

FISCAL NOTE
Requested by Legislative Council
03/30/2015

Amendment to: HB 1249

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$7,370		\$7,370
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 bill creates a Missouri River council and makes the Water Commission responsible paying for mileage and expenses of the members.

- 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.*

The bill provides the council members with mileage and expenses paid by the Water Commission.

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.*

Using the mileage rate of .575 X 100 miles round trip, plus \$35 per diem, plus \$75 lodging equates to \$167.50 per member per meeting. \$167.50 X 11 members X 4 meetings (2 per year) totals \$7,370.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 03/30/2015

FISCAL NOTE
Requested by Legislative Council
03/30/2015

Amendment to: HB 1249

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$7,370		\$7,370
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 bill creates a Missouri River council and makes the Water Commission responsible paying for mileage and expenses of the members.

- 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.*

The bill provides the council members with mileage and expenses paid by the Water Commission.

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.*

Using the mileage rate of .575 X 100 miles round trip, plus \$35 per diem, plus \$75 lodging equates to \$167.50 per member per meeting. \$167.50 X 11 members X 4 meetings (2 per year) totals \$7,370.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 03/30/2015

FISCAL NOTE
Requested by Legislative Council
02/21/2015

Amendment to: HB 1249

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$10,000		\$10,000
Appropriations						

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 bill creates a Missouri River council and makes the Water Commission responsible paying for mileage and expenses of the members and providing support services to the council.

- 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.*

Sub-section 7 of the bill provides the council members with mileage and expenses paid by the Water Commission. Sub-section 8 requires the Water Commission to provide staffing and support services to the council.

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.*

Using the mileage rate of .575 X 100 miles round trip, plus \$35 per diem, plus \$75 lodging equates to \$167.50 per member per meeting. Because not all members would be entitled to receive the full amount, we will use 50% of that figure or \$83.75 for an average per member meeting cost. \$83.75 X 27 members X 4 meetings (2 per year) totals \$9,045.

Providing support services for the biennium is estimated at \$955.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 02/23/2015

FISCAL NOTE
Requested by Legislative Council
01/13/2015

Bill/Resolution No.: HB 1249

- 1 A. **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.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$264,950		\$264,950
Appropriations				\$264,950		\$264,950

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

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **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 bill creates a Missouri River council and makes the Water Commission responsible for funding it.

- 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.*

Sections 8 of the bill provides the council members with mileage and expenses paid by the Water Commission. Section 9 allows the Water Commission to hire an executive director.

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.*

Using the mileage rate of .575 X 25 people X 200 miles round trip X 10 meetings (5 per year) would equate to \$28,750. Per Diem, \$35 for 25 people X 10 meeting is \$8,700. Estimating 2 meetings per biennium that would require air travel with an overnight for 5 attendees would add another \$7500. This totals \$44,950.

Adding another FTE to the Commission to serve as the executive director is estimated at \$220,000. No additional costs have been included for support staff.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The appropriation amounts are the same as the expenditure amounts.

Name: David Laschkewitsch

Agency: ND State Water Commission

Telephone: (701) 328-2750

Date Prepared: 01/16/2015

2015 HOUSE ENERGY AND NATURAL RESOURCES

HB 1249

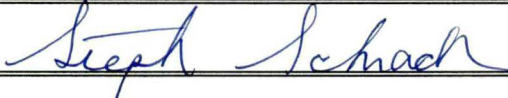
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1249
1/29/2015
Job # 22853

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 7

Chairman Porter opens hearing.

Representative Vicky Steiner, District 37

Written testimony #1A, B, C

Chairman Porter: Did you see the fiscal note?

Representative Steiner: Yes, I think it's for one staff member. I think that investment is well worth it to accomplish the goals for the Missouri River.

Chairman Porter: Under what's currently being done through the Water Commission, State Engineer, and ad hoc committees, water boards that are involved in these matters, how is this going to rise to the occasion of being the board to deal with this basin?

Representative Steiner: I tried to address a formal council organization plus incorporating the grass roots organizations. But we have not been able to make any significant progress with the Missouri River on some very basic issues. We have increasing population if I go up to the Corp today and say, "hey we've got another 200,000 people moving into western North Dakota we need to identify some new recreation areas, they're going to say that's

great, let's look at our master plan and do an update on that. When they update a master plan its 14 years. I don't think that the citizens of North Dakota have the time e that the Army Corp of Engineers has. I think we need a little stronger discussion with them. This council will be a place where people can go to get help in resolving issues with the Corp. I feel that this is a good place to start I think we need to have a stronger voice at the table with the corp.

Chairman Porter: One of the issues that always come up with the fiscal note is where the money is coming from? You're taking money from actual water projects and diverting it to a committee. In your argument prior, don't those issues already belong to those other boards; inside of those water resource boards, inside those park boards, North Dakota Parks and Rec, inside of other areas that are addressing those? We're taking a lot of money off of the table for actual water projects. When you look at the projected water funds for the next biennium there's going to be a screeching halt in the next biennium to water projects. How do you want us to balance that?

Representative Steiner: I don't feel that 265,000 dollars is a lot of money for this type of issue. This is an incredibly enormous opportunity that we are letting float by us every day. We need to capture it and we need to capture it quickly. There are other states that are working on plans, we need to get into the game. On a 15 billion dollar budget I think we should be able to make it a priority, I think it's a very important priority for our state.

Rep. Curt Hofstad:

It is extraordinarily important to so many issues and projects across our state. From the Red River water supply, to the NAWS project, to WAWS, to irrigation issues, to municipal water supply, we have a fertilizer plant potentially coming to Jamestown and all of these issues bring Missouri water into play. An interesting fact I came across is that 96 percent of water in North Dakota comes from the Missouri River. It's important to all the beneficial uses; recreation, water quality issues, threatened and endangered species, power generation, and all of these issues need a place to come and voice their opinions and come together with a bigger hammer. Here is an excerpt from the Governor of Missouri's State of the State speech, "Missouri is blessed with an abundance of fresh water. From the Mississippi to the

Missouri Rivers, to our running Ozark's drainage we take it for granted. But if you go up stream to the Dakotas, to the head waters of the Missouri, it's a different story. They're fighting over water; they want to divert as much water from the Missouri River as they can. Which would leave our farmers and shippers high and dry. Take Kansas, their latest hair brained idea is the construction of a 360 mile aqueduct, to siphon off more water of the Missouri River. We can't let that happen, as long as I'm governor, I will not let states upstream divert Missouri River water that we rely on for drinking, farming, and industry." This is the mindset we are dealing with, we have to have a structure in place to counter act those kinds of attitudes. Coming from Devils Lake and going through the process that we did. The structure of boards that we have in the state is extraordinarily important. As we began to deal with those rising waters of Devils Lake, it was easy to go to the local water resource board and deal with those problems. But, as the issue got bigger and bigger, it involved other cities, other counties, downstream interests. Pretty soon we were dealing with another water system, then we were dealing with the Red River, then with our neighbors in Minnesota, then with Canada. It's important to have that structure in place so that you can go to the table and deal with all the different entities. I think we have to craft this very carefully, as a chance to bring these different entities together and develop the structure that we can use to deal with all the problems that we have on the Missouri River.

Michelle Klose, Assistant State Engineer for the ND State Water Commission

Written testimony #2 (Began recording).

Vice Chairman Damschen: Was the Missouri River Stakeholders group at odds with or in disagreement with the actions taken by the state in the past?

Klose: We weren't seeing it as taking issues with the agencies or what they were recommending. We are responsible for carrying forward those areas that are under our responsibility. When you're dealing with stakeholder groups it's more of a broader range of concerns and issues they are wanting to have addressed. The actions that we take may have unintended consequences in other areas. Having a stake holders group that can inform the agencies is beneficial because they are able to look at things in a broader scale

than what the agencies perspective is or basic line of sight. The State Water Commission was actually supportive of having a more grass roots efforts. We do serve as representatives of the Endangered Species in the Missouri River Basin. We do have a lot of involvement with the other states and other stakeholders within the space and seeing what those concerns are. There is benefits of having more of representatives from North Dakota; those that are land owners, those that are right along the river to have their views heard as well, rather than being represented by others.

Vice Chairman Damschen: Was the Missouri River Stakeholders group, been at odds with the State in the past?

Duane DeKrey, General Manager, Garrison Diversion Conservancy District

Written testimony #3

Rep. George Keiser: If I read the fiscal note correctly, there will be ten meetings per year that seems like a lot of meetings, what's the purpose?

DeKrey: I don't know how the number 10 came about, but we have 28 county wide elected individuals on our board and we meet quarterly. Granted the Missouri River issues are huge, there's a lot of things going on. If they are going to become a very active organization, perhaps they feel they need 10 meetings a year.

Rep. Mike Nathe: In regards to the fiscal note, the 220,000 would be for the executive director, but the proposal amendments from the commission here are from the State Water Commission designates the governor's designee would be the chairman. Do you have any thoughts on that? Would you prefer an executive director?

Dekrey: We already have an agency in the state that pretty much deals with water issues, that's the State Water Commission. It seems to me kind of duplicative that if the governor's designee would be the standard head of this organization. If it's truly going to be a grass roots organization I would think that they would want to elect their own executive director, but then they've got to fund it. That's usually the problem with all of these things, is you've got to come up with the money and pay for it.

Vice Chairman Damschen: Some years ago there was a heritage act or something like that took effect on some of the land along the Missouri, I think. Did the stakeholders voice a concern over that, would they have had any say in that?

DeKrey: I'm not aware of that.

Mike Dwyer, Executive Vice President, North Dakota Water Resource Districts Association

Written testimony #4A, B

Ryan M. Norrell, J.D., Executive Director, North Dakota Missouri River Stakeholders
Written testimony #5

Lance Yohe, Missouri River Stakeholders, Leadership Committee, Senior Advisor
Written testimony # 6

Chairman Porter: Do you agree with the State Water Commission's approach?

Yohe: Our approach right now is that we support this with talking about the pieces that I mentioned here, the six pieces. The size and the makeup and then get into the voting/nonvoting part of it.

Micheal Gunsch, Missouri River Stakeholders Leadership Committee
Written testimony #7

Rep. Roger Brabandt: Give us background on 1944 flood control act.

Gunsch: It was set up by federal government, basically, between Bureau of Reclamation and the Corp of Engineers. It said that, we are going to build these large projects out here. Of those projects we are going to provide certain elements. Those elements are the eight authorized purposes; primarily flood control, irrigation, water supply, water quality, navigation downstream, Us Fish and Wildlife Services, Garrison Diversion Unit, mitigation.

Rep. Roger Brabandt: Was the Fort Peck project in Montana, similar to the one here?

Gunsch: Yes, it was.

Rep. Roger Brabandt: We were supposed to have had one million acres of irrigation, how many do we have?

Gunsch: I believe, the new reformulation act is 70,000 is authorized. There is about 3500 online and working.

Rep. Mike Lefor: On the second page of your testimony, you state, "HB 1249 provides a foundational framework, which has currently constituted, does not meet the statewide stakeholder needs". What did the author fall short on, in providing all the stakeholder needs and do you have an issue or concern with the list that's listed on here?

Gunsch: The context that I am referring to is not the constituency that's represented. The issue that we have based on my testimony is that it's a rather narrow approach with the Corp of Engineers and it seems to be more towards recreation. What's missing is that this is a larger stakeholder issue; this is a larger statewide issue. It's not the representation on it, it's the fact that it references the Corp, when obviously it's the federal government that we are working with on a much larger project basis.
We are open to modifying that list to make a manageable group.

Rep. Roger Brabandt: Do the Southern states, including Missouri, realize where the water's coming from?

Gunsch: The southern states, especially Missouri, sometimes, I think they think it's theirs. They seem to think that we are storing the water for them.

Chairman Porter: It's funny how we have to pay for the storage.

Gunsch: That's critical to what this stakeholder group would discuss, debate, and talk about for policy and make recommendations on advisory status to say how to take the next point.

Jim Neubaur, City Administrator for the City of Mandan, Representative of Missouri River Stakeholders

Our intake not only serves the city of Mandan, Tesoro Refinery, Southwest sells and buys water from Missouri West. During the flood of 2011, we had divers constantly clearing the intake for the Mandan water supply. We this bill is a good start to bringing the Missouri River up to the level of importance we think the state should have the Missouri River at.

Scott Rising, Soy Bean Growers Association

We would ask that you include Agriculture and Producers on the stakeholder's board, who are currently not on the list.

OPPOSITION:

None.

Chairman Porter closes hearing.

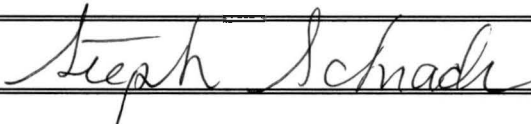
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1249
2/5/2015
Job # 23346

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council: and to provide for a report.

Minutes:

Attachments 2

Meeting location: Pioneer room

Time meeting called to order: 4:00 PM.

Members present: Rep. Curt Hofstad, Rep. Dick Anderson, Rep. Naomi Muscha

Others present:

Michael Gunsch; Missouri River Stakeholders Leadership Committee

Christopher Vandeventer; Basin Electric Power Cooperative, Stakeholder Committee member and governor nominated to serve on the Corp of Engineers Committee

Terry A. Fleck, Chairman of Friends of Lake Sakakawea, Chairman of Burleigh County Water Resource Board, and member of Missouri River Recovery Implementation Committee, Stakeholder committee member

Michelle Klose, Assistant State Engineer- North Dakota State Water Commission

Duane DeKrey, General Manager of the Garrison Diversion Conservancy District and Stakeholder committee member

Andrea Travnicek, Governor Dalrymple's office

Ken Rorse, Missouri River Stakeholders Committee

Ryan Norrell, Executive Director Missouri River Stakeholders Committee

Lance Yohe, Senior Advisor to the Missouri River Stakeholders Committee, Southeast Cass Water Board

Jim Neubauer, City of Mandan and Stakeholder Committee

Topics discussed:

Appropriation for the bill; to be taken out.

Funding; if it's not funded to the level of effectiveness it's going to lose a lot of its ability to affect what we are trying to do as a state.

Committee membership; the number of members, representation of membership, committee members representing more than one area of interest, involve the tribes. **Ryan Norrell** hands out a list of agencies and organizations that want to be part of the Stakeholders Committee; written testimony #1.

Committee name.

Purposes; need to be well defined and narrowly focused. **Michael Gunsch** reads from the marked up copy of the bill; written testimony #2.

Collaboration; Garrison Conservancy District, State Water Commission, Governor's Office, Stakeholders and the legislature is the key to success.

Rep. Curt Hofstad: We will meet again next Thursday afternoon.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

HB1249

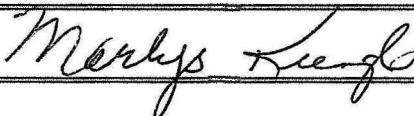
2/6/2015

Job # 23434

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri river empower council: and to provide for a report.

Minutes:

Chairman Porter: Asked for information on HB 1249 from the Sub Committee.

Rep Hofstad: The subcommittee would offer an amendment to take out any of the appropriations from the bill.

Rep Kieser: Seconded the motion

Voice Vote Carried.

The Subcommittee has until 2/20/2015.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB 1249
2/12/2015
Job # 23779

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 2

Meeting location: Pioneer room

Time meeting called to order: 4:00 PM.

