

WATER TOPICS OVERVIEW COMMITTEE

North Dakota Century Code Section 54-35-02.7 directs the Legislative Management during each interim to appoint a Water Topics Overview Committee in the same manner as the Legislative Management appoints other interim committees, and to designate a Chairman. The committee must meet quarterly and is to operate according to the statutes and procedures governing the operation of other Legislative Management interim committees. This section originally created the Garrison Diversion Overview Committee in 1981 but was amended in 2009 to create the Water-Related Topics Overview Committee. The name was changed to its current form in 2013.

Section 54-35-02.7 provides the committee is responsible for legislative overview of water topics and related matters, the Garrison Diversion Project; and any necessary discussions with adjacent states on water topics. The section also provides the committee may meet and work collaboratively with the State Water Commission (SWC) and must report on the committee's project prioritization process; provide updates on allocated program expenditures; and report on the fund balances of projects, grants, and contracts.

The Legislative Management assigned the committee the responsibility to receive four reports:

- Quarterly reports from SWC regarding the projects designated as carryover project that has had a cost-share agreement in place for at least 4 years, the amount of funds still committed for each carryover project included in the report, the total amount of funds reallocated or made available from carryover projects included in a previous report to other projects since the commission's preceding report, and the status of each carryover project for which the committee has made a recommendation to terminate since the commission's preceding report, pursuant to Section 61-02-14.4. The committee may make a recommendation to SWC that a carryover project included in a report be terminated under Section 61-02-14.3 and any funds remaining for the carryover project be reallocated and made available for projects with the same general purpose as the carryover project.
- A report from the Department of Water Resources (DWR) regarding DWR's research, in coordination with the Garrison Diversion Conservancy District, into identifying options for the use of the Missouri River intake constructed near Washburn, pursuant to Section 19 of Senate Bill No. 2020 (2023).
- Quarterly progress reports from the Garrison Diversion Conservancy District on the Red River Valley Water Supply Project (RRVWSP), pursuant to Section 14 of 2019 Session Laws Chapter 45.
- Regular progress reports from the Garrison Diversion Conservancy District on RRVWSP, pursuant to Section 12 of 2019 Session Laws Chapter 45.

Committee members were Senators Ronald Sorvaag (Chairman), Michael Dwyer, David Hogue, Larry Luick, Jeffery J. Magrum, and Jim P. Roers and Representatives Mike Beltz, Jared Hagert, Jorin Johnson, Donald W. Longmuir, Bob Martinson, Jon O. Nelson, Anna S. Novak, Jeremy Olson, Todd Porter, Matthew Ruby, and Steve Swiontek.

LEGISLATIVE OVERVIEW OF WATER TOPICS AND RELATED MATTERS

Missouri River Water Usage Update

The committee received testimony from a representative on behalf of the Missouri River Joint Water Board regarding the importance of the Missouri River. Testimony indicated North Dakota uses an estimated 117,000 acre-feet of the Missouri River, which is seven-tenths of the river's average flow and less than 3.2 percent of the 3.7 million acre-feet of water the state is permitted to use. Testimony stressed the importance of the state to use more water from the Missouri River before other states begin to deplete the river.

The committee also received testimony from representatives of the Garrison Diversion Conservancy District and the North Dakota Irrigation Association. The committee was informed irrigation supply is derived from underground aquifers or surface waters. Approximately 300,000 acres of irrigation in the state is used in the production of crops and livestock forage with the potential to irrigate up to 28 million acres. Testimony indicated limitations to expanding irrigation development include water availability and funding. An irrigation district can assist individual irrigators with funding and resource availability and may request a 75 percent cost-share from SWC.

North Dakota Rural Water Systems Association and Municipal Water Systems

The committee received testimony from representatives of the North Dakota Rural Water Systems Association and North Dakota League of Cities regarding ongoing and planned projects in the state. The committee was informed of the 355 incorporated cities in the state, 268 cities are connected to a regional water system, 87 cities have their own water system, and 17 cities provide water for a rural or regional system.

