



WATER TOPICS OVERVIEW COMMITTEE

Tuesday, March 22, 2022
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Jim Schmidt, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Jim Schmidt, Chuck Damschen, Jay Fisher, Michael Howe, Bob Martinson, Jon O. Nelson, Marvin E. Nelson, Todd Porter, Matthew Ruby; Senators Michael Dwyer, Joan Heckaman, David Hogue, Jordan Kannianen, Jim P. Roers, Ronald Sorvaag, Mark F. Weber

Members absent: Representatives Tracy Boe, Denton Zubke; Senator Jason G. Heitkamp

Others present: Chris J. Kadrmaz, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Representative Porter, seconded by Representative Ruby, and carried on a voice vote that the minutes of the December 7, 2021, meeting be approved as distributed.

Mr. Chris J. Kadrmaz, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled [Resources Trust Fund - 2019-21 and 2021-23 Biennium Update](#).

Ms. Heide Delorme, Director, Administrative Services Division, Department of Water Resources, presented testimony ([Appendix B](#)) regarding the federal American Rescue Plan Act funds and the Department of Water Resources project status summary.

In response to questions from committee members, Ms. Delorme noted \$5.2 million of the funds provided by the American Rescue Plan Act must be approved for water supply projects, and the State Water Commission is working to approve projects for which funds can be spent right away.

Mr. Wade Bachmeier, Chairman, Missouri River Joint Water Board, presented testimony ([Appendix C](#)) regarding an update on the Missouri River Joint Water Board activities.

In response to questions from committee members, Mr. Bachmeier noted:

- It is very important for North Dakota to closely track downstream uses of Missouri River water; and
- The Mandan, Hidatsa and Arikara Nation has been invited to be part of the Missouri River Joint Water Board, and board members are working to include tribal members in the board's work.

Ms. Andrea Travnicek, Director, Department of Water Resources, presented testimony ([Appendix D](#)) regarding the activities of the Department of Water Resources.

In response to questions from committee members, Ms. Travnicek noted:

- Economic development groups should consider the availability of water during their initial planning stages;
- The Department of Water Resources will request approval for three full-time employees from the Emergency Commission, in part to reduce permitting times; and
- Cost-share percentages for approved projects are discretionary rather than statutory.

Mr. Richard Johnson, Commissioner, State Water Commission, presented testimony regarding State Water Commission activities.

In response to questions from committee members, Mr. Johnson noted:

- Although some projects submitted to the State Water Commission provide for engineering fees to increase when the cost of materials increases, the State Water Commission is opposed to increasing engineering fees when no additional engineering work is required; and
- The State Water Commission is evaluating whether paying for fire flow in a water supply system is a state responsibility or local responsibility.

Ms. DeAnn Ament, Executive Director, Public Finance Authority, presented testimony ([Appendix E](#)) regarding progress on implementing legislation relating to bonding.

In response to a question from a committee member, Ms. Ament noted the Public Finance Authority likely will make interest payments of about \$100 million this biennium even though \$150 million was appropriated for that purpose.

Mr. Patrick Fridgen, Director, Planning and Education Division, Department of Water Resources, presented testimony ([Appendix F](#)) regarding Department of Water Resources interagency relationships.

Mr. Shaun Sipma, Mayor, City of Minot, presented testimony ([Appendix G](#)) regarding the status of the Souris River flood control project.

In response to questions from committee members, Mr. Sipma noted:

- 90 percent of property acquisitions have been completed; and
- The \$520 million appropriation will be necessary regardless of the time required to complete the project.

Mr. Joel Paulsen, Executive Director, FM Area Diversion Project, presented an update ([Appendix H](#)) regarding the FM Area Diversion Project.

Ms. Claire Ness, Senior Counsel and Code Revisor, Legislative Council, updated the committee on the activities of the Water Drainage Committee. She noted two bill drafts were presented to the committee, and a consolidated, revised bill will be presented to the committee at the next meeting.