Members present:

Rep. Curt Hofstad
Rep. Naomi Muscha
Rep. Dick Anderson

Others present:

Michael Gunsch; Missouri River Stakeholders Leadership Committee
Christopher Vandeventer; Basin Electric Power Cooperative, Stakeholder Committee member and governor nominated to serve on the Corp of Engineers Committee
Michelle Klose, Assistant State Engineer- North Dakota State Water Commission
Ken Rorse, Missouri River Stakeholders Committee
Ryan Norrell, Executive Director Missouri River Stakeholders Committee
Lance Yohe, Senior Advisor to the Missouri River Stakeholders Committee, Southeast Cass Water Board
Jim Neubauer, City of Mandan and Stakeholder Committee
Representative Vicky Steiner, District 37
Mary Massad, Southwest Water Authority and Multi-Resolution Land Characteristics (MRLC) Consortium
Merri Mooridian, Garrison Diversion District

Topics discussed:

Membership of Missouri River Advisory Council: Rep. Curt Hofstad hands out written testimony #1 from Mike Dwyer. Having more than one at large committee member. A larger group may be more beneficial than a smaller committee. May be beneficial to have a member from the eastern part of the state.

General recommendations from the committee: Mike Gunsch goes over the amendments on markup copy; written testimony #2.

Committee name: Why use "advisory" in the name?

Building a close relationship to the legislative body: To have a reporting process to a legislative body. Add legislators to the committee.

Purpose: Building consensus, collaboration, and working with federal agencies should be priority, while education and outreach should be lesser priority.

Subcommittees: Non-voting members, it would be a way to expand membership and input. Task force of county commissioners from the river counties.

Fiscal Note; was voted out because of short time frame. Water Commission will provide expertise for this council.

Rep. Curt Hofstad: We welcome your input anytime. We'll sit down as a committee and try to make this work.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

1249

2/19/2015

Job # 24132

☒ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Steph Schrader

Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 1

Meeting location: Pioneer room

Time meeting called to order: 8:45 AM

Members present:

Rep. Curt Hofstad

Rep. Dick Anderson

Rep. Naomi Muscha

Others present (may attach attendance sheet):

N/A

Topics discussed:

Rep. Curt Hofstad goes through markup copy of the bill; written **testimony #1**.

Asks for questions and comments; there are none.

Motion and Vote:

Rep. Dick Anderson moves a **Do Pass** on **HB1249 as Amended** to take the bill before the full committee to be heard and voted on.

Rep. Naomi Muscha: Second.

Vote: Yes 3, No 0, Absent 0.

Time of adjournment: 08:49 PM

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

2015 HOUSE STANDING COMMITTEE MINUTES

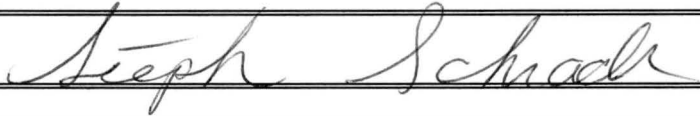
Energy and Natural Resources Committee

Pioneer Room, State Capitol

HB 1249
2/19/2015
Job # 24134

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 2

Chairman Porter opens hearing.

Rep. Curt Hofstad: Explains the amendments to the bill; **written testimony #1 and #2.**

Rep. Curt Hofstad: I move to adopt the amendments.

Rep. Dick Anderson: Second.

Rep. Glen Froseth: Mileage will come from state water commission but I presume that the 17 members and the other stakeholders will be compensated for their salaries for the meetings? Is that also in the Water Commission budget?

Chairman Porter: The Water Commission budget is in the Senate.

Rep. Curt Hofstad I don't think that would be a line item in their budget, the bill clearly states the Water Commission is responsible for the mileage and the expenses. There is nothing in the bill that prohibits those other stakeholders from submitting their expense account.

Chairman Porter: On page 7, subsection 3, I'm concerned with the minority recommendation process because that's allowing as few as six members to actually draft and submit it to the legislative assembly. Legislation they draft is going to come to the legislature as Energy and Natural Resources Committee on behalf of the State Engineer. Do we really want that?

Rep. Curt Hofstad: We have a minority recommendation because of the diversity of the group. Yes, it would come from the State Engineer's Office, but it would be a minority recommendation.

Chairman Porter:

There isn't any check mark on a draft report that shows it's a minority report. It shows up as an agency bill, which the majority of the committee is going to have to come in and defend why they don't like the minority position within their own committee.

Rep. Naomi Muscha: In my notes, it says that they are asking us to keep the language open to work with all issues. I think that may be where the minority recommendation came from.

Chairman Porter: I don't think that a normal Robert's Rule of Order, of a simple majority, makes it too restrictive. They also have legislators from their district that can submit a bill on their behalf.

Voice vote: Carries.

Rep. Mike Lefor: I move to further amend and take out lines 19 and 20 on page 7.

Vice Chairman Damschen: Second.

Chairman Porter: That would remove the minority submission process.

Voice Vote: Carries.

Rep. Curt Hofstad: I move a **Do Pass** on HB1249 **as Amended**.

Rep. Dick Anderson: Second.

Vote: Yes 11, No 1, Absent 1.

Rep. Curt Hofstad: Carrier.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1249

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of the Missouri River empower advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River empower advisory council - Generally.

The Missouri River comprises the vast majority of surface water flow in the state and is essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish and wildlife, and recreational opportunities. A Missouri River empower advisory council is established to create a unified vision and voice for North Dakota and its stakeholders regarding the use and management of the Missouri River, and to advise the governor, legislative assembly, and state agencies on issues concerning the Missouri River.

61-42-02. Members - Terms - Expenses.

1. The following voting stakeholder members of the council shall be appointed by the governor:
 - a. A representative of recreation;
 - b. A representative of irrigation;
 - c. A representative of cities;
 - d. A representative of regional rural water systems;
 - e. A representative of agriculture;
 - f. A representative of energy;
 - g. A representative of environment and conservation;
 - h. A representative of the Garrison Diversion Conservancy District;
 - i. Two at-large representatives;
 - j. Three county representatives, each representing counties along the Missouri River, one representing counties along the free flowing reach of the Missouri River, one representing counties bordering Lake Sakakawea, and one representing counties bordering Lake Oahe; and
 - k. The governor's designee.
2. Additional voting members of the council shall include:

- a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or designee;
 - b. The chairman of the Standing Rock Sioux Tribe, or designee; and
 - c. The chairman of the Trenton Indian service area, or designee.
3. The following entities may be represented on the council, but are nonvoting members:
 - a. A legislator, appointed by the legislative management;
 - b. The director of the game and fish department, or designee;
 - c. The director of the parks and recreation department, or designee;
 - d. The state engineer, or designee;
 - e. The state health officer, or designee;
 - f. The commissioner of the department of commerce, or designee;
 - g. The director of the Indian affairs commission, or designee;
 - h. The commissioner of the department of trust lands, or designee;
 - i. The director of the oil and gas division, or designee; and
 - j. The commissioner of the department of agriculture, or designee.
 - k. All other state agencies shall provide assistance to the council as requested.
4. All appointed members shall serve for a term of four years or until their successors are appointed and qualified. Terms expire on the first day of July. The terms of appointed members shall be staggered so that the terms of at least four members expire each year. Appointed members may be reappointed for additional terms and serve at the pleasure of the governor.
5. The governor or the governor's designee is chairman of the council.
6. The members of the council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The state water commission shall pay the expenses of council members.
7. The state water commission shall provide staffing and support services to the council.

61-42-03. Duties.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings shall be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in

the Missouri River. The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers in order to improve the state's negotiating position with the United States army corps of engineers.

2. The county and stakeholder representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.
3. Any recommendations developed by the council must receive support from ten voting members before submission to the governor, legislative assembly, or state agencies. Any recommendation not receiving majority support, but receiving support from at least six voting members, may be submitted as a minority recommendation.
4. The council may establish working groups and collaborate with organizations to make recommendations or accomplish objectives to protect all interests and rights of North Dakota and stakeholders in the Missouri River. This includes the eight authorized purposes identified in the Flood Control Act of 1944 and implemented by the United States army corps of engineers in their master manual, along with erosion and sedimentation, the management of federal lands, and any other existing or potentially beneficial uses.
5. The council shall report accomplishments, ongoing activities, and potential legislation to the legislative assembly."

Renumber accordingly

February 19, 2015

2-19-15
1083

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1249

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of the Missouri River empower advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River empower advisory council - Generally.

The Missouri River comprises the vast majority of surface water flow in the state and is essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish and wildlife, and recreational opportunities. A Missouri River empower advisory council is established to create a unified vision and voice for North Dakota and its stakeholders regarding the use and management of the Missouri River, and to advise the governor, legislative assembly, and state agencies on issues concerning the Missouri River.

61-42-02. Members - Terms - Expenses.

1. The following voting stakeholder members of the council must be appointed by the governor:
 - a. A representative of recreation;
 - b. A representative of irrigation;
 - c. A representative of cities;
 - d. A representative of regional rural water systems;
 - e. A representative of agriculture;
 - f. A representative of energy;
 - g. A representative of environment and conservation;
 - h. A representative of the Garrison Diversion Conservancy District;
 - i. Two at-large representatives;
 - j. Three county representatives, each representing counties along the Missouri River, one representing counties along the free flowing reach of the Missouri River, one representing counties bordering Lake Sakakawea, and one representing counties bordering Lake Oahe; and
 - k. The governor's designee.

203

2. Additional voting members of the council must include:
 - a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or designee;
 - b. The chairman of the Standing Rock Sioux Tribe, or designee; and
 - c. The chairman of the Trenton Indian service area, or designee.
3. The following entities may be represented on the council, but are nonvoting members:
 - a. A legislator, appointed by the legislative management;
 - b. The director of the game and fish department, or designee;
 - c. The director of the parks and recreation department, or designee;
 - d. The state engineer, or designee;
 - e. The state health officer, or designee;
 - f. The commissioner of the department of commerce, or designee;
 - g. The director of the Indian affairs commission, or designee;
 - h. The commissioner of the department of trust lands, or designee;
 - i. The director of the oil and gas division, or designee; and
 - j. The commissioner of the department of agriculture, or designee.
4. All other state agencies shall provide assistance to the council as requested.
5. All appointed members shall serve for a term of four years or until their successors are appointed and qualified. Terms expire on the first day of July. The terms of appointed members must be staggered so that the terms of at least four members expire each year. Appointed members may be reappointed for additional terms and serve at the pleasure of the governor.
6. The governor or the governor's designee is chairman of the council.
7. The members of the council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The state water commission shall pay the expenses of council members.
8. The state water commission shall provide staffing and support services to the council.

61-42-03. Duties - Report to legislative assembly.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings must be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed and relating to the protection and use of the Missouri

River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in the Missouri River. The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers, in order to improve the state's negotiating position with the United States army corps of engineers.

2. The county and stakeholder representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.
3. Any recommendations developed by the council must receive support from ten voting members before submission to the governor, legislative assembly, or state agencies.
4. The council may establish working groups and collaborate with organizations to make recommendations or accomplish objectives to protect all interests and rights of North Dakota and stakeholders in the Missouri River. This includes the eight authorized purposes identified in the Flood Control Act of 1944 and implemented by the United States army corps of engineers in their master manual, along with erosion and sedimentation, the management of federal lands, and any other existing or potentially beneficial uses.
5. The council shall report accomplishments, ongoing activities, and potential legislation to the legislative assembly."

Renumber accordingly

Date: 2/6/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1249

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: see below

Recommendation: ☒ Adopt Amendment
Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☒ To create the Missouri River Empower Council.

Motion Made By Rep Hofstad Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunsakor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson			Rep Muscha		
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad					
Rep Keiser					
Rep Lefor					
Rep Nathe					

Total (Yes) 13 No 0

Absent 0

Floor Assignment _____

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

to take out any appropriation from the bill.

Date: 2/19/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1249

House Energy and Natural Resources Committee

☒ Subcommittee

Amendment LC# or Description: N/A

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Anderson Seconded By Rep. Muscha

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunsakor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad	✓				
Rep Keiser					
Rep Lefor					
Rep Nathe					

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

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

The subcommittee voted to take HB 1249, as amended, to the full committee to be heard and voted on. The subcommittee agreed on the amendment during a previous hearing/meeting.

Date: 2/19/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1249

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: See below

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Hofstad Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunsakor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson			Rep Muscha		
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad					
Rep Keiser					
Rep Lefor					
Rep Nathe					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

To create and enact the Missouri River empower advisory council.

Date: 2/19/15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1249

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: To remove lines 19 and 20 from page 7.

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Lefor Seconded By Rep. Damschen

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunsakor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson			Rep Muscha		
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad					
Rep Keiser					
Rep Lefor					
Rep Nathe					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

To remove lines 19 and 20 from page 7.

Date: 2/19/15
Roll Call Vote #: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1249

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 15.0336.06004

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Hofstad Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep Hunsakor	✓	
Vice Chairman Damschen	✓		Rep Mock		✓
Rep D Anderson	✓		Rep Muscha	✓	
Rep Brabandt	✓				
Rep Devlin	✓				
Rep Froseth	✓				
Rep Hofstad	✓				
Rep Keiser	A✓				
Rep Lefor	✓				
Rep Nathe	✓				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Rep. Hofstad

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

REPORT OF STANDING COMMITTEE

HB 1249: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1249 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of the Missouri River empower advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River empower advisory council - Generally.

The Missouri River comprises the vast majority of surface water flow in the state and is essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish and wildlife, and recreational opportunities. A Missouri River empower advisory council is established to create a unified vision and voice for North Dakota and its stakeholders regarding the use and management of the Missouri River, and to advise the governor, legislative assembly, and state agencies on issues concerning the Missouri River.

61-42-02. Members - Terms - Expenses.

1. The following voting stakeholder members of the council must be appointed by the governor:
 - a. A representative of recreation;
 - b. A representative of irrigation;
 - c. A representative of cities;
 - d. A representative of regional rural water systems;
 - e. A representative of agriculture;
 - f. A representative of energy;
 - g. A representative of environment and conservation;
 - h. A representative of the Garrison Diversion Conservancy District;
 - i. Two at-large representatives;
 - j. Three county representatives, each representing counties along the Missouri River, one representing counties along the free flowing reach of the Missouri River, one representing counties bordering Lake Sakakawea, and one representing counties bordering Lake Oahe; and
 - k. The governor's designee.
2. Additional voting members of the council must include:
 - a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or designee;

- b. The chairman of the Standing Rock Sioux Tribe, or designee; and
 - c. The chairman of the Trenton Indian service area, or designee.
- 3. The following entities may be represented on the council, but are nonvoting members:
 - a. A legislator, appointed by the legislative management;
 - b. The director of the game and fish department, or designee;
 - c. The director of the parks and recreation department, or designee;
 - d. The state engineer, or designee;
 - e. The state health officer, or designee;
 - f. The commissioner of the department of commerce, or designee;
 - g. The director of the Indian affairs commission, or designee;
 - h. The commissioner of the department of trust lands, or designee;
 - i. The director of the oil and gas division, or designee; and
 - j. The commissioner of the department of agriculture, or designee.
- 4. All other state agencies shall provide assistance to the council as requested.
- 5. All appointed members shall serve for a term of four years or until their successors are appointed and qualified. Terms expire on the first day of July. The terms of appointed members must be staggered so that the terms of at least four members expire each year. Appointed members may be reappointed for additional terms and serve at the pleasure of the governor.
- 6. The governor or the governor's designee is chairman of the council.
- 7. The members of the council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The state water commission shall pay the expenses of council members.
- 8. The state water commission shall provide staffing and support services to the council.

61-42-03. Duties - Report to legislative assembly.

- 1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings must be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed and relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in the Missouri River. The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers, in order to improve the state's negotiating position with the United States army corps of engineers.

