver Jackets program was initiated in January

2010 in response to the extensive flooding of 2009 to provide local interests, including smaller communities, with a single point of contact to help them through their flood recovery and mitigation efforts. This new program has already seen a number of successes, including the advancement of levee certifications in Hazen, Pembina, Enderlin, and Velva; progress on a James River Recon Study; and various forms of flood mitigation support in Linton, Lisbon, LaMoure, Oxbow, Beulah, Hazen, Minnewaukan, Kindred, and Fargo.

### **Water Supply**

In water supply efforts, a huge challenge facing North Dakota right now is providing enough water to support the oil industry. To put this growth into perspective, there were ten water permits issued for water depots out west over the course of 27 years from 1980 to 2007. In the last three years alone, we've issued 34 permits and have 70 under review. With oil companies being forced to truck water in for their drilling operations, and sometimes over great distances, the development of additional water depots helps to reduce trucking miles, and more importantly, it spreads out supply and demand for water resources.

As the oil industry continues to grow in the western portion of the state, so does the need for water development projects to support drilling processes, and a growing workforce. Even with current drilling activity in that region, existing water supplies are being stretched to their limits. And, with future drilling expected to expand substantially in the coming years, the strain on water supplies is only expected to intensify. This is particularly true of areas that are relying heavily on groundwater resources. For that reason, development of water supply systems that utilize abundant Missouri River water have become a priority in the region.

In response, the Western Area Water Supply project has been proposed as part of the solution. This project is being advanced through a collaborative effort between the city of Williston, Williams Rural Water District, McKenzie Water Resource District, and Ray and Tioga Water Supply. The focus of this collaborative effort has been to develop a regional water supply system that will deliver Missouri River water from the Williston Regional Water Treatment Plant to areas throughout the northwest, oil-producing region of the state for municipal, rural, and industrial purposes (See Map Appendix).

The total estimated cost of the Western Area Water Supply project is approximately \$150 million, and a business plan is currently in the works that will more accurately detail their funding requirements and sources.

With the Northwest Area Water Supply (NAWS) project, the first four contracts involving 45 miles of pipeline from the Missouri River to Minot were completed in the spring of 2009. The project is currently serving Berthold, Kenmare, Burlington, West River Water District, Upper Souris Water District, and Minot - that also serves North Prairie Water District. But, until Missouri River water can be accessed, NAWS is getting an interim water supply through a ten-year contract with Minot, which expires in 2018.

This spring, Mohall, Sherwood, and All Seasons Water District will be connected to NAWS, and we will move forward on another 30 miles of pipeline north of Minot to the Air Force Base, Glenburn, and the Upper Souris Water District. These projects are all scheduled for completion in the 2011-2013 biennium (See Map Appendix).

Regarding the NAWIS-related lawsuit, the federal court issued an order in March 2010, requiring the Bureau of Reclamation to take a closer look at the cumulative impacts of water withdrawals on Lake Sakakawea and Missouri River water levels; and the consequences of biota transfer into the Hudson Bay basin, including Canada. As a result, a Supplemental Environmental Impact Statement is underway and initial public scoping meetings have been completed. A draft of that report should be released about a year from now. More recently, an October 2010 court order allowed us to proceed with filter work in Minot's water treatment plant, and that work is under design.

In the last couple of years, we have continued with our track-record of substantial progress on the Southwest Pipeline Project. As you will notice on the Southwest Pipeline Project map in the Appendix, this project now covers much of southwest North Dakota west of the Missouri River. Today, Southwest Pipeline serves over 35,000 people, including 28 communities, and about 4,000 rural hook-ups.

Funding from the current 2009-2011 biennium will advance several Southwest Pipeline projects in the next few years, including: the Oliver, Mercer, North Dunn Water Treatment Plant; and main transmission facilities in the Zap and Center Service Areas. New 2011-2013 funding will be put toward the Zap Service Area rural distribution pipeline; design and bidding of the Center Service Area rural distribution pipeline; and to begin construction on transmission facilities in the Dunn Service Area.

In addition to NAWIS and Southwest Pipeline, State Water Supply Program and federal MR&I funds, totaling about \$52 million and \$44 million, respectively, were invested in nine

design and/or construction projects so far this biennium. Those projects involved several systems across the state, including: South Central Regional Water District; McKenzie County Regional Water; Traill Rural Water; West Area Water Supply; Red River Valley Water Supply; Tri-County, Lakota; Crosby, Burke-Divide-Williams Rural Water Supply; and the cities of Parshall and Valley City. The federal government also invested another \$42 million for tribal-related projects on reservations.

Thanks to North Dakota's Water Supply Program, regional and rural water systems have continued to expand throughout the state. There are now 30 regional water systems in North Dakota, providing water to over 200,000 residents, including 319 cities, 64 various water systems, 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.

With regard to the Red River Valley Water Supply, the Water Commission has continued to work in cooperation with the Garrison Diversion Conservancy District to advance this project, although a Record of Decision has not been signed for the EIS that was completed back in 2007.

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). However, the project still needs two major steps to occur before construction can start: 1) Congress must authorize the project; and 2) the Record of Decision must be signed.



## **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 34th year of the Atmospheric Resource Board's statewide precipitation data collection effort. There are currently 754 active volunteer observers throughout the state, and precipitation data, charts, and maps can now be easily accessed on the Water Commission website.

This winter, a new snow-reporting program was launched through ARB's Cooperative Observer Network. There are 414 observers participating this year, and snowfall will be reported in inches, liquid water equivalent, and total snowpack water equivalent. This information will be extremely valuable as it will fill data gaps and improve forecasting of spring runoff and flood risks.

## **General Water Management**

Significant progress was also made on statewide general water management projects through our cost-share program. These efforts included 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.

In addition, it should be noted that dam repairs continue to be a high priority in North Dakota and throughout 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. During the last two construction seasons, the Water Commission was involved in repairs at 15 dams across the state.

### **2009-2011 Funding Summary**

To cap off our discussion of activities in the current biennium, I would like to provide a brief summary of 2009-2011 project expenditures. The State Water Commission spent \$89.2 million on water projects through January 2011. It is anticipated that an additional \$48.9 million will be spent through June 2011. Of that \$138.1 million, approximately \$89.2 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, and \$48.9 million will come from federal and local funds. We estimate that we will carry \$114.8 million of the committed contract fund projects forward and into the 2011-2013 biennium.