Testimony indicated lack of infrastructure and contractors in rural areas are major concerns for many rural water systems across the state. Testimony contended rural water funding is necessary to allow residents in smaller

communities and rural areas to receive water for a reasonable price. Overall costs of projects are increasing due to a lack of related materials, including pipes. Rural water projects approved for the 2023-25 biennium have had a shortfall of \$14.56 million in funding. Fifty-eight new rural water projects have been approved by SWC at an estimated cost of \$386.23 million, with the potential for SWC to award up to \$230 million in grants. Fourteen tribal projects have been approved with a potential cost offset of \$32.5 million in tribal grants.

Testimony indicated challenges facing municipal water systems include a shortage of food grade CO₂, work force shortages, and the rising cost of materials, specifically pumps and variable frequency drives. The state water development plan for municipal water systems includes 139 municipal water projects with an overall estimate cost of \$369 million. Two hundred twenty-five municipal water systems have applied for planning funds through the Department of Environmental Quality (DEQ) to replace the use of lead service lines.

Department of Environmental Quality - Clean Water Act

The committee received testimony from representatives of DEQ regarding the Vision 2 North Dakota Total Maximum Daily Load (TMDL) Prioritization Strategy. The committee was informed a TMDL is a federal requirement of the Clean Water Act for waters that do not meet quality standards for public use. The TMDL Vision 2 strategy is a long-term workplan used by DEQ to establish prioritization of waters and pollutants and details the maximum amount of pollutant a waterbody can support while ensuring water quality standards are maintained. Every 10 years, each state is required to develop and submit a TMDL prioritization strategy to the United States Environmental Protection Agency. The department is requesting participation through public comments and surveys. Testimony indicated efficiency and effectiveness depend on coordination with the public and other Clean Water Act programs.

Managed Aquifer Recharge and Recovery

The committee received testimony from a representative of DWR regarding the feasibility and use of managed aquifer recharge (MAR) in the state's glacial drift aquifers. The committee was informed MAR involves capturing excess or abundant surface water and storing the captured water in an aquifer to extend and enhance resiliency. Testimony indicated the department contracted for a statewide MAR assessment, which was completed in early 2024. The completed work included detailed reports and interactive maps establishing five separate tiers, each illustrating MAR potential across the state. Given the growth and progression of water development in the state, many of the state's ground water systems are approaching full appropriation. Testimony contended as major ground water systems approach sustainable limits, it will become increasingly difficult to approve additional appropriation without some form of augmentation such as MAR. Testimony indicated the report will serve as an important step in the state's ability to strategically locate and use MAR in the future.

Water Resource Boards

The committee received testimony from representatives of the Sargent County Water Resource Board and landowners regarding an ongoing dispute relating to assessment drain 11. Testimony indicated the dispute was brought before the North Dakota Supreme Court which held the Sargent County Water Resource District failed to obtain landowner approval for a maintenance project on drain 11, in violation of the Century Code. The committee was informed the opinion held a water resource district must obtain landowner approval for all drainage maintenance projects if the district's local cost or obligation for the project exceeds the 6-year maximum levy, even when additional district funds are used.

Aquatic Nuisance Species

The committee received testimony from a representative of the Game and Fish Department regarding an overview of aquatic nuisance species (ANS) in the state. Testimony indicated aquatic nuisance species are nonindigenous, obligate aquatic species of plant or animal which are injurious to native and desirable aquatic species and their environments. Aquatic nuisance species can be spread using docks, barges, tugboats, or watercrafts for commercial or recreational activities. The committee was informed North Dakota has 33 species on the state's ANS list. The department's management goal is to prevent the introduction and spread of ANS throughout the state while mitigating ecological, economic, and social impacts of existing populations. The department's main objectives include communication and coordination with the public, educational outreach, prevention and control, and extensive sampling and monitoring of water bodies throughout the state.

COLLABORATION WITH THE STATE WATER COMMISSION, PROGRAM EXPENDITURES, AND REPORTS ON THE FUND BALANCES OF PROJECTS, GRANTS, AND CONTRACTS

Background

The SWC was created in response to the drought of the 1930s and was charged with developing irrigation in the state. From 1937 to 1981, the Legislative Assembly funded the commission on a biennium-to-biennium basis with approximately \$500,000 to \$2 million appropriated per biennium. The duties of the commission changed with creation of

the resources trust fund in 1981. When the resources trust fund was created, the proceeds of the fund were dedicated to financing the Southwest Pipeline Project (SWPP), which was the first state water project. Since then, the number and scope of water projects overseen and regulated by SWC increased dramatically. The commission now serves many functions, including allocating the state's waters, overseeing dam safety, managing sovereign lands, and approving and funding water projects throughout the state.