2. The county and stakeholder representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.
3. Any recommendations developed by the council must receive support from ten voting members before submission to the governor, legislative assembly, or state agencies.
4. The council may establish working groups and collaborate with organizations to make recommendations or accomplish objectives to protect all interests and rights of North Dakota and stakeholders in the Missouri River. This includes the eight authorized purposes identified in the Flood Control Act of 1944 and implemented by the United States army corps of engineers in their master manual, along with erosion and sedimentation, the management of federal lands, and any other existing or potentially beneficial uses.
5. The council shall report accomplishments, ongoing activities, and potential legislation to the legislative assembly."

Renumber accordingly

2015 SENATE ENERGY AND NATURAL RESOURCES

HB 1249

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

HB 1249
3/12/2015
24712

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to the creation of the Missouri River empower advisory council.

Minutes:

9 Attachments

Chairman Schaible called the committee to order, roll was taken, Senator Murphy, Senator Laffen, Vice Chair Unruh, and Chairman Schaible were present. Senator Triplett, Senator Hogue, and Senator Armstrong: were in other committees introducing bills.

Representative Steiner: District 37, Dickinson. See attachment #1. (.44-4.22)

Representative Hofstad: District 15. IT would be hard to emphasize how important how the Missouri River is, not only to those who live along it, but all across the state; we have so many issue and projects that affect so many people in the state and it is the only river basin without a group to advocate for it. As it came to the committee on Energy and Natural Resources in the House we deliberated at length, put it into a subcommittee and collaborated with a number of different groups of people. We sat at the table and went through the bill and took it apart; put it back together word by word. Representative Hofstad then went through the bill, section by section, explaining the bill to the committee (6:14-10:24)

Chairman Schaible: You mentioned previous that this was a working group, was it a subcommittee on the House side?

Representative Hofstad: Yes

Chairman Schaible: So the list of the board members on this commission those were all discussed? We heard earlier that the list was much bigger.

Representative Hofstad: That was the consensus of those that were at the table; we tried to model it after the EMPOWER Council, thinking that a smaller group with voting rights was more workable, trying to be inclusive of all the other people with interests in that river as well. We have an established a 17 member board we have tried to be as inclusive as possible in allowing them to establish working groups.

Chairman Schaible: This list would cover all the stakeholders?

Representative Hofstad: I do believe that it would, certainly those 17 members in working with other groups and stakeholders and subgroups can certainly be inclusive of everybody in the state.

Senator Triplett: You said that you had tried to model this after the Empower Commission and I would like to explain my problems with the Empower Commission. I have been a supporter of the idea of the commission pretty regularly up until this past interim when I had the privilege of serving on the Energy, Development and Transmission Committee and saw how things actually work. The Commission holds their meetings and then brings forward proposed bills, fully drafted with the assistance from the folks at Legislative Council, dumps them in the lap of the interim committee and they interim committee rubberstamps them without hearing. I objected strenuously as each of those bills came through the interim committee that we needed to have a hearing on them and had a small bit of bipartisan support but not enough to overturn any of the recommendations. This looks very much the same where we are just giving legislative power away from the legislature. I do not want this to be a duplicate of the Empower Commission.

Representative Hofstad: It sounds to me as a criticism of the interim and not the committee itself. It is the duty of the committee to explore the proposals and bills that are brought before them. Would say that it is incumbent on them; we have also included a legislator as a nonvoting member giving the legislature the chance to be involved.

Senator Triplett: If there is one there should be 2, one from each party.

Representative Hofstad: I would have no objections to that.

Senator Triplett: The other concern I have is number 4 on line 22, page 2 where it says, "All other state agencies shall provide assistance to the council as for questions", it is my opinion that many of our state agencies are seriously underfunded and overworked and to give an unelected group like this free access to all of our state agencies.

Patrick Fridgen: Director of Planning and Education Division at the North Dakota State Water Commission. See attachment #2. (16:48-18:41)

Ryan Norrell: Executive Director of the Missouri River Stakeholders. See attachment #3. (18:58-21:40)

Senator Triplett: The only funding mechanism that I see is that the member gets mileage; is there a companion appropriations bill?

Ryan Norrell: There is not, the original bill had a fiscal note that contained an executive director position but it was removed from the House side due to the time crunch. Due to down turning revenue forecast we decided to remove the full-time executive director position from the legislation and it then took away the fiscal note.

Senator Triplett: Who is paying now?

Ryan Norrell: State water commission in conjunction with a group from Garrison.

Lance Yohe: Leadership Committee, Missouri River Stakeholders. See attachment #4.
(23:19-26:52)

Vice Chair Unruh: How do you see your group's role in the new commission and what happens to your group if we pass this?

Lance Yohe: It is some of the same people. It was good to have a voice on that council that represents the Army Corps. The list can go on, once you start talking to people more and more can happen.

Vice Chair Unruh: North Dakota Missouri River Stakeholders. Will they continue to exist?

Lance Yohe: No, the last tasks we will do is the conference.

Senator Triplett: The money in the future and the access to state agencies.

Lance Yohe: State agencies are busy, they don't have time. They can come and participate but not have to make it to every meeting. Open the door to be involved when their issues are addressed. They don't want to come to everything.

Michael Gunsch: Missouri River Stakeholders Leadership Committee. See attachment #5.
(31:54-38:10)

Senator Hogue: Can you tell me how your group interacts with the Corps?

Michael Gunsch: As the Missouri River Leadership Committee we have not had a lot contact with the Corps. The process that was set up over the last 2 years is to from a grassroots organization; once that happened then the contact with the Corps would start. As this structure would happen the MRLC was to set up a group. This bill if it does pass would eliminate this. We would just shift working this organization to working with this council.

Vice Chair Unruh: The previous speaker said it would go away and now you say you will stay around?

Michael Gunsch: We as people are not going away. As stakeholders we would go from the committee to being involved as people.

Vice Chair Unruh: So no funding needed.

Michael Gunsch: The funding that was passes carries us past June informational conference. Once the funding is completed there is no additional dollars appropriated from either the water commission or the conservancy district to go beyond that. The stakeholders who were involved in the process are still here.

Senator Triplett: Page one line 10 you are saying that the basic function is to create a unified vision and voice for North Dakota but in your testimony you are saying that your interpretation of the bill is that the individuals would be charged with representing the interests of the state of North Dakota. Are you trying to represent the interests of the state of North Dakota or are you planning on creating the interests of the state of North Dakota?

Michael Gunsch: Going back to discussion, anyone who is on the committee brings something to the table. The state of North Dakota in many instances is unsure what its true interests are. Anybody who brings the interest to the table for discussion that is where there needs to be a consensus.

Senator Triplett: A few years ago I recall being at a meeting where the governor defended the interest of the state to use the water from the Missouri River.

Michael Gunsch: Interests around the lake, the smaller ones don't get to the governor's office. Are they of statewide importance? There are issues around the lake that should be dealt with, once that discussion is passed off have represented the state really well. We know how busy the state water commission really is. The stakeholders need to carry some weight.

Mary Massad: CEO/Manager of Southwest Water Authority. See attachment #6. (46:01-48:40)

Mike Dwyer: North Dakota Water Resource District Association. See attachment #7. (49:08-52:40)

Senator Armstrong: If you would expand the membership you want full consensus from all 31?

Mike Dwyer: The bill as you have it before you says you need 10 of the 14 or 3/4ths.

Senator Triplett: #3 why delete mileage?

Mike Dwyer: We can pay our own expenses.

Senator Triplett: You have a different idea to who should be on the group.

Mike Dwyer: The water users are supporting the stakeholder project. We are involved in the November 20 conference and the original proposal was to have more representation like this.

Senator Triplett: Is it your estimation that they could function without staff?

Mike Dwyer: There isn't a companion appropriation bill but the state water commission appropriation does have a proposal for additional FTEs of which one if for Missouri River issues and would be the staff person for this.

Vice Chair Unruh: Have the people on the list expressed interest in being on this board.

Mike Dwyer: They have likely met with every one of these organizations.

Carter VanderWal: Vice Chairman North Dakota Irrigation Association. See attachment #8 (58:20-1:01:11)

Senator Triplett: Should the state be putting the stamp of approval on these things?

Carter VanderWal: I think it brings a more unified voice, no different than one person having a capability of coming with a group of people. More people more effective.

Herb Greutz: Representing self. See attachment #9 (1:03:01-1:13:42)

Pete Hanibut: North Dakota Farm Bureau. One of our strongest policy initiatives is to limit govt. We feel that this will grow government and create another bureaucracy. The stakeholder group will be a publicly funded and we do not like that.

Vice Chair Unruh: Would you rather see the group function without state government or should the legislature and the executive branch involved in the decisions.

Pete Hanibut: They can do all of that now. I would encourage them to keep doing it.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

HB 1249

3/25/2015

25434

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature

Katia Oliver

Explanation or reason for introduction of bill/resolution:

Relating to the creation of the Missouri River empower advisory council.

Minutes:

1 Attachment

Senator Triplett handed out and explained the amendment. See attachment #1. (:05-8:15)

Vice Chair Unruh: I really like the policy changes specifically; I have a few questions on the committee and its makeup. Can you explain their place on the committee?

Senator Triplett: I tracked the 8 uses that are in the flood control act: Flood control, water supply, water quality, irrigation, fish and wildlife, public recreation, and navigation. We do not have navigation issues so I left that off. I added in historical and cultural values protection and that is just a personal thing on my part because I think that the state isn't doing an adequate job of that.

Vice Chair Unruh: The water quality interest, you said that was one of the 8.

Senator Triplett: People have an interest in water quality. Others of a different interest also have an interest in water quality when drawing it for municipal use. People who care about fish and wildlife have an interest as well as those who use it for recreational purposes. In some sense it kind of overlaps. I used the 8 authorized uses as a starting point and pulled off the ones that didn't seem to matter and added the other one in.

Vice Chair Unruh: I was looking at the list of stakeholders that were on the list and I was thinking that we should add back in the counties and a representative for energy. Multiple water uses for energy production I think that it is important for them to have a seat at the table as well. I am concerned that they would be operating all on their own with the influence of the governor's office. Maybe the committee should consider removing the governor's office from the list of voting entities on the commission or keep the governor's representative and include 2 members of the legislative assembly and not give them voting rights.

Senator Triplett: I assumed that it would have been included in the language, 'representative of industrial water supply interests' that is where I think the energy interest would come in. In terms of the counties I was trying to keep it small.

Senator Laffen: I think that a group of 20-30 is too large. I am in favor of reducing the size, I am not sure I can support this at the size it was at.

Chairman Schaible: I would rather have too few than too many.

There was no further discussion and Chairman Schaible closed the committee work on HB 1249

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

HB 1249
3/27/2015
25548

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

Relating to the creation of the Missouri River empower advisory council.

Minutes:

--

Chairman Schaible opened the committee work on HB 1249.

Senator Triplett: I will say that I have gotten a positive response to my bill in every respect except for concerns of the makeup of the committee. Other than that people seem to like the tightened up version.

Vice Chair Unruh: I like the smaller group I like the language changes and I would like to propose to add a representative from energy industry to the committee.

Senator Triplett: Would that be in place of the industrial community because that is what I mean by it, I can change the language if you like.

Vice Chair Unruh: I can see a place on the commission for industrial water use relating to the oilfields which a completely separate concept and though process. I could see the independent water users wanting the spot on the commission and everyone else's interest being pushed aside. That is how I saw that slot being filled and with the domestic water supply interests being more rural water supply people filling that gap.

Senator Triplett: I hadn't through of the industrial water users but was thinking more industry generically. Maybe we should use words that are more specific?

Senator Murphy: Can we add that language to the line?

Chairman Schaible: Yes if that is alright with Senator Triplett we can further amend.

Senator Armstrong: Do you think that it is too broad and you need more people or do you want the language tightened up.

Vice Chair Unruh: I would like one more on the committee but I would be ok if the group just wanted to clarify the line there. I do not feel strongly about either but I prefer there to be two.

Senator Armstrong: I think that on the industrial side there are competing interests as to how that works I am not sure if it warrants another person on the committee but I think of all the people that are listed now has the most internal variance or internal discord. I think either tightening it up or adding another person to clarify what it is. Everyone else is homogeneous groups and have similar goals.

Senator Triplett: It might be better to add one more.

Senator Hogue: I wanted to ask Senator Triplett about the selection of the chairman of the Trenton wind gate service area. I thought that would be covered by the 3 affiliated tribes and I wonder if that person would be coming out of Ft. Berthold?

Senator Triplett: No, the Trenton service area is an offshoot of the turtle mountain. It was not an original thought from me as it was in the bill before and I even questioned if it was necessary. It is a service area not a reservation; they were people who were allowed to claim homesteads when there wasn't enough land. I only changed the intra wording for that segment so it read more like an invitation than directive but I can change the language on that as well.

Senator Hogue: If we are adding one then we should expend that one.

Senator Laffen: I would agree to that, too. Yes they have lands that are in that area but so does Williston. The 2 large tribes should be in there but I can understand taking the Trenton one out.

Senator Triplett We can add Vice Chair Unruh's suggestion and use energy industry in the reference.

Senator Armstrong: If we add I and remove C it is the same number of people.

Senator Murphy: This is about the Missouri River, right? That is where Trenton is and these people have been removed a lot which is how they got to Trenton. I would rather keep them in.

Senator Triplett: Trying to think of it from a policy standpoint the other 2 are tribal governments which has a whole slew of implications and the notion of a service area is really about making sure that the people who live in the area can get health services and educational services it is not so much a land based right as a reservation is. Trying to think it through I think that there would be a reason not to include the industry in this bill.

Senator Armstrong made a motion to amend the amendment with a second by Vice Chair Unruh, there was no further discussion, roll was taken, the motion passed on a 6-1-0 count. With the amended bill in front of them Senator Armstrong made a motion for a do pass as amended and re referral to the appropriations committee with a second by Senator Murphy,

Senate Energy and Natural Resources Committee

HB 1249

03/27/2015

Page 3

there was no further discussion, roll was taken, the motion passed on a 6-1-0 count with Senator Triplett carrying the bill to the floor.

Chairman Schaible then closed the committee work on HB 1249

March 27, 2015

no
3/27/15
lb

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

Page 1, line 2, remove "empower"

Page 1, line 6, remove "empower"

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "k." with:

- "a. A representative of domestic water supply interests;
- b. A representative of energy interests;
- c. A representative of historical and cultural values protection;
- d. A representative of industrial water supply interests;
- e. A representative of irrigation interests;
- f. A representative of natural resource conservation issues, including fish and wildlife;
- g. A representative of public recreational facilities;
- h. A representative of water quality interests;
- i."

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, line 10, remove "c. The chairman of the Trenton Indian service area, or designee"

2/2

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, remove "5."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "4."

Page 2, line 29, replace "7." with "5."

Page 3, remove line 1

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "six"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 23, remove ", along with erosion and"

Page 3, line 24, remove "sedimentation, the management of federal lands,"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1249**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 15.0336.07002

Action Taken Move Amendment

Motion Made By Senator Armstrong Seconded By Vice Chair Unruh

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett		X
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

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

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1249**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended and Re Refer to Appropriations

Motion Made By Senator Armstrong Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett	X	
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen		X			

Total (Yes) 6 No 1

Absent 0

Floor Assignment Senator Triplett

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

REPORT OF STANDING COMMITTEE

HB 1249, as engrossed: Energy and Natural Resources Committee (Sen. Schaible, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1249 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "empower"

Page 1, line 6, remove "empower"

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "k." with:

- "a. A representative of domestic water supply interests;
- b. A representative of energy interests;
- c. A representative of historical and cultural values protection;
- d. A representative of industrial water supply interests;
- e. A representative of irrigation interests;
- f. A representative of natural resource conservation issues, including fish and wildlife;
- g. A representative of public recreational facilities;
- h. A representative of water quality interests;
- i."