To update you on the Water Commission's bonding, we have six bond issues outstanding on the Southwest Pipeline Project. These have provided the project with \$24 million, of which \$20.4 million remains outstanding. Bond payments are made by the Southwest Water Authority from revenues generated by water sales.

We also have two 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 \$73.9 million remains outstanding. The Water Development Trust Fund provides the funding to make these payments. Payments for the 2011-2013 biennium will total \$16.9 million.

**ENGROSSED SENATE BILL 2020**

Engrossed Senate Bill 2020 contains the budget recommendation for the State Water Commission for the 2011-2013 biennium. The recommendation totals \$458,915,420.

Administrative and Support Services	\$3,229,873
<u>Water and Atmospheric Resources</u>	447,913,774
Federal Stimulus Funds	7,271,773
Grants Local Cost-share	<u>500,000</u>
Total	\$458,915,420
General Funds	\$14,995,199
Federal Funds	53,984,383
Other Funds	<u>389,935,838</u>
Total	\$458,915,420

Our agency budget contains four 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 most project funding. The remaining one-time project funding is included in the line items titled Federal Stimulus Funds and Grants Local Cost-share. The Federal Stimulus Funds line contains the estimated unexpended stimulus funds carried forward from the 2009-2011 biennium for the Southwest Pipeline water treatment

plant. The Grants Local Cost-share line contains the estimated unexpended funds for the Ray-Tioga, Burke-Divide-Williams, Wildrose and Stanley water projects. The Grants Local Cost-share funds are from the Permanent Oil Trust Fund and are also carried forward from the 2009-2011 biennium. In the 2009-2011 biennium, general funds totaling \$14.1 million were included in the budget. The 2011-2013 budget recommendation contains \$15 million, an increase of \$0.9 million from the 2009-2011 budget. This increase in general fund dollars provides the funding required for the salary and benefit package included in Engrossed Senate Bill 2020.

Federal funds totaling \$54 million have been included in Engrossed Senate Bill 2020. This is a decrease of \$13.1 million from the 2009-2011 biennium. This decrease is due to the anticipated reduction of federal funding 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 \$204.4 million in new Resources Trust Fund revenue for the 2011-2013 biennium. This included \$199.8 million of oil revenues, and \$4.6 million from other sources. This projection assumes prices averaging \$72 per barrel for fiscal year 2012, with production ranging from 390,000 to 405,000 barrels per day, and \$75 per barrel for fiscal year 2013, with production ranging from 405,000 to 425,000 barrels per day. The most recent oil extraction deposit into the Resources Trust Fund, which was received in February, totaled about \$8.2 million. The Commission closely monitors revenues throughout the biennium to ensure that project commitments do not exceed the projected revenues.

The other large funding source for the Water Commission is the Water Development Trust Fund. The Water Development Trust Fund is projected to bring in \$20.6 million in new

revenue this biennium. This is an increase of \$900,000 from the 2009–2011 biennium. The Commission, with authorization from the Legislature, issued bonds that use future Water Development Trust Fund revenues to make the payments. With the 2011-2013 biennium's bond payments totaling \$16.9 million, only \$3.7 million will be available for water projects from the Water Development Trust Fund.

Also related to the Water Development Trust Fund, it should be noted that the Senate added a section repealing Section 5 of chapter 535 of the 1999 session laws. This section was created by Senate Bill 2188. This bill authorized the Water Commission to issue bonds for statewide water development projects using future tobacco settlement receipts for repayment. One of those projects was the Grand Forks flood control project. Section 5 of that bill required the City of Grand Forks to pledge revenue received from the city-owned corporate center to be paid to the Water Development Trust Fund after all revenue bonds for the corporate center were repaid. No payments were ever made to the Water Development Trust Fund because the corporate center still has outstanding revenue bonds. Payments were not anticipated to begin until 2018, and would have continued through 2039. It was estimated that these payments would have totaled approximately \$12 million.

### **2011 Water Development Report**

The new 2011 Water Development Report has been provided for your reference. This report serves as an update and supplement to the 2009 Water Plan; it provides up-to-date information regarding North Dakota's current and future water development project needs; it provides current information regarding North Dakota's ability to fund those water development needs; and it serves as a formal request for funding from the Resources Trust Fund.

As indicated in the 2011 Water Development Report, the total estimated project and program funding needs submitted by water project sponsors total over \$640 million, with state funding needs of about \$417 million for the upcoming biennium. Thus, prioritization requires very close coordination with the Governor's Office, State Water Commission members, and the water community through the North Dakota Water Coalition.

The following table represents the Water Commission's funding priorities for the 2011-2013 biennium, as outlined in the Water Development Report.

<u>SWC Priority Projects</u>	<u>Potential 2011-2013 Allocations</u>
Devils Lake Outlet	\$75,000,000
Devils Lake Downstream Impacts	15,000,000
Fargo Flood Control	30,000,000
General Water Management	26,000,000
Irrigation	5,000,000
Missouri River Management	1,000,000
Northwest Area Water Supply	12,000,000
Red River Valley Water Supply	5,000,000
Southwest Pipeline Project	25,000,000
State Water Supply Program	15,000,000
Weather Modification	1,000,000
Western Area Water Supply	25,000,000
Project Totals	\$235,000,000

**AGENCY SPECIFICS AND OTHER PERTINENT ISSUES: 2011-2013 BIENNIUM**

In closing, I would like to cover an important staffing issue and some other water management challenges that are currently facing our state.

Engrossed Senate Bill 2020 includes one new position for the Commission, which would bring our total FTEs to 87 for the 2011-2013 biennium. Currently the Assistant State Engineer serves as both the Assistant State Engineer and the Water Development Division

Director. Engrossed Senate Bill 2020 includes a new position for a Water Development Division Director.

The agency has experienced a substantial increase in both funding and workload. With the many critical statewide water issues occurring in North Dakota we believe the additional position would benefit both the agency and the state's citizens. The new position would allow the State Engineer to assign more responsibilities to the Assistant State Engineer because that individual would no longer have the day-to-day responsibilities of managing the Water Development Division, which is our agency's largest division.