The DWR was created by House Bill No. 1353 (2021). The department was previously called the State Water Commission, which itself was created by legislative action in 1937 for the specific purpose of fostering and promoting water resources development throughout the state. House Bill No. 1353 restructured the agency, appointed a director, and made the director of the department a member of the Governor's cabinet.

The DWR has the authority to investigate, plan, construct, and develop water-related projects, and serves as a mechanism to financially support those efforts throughout the state. The department is comprised of seven divisions: Administration, Atmospheric Resources, Planning and Education, Regulatory, State Engineer, Water Appropriation, and Water Development.

The department's mission is to responsibly manage the state's water needs and risks for the people's benefit. The department sustainably manages and develops the state's water resources for the health, safety, and prosperity of the state's people, businesses, agriculture, energy, industry, recreation, and natural resources.

Testimony and Committee Discussion

At each committee meeting, a member of SWC provided an update on SWC operations and activities, and a representative from DWR provided an update on SWC budget and the status of projects funded by SWC.

The committee received testimony from representatives of DWR regarding the resources trust fund and the water projects stabilization fund. Additional testimony addressed the usefulness of the life cycle cost analyses and economic analyses to help evaluate which projects should be funded and the amount of funding each project requires. The committee was informed the project stabilization fund has a balance of \$140.1 million which was transferred to the Retirement and Investment Office to be deposited in a cash account averaging a 5.14 percent annual return.

The committee also received testimony regarding funding for the 2023-25 biennium and updates to the 2023-25 biennium budget. Testimony indicated the total funding needs for the 2023-25 biennium are estimated at \$1.05 billion. The committee was informed Section 20 of Senate Bill No. 2020 (2023) authorized DWR to transfer up to \$9.9 million between the operating expenses and capital assets line items. The DWR directed the Office of Management and Budget to transfer \$425,000 from operating expenses to capital assets for the purchase of construction equipment and equipment for Devils Lake. The DWR submitted an emergency commission request to transfer \$375,000 of federal funds from the capital assets line item to the discretionary funding line item. The committee was informed this transfer will facilitate DWR grant funds to Minot for the purchase of equipment for the operation of the Biota Water Treatment Plant.

The committee discussed the importance of the \$9 million discretionary purpose fund and the authorization of line item transfer for capital assets due to the size and complexity of water related issues.

FM Area Diversion Project

Background

In 2009 and 2011, the Legislative Assembly provided \$45 million and \$30 million respectively for Fargo flood control. In 2013, the Legislative Assembly provided \$100 million for the Fargo flood control project for a total of \$175 million provided from 2009 to 2013. The 2013 legislation included a statement of legislative intent for the state to provide up to \$450 million for the project, with the remaining \$275 million to be provided over the next 4 bienniums. The 2013 Legislative Assembly limited the use of the funding designated for the Fargo flood control levee and dike protection until the Fargo flood control project received federal authorization, a project partnership agreement was executed, a federal appropriation was provided for project construction, and the budget for the Fargo flood control project was approved by SWC.

The 2015 Legislative Assembly provided an additional \$69 million for the Fargo flood control project and \$60 million for Fargo interior flood control projects, of which \$30 million was from the state disaster relief fund, to provide a total of \$304 million for flood protection in Fargo from 2009 to 2015. The Legislative Assembly also included a statement of legislative intent to provide up to \$570 million for Fargo flood control projects, \$120 million of which was to be used for Fargo interior flood control projects and required 50 percent matching funds from the FM Area Diversion Authority. These funds were to be expended only for Fargo interior flood control projects, including levees and dikes, until a federal appropriation was provided for construction of the Fargo flood control project, at which time it may be used for a federally authorized Fargo flood control project. The Legislative Assembly also included a statement of legislative intent indicating funding for the Fargo flood control project would end June 30, 2021, if a federal appropriation had not been provided by

that time. The 2015 Legislative Assembly provided legislative intent that the remaining funding be made available in equal installments over the next 4 bienniums. Money from the Cass County sales tax was used for levy work in small communities and for retention.