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, line 10, remove "c. The chairman of the Trenton Indian service area, or designee"

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, remove "5."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "4."

Page 2, line 29, replace "7." with "5."

Page 3, remove line 1

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "six"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 23, remove ", along with erosion and"

Page 3, line 24, remove "sedimentation, the management of federal lands,"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

2015 CONFERENCE COMMITTEE

HB 1249

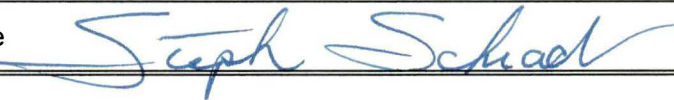
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1249
4/7/2015
Job # 25879

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 1

Rep. Curt Hofstad opens conference.

Senator Triplett: I didn't like this bill because it is giving away a significant amount of legislative power and I wasn't sure I wanted to do that. It also seemed that from the testimony we received there was not a common understanding of the amount of power this group was going to have. To be authorized to negotiate with the Corp of Engineers, which to me was a clear intrusion into the prerogative of the executive, specifically the governor. My first inclination was to do a do not pass on the bill until I noted that the entire leadership group was on the bill. I talked to Todd Sando with the Water Department and he assured me that he was comfortable with the idea, but thought it needed to be toned down a bit. I spoke with representatives from the governor's office who suggested it be a smaller group. I started working on the amendments; **written testimony #1**. I don't think we want to authorize them to negotiate anything on behalf of the state. They could encourage the governor, stand behind the governor in large meetings and turnout crowds, but I think we have to be clear that we are not giving away that power. It seemed a lot more manageable if we reduced the overall number to something quite a bit smaller. I started off with the flood control act of 1944 in thinking about what the different interests are and then changed them up a little bit. It's a smaller group and tries to represent the variety of interests that are out there with the idea that everybody who is on this council could make sure that their stakeholder interests were present at appropriate meetings and such. On line 18 of page 2, change the wording to "the governor shall invite" the chairman of the two tribes to join as voting members as opposed to saying it must include them. Senator Connie Triplett goes on to explain specific amendments.

Rep. Curt Hofstad: Coming from Devil's Lake and working with the Red River Board it became very important as we worked through those issues and problems to work with the state legislature, the governor's office, and the state engineer, to have that group of people representing those interests. My bias and looking at the Missouri River is that this council,

whatever we call it, and how we make it up it is very important that we work amongst ourselves and the stakeholders so that we can come to some resolution in bringing this group together.

I don't have a problem with taking out the word "empower", or that a member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state. I don't think that was our intent.

I do have a problem with the way the committee is made up, with a number of the members you have listed. That will certainly require additional conversation amongst ourselves. There are some people you have left out that I think should be in. I will gather some input from the stakeholders, water commission, governor's office, and corroboratively amongst ourselves so that we can come up with a solution, if we can. Looking at those non-voting members, I thought that was passive language in asking those state departments to be part of that group. Part of my concern in looking at the number of people that we have, the number of voting members that we have, and then looking at the number of votes to bring issues forward is a pretty small number. I have a problem with divorcing the State Engineer from this process because his office has the expertise. I think it's important to find a way to keep them involved in the process.

Rep. Dick Anderson: I have some concerns that we need to be proactive with the Missouri River water system. I know that Senator Connie Triplett said that the attorney General has been active in watching out for our interests, with all the demands from the southern states on the water I really think we need a group to be proactive. Fifty years from now that Missouri River water is going to be the most important thing through the central part of the country. If we have a commission such as this I think we can be proactive to protect our interests. The Attorney General has a lot of irons in the fire and if he has somebody that can gather information for him and help him with this I think it would be in the best interest of the state.

Rep. Corey Mock: I see some opportunity to work on this and find common ground. I was the lone dissenting vote in committee on this bill. My opposition was largely due to the ability for the committee to draft legislation. I support the changes I see on page 4 lines 11 and 12 of the marked up version; page 3 lines 4 and 5 in the engrossed version with Senate amendments. I also respect the House committee members in their desire to have a fairly represented commission, I think it is important. The downstream water access issue is a growing concern as we move forward. I think we can make this a workable piece of legislation.

Senator Unruh: While I am happy with what the Senate brought forth to the conference committee, I would be open to taking a look at the makeup of the committee and stay open to the idea of having more folks represented on it. I also wouldn't object to including the State Water Commission as having a role in this commission. We had a concern with the very broad language stating that they shall provide staffing and support services to the council. We'd like to know what that is going to look like going forward. I would not like to unstrike line 14 page 3. Putting the water commission in as having a role is something I would be amenable to. I was very happy with the amendments that Senator Connie Triplett brought forward addressing the authority of the commission. I think we are all on the same page there.

Rep. Dick Anderson: Part of the reason we put that in was because of the appropriations, we were told that the Water Commission probably had some staffing and help that they already have on board and we wouldn't have to duplicate hiring more people.

Senator Unruh: The Senate heard that as well, that there was an additional FTE that could be involved in this process. Whether or not that is their sole focus, I don't know if we were clear on that and whether or not that was going to pass through this session. We also don't want to tie the hands of the State Water Commission if they don't get that additional FTE to try and find room in their staff to be able to work with this commission.

Senator Triplett: I don't think it was our intention to divorce the State Water Commission from the process. It's conceivable to me that the governor could choose the State Engineer as the governor's designee to be the chair of this committee. The governor always has the right to direct the cabinet level agencies to work with this group. We didn't think it was a good idea to have all these agencies listed in state statute forcing them to be involved. If you leave it flexible, as issues come up the right people can be engaged.

Rep. Curt Hofstad: I think part of the impetus behind this was to get everyone pulling the same wagon, all onboard with an agenda. Often the legislative process is disengaged from what is going on with the other government entities. That is such an extraordinarily important part of what's happening in the state as far as water development. I think I'd like to absorb this and if anyone has suggestions or amendments to bring back we can do that. The next time we meet we can take it another step. Meeting adjourned.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB 1249
4/13/2015
Job # 26064

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 2

Rep. Curt Hofstad opens meeting.

Rep. Dick Anderson explains proposed amendments; 15.0336.07003, attachment #1. The big change is in page 2 lines 1-4 that basically go through the representative groups that would be on the proposed commission. We also have put two Representatives on one would be a member of the Senate one a member of the house, and the chairman of the legislative management shall appoint these two to the council as voting members on page 2 line 23. The other big change is that we put back in on page 4, the erosion and sediment portion of the bill.

Rep. Curt Hofstad: The State Water Commission will still provide staffing and support services?

Rep. Dick Anderson: Yes.

Rep. Dick Anderson: I move the amendments 15.0336.07003 to the first engrossment to the engrossed HB 1249.

Rep. Bob Hunsakor: Second.

Senator Donald Schaible: I'd really like to get the Christmas tree version and look at it. It seems like we're going back to where the house was on a lot of aspects. I'd really have to look at it hard before I can decide.

Senator Connie Triplett: I like my version better, I think it was cleaner because it focused in the membership on the actual competing interests that are identified in the flood control act that created and still governs the Missouri River. I've compared the basic membership of the appointed members from the Senate amendments with the new amendments. I see the Christmas tree bill is here so I'll stop talking until we have that in hand.

Jennifer Clark, Legislative Council: Hands out Christmas tree version of amendments in bill and explains; attachment 2. In preparing this I worked off of the Senate amendments and made some revisions off of those. I will go over the areas that are revised. Go to the membership the membership has been changed on page 2 lines 7-20; that's the first difference. We retained the Senate's language regarding inviting members of the tribes related to the river and the lake. Our language on subsection 3 is a little different, we added two additional members appointed by the chairman of legislative management. Related to that, towards the back of the bill, we talk about how many council members must vote for it to be successful. Because we added legislative members we added language as to how they're going to get paid and what they're going to get paid. We retained some language about the State Water Commission providing staffing and support services for the council. Does that seem consistent with what was requested?

Rep. Curt Hofstad: Yes.

Senator Connie Triplett: On page 2 of the Christmas tree version at line 10 you have," a representative of environment, natural resource, conservation issues including fish and wildlife. It seems awkward, did you mean environmental?

Clark: I would have to look back at my draft document to see if I made a mistake.

Rep. Dick Anderson: It seems that on line 10 it should be two people instead on one?

Clark: Yes, I need to look at the original. If you have a suggestion as to how you'd like it I'd be happy to make that change.

Rep. Curt Hofstad: We'll leave the motion hang and give the Senators an opportunity to confer amongst themselves and we will meet again and take a vote. Bring any further amendments to our next meeting.

Senator Connie Triplett: Do we need to bring further amendments if what I want are already in the first engrossment with Senate amendments, in terms of reverting to that?

Rep. Curt Hofstad: I think we can further amend the amendments that were brought.

Meeting adjourned.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

Relating to creation of HB 1249


4/14/2015

Job # 26104

☐ Subcommittee

☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 2

Rep. Curt Hofstad opens meeting. As we left the last meeting we had a motion on the floor to adopt the 07003 amendments; attachment #1. The motion was moved and seconded is there further discussion on that motion?

Senator Connie Triplett: I can't remember everything that was said after the motion and the second and while we were still on the record. To be clear, there is an awkward phraseology that Jennifer Clark, Legislative Council was going to get back to us on page 2 line 10 where it says a representative of environment natural resource conservation issues, including fish and wildlife. I don't know what was meant there but it doesn't sound like a normal phrase to me. I have a serious objection to page 3 lines 10 and 11 on the Christmas tree version; attachment #2, where the amendment proposes to add one member of the Senate and one member of the House of Representatives to be appointed by the chairman of legislative management and representing them, minority interests in the legislature. I think that If there are going to be any legislators on the council there should be an equal number from each party or at least a two to one relationship. It's not appropriate to have only representation from the majority party, which is what I think is what would result from this phraseology. My preference would be to take out the legislators entirely. So if it's appropriate I would move to further amend the motion before we vote on it by deleting lines 8, 9, 10, and 11 on page 3 of version 7003 and I would also amend by deleting the word environment on line 10 of page 2.

Rep. Corey Mock: Second.

Rep. Curt Hofstad: It's been moved and seconded that we remove lines 8, 9, and 10 from page 3. Is there any discussion on that motion?

Rep. Dick Anderson: On line 10; a representative of the energy interest, we have hydropower too on that river, I think they should be part of it.

Senator Connie Triplett: To go back to the Senate version of it, we had more generic listings of the interests. The hydropower seems to be the most stable of all the issues, the power companies who are taking water from the lake have been doing that by contract for decades, and I don't think there have been many issues with it. If this is a committee to talk about existing issues that are ongoing and contentious why would someone who doesn't currently have issues want to waste their time sitting on one more committee?

Rep. Dick Anderson: I don't know if there are issues or not, I just know that that they're part of it.

I did get an email from Jennifer Clark, it reads, on page 2 line 10 of the Christmas tree version, after environment add so it reads, "a representative of the environment or natural resource conservation issues, including Fish and Wildlife."

Senator Connie Triplett: Okay, she is suggesting to put an "or" in there. That will be my motion then, I'll do it the way she intended it. It was not clear to me what was intended.

Rep. Curt Hofstad: Any additional comments on the motion that is on the table?

We've now decreased the committee by two, do we need to look at page 4 of the Christmas tree version, lines 9, and do we have to readjust that number, the majority?

Rep. Corey Mock: If the amendment passed I was going to offer an amendment that would adjust that total that would be in line with the current number. We would need to adjust that total to be in line with the current number. We need to overstrike the word eight and replace it with seven. Would the Senator like to include that in the motion and I would support that as a second in the motion.

Senator Jessica Unruh: I like the language on line 10, I think that's appropriate. Removing the members of the legislature, I think is inappropriate. I think we need to have a voice on here and I'll be resisting the motion.

Vote: yes 4, no 2, absent 0; motion fails.

Senator Connie Triplett: I don't have a motion drafted up. If the legislature is going to be involved it really needs to be at some level in a bipartisan fashion. We could have the Advisory committee report to the Water Topics Overview committee once or twice a year. That would engage them in the process and keep them current and make sure that at least a smattering of both houses and parties are informed of the issues.

Rep. Corey Mock: I have a question for the Senate, since the previous amendment was just rejected, looking at the Senate version of the bill there was no inclusion of legislators to serve on the advisory council, may I ask what has changed that has caused the Senate to change its position and to want multiple members of the legislature to serve on this?

Senator Donald Schaible: Just after we saw it on there it makes a lot of sense to have legislative input when you've got the governor and the water commission on the council. It's not a change but an addition that we agreed with.

Rep. Curt Hofstad: It seems that going forward the options we have before us are either to put a reporting mechanism into the water topics committee or to expand the legislators on the committee so we get a bipartisan representation. Any preference as to which way we go?

Rep. Dick Anderson: I feel more comfortable if there are legislators involved at the actual meeting. Sometimes when you have a report coming back to the water topics committee I wonder if you get a feel for the conversation that they've had.

Senator Connie Triplett: I would hope that if we're making this into a formal, quasi governmental committee that they would fall under the requirement to have open meetings and that any legislator could ask to be notified of the meetings and any legislator could be present to hear the conversation. That's why I think it's inappropriate to give two legislators, essentially a seat at the table but leave the rest of them at the back of the room unable to participate in the conversation. Either we should all be at the table or at least representatives of all of us should be at the table or none of us should be. It seems only fair to me.

Senator Donald Schaible: Maybe we could say one from the House, one from the Senate, and one from the minority?

Rep. Dick Anderson: Sounds good to me.

Rep. Corey Mock: I would phrase it as legislative management appointing three members of the legislative assembly to include at least one member of the minority party. That way you're not stating whether it's House or Senate. It does bring us to an even number on the committee, 14 members, we would need to keep that number at 8 for a majority or quorum. I wouldn't object to it, it's a matter of getting the language consistent and workable with legislative management.

The other legislators agreed with Rep. Corey Mock.

Rep. Corey Mock: Working from the 7003 amendment, on page 3 lines 8-11 it would be amended to read, three members of the legislative assembly appointed by the chair of legislative management to include no less than one member of the minority party.

Rep. Corey Mock: I think we also need to correct the language on page 2 line 10 of the 7003 amendment; that would change "a representative of environment **or** natural resource conservation issues." To add the word "or" after environment.

Senator Donald Schaible: Can we ask one more day to think about it?

Rep. Curt Hofstad: Yes. If there are no other comments or motions to bring forward the meeting is adjourned.

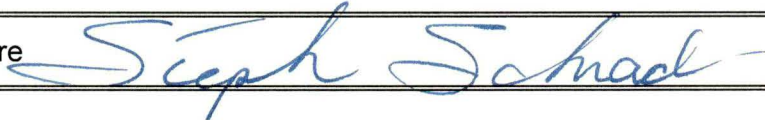
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1249
4/15/2015
Job # 26108

☐ Subcommittee
☒ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to creation of the Missouri River empower council; and to provide for a report.

Minutes:

Attachments 1

Rep. Curt Hofstad opens meeting. There is motion on the floor from Apr. 13th, 2015, made by Rep. Dick Anderson and seconded by Rep. Bob Hunsakor To be sure that everyone understands the motion is that the Senate recedes from its amendments and further amend. We are looking at 7003 that has further been amended to clear up the language on page 2 line 10; we have an "or" after environment. We have also included in the language three members of the legislature. The number for a quorum?