With regard to other water management challenges, there are several ongoing Missouri River studies moving forward that will have lasting impacts on how that system is managed. They include the Missouri River Recovery Implementation Committee, the Missouri River Ecosystem Restoration Plan, and the Missouri River Authorized Purposes Study. The Water Commission, several other state agencies, and numerous stakeholder interests have continued to be closely involved in each of the aforementioned efforts, and in fact, we have recently spearheaded a Missouri River stakeholders group to ensure that North Dakota's interests are not overlooked.

Of equal or even greater importance, I would like to bring to your attention a recent U.S. Army Corps of Engineers policy change that will negatively impact many North Dakota water users. Last spring, the Army Corps of Engineers began denying access easements to water users trying to withdraw water from Lakes Sakakawea and Oahe. After decades of allowing that water to be used for municipal, rural, industrial, and irrigation uses, the Corps has now announced its intention to begin charging water storage fees. Under this policy, new and

maybe even existing water users that request land easement modifications, will be subject to a water storage contract with the Corps, which will require them to pay an estimated \$20.91 per acre-foot of water.

Since becoming aware of this new Army Corps policy, the Water Commission, other state agencies, and several stakeholder groups have been working hard to get the Corps to reconsider. In addition, House Concurrent Resolution 3019 has also been developed to address this issue.

The foundation of our argument thus far has been that North Dakota's water users are entitled to water from the Missouri River's natural flow, which is water that would be available without the mainstem reservoirs. Natural flow of the Missouri would be ample to meet all of North Dakota's water needs, and the reservoirs stand in the way of accessing our Missouri River water along vast stretches. For that reason alone, North Dakota water users should never be required to pay for access to Missouri River water whether it be natural flow or stored. In addition to this argument, we have raised several other issues in letters to the Corps, and through public outreach information that I would be happy to make available upon request.

In getting back to Devils Lake, I earlier outlined the urgency of their current flooding crisis. That situation was obviously an important consideration in the drafting of Senate Bill 2020, as you will note a Devils Lake flood-related emergency clause is included. In consideration of predicted lake levels for the coming year, and the reality of what is at stake for residents within the Devils Lake basin and downstream, we appreciate the flexibility that such an emergency clause can provide. As such, I respectfully request your support of this emergency

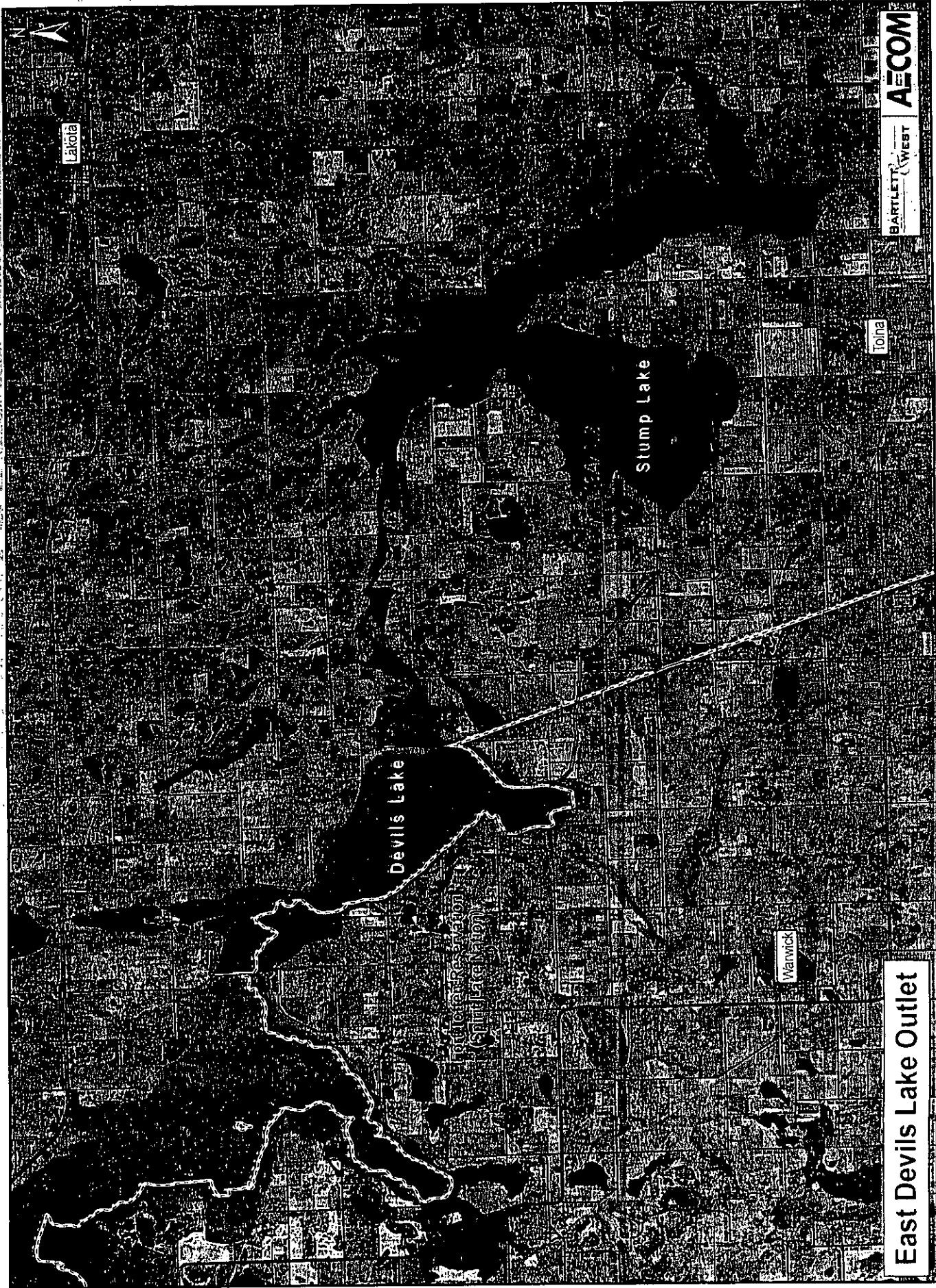


clause in Engrossed Senate Bill 2020 so the Water Commission can respond with appropriate measures as quickly as possible.

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 2011-2013 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 Senate Bill 2020, and I will be happy to answer any questions that you might have.