In 2017, the Minnesota Department of Natural Resources indicated it would not approve a necessary permit for the Fargo flood control projects. In September 2017, a federal judge issued a preliminary injunction halting most work on the project, including land acquisition, design, procurement, cultural mitigation studies, and construction. The Governors of North Dakota and Minnesota created a task force to develop a mutually acceptable plan, known as Plan B, for the project. A technical advisory group and policy group also were formed to work on the development of the plan. In March 2018, the FM Area Diversion Authority submitted Plan B to the Minnesota Department of Natural Resources for a permit.

In 2019, the Legislative Assembly appropriated \$65.5 million for the Fargo area flood control projects and expressed the legislative intent to provide no more than \$750 million for the project in total. Of the \$750 million, \$371 million had been made available for the project in previous bienniums. Of the remaining \$379 million, the Legislative Assembly expressed the intent that \$66.5 million should be provided in each of the bienniums through the 2027-29 biennium, and \$47 million should be provided in the 2029-31 biennium.

Testimony

The committee toured the FM Area Diversion Project, including the Maple River aqueduct, the southern embankment, and the Red River structure. The committee received testimony from a representative of the FM Area Diversion Project. Testimony indicated the FM Area Diversion Project remains a critical infrastructure initiative designed to protect the Red River Valley from catastrophic flooding. The committee was informed the project, which employs a public-private partnership model, is expected to safeguard 260,000 residents and \$18 billion in property by providing protection from 100-year flood events, with the capability to handle a 500-year flood.

The committee received an update on the project's four major components--the stormwater diversion channel and associated infrastructure, the southern embankment and associated infrastructure, local flood protection and associated infrastructure, and mitigation features and associated infrastructure.

The committee received testimony regarding the construction of the 30-mile stormwater diversion channel, which began in August 2022 and remains on schedule for completion in 2027. Testimony indicated significant progress is being made on key transportation crossings, including roads, railroads, and interstates, which are essential for ensuring the channel's effective operation. Testimony indicated the diversion outlet is expected to be completed by November 2024. The structure will feature 24,000 cubic yards of riprap and more than 450 boulders to facilitate fish passage and ensure the stability of the channel. The committee also received updates on the Maple River and Sheyenne River aqueducts, which are scheduled for completion by 2025. The committee was informed these aqueducts are essential for managing river flow while maintaining ecological balance and are among the northernmost aqueducts in the world. In addition, testimony indicated crews are constructing 14 drainage inlets along the channel, several of which are in advanced stages, ensuring that stormwater is efficiently diverted away from urban areas to reduce flood risks.

The committee received testimony regarding the progress of the 22-mile southern embankment, which serves as a primary flood defense barrier for the Red River Valley. Testimony indicated the diversion inlet structure is nearly complete, with 99 percent of construction finished, and only requires final work on gate machinery and turf establishment. Testimony indicated the structure is expected to be completed by early 2024 and features three 50-foot-wide gates, which will regulate water flow during flood events.

The committee was informed of the near completion of the Wild Rice River Structure, with 98 percent of the project finished as of June 2023. The remaining tasks, including adjustments to the operational machinery and landscaping, will be completed in 2024. Testimony indicated the Red River Structure, which is the largest of the three control structures, is 59 percent complete and is expected to be finished by 2026. Testimony emphasized the importance of this structure in managing the Red River's floodwaters, noting the structure's three 50-foot-wide gates and the significant excavation and piling work already completed.

The committee received testimony regarding the progress of local flood protection measures in Fargo, Moorhead, and the surrounding counties. Testimony indicated significant progress has been made in constructing levees, floodwalls, stormwater lift stations, and road improvements, all of which are designed to provide localized flood protection. Testimony indicated 259 properties have been acquired in Fargo and Cass County, and 276 properties have been acquired in Moorhead and Clay County, to make room for these essential flood protection infrastructures. Additionally, road improvement projects, including raising road grades to ensure vital transportation routes remain accessible during floods, are underway. The committee also received testimony regarding the installation of stormwater lift stations and modifications to storm structures, which will help ensure local stormwater systems can handle heavy rainfall more

efficiently. The committee was informed these local protection efforts are expected to continue through 2025, with several key projects showing significant progress.