Rep. Corey Mock: That stays at eight. (Note: Legislative Council determined that nine were needed for a quorum and that number was placed in amendment 15.0336.07004.)

Vote: yes 6, no 0, absent 0

Rep. Curt Hofstad: We have a resolution, we are done with our business, and our meeting is adjourned.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

That the Senate recede from its amendments as printed on pages 1280 and 1281 of the House Journal and pages 997-999 of the Senate Journal and that Engrossed House Bill No. 1249 be amended as follows:

Page 1, line 2, remove "empower"

Page 1, line 6, remove "**empower** "

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 4 with:

- a. A representative of agriculture;
- b. A representative of cities;
- c. A representative of energy interests;
- d. A representative of environment natural resource conservation issues, including fish and wildlife;
- e. A representative of the Garrison Diversion Conservancy District;
- f. A representative of irrigation;
- g. A representative of the Missouri River Joint Water Board to represent counties along the free flowing reach of the Missouri River, counties bordering Lake Sakakawea, and counties bordering Lake Oahe;
- h. A representative of recreation interests;
- i. A representative of water supply;
- j. One at-large representative; and"

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, remove line 10

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, replace "5." with "The chairman of the legislative management shall appoint the following to the council as voting members:

a. One member of the senate; and

b. One member of the house of representatives.

4."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "5."

Page 2, line 29, replace "7." with "6."

Page 2, line 30, replace "The" with "Except for the members appointed by the chairman of the legislative management, the"

Page 2, line 31, after the underscored period insert "The legislative council shall pay the compensation and expense reimbursement for the legislative members."

Page 3, line 1, replace "8." with "7."

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "eight"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

13
4/16/15
JNL

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

That the Senate recede from its amendments as printed on pages 1280 and 1281 of the House Journal and pages 997-999 of the Senate Journal and that Engrossed House Bill No. 1249 be amended as follows:

Page 1, line 2, remove "empower"

Page 1, line 6, remove "**empower** "

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 4 with:

- a. A representative of agriculture;
- b. A representative of cities;
- c. A representative of energy interests;
- d. A representative of environment or natural resource conservation issues, including fish and wildlife;
- e. A representative of the Garrison Diversion Conservancy District;
- f. A representative of irrigation;
- g. A representative of the Missouri River Joint Water Board to represent counties along the free flowing reach of the Missouri River, counties bordering Lake Sakakawea, and counties bordering Lake Oahe;
- h. A representative of recreation interests;
- i. A representative of water supply;
- j. One at-large representative; and"

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, remove line 10

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, replace "5." with "The chairman of the legislative management shall appoint to the council as voting members three legislative members to include at least one member of the minority party.

4."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "5."

Page 2, line 29, replace "7." with "6."

Page 2, line 29, replace "The" with "Except for the members appointed by the chairman of the legislative management,"

Page 2, line 30, replace "The" with "Except for the members appointed by the chairman of the legislative management, the"

Page 2, line 31, after the underscored period insert "The legislative council shall pay the compensation and expense reimbursement for the legislative members."

Page 3, line 1, replace "8." with "7."

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "nine"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

Date: 4/14/2015
Roll Call Vote #: \

**2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB1249 as (re) engrossed

- Action Taken**
- ☐ HOUSE accede to Senate Amendments
 - ☐ HOUSE accede to Senate Amendments and further amend
 - ☐ SENATE recede from Senate amendments
 - ☒ SENATE recede from Senate amendments and amend as follows
 - ☒ To further amend
 - ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Connie Triplett Seconded by: Rep. Corey Mock

Representatives				Yes	No	Senators				Yes	No
Rep. Curt Hofstad				x		Senator Jessica Unruh					x
Rep. Dick Anderson				x		Senator Donald Schaible					x
Rep. Corey Mock				x		Senator Connie Triplett				x	
Total Rep. Vote				3	0	Total Senate Vote				1	2

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier None Senate Carrier None

LC Number of amendment

LC Number of engrossment

Emergency clause added or deleted

Statement of purpose of amendment:

To delete lines 8, 9, 10, and 11 on page 3 of version 7003 and to insert "or" after "environment" on page 2 line 10 of the Christmas tree version.

2015 HOUSE CONFERENCE COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. HB1249 as (re) engrossed

House "Enter committee name" Committee

- Action Taken ☐ HOUSE accede to Senate Amendments
☐ HOUSE accede to Senate Amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Dick Anderson Seconded by: Rep. Bob Hunsakor

Representatives	4.15			Yes	No		Senators	4.15			Yes	No
Rep. Curt Hofstad	P			x			Senator Jessica Unruh	P			x	
Rep. Dick Anderson	P			x			Senator Donald Schaible	P			x	
Rep. Corey Mock	P			x			Senator Connie Triplett	P			x	
Total Rep. Vote				3	0		Total Senate Vote				3	0

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier None Senate Carrier None

LC Number 15.0336 . 07004 of amendment

LC Number - . 09000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment:

The Senate recedes from its amendments and further amends, working from 7003, to delete lines 8, 9, 10, and 11 on page 3 and to insert "or" after "environment" on page 2 subsection d.

REPORT OF CONFERENCE COMMITTEE

HB 1249, as engrossed: Your conference committee (Sens. Unruh, Schaible, Triplett and Reps. Hofstad, D. Anderson, Mock) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1280-1281, adopt amendments as follows, and place HB 1249 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1280 and 1281 of the House Journal and pages 997-999 of the Senate Journal and that Engrossed House Bill No. 1249 be amended as follows:

Page 1, line 2, remove "empower"

Page 1, line 6, remove "**empower** "

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 4 with:

- a. A representative of agriculture;
- b. A representative of cities;
- c. A representative of energy interests;
- d. A representative of environment or natural resource conservation issues, including fish and wildlife;
- e. A representative of the Garrison Diversion Conservancy District;
- f. A representative of irrigation;
- g. A representative of the Missouri River Joint Water Board to represent counties along the free flowing reach of the Missouri River, counties bordering Lake Sakakawea, and counties bordering Lake Oahe;
- h. A representative of recreation interests;
- i. A representative of water supply;
- j. One at-large representative; and"

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove ", and"

Page 2, remove line 10

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members."

Page 2, remove lines 12 through 22

Page 2, line 23, replace "5." with "The chairman of the legislative management shall appoint to the council as voting members three legislative members to include at least one member of the minority party."

4."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "5."

Page 2, line 29, replace "7." with "6."

Page 2, line 29, replace "The" with "Except for the members appointed by the chairman of the legislative management,"

Page 2, line 30, replace "The" with "Except for the members appointed by the chairman of the legislative management, the"

Page 2, line 31, after the underscored period insert "The legislative council shall pay the compensation and expense reimbursement for the legislative members."

Page 3, line 1, replace "8." with "7."

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "nine"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

Engrossed HB 1249 was placed on the Seventh order of business on the calendar.

2015 TESTIMONY

HB 1249

1249
1/29/2015

I A
Testimony on HB 1249

Rep. Vicky Steiner, District 37

Mr. Chairman Porter and Members of the Energy and Natural Resources Committee, I am Rep. Vicky Steiner of District 37.

I am here to introduce HB 1249 for your consideration, which relates to the creation of a Missouri River Empower Council.

The intent of the bill is three fold:

1. To establish a stronger negotiation with the U.S Army Corps of Engineers for the use of the Missouri River including access, weed control, recreation, water uses.
2. To provide a place for citizens to bring concerns.
3. To provide legislative oversight into the success of the issue resolution.

The council has 27 voting members along with ex-officio state agency members. Patterned after the N.D. Empower Council and the ND Lignite Research Council, this council incorporates grassroots participation, two public hearings and reporting requirement to legislators with recommendations for action.

The Empower Council has 16 council members appointed by the Governor to establish energy policy recommendations to the ND Industrial Commission. The N.D. Lignite Research Council has 30 council members appointed by the Governor to recommend studies and lignite large scale projects to the ND Industrial Commission.

The U.S. Army Corps of Engineers presents difficult challenges for individuals along the river system. This council will provide more muscle than the individual can provide as we ask the Corps to work with our citizens.

I have some technical amendments to the bill that seek to add things I forgot such as a representative for the ND Dept. of Agriculture and Lake Agassiz water authority.

I'm also passing out some background on the 2007 updated Army Corps Missouri River Basin plan and the Empower recommendations which show the success of that council to provide input for change.

In closing, the Missouri River in North Dakota presents us with tremendous opportunity and this council will start us on that journey. Thank you Mr. Chairman and committee members.

#1B

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1249

Page 2, line 11, after "(8)" insert "The agriculture commissioner or the commissioner's designee, who serves as a nonvoting member;

(9)"

Page 2, line 13, replace "(9)" with "(10)"

Page 2, line 17, replace "friends" with "voices"

Page 2, line 17, remove "Lake"

Page 3, line 6, remove ", who serves as a"

Page 3, line 7, remove "nonvoting member"

Page 3, line 8, remove ", who serves as"

Page 3, line 9, remove "a nonvoting member"

Page 3, line 10, remove ", who serves as"

Page 3, line 11, remove "a nonvoting member"

Page 3, line 11, remove "and"

Page 3, line 12, after "(18)" insert "A representative of the Lake Agassiz water authority; and

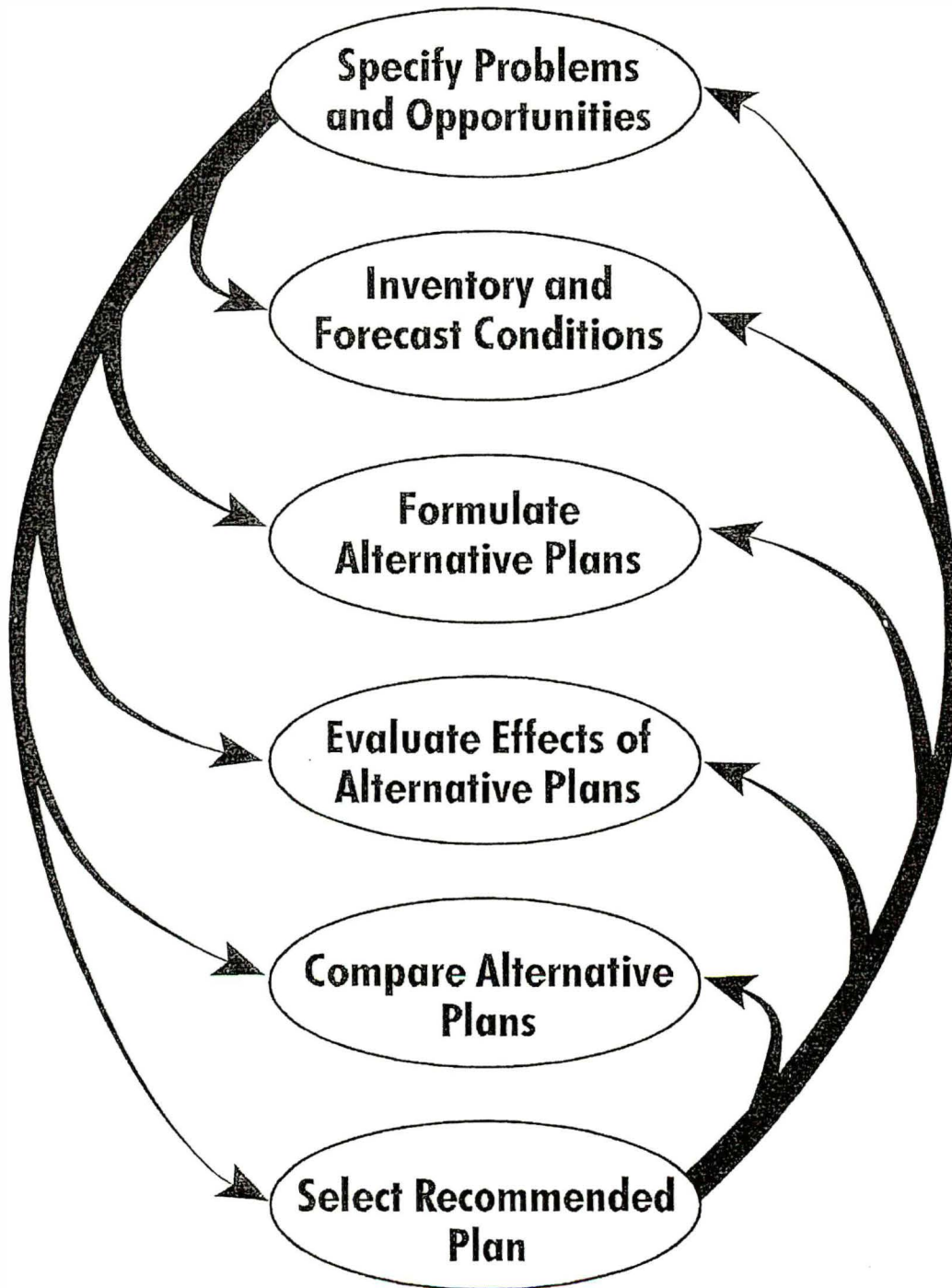
(19)"

Page 3, line 12, remove ", who serves"

Page 3, line 13, remove "as a nonvoting member"

Renumber accordingly

Figure 1. The U.S. Army Corps of Engineers Planning Process.



FINDING OF NO SIGNIFICANT IMPACT
FOR MASTER PLAN UPDATE
MISSOURI RIVER, NORTH DAKOTA
GARRISON DAM/LAKE SAKAKAWEA
November 2007

In accordance with the National Environmental Policy Act and implementing regulations, an Environmental Assessment (EA) has been prepared and integrated into the 2007 Master Plan Update for the Garrison Dam/Lake Sakakawea Project in North Dakota. The updated Master Plan will provide guidance for stewardship of natural resources and management for long-term public access to, and use of, the natural resources of Lake Sakakawea. The Master Plan provides a comprehensive description of the project, a discussion of factors influencing resource management and development, an identification and discussion of special problems, a synopsis of public involvement and input to the planning process, descriptions of past and present development and resource objectives and needs. The Master Plan update concerns only areas under the present ownership of the Corps of Engineers (Corps). It does not address or relate to Corps management policies that govern Lake Sakakawea water levels and management.

Two alternatives and their corresponding impacts associated with this Federal action have been analyzed for this project. The two alternatives are the No Action and the proposed Master Plan update. Resource categories that were evaluated included, but were not necessarily limited to, land allocations and land use classifications, visual aesthetics, mineral resources, terrestrial wildlife, associated aquatic habitats and species, threatened and endangered species, invasive plants and aquatic nuisance species, cultural resources, recreation, water quality, and socioeconomics.

Under the No Action alternative, the 1978 Master Plan would not be updated. The alternative of no action is assumed to result in diminished success in pursuing resource objectives of the Garrison Dam/Lake Sakakawea project and, as a result, was eliminated from further consideration. If the 1978 Master Plan was not updated, future major developments or resource management policies would require approval on a case-by-case basis without the benefit of evaluation in the context of an overall plan.

The preferred alternative, the proposed Master Plan update, utilized input from the tribes, other Federal, State, and local agencies and the public to determine whether the proposed action requires the preparation of an Environmental Impact Statement (EIS). It was determined the Master Plan update would not result in significant impacts to any of the resources associated with the proposed project. Under the preferred alternative, the primary benefit would be the update of the 1978 Master Plan to reflect important changes in project-use conditions and land-use reclassifications. No adverse impacts to threatened or endangered species are expected to occur as a result of projects proposed under the updated Master Plan. The proposed actions would be in compliance with applicable environmental statutes. Further, due to the incorporation of the Programmatic Agreement for the Operation and Management of the Missouri River Main Stem System for Compliance with the National Historical Preservation Act, as amended, 2004, protection of known cultural resources would be more comprehensive and concise than in the past.