Lakota

BARTLETT & WEBB  
AECOM

Ionia

Stump Lake

Devils Lake

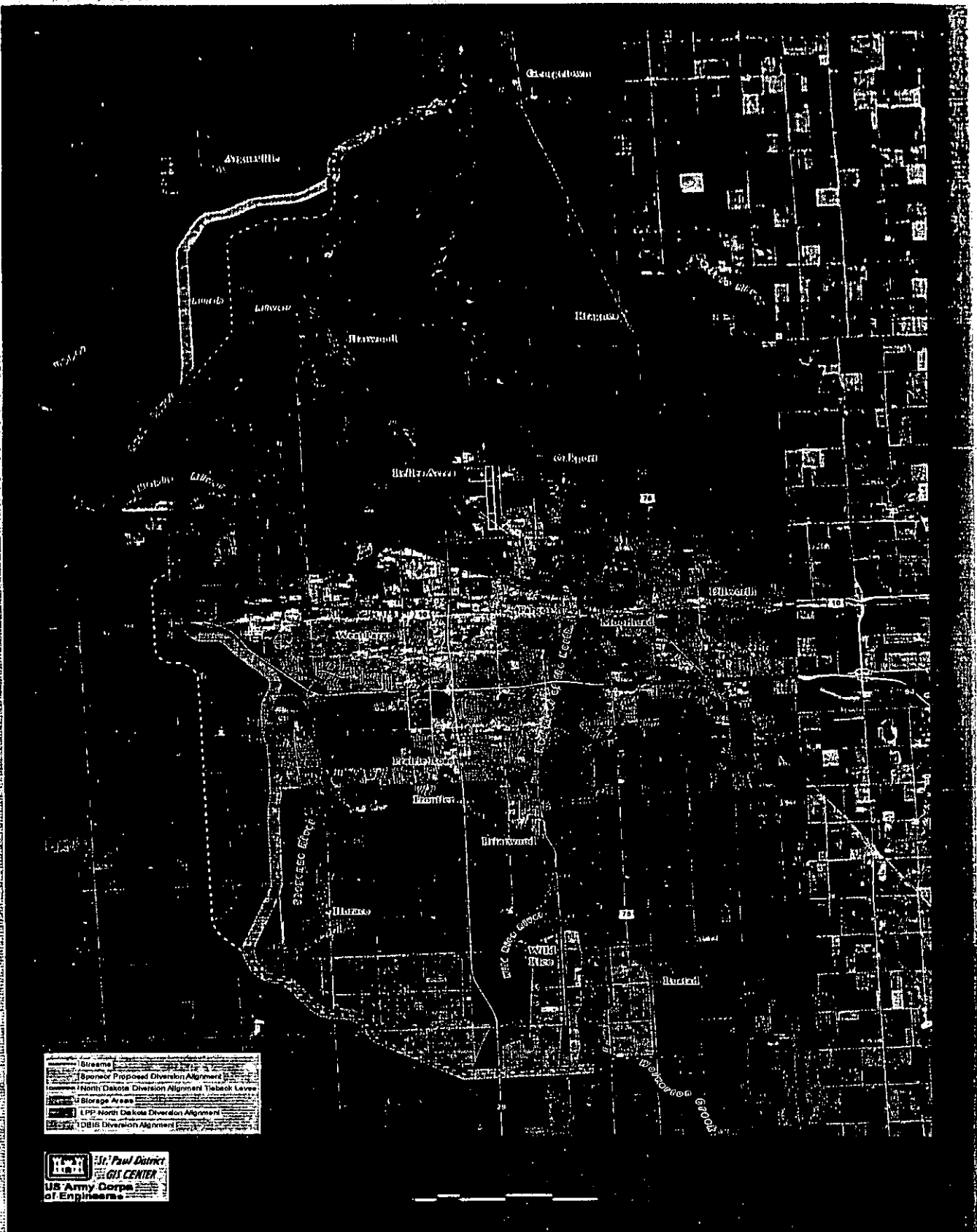
Potters Reservoir  
(Spill Lake)

Warwick

East Devils Lake Outlet

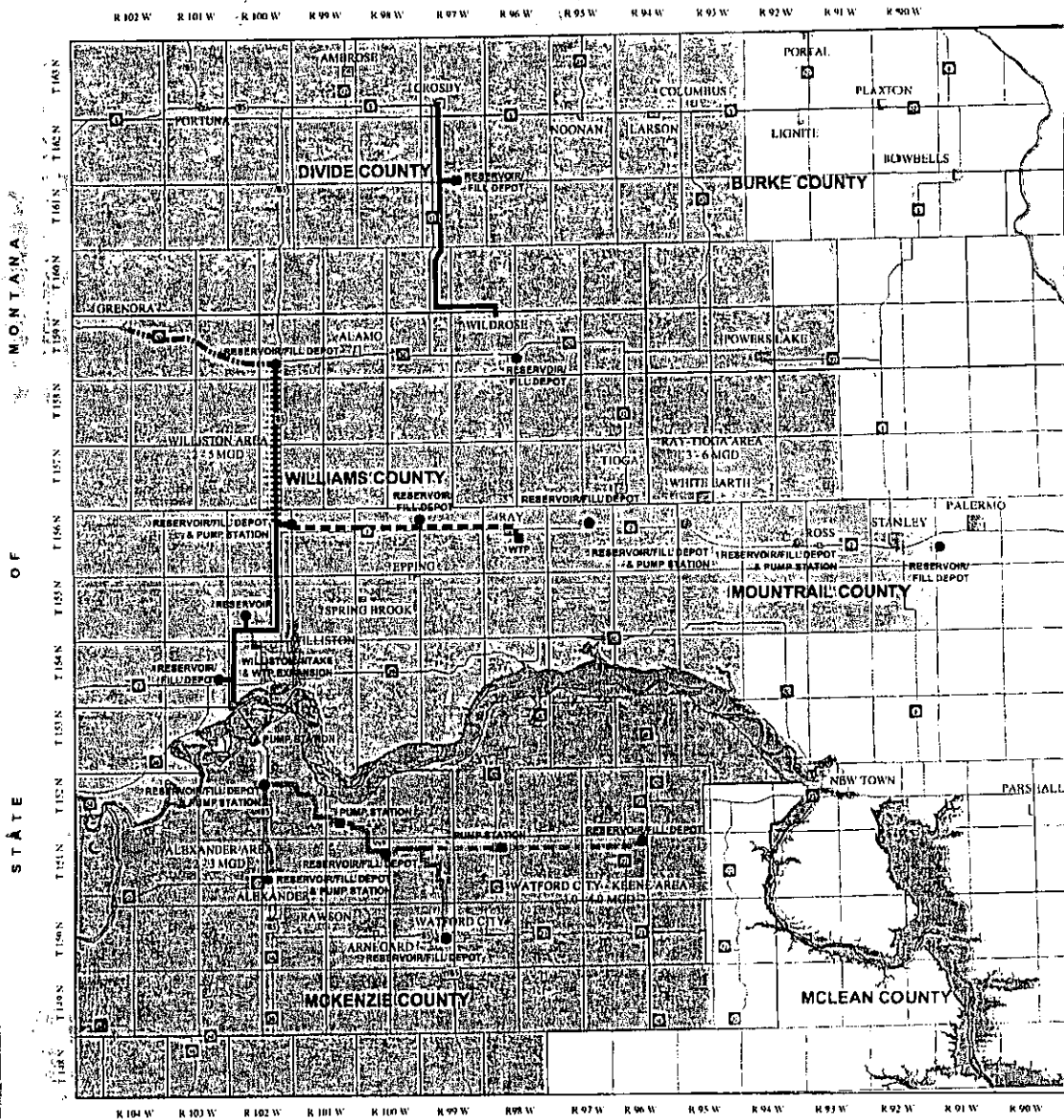
(Stream)  
 (Sponsor Proposed Diversion Alignment)  
 (North Dakota Diversion Alignment Tieback Levee)  
 (Storage Area)  
 (LPP North Dakota Diversion Alignment)  
 (DBIS Diversion Alignment)