The committee received testimony regarding the project's environmental mitigation efforts, which aim to restore and protect natural habitats impacted by the FM Area Diversion Project. The committee was informed the oxbow wetland mitigation project, completed in spring 2023, restored 10.6 acres of wetlands and planted 63.1 acres of seedlings. Testimony indicated these efforts significantly improved the ecological health of the floodplain and wetland ecosystems, helping to mitigate the environmental impacts caused by the construction.

The committee also received updates on the Drayton Dam mitigation project, which was completed at the end of 2023. Testimony indicated the project involved the partial removal of the dam and the construction of a rock rapids fishway, which will improve fish passage and biotic connectivity along the Red River. The committee received testimony underscoring the importance of this project in restoring ecological balance and promoting fish migration in the region. The committee was informed the FM Area Diversion Project remains on track to provide essential flood protection for the Red River Valley, ensuring the long-term safety and resilience of the region.

Souris River Basin Flood Control

The committee toured the flood control structure in and around Minot. The committee received testimony from representatives of the City of Minot and the Souris River Joint Board (SRJB) regarding the ongoing efforts to enhance flood protection in the Mouse River Basin. Testimony indicated during the 2023-25 biennium, SRJB received \$66.35 million for construction and engineering costs throughout the Mouse River Basin and the City of Minot received \$9.75 million for acquisition costs.

The committee received information indicating the anticipated work plan had shifted from MI-4 Maple Diversion to MI-6 and MI-7 due to continued negotiations with BNSF Railway Company. The committee was informed Phase MI-6 involves constructing a downtown floodwall and levee system, while Phase MI-7 focuses on the Roosevelt Park levee and floodwall. Testimony contended both phases are crucial to protecting Minot from future floods, with Phase MI-6 expected to cost \$59 million and Phase MI-7 around \$41 million. Testimony indicated these projects are fully designed and ready for construction once the necessary approvals and funding are secured.

The committee was informed a notable obstacle in the project has been the interaction with railroad companies. Testimony indicated the initial designs for flood protection required significant reconstruction of tracks and bridges belonging to BNSF Railway, as well as changes to the Amtrak passenger platform. However, after negotiations, the design was modified to reduce the scope of work required from the railroad companies.

The committee was informed the Maple Diversion is the most critical component of the Army Corps of Engineers contribution to the flood protection plan. Testimony indicated the Maple Diversion will form part of what is called "Milestone 1" for Minot and will remove approximately 60 percent of Minot Valley residents from the Federal Emergency Management Agency regulatory floodplain once completed. Testimony indicated the estimated cost of this phase is \$61.45 million, with 65 percent covered by federal funds. The committee was informed the project is expected to start construction in 2026 and be completed by 2029. Testimony contended Milestone 1 will significantly reduce flood risk in Minot and provide a major step forward in floodplain management, lowering insurance costs and mitigating future flood damages.

The committee was informed SRJB has made steady progress in rural areas. The committee received testimony regarding several completed and ongoing projects, including the replacement of bridges that obstruct water flow along the Mouse River. Testimony indicated the Sawyer bridge replacement has been successfully completed and the Velva bridge replacement is in the final stages of permitting, with bidding scheduled for fall 2024. The Mouse River Park bridge replacement; however, has encountered difficulties, with no bids received after four attempts. The committee was informed that to address this concern, SRJB is considering alternative delivery methods to attract smaller contractors for specialized components of the project, given the limited availability of traditional bridge contractors in North Dakota.

The committee was informed the rising costs of construction due to inflation have posed a significant challenge to the flood protection project. Testimony indicated recent bids for portions of Phases MI-6 and MI-7 were 40 to 50 percent higher than estimated. The committee was informed the increase in cost is driven by increased labor costs, higher material prices, and a competitive construction environment across the region. Contractors have indicated labor shortages and competing demands for construction work have made it difficult to meet the schedules for flood control projects. The committee was informed that, in response, SRJB rejected a bid for part of Phase MI-7 that was 50 percent over the estimate and plans to rebid the project in smaller segments with more flexible completion timelines. Testimony indicated the goal is to make the projects more manageable for local contractors and improve pricing through more competitive bidding processes.