Based on the EA, it is my finding that the proposed Federal activity will have no significant adverse impacts on the environment including no significant impact to the quality of the human environment. Therefore, an EIS will not be prepared.

14 Dec 07
Date

D.C. Press
David C. Press
Colonel, Corps of Engineers
District Commander

The proposed land classifications, recreation development, and management practices in the updated Master Plan apply to Corps public lands at the Garrison Dam/Lake Sakakawea project. Accordingly, any lands transferred in fee title to the Department of Interior (DOI) to be held by the Bureau of Indian Affairs (BIA) in trust for the Three Affiliated Tribes under the Fort Berthold Mineral Restoration Act prior to completion of this updated Master Plan are not included in the updated Master Plan.

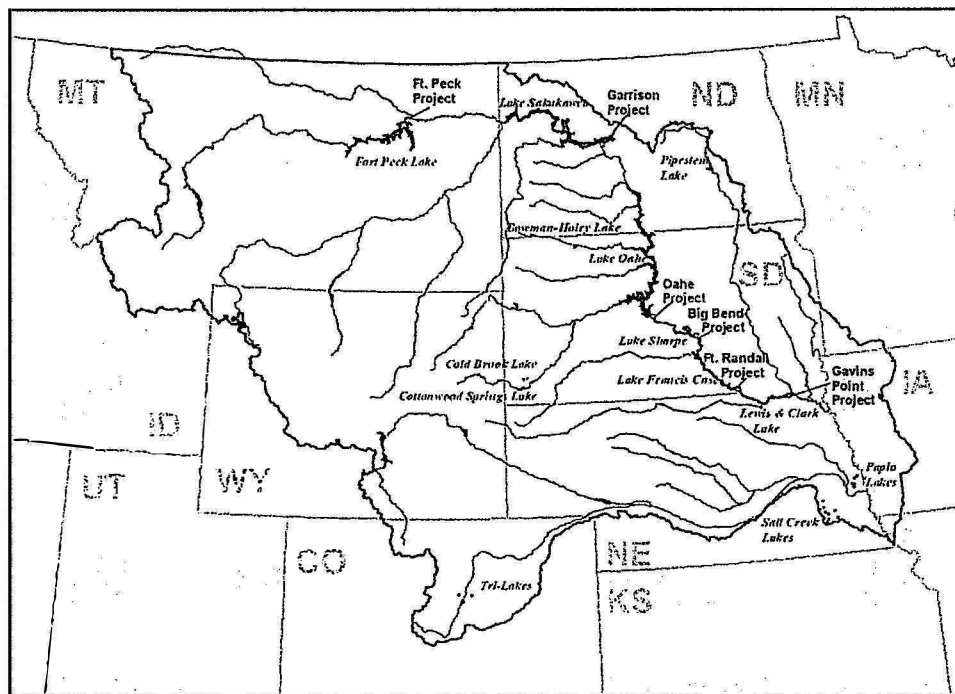
The Corps has the mission of managing, conserving, and improving environmental and cultural resources at Corps reservoir projects while providing quality public outdoor-recreation experiences to serve the needs of present and future generations. To ensure consideration of natural and cultural resources throughout the Master Plan, the Programmatic Agreement (signed by the Corps and most Tribes in the upper Missouri River basin) and a programmatic Environmental Assessment (EA) are integrated into the Master Plan. The functions of the PA and EA in the Master Plan and in regard to subsequent proposals for implementation of development or management activities included in the Master Plan are provided in more detail in section 1.5.

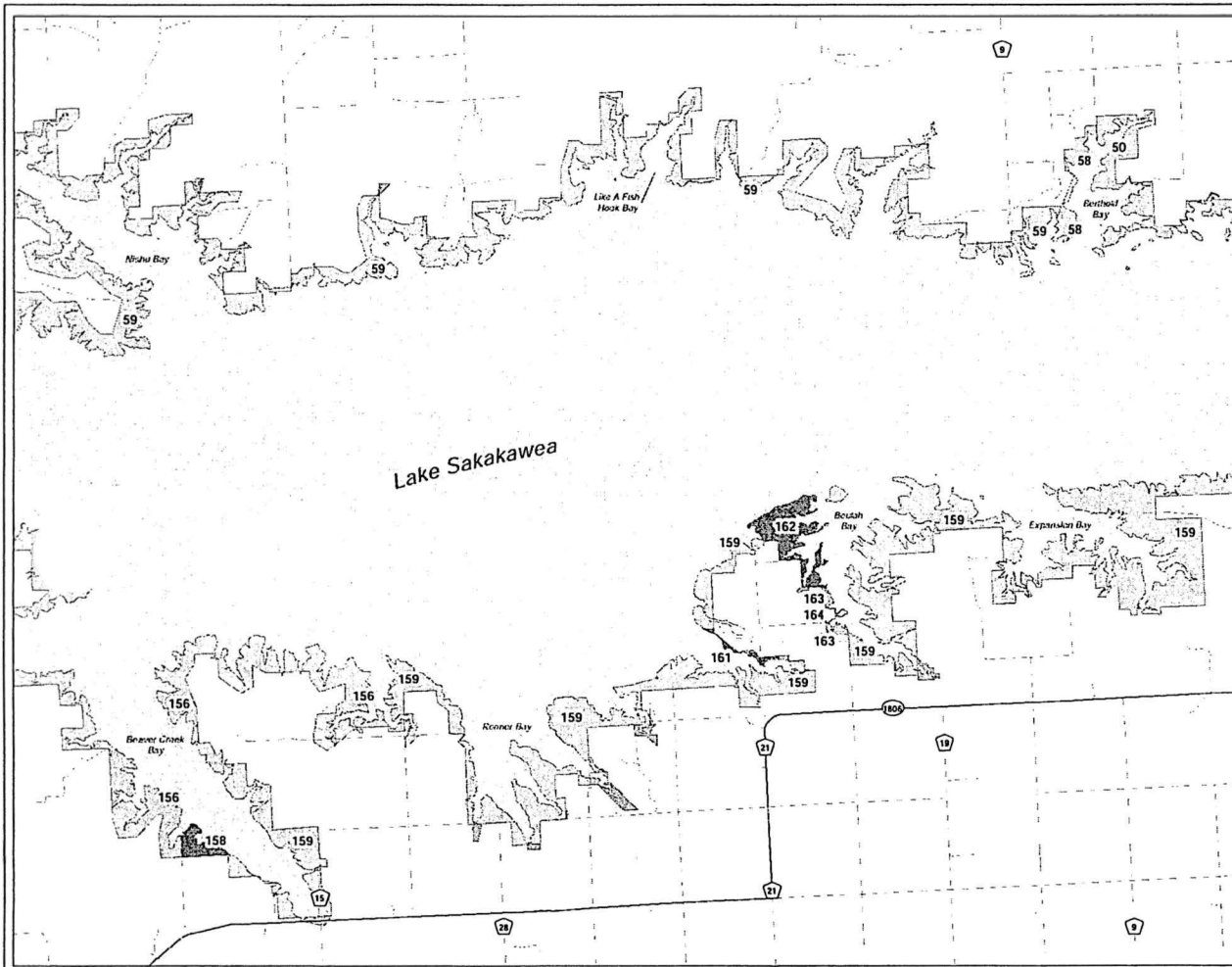
1.2.4. MASTER PLANNING PROCESS

Preparation of this Draft Master Plan with integrated EA was a cooperative effort involving the Corps; Tribal representatives; Federal, State, and local governmental agencies; non-governmental organizations; and members of the general public. Some members of these Tribes, agencies, and organizations served on a Steering Committee to provide ongoing advice regarding Master Plan preparation and decision-making. Scoping comments from Tribal members, government agency officials, and the general public were important for identifying issues that needed to be addressed in the Master Plan/EA. Details regarding this public involvement effort are provided in Chapter 4.

The Corps' six-step planning process, provided in Appendix G, was used in developing the Master Plan. Public input was important in identifying significant resources; problems and opportunities; planning objectives and constraints; important features of the project area; and public needs, desires, and concerns. These factors were taken into account in forming alternative plans. The plans were assessed in the EA in regard to 1) meeting project purposes and expressed public needs and desires, 2) minimizing adverse environmental impacts, and 3) consistency with relevant laws and regulations and regional needs and plans. Based on the EA, one plan was selected as the recommended plan that provides most appropriately for stewardship, management activities, and types and levels of recreation development and use. This recommended Resource Plan involves cooperation between public entities and the private sector. It is comprised of management areas with land classifications and guidelines for management and development that are compatible with resource suitabilities; this ensures sustainability of natural, cultural, and man-made resources for future generations. For any conceptual development or management activity proposed in the updated Master Plan, the EA identifies any potentially significant impacts on the human or natural environment and indicates how these impacts can be avoided or minimized.

Figure 1-1. Omaha District Civil Works Boundary Emphasizing the Missouri River Main Stem System of Six Dams and Reservoirs





Master Plan Garrison Project / Lake Sakakawea

Current Land Classification

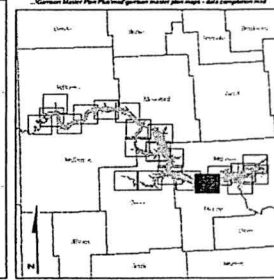
- Land Classification**
- Project Operations
 - Recreation - Intensive Use
 - Recreation - Low Density Use
 - Wildlife Management
 - Vegetation Management
 - Environmentally Sensitive
 - Water
 - Lake Easement
 - Private Property

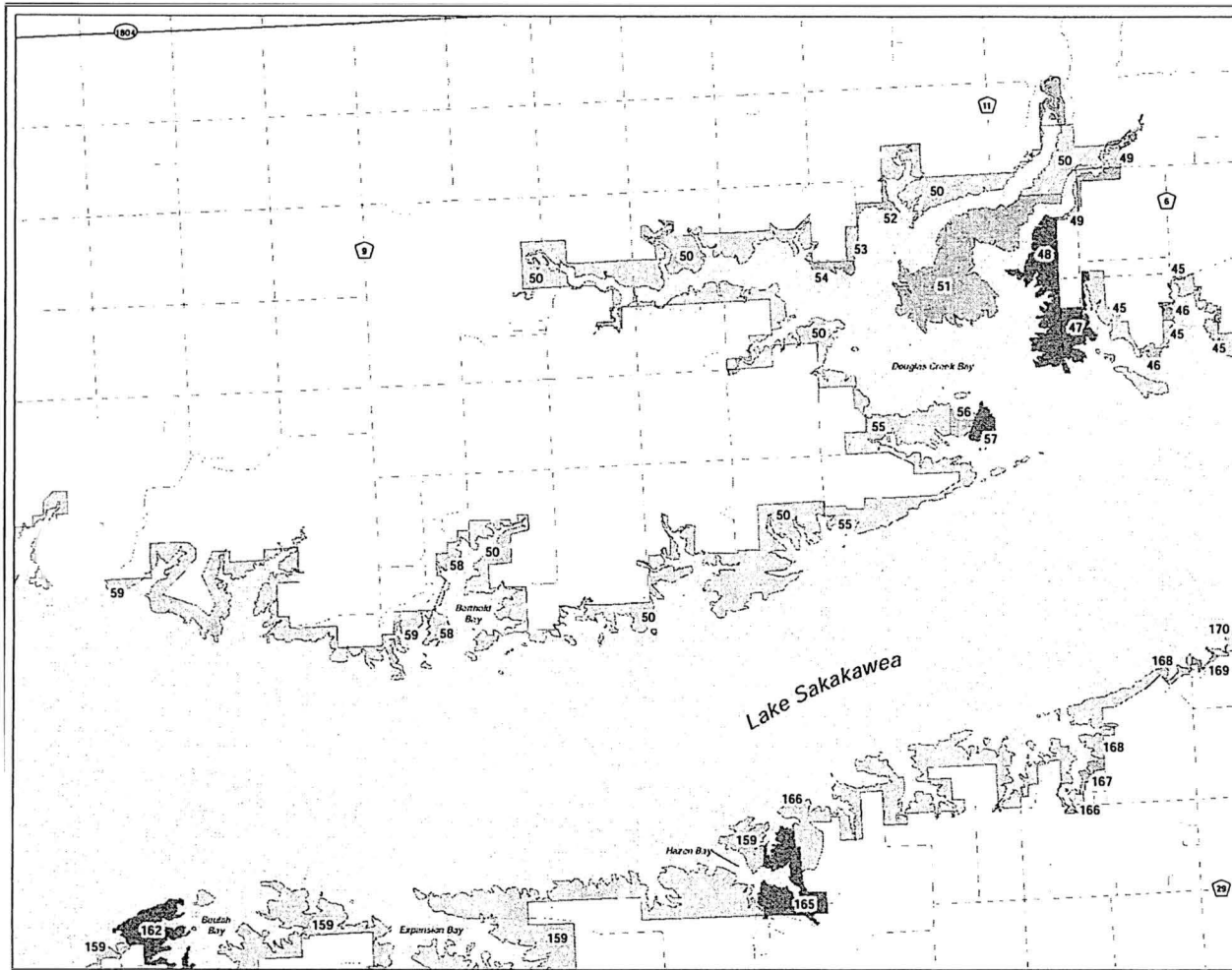
Sheet 6 of 22

0 0.5 1 2 Miles
1 Inch equals 1 Mile

U.S. Army Corps of Engineers / Omaha District - Omaha, Nebraska
Operations - Natural Resources Section (U. Common) / 81 Oct 87

General Master Plan (Preliminary) master plan map - 1:50,000 scale map





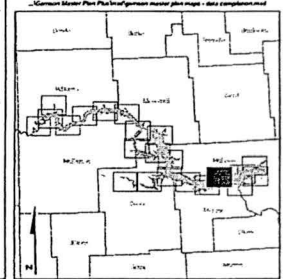
Master Plan Garrison Project / Lake Sakakawea Current Land Classification

- Land Classification**
- Project Operations
 - Recreation - Intensive Use
 - Recreation - Low Density Use
 - Wildlife Management
 - Vegetation Management
 - Environmentally Sensitive
 - Water
 - Lake Easement
 - Private Property

Sheet 5 of 22

0 0.5 1 2 Miles
1 Inch equals 1 Mile

U.S. Army Corps of Engineers / Omaha District - Omaha, Nebraska
Operations - Natural Resources Section (U.S. Command) (B1-G-87)
Garrison Master Plan / Garrison Master Plan map - 1985 (unpublished)



A black and white photograph of an oil well rig in a field. The rig is a tall, lattice-structured derrick with a platform at the top. It is situated in a grassy field with some trees and a small building in the background. The sky is clear.