**St. Paul District**  
**GIS CENTER**  
**US Army Corps**  
**of Engineers**

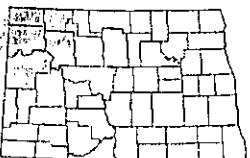














# WESTERN AREA WATER SUPPLY PROJECT

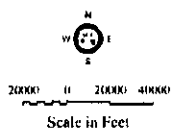
CANADA



STATE OF MONTANA



-  NORTH SERVICE AREA (5 MGD OIL INDUSTRY WATER DEMAND)
-  SOUTH SERVICE AREA (4 MGD OIL INDUSTRY WATER DEMAND)
-  EXISTING UNFUNDED TRANSMISSION LINES
-  MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT - PHASE II
-  MCKENZIE COUNTY WRD IMPROVEMENTS PROJECT - PHASE III
-  WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE I
-  WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE II
-  WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE IV
-  WILLIAMS RURAL WATER DISTRICT IMPROVEMENTS PROJECT - PHASE V
-  SDW RURAL WATER DISTRICT IMPROVEMENT PROJECT
-  CITY OF WILLISTON IMPROVEMENTS PROJECT
-  RAT WATER SUPPLY ASSOCIATION IMPROVEMENTS PROJECT

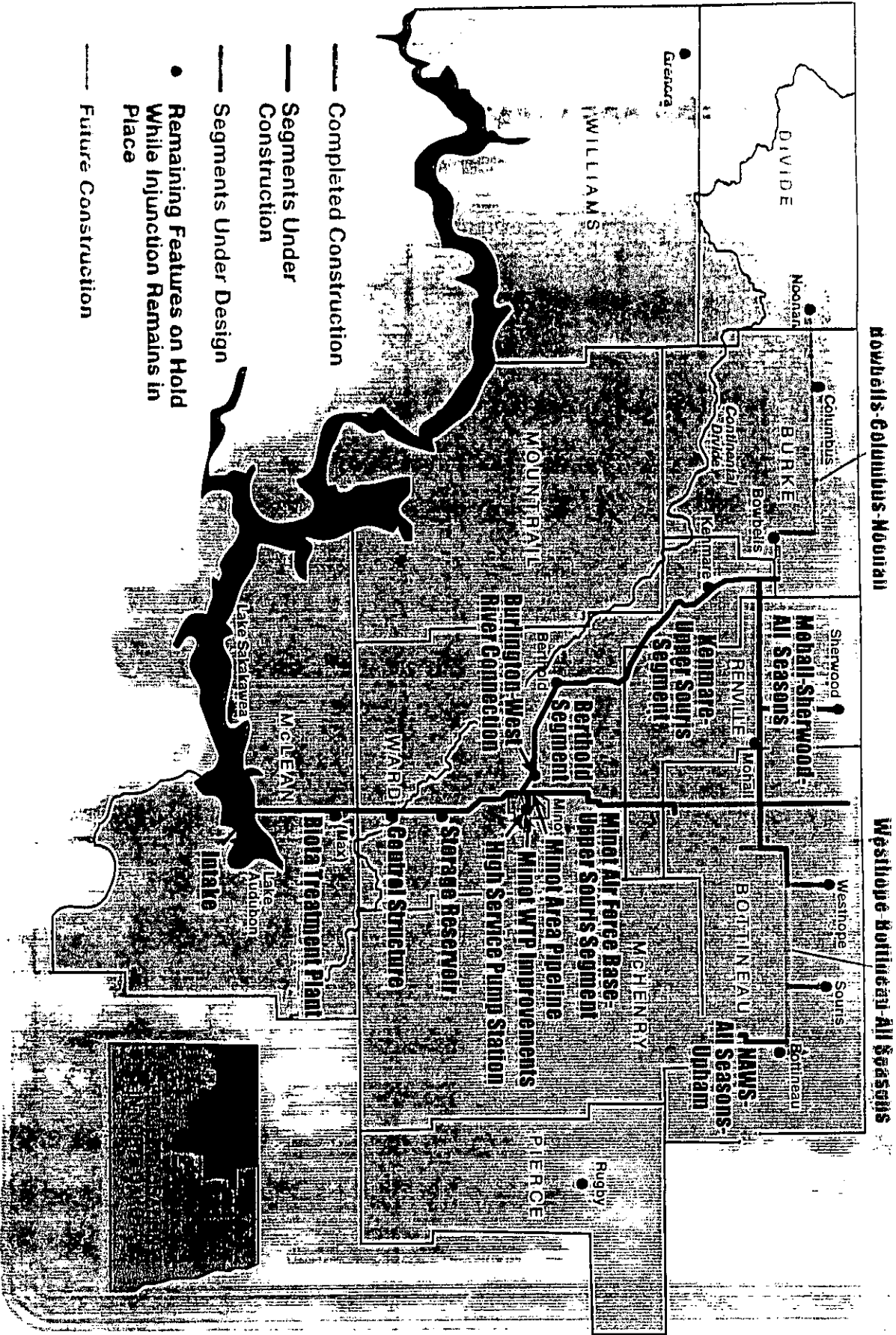


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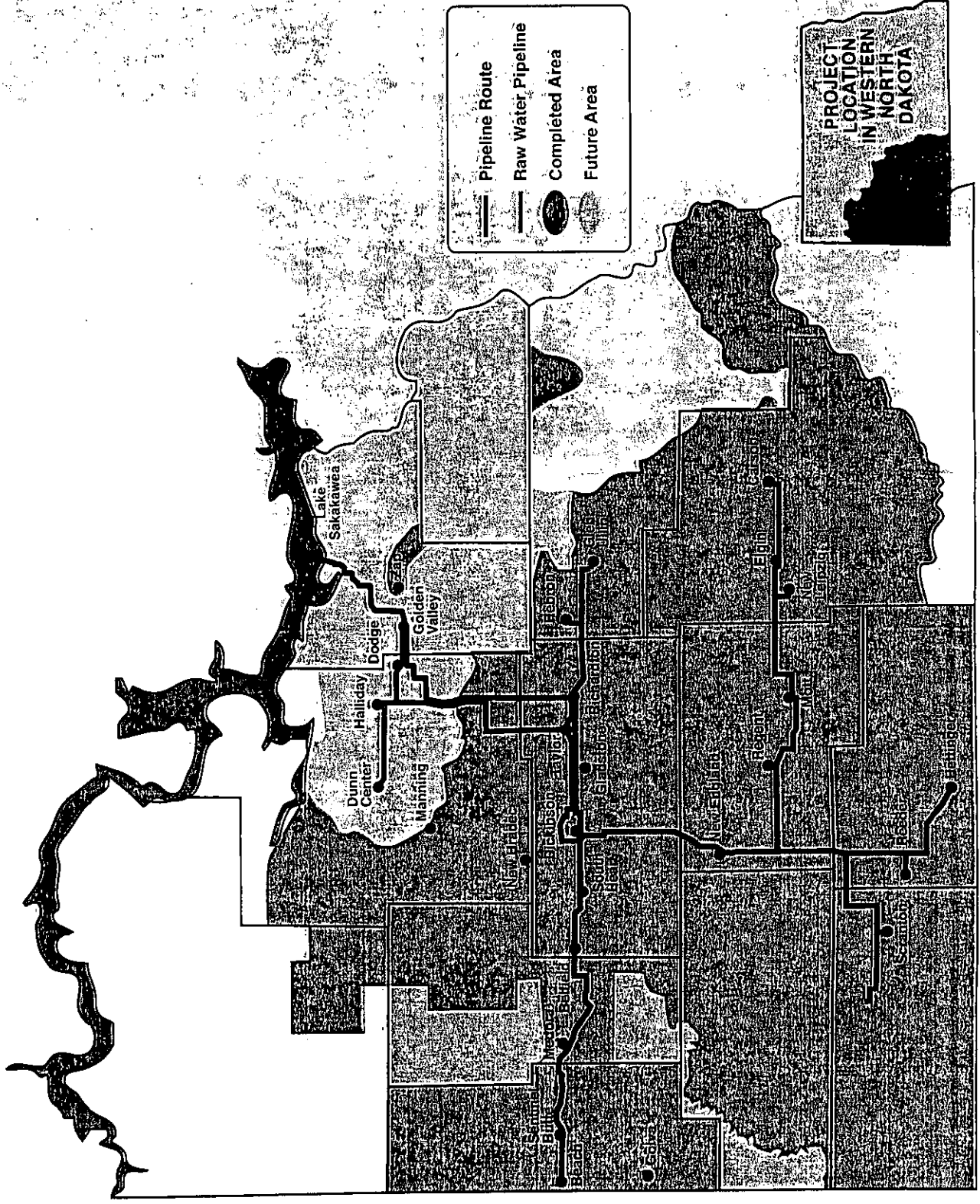
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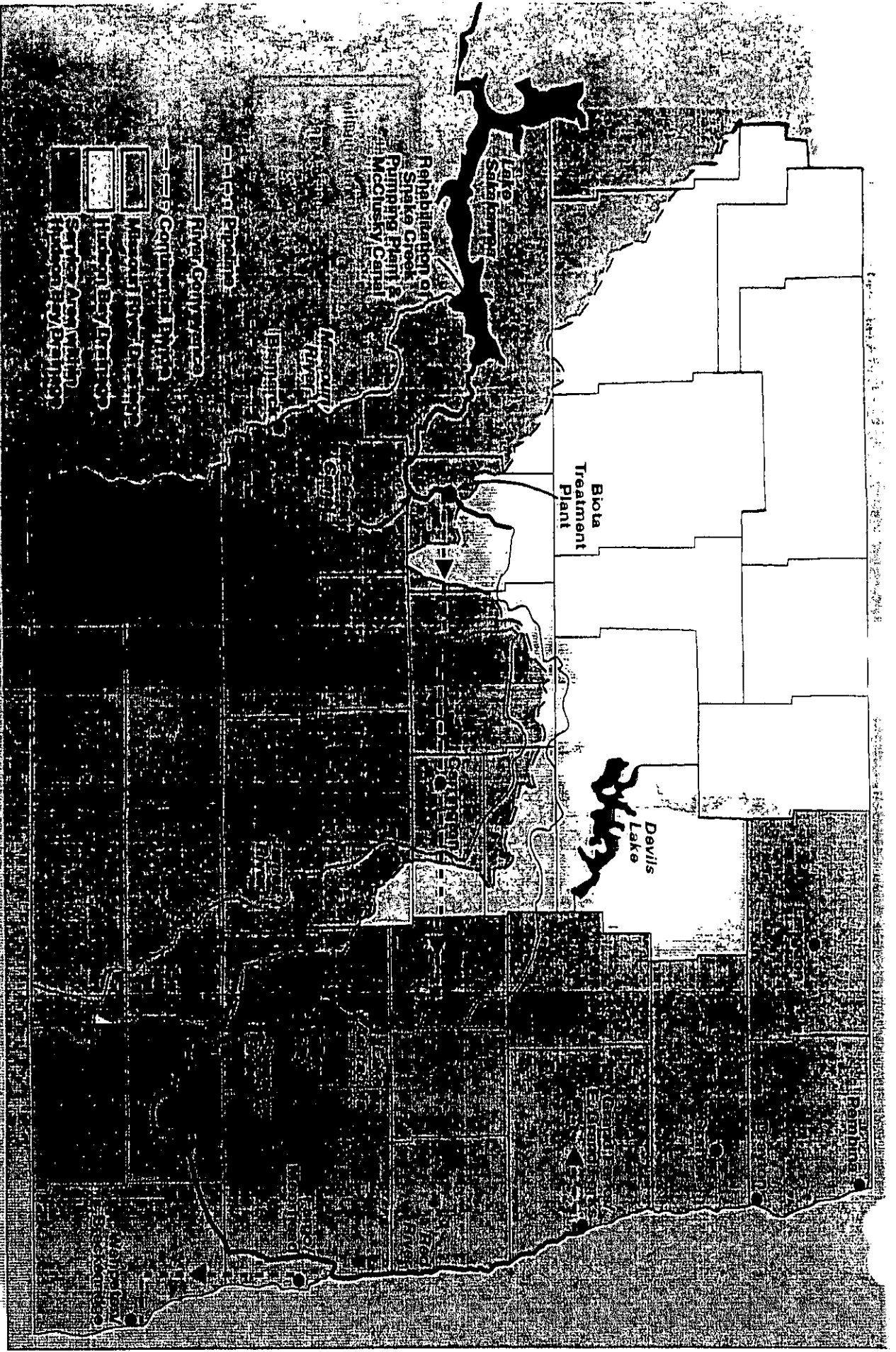
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Northwest Area Water Supply