In lieu of Mr. Duane DeKrey, General Manager, Garrison Diversion Conservancy District, Ms. Merri Mooridian, Administrative Officer/Deputy Project Manager for Red River Valley Water Supply Project Administration, Garrison Diversion Conservancy District, presented testimony ([Appendix I](#)) regarding an update on the Red River Valley Water Supply Project.

Committee members noted concerns about the cost of building an intake structure near Washburn when the project sponsors continue to pursue using the McClusky Canal as the primary water source for the Red River Valley Water Supply Project.

In response to questions from committee members, Ms. Mooridian noted:

- Building the intake structure near Washburn cost \$22 million;
- The McClusky Canal option is called the eastern North Dakota alternate water supply (ENDAWS) for the Red River Valley Water Supply Project;
- If the full 165 cubic feet per second (cfs) of water is taken from the McClusky Canal for the project, the Washburn intake structure may serve as a backup source of water for the project, but there would be costs to connect the structure to the project components;
- Using ENDAWS instead of the Washburn intake structure may save up to \$200 million in overall construction costs for the project;
- Missouri is appealing the federal trial court's dismissal of Missouri's lawsuit regarding the environmental permits for use of the McClusky Canal as a water source for the Red River Valley Water Supply Project, and the appeal may delay or effectively eliminate the option to use ENDAWS;

- There has not been a lawsuit regarding use of Missouri River water or the Washburn intake structure for the project;
- Decisions about moving forward on portions of the project which are dependent on ENDAWS will have to be made within a year or two;
- The projected \$1.22 billion total cost for the project includes the 25 percent local match, but costs are being re-evaluated due to inflation;
- The Garrison Diversion Conservancy District, Fargo, and Grand Forks would be the signatories on the water infrastructure revolving loan fund loan for the project;
- The project sponsors will continue to request a 75 percent cost-share from the state; and
- The state has not set a maximum dollar amount to be appropriated for the project.

Ms. Jen Murray, Manager and Chief Executive Officer, Southwest Water Authority, presented testimony ([Appendix J](#)) regarding an update on the Southwest Pipeline Project.

In response to a question from a committee member, Ms. Sindhuja Pillai-Grinolds, Southwest Pipeline Project Engineer, Department of Water Resources, noted negotiations with a contractor resulted in sharing the loss for two failed microdrilling attempts.

Ms. Tami Madsen, Executive Director, Western Area Water Supply Authority, presented testimony ([Appendix K](#)) regarding an update on the Western Area Water Supply Project.

Mr. Matt Gardner, Executive Director, North Dakota League of Cities, presented testimony ([Appendix L](#)) regarding municipal water supply projects and funding.

Mr. Eric Volk, Executive Director, North Dakota Rural Water Systems Association, presented testimony ([Appendix M](#)) regarding rural water projects and funding.

In lieu of Mr. Gary Thompson, Chairman, Red River Joint Water Resource District, Mr. Kurt Lysne, West Fargo Office Manager, Moore Engineering, Inc., and Mr. Zach Herrmann, Project Manager, Houston Engineering, Inc., presented testimony ([Appendix N](#)) regarding the Cass County pilot project.

Mr. Jack Dwyer, Executive Secretary, North Dakota Water Resource Districts Association, presented testimony ([Appendix O](#)) regarding water resource boards' activities.

In lieu of Mr. David Glatt, Director, Department of Environmental Quality, Ms. Elizabeth Tokach Duran, Program Manager, Clean Water State Revolving Fund Program, Department of Environmental Quality, and Ms. Shannon Fisher, Program Manager, Drinking Water State Revolving Fund Program, Department of Environmental Quality, presented testimony ([Appendix P](#)) regarding wastewater funding and federal funding for lead pipe replacement.

Mr. Mark Wax, Acting State Director, North Dakota Office of Rural Development, United States Department of Agriculture, presented testimony ([Appendix Q](#)) regarding engineering costs, reserves, and the water supply loan program.

In response to a question from a committee member, Mr. Wax noted water supply loans do not cover projects that provide only fire protection, but fire protection may be included in projects submitted for funding.

No further business appearing, Chairman Schmidt adjourned the meeting at 4:15 p.m.

Claire Ness
Senior Counsel and Code Revisor

ATTACH:17