EMPOWER

North Dakota

**2014 Policy Updates
and Recommendations**



Al Anderson
North Dakota Department
of Commerce, chairman



Jason Bohrer
Lignite Energy Council,
lignite coal



Mark Bring
Otter Tail Power
Company, ex officio



Ron Day
Tesoro, refining or
gas-processing



Terry Goerger
farmer, agriculture



Margaret Hodnik
Allete, Inc., ex officio



Eric Mack
Archer Daniels Midland,
biodiesel



Ron Ness
North Dakota Petroleum
Council, oil and gas



Dale Niezwaag
Basin Electric Power Cooperative,
generation and transmission
electric cooperatives



Mark Nisbet
Xcel Energy, wind



Mike Rud
North Dakota Petroleum
Marketers Association,
petroleum marketers



Randy Schneider
North Dakota Ethanol
Producers Association,
ethanol



Jay Skabo
Montana-Dakota Utilities Co.,
investor-owned utilities



David Straley
North American Coal
Corporation, lignite coal
producing industry



Sandi Tabor
KLJ, ex officio



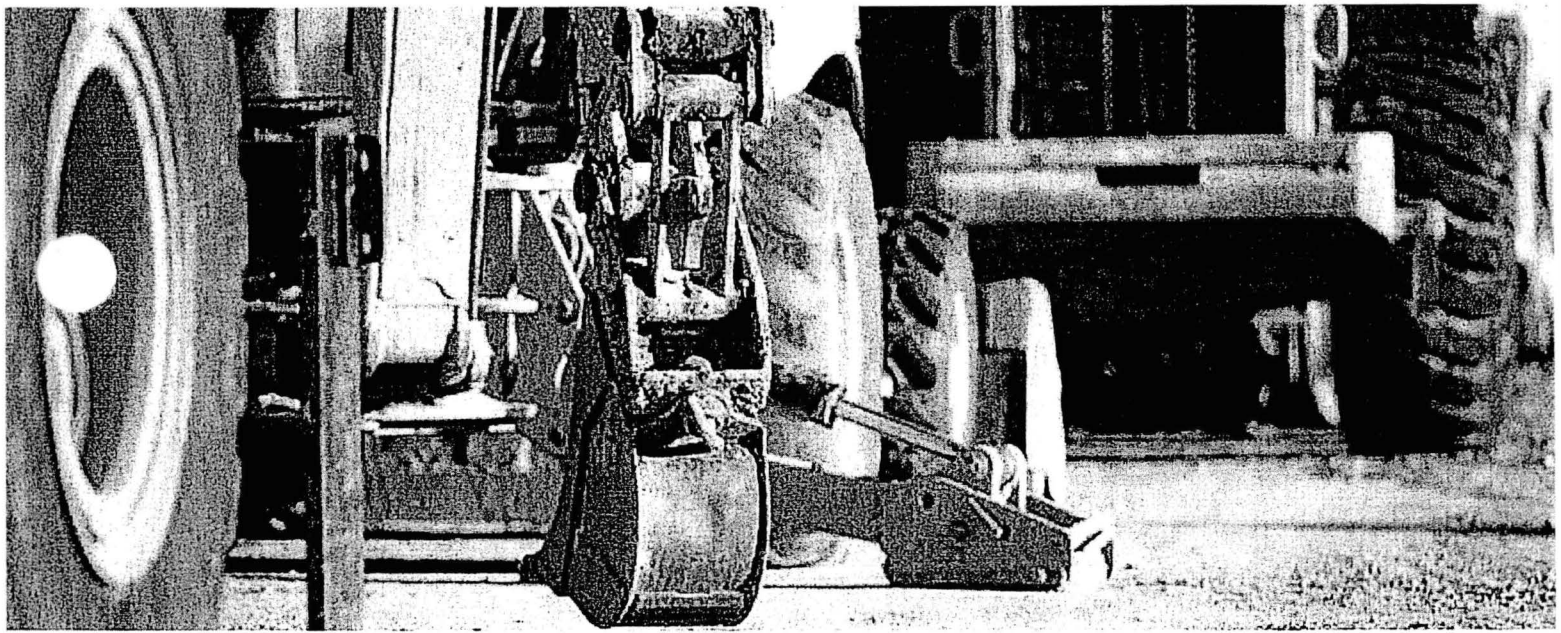
John Weeda
Great River Energy,
biomass



Julie Voeck
NextEra Energy Resources,
LLC., ex officio

EmPower ND Commission Members

In 2007, the North Dakota Legislature formalized energy policy and created the 16-member EmPower Commission which includes representatives from across the energy industry. Their insights provide the substance for this updated EmPower North Dakota Comprehensive State Energy Policy.



Commission Recommendations

INFRASTRUCTURE

Adequate infrastructure – such as water pipelines, roads, oil and natural gas pipelines, railroads, electric transmission lines, power generation and affordable housing – is key to the efficient and effective development of North Dakota's energy resources. While most current infrastructure needs are related to oil and gas development in western North Dakota, all energy sectors benefit from similar infrastructure support throughout the state. Infrastructure provides the backbone for North Dakota's energy industry to export products to the rest of the nation, and perhaps the world. In addition, this component is critical to the growth of communities, the minimization of development impacts, and enhanced public safety.

The 2013 Legislative Assembly made substantial progress towards meeting the critical infrastructure needs of the state with an investment of \$2.5 billion in oil and gas impacted areas, nearly double the amount appropriated in 2011. However, continued growth of our energy industry and the state's economy are leading to infrastructure shortfalls and more must be done to assist communities in closing the gap.

The EmPower North Dakota Commission receives regular updates from the North Dakota Department of Commerce staff regarding continued western

Adequate infrastructure is key to the efficient and effective development of North Dakota's energy resources.

needs. Of the many concerns raised by local leaders, infrastructure issues were identified as critical to maintaining North Dakota's quality of life. In order to meet the growing demands of western North Dakota, the state needs to continue to make a long-term commitment of capital to address the acute infrastructure shortfalls related to the significant growth of oil and gas production, processing and transportation facilities.

Transportation infrastructure development includes construction and upgrading of roads and bridges on state, county and township systems. In 2013, western North Dakota experienced a 25 percent increase in vehicle miles traveled. As oil and gas activities continue, as well as agricultural movement, this increased traffic will create greater need and frequency for repairs and replacement. The Upper Great Plains Transportation Institute's 2014 study

In 2013, western North Dakota experienced a 25 percent increase in vehicle miles traveled.

INFRASTRUCTURE (continued)

of county, township and tribal transportation infrastructure needs estimates the following state investment is needed for the 2015-2017 biennium:

- Unpaved roads - \$548 million
- Paved roads - \$377 million
- Bridges - \$70 million

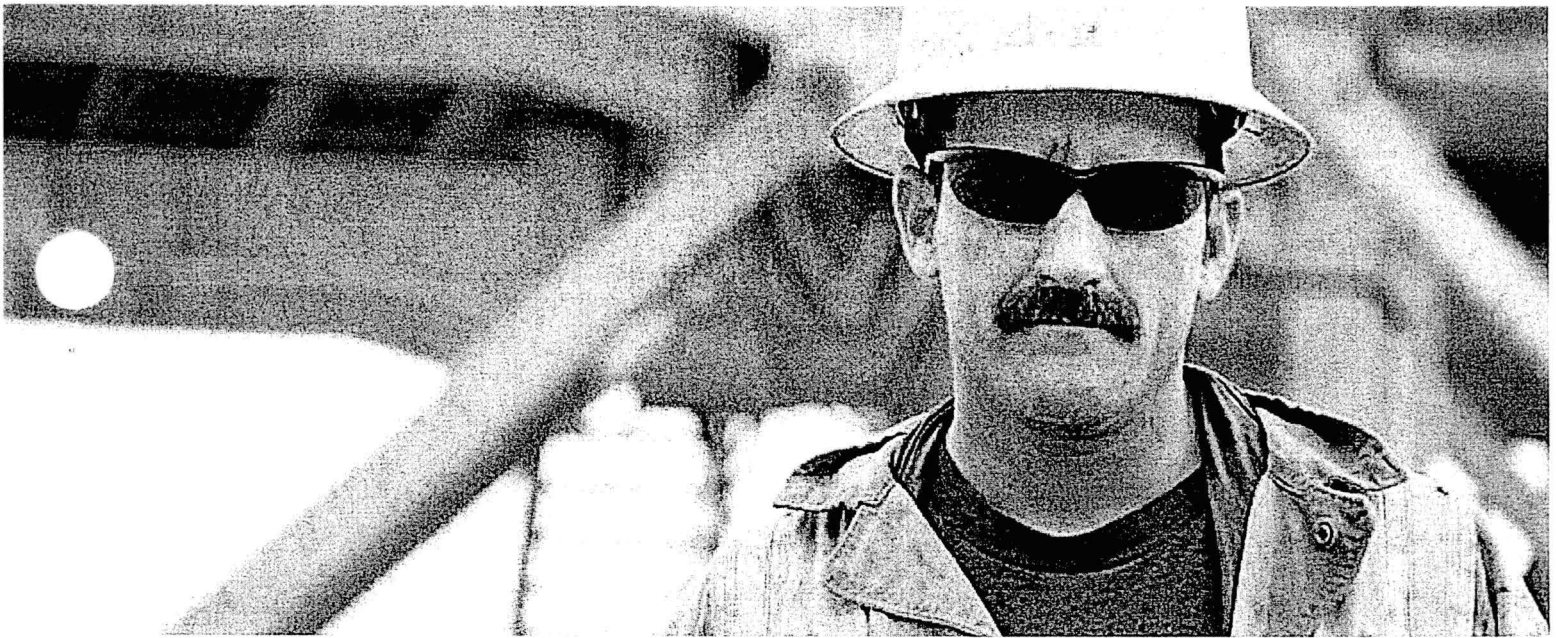
New methods to provide adequate funding to address these critical areas must be designed. Without a new approach, local governments and communities will continue to fall behind resulting in continued impact on development and quality of life. Concerns related to environmental issues like increased dust from trucks, proper storage of waste water, and others must also be addressed. Challenges also exist in the construction of necessary infrastructure as landowners become reluctant to grant easements on their property.

In light of the issues facing infrastructure related to energy development in the state, the Commission urges the State of North Dakota to:

- Support the passage of legislation within the first 30 days of the 2015 legislative session providing infrastructure funding to oil and gas impacted areas to ensure early availability of adequate funding to allow bidding processes to occur and result in timely use of the 2015 construction season.
- Support changes to the gross production tax distribution formula to provide additional funding

to assist with local infrastructure needs.

- Support a transportation funding level that meets the needs identified by the Upper Great Plains Transportation Institute.
- Recommend the immediate creation of an authority focused on regional infrastructure (roads, airports, emergency and medical services, water and waste water, etc.) that will work with communities in coordinating strategic planning efforts in the hub cities of Dickinson, Minot and Williston, and primary Bakken counties of Dunn, McKenzie, Mountrail and Williams. These efforts should:
 - Provide periodic updates and evaluation on the progress of infrastructure development and future needs to the legislature in regards to state and community planning and investments.
 - Work in cooperation with the Energy Impact Coordinator to understand local issues and efforts.
 - Assist in data gathering and coordination of infrastructure funding, providing recommendations with input from local communities and distributing agencies.
- Create a trigger mechanism that will make additional funds available to oil impacted communities from the state share of the oil tax revenue when revenue exceeds certain thresholds.
- Support expansion of existing water systems to provide capacity to meet growing community and commercial needs.
- Support the State Water Commission's efforts to increase access to Lake Sakakawea water for community and commercial needs to alleviate pressure on other water sources, reduce local truck traffic and improve road safety.
- Monitor the railroad infrastructure upgrade plan within North Dakota to ensure there is adequate ability to meet the export demand of all commodities to market.



WORKFORCE

North Dakota has one of the best business climates in the country fueling unprecedented growth, leading to a shortage of workers in virtually every industry and every corner of our state. As a result, securing skilled workforce to meet the needs of the state's business community is a high priority. As the state's demand for workers continues to grow, there needs to be greater focus on training and retaining our youth, as well as promoting opportunities to attract workers from outside the state.

The need to recruit and retain a permanent workforce is evident in the following statistics:

- 25,000 jobs are currently open across North Dakota.

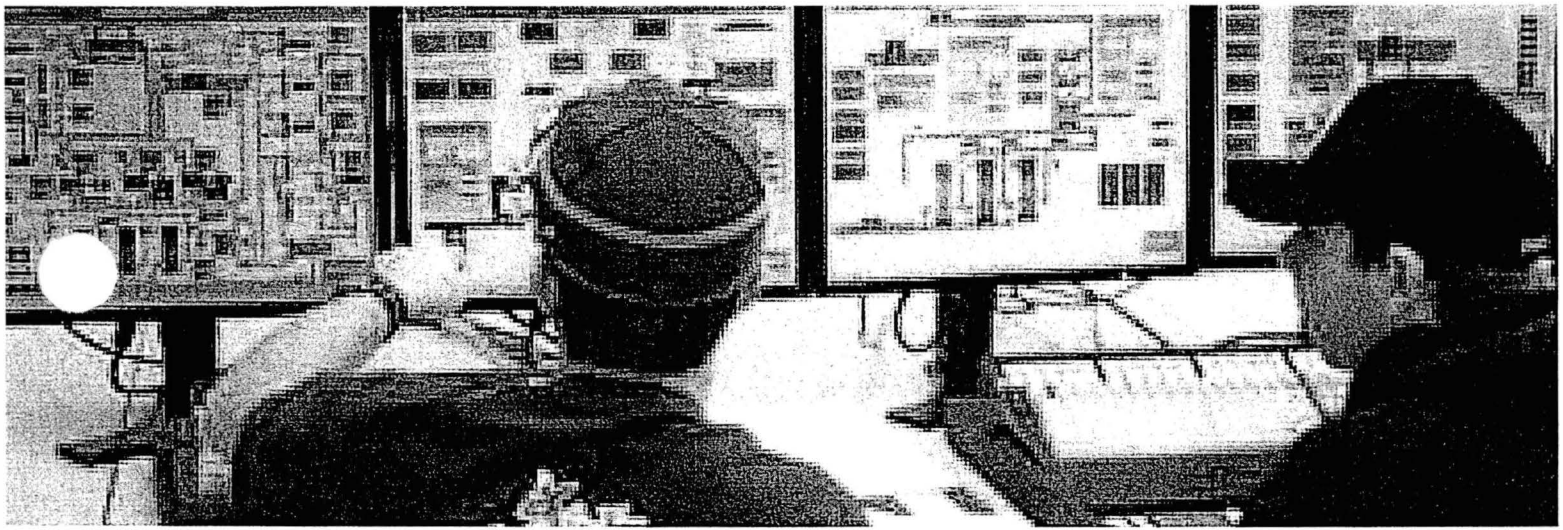
25,000 jobs are currently open across North Dakota. Over 60 percent of these exist outside the oil and gas counties.

- North Dakota is expected to add over 76,000 jobs between 2010 and 2020.
- Healthcare, construction, energy, manufacturing, transportation, public services, agriculture, tourism and retail all report significant workforce shortages.

The State's workforce needs are not just limited to the oil and gas industry.

- About 35 percent of all current job openings are energy related.
- About 85 percent of private jobs in the state are not oil and gas related.
- The Fargo area has the most job openings in the state, followed by Bismarck.

As workforce needs continue to grow, the funding sources that support infrastructure and community development must be enhanced. Companies and private investors are working to address housing shortages throughout the state by providing crew camps, apartments, single- and multi-family homes. Single family housing is very important to attract the high-demand, high-skilled workforce the energy industry needs long-term. The state must continue to support the key infrastructure that supports the ease of development in many of our western communities.



WORKFORCE (continued)

Many of the state's new families also have unique financial needs. The Housing Incentive Fund, administered by the North Dakota Housing Finance Agency, is working to meet the need for affordable housing, but greater enhancements are necessary.