The committee was informed inflation continues to be a major concern for the project. Testimony indicated the project's original budget, established in 2013, was \$1.028 billion, but inflation has since driven the total cost up to \$1.083 billion, with an estimated \$674 million still needed to complete the project. The legislative intent, in Section 14 of Senate Bill No. 2020 (2023), requires \$76.1 million in state funding per biennium for 5 successive biennia, totaling \$380.5 million. However, only \$304.4 million of that amount has been formally appropriated, leaving future funding dependent on legislative action.

Western Area Water Supply Authority

The committee received testimony from a representative of Western Area Water Supply Authority. Testimony indicated from 2011 to 2022, total connections increased by 193 percent. The committee was informed McKenzie and Williams Counties have seen significant population growth over the past 10 years, specifically, 83 percent growth in Williams County and 131 percent growth in McKenzie County. Testimony indicated the Western Area Water Supply Authority had over \$170 million in total project costs relating to domestic expansion. The committee received testimony regarding funding, including the local cost share and state cost share for the project during the 2023-25 biennium. The committee was informed the Western Area Water Supply Authority was moved from the Industrial Commission to DWR during the 2023 legislative session. The authority now reports to DWR.

Southwest Pipeline Project

The committee received information regarding the status of the SWPP, which is owned by the state and operated and maintained by the Southwest Water Authority. Testimony indicated the SWPP serves roughly 58,000 customers across 13 counties covering more than 15,000 square miles of southwest North Dakota. The Southwest Water Authority is funding projects to provide additional capacity for 120 subsequent customers. The committee was informed plans for expansion include transmission facilities and strategic hydraulic improvements to reach customers outside the project's service zone. Additional projects for the 2023-25 biennium include the Southwest Water Treatment Plant, rural expansion for Hebron and Burt services areas, West Zone transmission facility and hydraulic improvements, and attempts to finalize the supplementary intake pump station. The committee was informed there are 762 potential customers on a waiting list for connection.

The committee received information regarding capital repayment, with projected returns totaling \$6.5 million in 2024. The committee also received information regarding proposed projects for the 2025-27 biennium. Testimony indicated the anticipated funding needs for SWPP is \$148.6 million.

Northwest Area Water Supply

The committee received testimony from representatives of the Northwest Area Water Supply (NAWS) project regarding the progress and challenges relating to providing a reliable water supply to approximately 81,000 people in northwestern North Dakota. The committee received information regarding several key aspects of the project, including the status of major infrastructure improvements; funding arrangements; coordination between state, local, and federal partners; and the ongoing difficulty posed by procurement delays and permitting issues.

The committee received information regarding the contracts for the Snake Creek Pumping Plant intake modification. The committee was informed Contract 1 focuses on internal modifications within the plant, while Contract 2 covers external work, including the installation of pipelines and a permanent intake structure. The committee received information indicating Contract 1 has experienced significant delays. This contract, which includes procurement, demolition, and construction phases, was plagued by extensive supply chain disruptions, particularly in the delivery of electrical equipment. Originally, the project team expected equipment deliveries by March 2024, but critical components are now delayed until March 2025. Additionally, the demolition contract, which involved removing Pump Unit No. 1 and constructing a bulkhead in the discharge structure at Lake Audubon, has faced delays due to extensive review processes with the Bureau of Reclamation. This has resulted in a new completion target of July 2025 for the entirety of Contract 1.

Contract 2, which covers external modifications to the Snake Creek Pumping Plant, also has been broken into two parts--Contract 2-1E, which involves the installation of a discharge pipeline; and Contract 1-1A, which focuses on building a permanent intake structure. Testimony contended the discharge pipeline is vital because it will transfer water from the Snake Creek Pumping Plant to the Biota Water Treatment Plant, located at Max. The discharge pipeline contract was awarded in June 2023, with a target completion date of fall 2024. However, testimony indicated design changes and delays related to permitting processes with the Army Corps of Engineers could further push back the completion date. Contract 1-1A, which includes the construction of a permanent intake pipe and screen structure, is still under design. The committee was informed the timeline for this critical component will extend into 2027 because the construction is complicated by lakebed installation requirements and the need for environmental and structural permits.