Southwest Pipeline Project



**Red River Valley Water Supply**

**Preferred Alternative**

**ND State Water Commission**  
**Preliminary List Of Projects**  
**2011-2013 Biennium**

	1/13/2011	4/15/2011 <sup>*(2)</sup>
Fargo Flood Control	30,000,000	30,000,000
MR&I Water Supply	15,000,000	15,000,000
Western Area Water Supply	25,000,000	25,000,000
Irrigation Development	5,000,000	3,000,000
General Water Management	26,000,000	26,000,000
Missouri River Management	1,000,000	1,000,000
Red River Water Supply	5,000,000	0
Devils Lake Levee	0	10,000,000
Devils Lake Outlet	75,000,000 <sup>*(1)</sup>	75,000,000 <sup>*(1)</sup>
Downstream Impacts		
Fargo	15,000,000	15,000,000
SWPP/NAWS	37,000,000	34,000,000
Weather Modification	<u>1,000,000</u>	<u>1,000,000</u>
<b>Total</b>	<b>235,000,000</b>	<b>235,000,000</b>

<sup>\*(1)</sup> This amount includes operations and estimated construction of the east end outlet.

<sup>\*(2)</sup> Revisions based on new requests and amendments.



**SECTION 9. LEGISLATIVE INTENT - REMOTE METERING OF WATER PERMITS - FUNDING AND EXEMPTIONS.** It is the intent of the sixty-second legislative assembly that of the funds appropriated from the resources trust fund in the water and atmospheric resources line item in section 1 of this Act, the state water commission provide \$450,000 for a reimbursement program for the purchase and installation of remote water metering devices, for the biennium beginning with the effective date of this Act, and ending June 30, 2013.

It is also the intent of the sixty-second legislative assembly that the state water commission not require remote water metering for water permits used exclusively for irrigation purposes.

The state engineer shall establish a reimbursement policy for the purchase and installation of the remote terminal water metering devices. Permitholders may apply to the state engineer for reimbursement of one half of the cost of a qualifying metering device, including installation, up to a total reimbursement of five thousand dollars per metering device installed.

April 6, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

Page 1, line 2, after the semicolon insert "to create and enact a new section to chapter 61-04 of the North Dakota Century Code, relating to metering certain water sources;"

Page 1, line 3, remove "to repeal section 5 of chapter 535"

Page 1, remove line 4

Page 1, line 5, remove "center;"

Page 2, after line 30, insert:

"SECTION 6. A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require the remote metering of water used pursuant to a temporary or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;  
and
6. That the penalty for circumventing the provisions of this section shall be a thirty-day suspension of the noncompliant permit."

Page 3, line 31, replace "\$250,000" with "\$100,000"

Page 4, replace lines 3 through 6 with:

**"SECTION 10. LEGISLATIVE INTENT - WATER-RELATED FUNDING PRIORITIES.** It is the intent of the sixty-second legislative assembly that the \$5,000,000 for the Red River valley water supply project identified by the state water commission as a 2011-13 biennium funding priority be used for general statewide water management and that the state water commission not spend any funding for the Red River valley water supply project during the 2011-13 biennium."

Page 4, remove line 7

Page 4, line 8, replace "6" with "7"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - House Action**

This amendment changes the legislative intent section relating to a grant to Wildlife Services by reducing it from \$250,000 to \$100,000.

The amendment removes:

- Section 10 providing legislative intent relating to the Garrison Diversion Conservancy District.
- Section 10 repealing Section 5 of the 1999 Session Laws Chapter 535 relating to a pledge of revenues from the Grand Forks Corporate Center.

In addition, the amendment:

- Adds a section to create a new section to Chapter 61-04 relating to the metering of certain water sources.
- Provides legislative intent relating to the use of funds for water project priorities.

April 26, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02, a new section to chapter 61-02, and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities, expenditure of funds for Garrison Diversion Conservancy District projects, and metering certain water sources,"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 2, line 19, after "APPROPRIATION" insert "- BUDGET SECTION APPROVAL"

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$235,000,000 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, after line 6, insert:

"SECTION 10. A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

SECTION 11. AMENDMENT. Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

**State water commission prohibited from Garrison Diversion Conservancy District expenditures.**

The state water commission may not approve any funding, grants, or contracts with the Garrison Diversion Conservancy District, until the Garrison Diversion Conservancy District refurbishes the Oakes test site and transfers the site to local control.

**SECTION 16.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require permit holders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary, conditional, or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

**SECTION 17. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM.** The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 18. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 10 through 14 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 19. EXPIRATION DATE.** Sections 10 through 14 of this Act are effective through July 31, 2013, and after that date are ineffective."