The committee was informed the Biota Water Treatment Plant (Phase 1) is another central aspect of the NAWS project. Testimony indicated this facility is constructed to comply with the Boundary Waters Treaty Act and is therefore a federal responsibility under the Dakota Water Resources Act. Testimony clarified Phase 1 of the Biota Water Treatment

Plant is fully federally funded, with costs reimbursed through the Municipal, Rural, and Industrial Water Supply Program. The City of Minot, in coordination with SWC, is responsible for day-to-day operations of the plant. However, startup of the plant has been delayed due to issues at the Snake Creek Pumping Plant. Originally slated for completion in February 2024, the plant is now expected to be operational by November 2024, with full lake water delivery contingent on the completion of the discharge pipeline and temporary intake at Snake Creek. To avoid further delays, the project team is pursuing a modified startup using groundwater from the Sundre Aquifer, allowing the plant to begin operations before lake water becomes available. This will ensure the Biota Water Treatment Plant is fully functional by the time lake water reaches Minot in mid-2025.

The committee was informed the South Prairie Reservoir and Hydraulic Control Structure are other significant projects within the NAWS system. Testimony indicated the hydraulic control structure, located eight miles north of Max, is designed to protect the pipeline from pressure spikes, ensuring the safety and stability of water flow through the system. The South Prairie Reservoir, which has a capacity of 10.5 million gallons, will serve as a critical storage point within the NAWS infrastructure. The reservoir and control structure have been substantially completed, and Sundre Aquifer water will be used to fill the reservoir to support the Biota Water Treatment Plant's modified startup. Testimony indicated these facilities are key to regulating water flow and providing additional storage capacity as other elements of the NAWS system are completed.

The committee was informed the timeline for delivering lake water to Minot remains a major focus of the NAWS project. The original plan was to have lake water delivered by mid-2025, but this timeline is now closely tied to the completion of the Snake Creek Pumping Plant modifications and the associated discharge pipeline. The committee was informed the temporary intake at Snake Creek, which will serve as an interim solution until the permanent intake is completed, is expected to be operational by July 2025. This will allow water to be delivered from Lake Audubon to Minot through the newly constructed pipelines. However, the permanent intake structure, necessary for long-term water supply stability, will not be ready until 2026 or 2027, meaning the temporary system will need to function for 1 to 2 years until the full infrastructure is completed.

In addition to information relating to the large-scale infrastructure developments, the committee received information regarding the financial arrangements for the NAWS project. The committee was informed the City of Minot is providing 35 percent of the local cost-share, except for the Biota Water Treatment Plant, which is fully funded by federal sources. The remainder of the local share is being funded through a 1 percent sales tax collected by the City of Minot. Testimony indicated SWC and the City of Minot have updated and finalized the financing agreement to ensure adequate funds are available to cover the cost of ongoing construction.

The committee was informed the NAWS project also extends water services to several additional districts. The committee received information indicating water service was extended to Bottineau in October 2022, to the Upper Souris Water District in February 2023, and to Westhope in October 2023. Testimony contended these expansions highlight the broader regional benefits of the NAWS project, as more communities gain access to a reliable water supply.

Red River Valley Water Supply Project

Background

Communities in the Red River Valley have experienced unreliable supplies of water due to the fluctuations in the Red River water levels and increased population growth in the valley. Although the river is known to flood, it also has experienced drought conditions that jeopardize residents' access to drinking water and industrial water. To ensure residents in the Red River Valley have access to a reliable water supply, the federal Dakota Water Resources Act of 2000 authorized RRVWSP.

The Dakota Water Resources Act required North Dakota and the United States Bureau of Reclamation within the United States Department of the Interior to prepare an Environmental Impact Statement (EIS) assessing alternative methods to accomplish the goals of RRVWSP. The Garrison Diversion Conservancy District was tasked with representing North Dakota in this effort and entered a memorandum of understanding with the Bureau of Reclamation. A draft EIS identifying eight alternatives for the project was released in 2005 and supplemented in 2007 after the comments on the draft statement were considered. The final EIS was released later in 2007 and identified a preferred alternative for the project called the Garrison Diversion Unit.

The Garrison Diversion Unit was intended to transport water through the McClusky Canal and use a buried pipeline from a biota treatment facility to the Sheyenne River north of Lake Ashtabula. The lake would act as a regulating reservoir, and water would flow from the lake into the Red River. The final EIS also included responses to public comments received on the prior iterations of the document, a final biological assessment prepared in compliance with the federal Endangered Species Act, an analysis of forecasted depletions and sedimentation on the Missouri River main stem reservoir system, and a review of climate change literature.