April 26, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2020

That the House recede from its amendments as printed on pages 1364 and 1365 of the Senate Journal and pages 1523 and 1524 of the House Journal and that Engrossed Senate Bill No. 2020 be amended as follows:

Page 1, line 2, after the semicolon insert "to create and enact a new subsection to section 11-37-02, a new section to chapter 61-02, and a new section to chapter 61-04 of the North Dakota Century Code, relating to joint powers entities and commerce authorities, expenditure of funds for Garrison Diversion Conservancy District projects, and metering certain water sources;"

Page 1, line 2, after "reenact" insert "subsection 2 of section 11-37-03, section 11-37-04, subsection 8 of section 11-37-06, and subsection 1 of section 11-37-08 of the North Dakota Century Code and"

Page 1, line 3, after the first "to" insert "conversion of joint powers entities to commerce authorities and additional powers of commerce authorities and"

Page 1, line 3, after the second semicolon insert "to provide a transfer;"

Page 1, line 5, after the third semicolon insert "to provide for application; to provide an expiration date;"

Page 2, line 19, after "APPROPRIATION" insert "- BUDGET SECTION APPROVAL "

Page 2, line 23, after the period insert "The state water commission shall request and receive budget section approval prior to the expenditure of any funds in excess of the \$447,913,774 of funding appropriated in the water and atmospheric resources line item in section 1 of this Act."

Page 3, line 10, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 15, after the underscored period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 3, line 22, after "costs" insert "and may not be used for the purchase of dwellings"

Page 3, line 25, after the period insert "Costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state."

Page 4, replace lines 3 through 6 with:

"SECTION 9. A new subsection to section 11-37-02 of the North Dakota Century Code is created and enacted as follows:

Provide a method to convert an existing joint powers entity to a commerce authority for the purpose of achieving status as a political subdivision.

SECTION 10. AMENDMENT. Subsection 2 of section 11-37-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. Two or more political subdivisions, that are parties to a joint powers agreement under chapter 54-40 or 54-40.3, may convert an existing joint powers entity to a commerce authority by execution of a joint agreement authorized by resolution of the governing body of each participating political subdivision. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.

**SECTION 11. AMENDMENT.** Section 11-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-37-04. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.**

The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority, or converting an existing joint powers entity to a commerce authority, must be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 11-37-03, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

**SECTION 12. AMENDMENT.** Subsection 8 of section 11-37-06 of the North Dakota Century Code is amended and reenacted as follows:

8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions, or coextensive with the geographical boundaries of the area to be served by the commerce authority.

**SECTION 13. AMENDMENT.** Subsection 1 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority. If a commerce authority is formed by conversion of a joint powers entity to a commerce authority under subsection 2 of section 11-37-03, the commerce authority may borrow money and issue bonds to refinance existing obligations of the participating political subdivisions without the provisions of subsection 8 as long as the existing obligations were incurred by the participating political subdivision for the benefit of the converted joint powers entity.

**SECTION 14.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

**State water commission prohibited from Garrison Diversion Conservancy District expenditures.**

Except for contracts entered into before the effective date of this Act, the state water commission may not approve any funding, grants, or contracts with the Garrison Diversion Conservancy District, until the Garrison Diversion Conservancy District refurbishes the Oakes test site and transfers the site to local control.

**SECTION 15.** A new section to chapter 61-04 of the North Dakota Century Code is created and enacted as follows:

**Metering of certain water sources required - Rules.**

The state engineer shall require permit holders to purchase and maintain remote metering devices for the metering of water used pursuant to a temporary, conditional, or perfected water permit and sold for oil and gas purposes. Except for nonpotable ground water used for enhanced oil recovery purposes and water uses of less than fifteen acre-feet per year, all other permitted and temporarily permitted industrial water supplies sold for oil and gas purposes are subject to the metering requirements of this section. The state engineer shall develop rules to provide:

1. The specifications for remote terminal water metering devices;
2. That metering be operational by July 1, 2012;
3. That meters be available for inspection by state water commission staff on a daily basis;
4. That meters be sealed and tamperproof;
5. That meters may be replaced only under supervision of the state engineer;
6. That the penalty for circumventing the provisions of this section must be a thirty-day suspension of the noncompliant permit; and
7. That subsequent violations within a year result in a doubling of the penalty for the prior violation.

**SECTION 16. TRANSFER - PERMANENT OIL TAX TRUST FUND - 2009-11 BIENNIUM.** The office of management and budget shall transfer any unexpended funds appropriated from the permanent oil tax trust fund in chapter 25 of the 2009 Session Laws to the water commission fund at the end of the biennium beginning July 1, 2009, and ending June 30, 2011. For the purposes of this section, "end of the biennium" means thirty days after the close of the biennial period but prior to the cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 17. APPLICATION.** A commerce authority formed by the conversion of a joint powers agreement under this Act remains a valid commerce authority after the expiration date of this Act. Sections 9 through 13 of this Act do not grant any additional authority to exercise the power of eminent domain or issue general obligation bonds to a commerce authority formed by a conversion of a joint powers agreement under this Act.

**SECTION 18. EXPIRATION DATE.** Sections 9 through 13 of this Act are effective through July 31, 2013, and after that date are ineffective."



Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2020 - State Water Commission - Conference Committee Action**

The conference committee restored a grant to Wildlife Services in a legislative intent section to \$250,000, the same as the Senate. The House reduced the grant to \$100,000.

The conference committee added a section relating to the metering of certain water sources, the same as the House, but did not include legislative intent relating to the use of funds for water project priorities included in the House version.

The conference committee restored a section repealing Section 5 of Chapter 535 of the 1999 Session Laws relating to a pledge of revenues from the Grand Forks Corporate Center removed by the House.

A legislative intent section relating to the Garrison Diversion Conservancy District removed by the House was not restored by the conference committee.

In addition, the conference committee adopted the following amendments not included in the Senate or House versions:

- Added a provision to Section 4 requiring the State Water Commission receive Budget Section approval prior to the expenditure of any funds in excess of the funding provided in the water and atmospheric resources line item.
- Amended sections of the bill relating to Fargo flood control.
- Added sections relating to joint powers entities and commerce authorities. Sections were also added to provide for the application and expiration of these sections.
- Added a section relating to expenditure of funds for Garrison Diversion Conservancy District projects.
- Added a section to provide for a transfer from the permanent oil tax trust fund of any unexpended funds appropriated by the 2009 Legislative Assembly prior to the end of the 2009-11 biennium.