Although Congress was briefed on the Garrison Diversion Unit, the federal government has not authorized construction of the project. As a result, in 2013 RRVWSP's local stakeholders began work to identify ways to implement the project without federal participation. The stakeholders conducted additional studies and determined the best option for the project would be to bring water from the Missouri River to the Sheyenne River through a buried pipeline running close to Highway 200. The new plan included an intake facility located on the Missouri River close to Washburn and kept Lake Ashtabula as a reservoir. Under the new plan, water will be treated before it crosses the Continental Divide. Due to state legislation passed in 2015, the project was expanded to serve users along the pipeline route in central North Dakota. The Garrison Diversion Conservancy District continues to serve as the state representative on the project, and the Lake Agassiz Water Authority serves as the representative of the local water users to be served by the project.

The concept for the state and local project was completed in 2016, and the preliminary design report was completed in 2018. As the project has progressed, changes have been made to the design. For example, the original plan was intended to avoid a nexus with federal agencies and utilize horizontal collector wells above the ordinary high water mark of the Missouri River, but in 2020, the Garrison Diversion Conservancy District requested the Bureau of Reclamation to provide 145 cubic feet per second of water from the McClusky Canal, in addition to 20 cubic feet per second already authorized, as an alternate water supply for RRVWSP. The Garrison Diversion Conservancy District indicated the alternate water supply will result in savings for the state and local water users. The Bureau of Reclamation conducted the required EIS regarding the allocation of water, and a record of decision effectively authorizing the Eastern North Dakota Alternate Water Supply (ENDAWS) was signed in January 2021.

Testimony

The committee received testimony throughout the interim regarding the status and project development of RRVWSP during the 2023-25 biennium. Senate Bill No. 2020 (2023) appropriated \$180 million for RRVWSP and provided legislative intent for total state commitment of \$953 million. The committee received information regarding the project's anticipated spending schedule for each biennium. Testimony indicated the biennium funding for RRVWSP was \$240 million with the addition of \$60 million in local shares. The City of Grand Forks and the City of Fargo contribute 80 percent of the local share for RRVWSP. According to the testimony, the two cities are focused on keeping the project affordable for small user groups. Rural and municipal water systems committing to join the project will be required to pay 10 percent of the local share in development costs. The committee was informed 35 water systems have committed to the project.

The committee received testimony regarding the construction status of RRVWSP. The committee was informed Contract 1 and Contract 2, consisting of the Missouri River pumping station wet well and site development and the Missouri River intake screen structure and tunnel, are each complete. Other completed construction consists of the initial pipeline south of Carrington and the Sheyenne River outfall discharge structure and site development. The committee was informed Phase 1 of the project is under construction, specifically, three contracts for transmission pipeline east and west of Carrington. Once completed, the 72-inch steel transmission pipeline will extend a total of 125 miles from McClusky to Cooperstown.

The committee received information indicating designs are in progress for 11 miles of transmission pipeline for ENDAWS and the 41 miles of pipeline west of Carrington. The committee was informed United States Senator, John Hoeven, is requesting \$454 million in federal funds for the ENDAWS project, including the 32 miles of pipe. Testimony indicated additional designs are in progress for the McClusky Canal intake and Biota Water Treatment Plant, which are estimated to be completed in the 2025-27 biennium.

The committee received information regarding the restoration process for easement corridors. Testimony indicated the Garrison Diversion Conservancy District anticipates full restoration of the easement corridors could take 3 to 10 years. The committee was informed the project's crop damage policy will extend until the landowner determines damages from the pipeline can no longer be proven.

REPORT FROM THE DEPARTMENT OF WATER RESOURCES

The committee received a report from DWR regarding the department's research, in coordination with the Garrison Diversion Conservancy District, into identifying options for the use of the Missouri River intake constructed near Washburn, pursuant to Section 19 of Senate Bill No. 2020 (2023). The report indicated the existence of the Missouri River Intake at its location south of Washburn is well positioned to support future water demands for domestic water users, as well as future industrial economic development opportunities. The report indicated the recommendations include the use of the intake as a new or replacement water supply to Washburn or Riverdale, a primary or supplemental water source for industrial water users, and a supplemental water supply for RRVWSP during a severe drought.