One of the challenges impacting the energy industry's ability to attract qualified employees is the lack of knowledge about the tremendous opportunities for young people in the energy industry. Many high-demand positions in several energy sectors rely heavily on skills in science, technology, engineering and mathematics (STEM). Incorporating STEM courses at an earlier age and educating career counselors and parents about high-demand careers will facilitate the long-term growth of the energy workforce talent pool. To improve the overall situation, the energy industry and research councils supported the development of curriculum for grades 4 and 8 which will be rolled out in Fall 2014. Discussions with officials at the Department of Public Instruction were initiated to understand how best to develop high school curriculum. These efforts are on-going. Curriculum development, however, is only part of the puzzle. Energy representatives also met with representatives from Valley City State University to discuss STEM education initiatives and the opportunity for energy curriculum development to train students pursuing teaching degrees. While great strides have been made in curriculum development, the needs for securing a stable funding source for curriculum maintenance and continued development is critical.

The current workforce landscape has many vocational or technical degree openings that can provide well paying, life-long careers (i.e., welders, lineman, electricians, boilermakers and mechanics). Many of the current energy-related workforce needs could be filled by individuals with vocational or technical skills.

Industry and education groups need to continue to work together to bring awareness to career and specialized training opportunities in North Dakota. The State of North Dakota and the energy industry must continue to strengthen existing partnerships to educate students of all ages about the wide variety of vocational and technical degree openings. Focus on this effort has proven successful; for example, at the recently expanded diesel mechanic program at North Dakota State School of Science in Wahpeton, most graduates leave with a North Dakota-based position in-hand as the school partners with business to meet critical workforce needs. The development of more training programs focused on meeting growing workforce requirements will need continued support by the legislature, EmPower North Dakota Commission and others. Adequate funding must be available for these important educational programs that support energy-related careers.

Also supporting the industry is TrainND, which provides customized training programs such as CDL and safety training, and employee development initiatives across the state. These training programs give North Dakota businesses an edge to better

WORKFORCE (continued)

compete on a local, national and international level. Continued support for programs such as TrainND and Operation Intern, which match youth with businesses while supporting long-term workforce growth in North Dakota, are critical.

In an effort to assist with workforce demand, the North Dakota Economic Development Foundation has launched the Find the Good Life in North Dakota campaign, a workforce recruitment effort. It is a private/public sector funded program designed to help solve the greatest challenge facing our business community: workforce development, recruitment and retention. The fundraising goal of \$2.5 million will fund a comprehensive two-year campaign focused on increasing workforce within North Dakota and securing out-of-state workers and students to fill high-demand careers. The campaign works with North Dakota companies and industry organizations to promote jobs through strategies such as out-of-state job fairs, veteran recruitment and other efforts.

The energy industry looks to the Governor's Workforce Development Council and Job Service North Dakota to better identify energy workforce needs and how North Dakota can maximize resources to meet those needs into the future. These efforts will ensure that Governor Dalrymple and the legislature receive the information necessary to sustain the long-term growth of the energy sector in North Dakota.

In light of the issues facing workforce related to energy development in the state, the Commission urges the State of North Dakota to:

- Continue support of the Housing Incentive Fund to the level suggested by the North Dakota Housing Finance Agency to meet market conditions, and consider a trigger on an annual basis for additional funds.
- Increase efforts to educate North Dakota's youth about the state's natural resources by funding the development, implementation and sustainability of curriculum at the elementary and high-school level to encourage interest in energy careers through the North Dakota Department of Public Instruction.
- Encourage and enable the energy industry to collaborate with the North Dakota University System, Governor's Workforce Development Council, Job Service North Dakota and other agencies to:
 - Encourage industry interaction with teachers and guidance counselors to grow youth knowledge and interest in energy careers and to better retain youth for high-demand career options.
 - Provide greater accessibility to career and technical education programs, especially through adequate training facilities. Career examples include, but are not limited to:
 - Science, technology, engineering, and mathematics (STEM) education
 - Industrial equipment supplier supported programs
 - Commercial driver's license (CDL) training sites
 - Emergency medical services
 - Technical trades/internships
 - Energy careers
 - Workforce safety careers
- Support increased funding for workplace safety and training. Examples of efforts include:
 - Training workforce safety professionals
 - New-hire training
 - Back-to-work efforts
- Support legislation which recognizes the role distance learning will play in the future of education and improve access to technology for students using distance learning programs.

2A

1249
1/29/15

North Dakota State Water Commission Testimony

Relative to House Bill 1249

Presented to House Energy and Natural Resources Committee

January 29, 2015

Good afternoon Chairman Porter, and members of the House Energy and Natural Resources Committee. I am Michelle Klose, Assistant State Engineer for the North Dakota State Water Commission.

Our agency is supportive of the concept of House Bill 1249. Organization of stakeholders within a river basin to discuss and provide recommendations of basin wide water issues is beneficial. Increased dialog and understanding of water related issues assists governing bodies in policy decisions and contributes to better water and land management solutions for the broader region. As examples of ongoing efforts, we will provide a brief background on the Missouri River Stakeholders Group, the Missouri River Title VII Task Force, and the Devils Lake Outlet Management Advisory Committee. We will also provide recommendations related to the Missouri River Advisory Council concept – which is the focus of House Bill 1249.

Missouri River Stakeholders Group

To begin, I wanted to very briefly cover the efforts of the Missouri River Stakeholders group to demonstrate grassroots support of a Missouri River-focused organization. Following the floods of 2011, there was renewed interest among Missouri River stakeholders to establish some type of grassroots organization in the Missouri River Basin. In the two years that followed, the Water Commission agreed to help facilitate meetings of Missouri River stakeholders to help identify a path forward. The meetings included a wide range of attendees from a broad spectrum of backgrounds and interests. The result of the meetings was a very clear desire to create a more formal and organized group to advance an understanding of Missouri River issues.

From the larger group meetings, a smaller group volunteered to meet to bring a recommendation back to the larger group for a potential path forward. The recommendation of that subgroup was to hire a Missouri River coordinator, with the Missouri River Joint Water Board as the temporary local sponsor and administering agent.

The role of the Missouri River coordinator would be to:

- Visit and meet with local government leaders, stakeholder groups, and other interested parties to learn about their various issues and challenges as they relate to natural resource management within the Missouri River basin.
- Gauge interest in the potential advancement of a grass roots driven Missouri River-focused group and ask them if such an organization could be helpful to them and their constituents or members.

- Gage interest in a Missouri River working conference to discuss ongoing issues and to consider the formation of a Missouri River grass roots organization.

Ryan Norrell was ultimately hired to serve the role of a coordinator for the Missouri River Stakeholders; with Lance Yohe, the former Executive Director of the Red River Basin Commission, serving as lead advisor. The funding source was a combination of the Garrison Diversion Conservancy District and the State Water Commission.

(Please note - Mr. Norrell is in attendance today, and will be presenting additional information regarding the specifics of the Missouri River Stakeholders group concept and their efforts to date.)

In November 2014, a working conference was held, including about 100 Missouri River stakeholders. The purpose of that conference was to seek stakeholder input into a strategy for a path forward

Other Advisory Group Concepts

The Missouri River Advisory Council concept that will be presented later in our testimony as a modification to House Bill 1249 was drafted based on other existing basin advisory groups – the Missouri River Title VII Task Force, and the Devils Lake Outlets Management Advisory Committee.

Title VII Task Force

The first that I would like to cover is the Title VII Task Force. Through the Missouri River Protection and Improvement Act of 2000, or Title VII as it's also known, the U.S. Army Corps of Engineers leads a task force – including North Dakota membership involving a broad spectrum of interests appointed by the Governor.

The Title VII Task Force consists of the U.S. Secretaries of Army (as chair person), Agriculture, Energy, and Interior; and a Trust including twelve members recommended by the Governor of North Dakota. Those members represent the Department of Health, Department of Parks and Recreation, Game and Fish, State Water Commission, Indian Affairs, agriculture groups, environmental and conservation organizations, hydroelectric power groups, local governments, and other appropriate interests. Four members representing Indian tribes are also involved.

A shortcoming of this effort has not necessarily been the membership, but the fact that it is entirely dependent on federal funding, which has not been forthcoming for several years. A copy of the Title VII legislation from the Missouri River Protection and Improvement Act of 2000 is attached for your information.

Devils Lake Outlets Management Advisory Committee

The next advisory council concept I would like to outline is the Devils Lake Outlets Management Advisory Committee. NDCC 61-36-01 establishes this advisory committee to advise the Governor and the State Water Commission regarding operations of all Devils Lake outlets. The committee may recommend criteria for operation of each outlet based on outflow volumes, water quality

considerations, and the risk of an overflow of Devils Lake. The committee typically meets twice per year, and has been instrumental in addressing concerns and misconceptions related to the Devils Lake outlets and their operation.

The Devils Lake Outlets Management Advisory Committee membership consists of: in-basin and downstream county and city representatives, Spirit Lake Nation, representatives from Minnesota and Manitoba, and two North Dakota Legislators. The Governor or Governor's designee is chairperson of the committee.

A copy of NDCC 61-36-01 pertaining to the Devils Lake Outlets Management Advisory Committee is also attached for your reference.

Suggested Changes To House Bill 1249

Chairman Porter, we respectfully request the committee's consideration of our recommendation for the make-up of a Missouri River Advisory Council concept (attached to our testimony).

(At this time, I would like to briefly cover the recommendations we have provided for a Missouri River Advisory Council concept.)

Mr. Chairman and members of the committee, this concludes my testimony regarding House Bill 1249. I thank you for your consideration of our comments, and I will be happy to answer any questions that you or other members of the committee might have.

jobs and economic redevelopment for the community, and be consistent with other applicable laws;

(4) consistent with applicable laws, the Secretary of the Air Force should proceed as quickly as practicable to issue a final SEIS and Record of Decision so that reuse of the former air base can proceed expeditiously;

(5) following conveyance of the remaining surplus property, the Secretary, as part of his oversight for Everglades restoration, should cooperate with the entities to which the various parcels of surplus property were conveyed so that the planned use of those properties is implemented in such a manner as to remain consistent with the goals of the Everglades restoration plan; and

(6) not later than August 1, 2002, the Secretary should submit a report to the appropriate committees of Congress on actions taken and make any recommendations for consideration by Congress.

TITLE VII—MISSOURI RIVER RESTORATION, NORTH DAKOTA

SEC. 701. SHORT TITLE.

This title may be cited as the "Missouri River Protection and Improvement Act of 2000".

SEC. 702. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds that—

(1) the Missouri River is—

(A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and

(B) a critical source of water for drinking and irrigation;

(2) millions of people fish, hunt, and camp along the Missouri River each year;

(3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;

(4) the Missouri River provides critical wildlife habitat for threatened and endangered species;

(5) in 1944, Congress approved the Pick-Sloan program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(6) the Garrison Dam was constructed on the Missouri River in North Dakota and the Oahe Dam was constructed in South Dakota under the Pick-Sloan program;

(7) the dams referred to in paragraph (6)—

(A) generate low-cost electricity for millions of people in the United States;

(B) provide revenue to the Treasury; and

(C) provide flood control that has prevented billions of dollars of damage;

(8) the Garrison and Oahe Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Sakakawea and Lake Oahe;

(9) the sediment depositions—

(A) cause shoreline flooding;

(B) destroy wildlife habitat;

(C) limit recreational opportunities;

(D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;

(E) reduce water quality; and

(F) threaten intakes for drinking water and irrigation; and

(10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program—

(A) to improve conservation;

(B) to reduce the deposition of sediment; and

(C) to take other steps necessary for proper management of the Missouri River.

(b) PURPOSES.—The purposes of this title are—

(1) to reduce the siltation of the Missouri River in the State of North Dakota;

(2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy—

(A) to improve conservation in the Missouri River watershed;

(B) to protect recreation on the Missouri River from sedimentation;

(C) to improve water quality in the Missouri River;

(D) to improve erosion control along the Missouri River; and

(E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and

(3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

SEC. 703. DEFINITIONS.

In this title, the following definitions apply:

(1) PICK-SLOAN PROGRAM.—The term "Pick-Sloan program" means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891).

(2) PLAN.—The term "plan" means the plan for the use of funds made available by this title that is required to be prepared under section 705(e).

(3) STATE.—The term "State" means the State of North Dakota.

(4) TASK FORCE.—The term "Task Force" means the North Dakota Missouri River Task Force established by section 705(a).

(5) TRUST.—The term "Trust" means the North Dakota Missouri River Trust established by section 704(a).

SEC. 704. MISSOURI RIVER TRUST.

(a) ESTABLISHMENT.—There is established a committee to be known as the North Dakota Missouri River Trust.

(b) MEMBERSHIP.—The Trust shall be composed of 16 members to be appointed by the Secretary, including—

(1) 12 members recommended by the Governor of North Dakota that—

(A) represent equally the various interests of the public; and

(B) include representatives of—

(i) the North Dakota Department of Health;

(ii) the North Dakota Department of Parks and Recreation;

(iii) the North Dakota Department of Game and Fish;

(iv) the North Dakota State Water Commission;

(v) the North Dakota Indian Affairs Commission;

(vi) agriculture groups;

(vii) environmental or conservation organizations;

(viii) the hydroelectric power industry;

(ix) recreation user groups;

(x) local governments; and

(xi) other appropriate interests;

(2) 4 members representing each of the 4 Indian tribes in the State of North Dakota.

SEC. 705. MISSOURI RIVER TASK FORCE.

(a) ESTABLISHMENT.—There is established the Missouri River Task Force.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary (or a designee), who shall serve as Chairperson;

(2) the Secretary of Agriculture (or a designee);

(3) the Secretary of Energy (or a designee);

(4) the Secretary of the Interior (or a designee); and

(5) the Trust.

(c) DUTIES.—The Task Force shall—

(1) meet at least twice each year;

(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;

(3) review projects to meet the goals of the plan; and

(4) recommend to the Secretary critical projects for implementation.

(d) ASSESSMENT.—

(1) IN GENERAL.—Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall transmit to the other members of the Task Force a report on—

(A) the impact of the siltation of the Missouri River in the State, including the impact on—

(i) the Federal, State, and regional economies;

(ii) recreation;

(iii) hydropower generation;

(iv) fish and wildlife; and

(v) flood control;

(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;

(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and

- (D) other issues, as requested by the Task Force.
- (2) CONSULTATION.—In preparing the report under paragraph (1), the Secretary shall consult with—
 - (A) the Secretary of Energy;
 - (B) the Secretary of the Interior;
 - (C) the Secretary of Agriculture;
 - (D) the State; and
 - (E) Indian tribes in the State.
- (e) PLAN FOR USE OF FUNDS MADE AVAILABLE BY THIS TITLE.—
 - (1) IN GENERAL.—Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.
 - (2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote—
 - (A) conservation practices in the Missouri River watershed;
 - (B) the general control and removal of sediment from the Missouri River;
 - (C) the protection of recreation on the Missouri River from sedimentation;
 - (D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;
 - (E) erosion control along the Missouri River; or
 - (F) any combination of the activities described in subparagraphs (A) through (E).
 - (3) PLAN REVIEW AND REVISION.—
 - (A) IN GENERAL.—The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final in accordance with procedures established by the Task Force.
 - (B) REVISION OF PLAN.—
 - (i) IN GENERAL.—The Task Force may, on an annual basis, revise the plan.
 - (ii) PUBLIC REVIEW AND COMMENT.—In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.
- (f) CRITICAL RESTORATION PROJECTS.—
 - (1) IN GENERAL.—After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.
 - (2) AGREEMENT.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) and this section.
 - (3) INDIAN PROJECTS.—To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are—
 - (A) within the boundary of an Indian reservation; or
 - (B) administered by an Indian tribe.
- (g) COST SHARING.—
 - (1) ASSESSMENT.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out the assessment may be provided in the form of services, materials, or other in-kind contributions.

(2) PLAN.—

(A) FEDERAL SHARE.—The Federal share of the cost of preparing the plan shall be 75 percent.

(B) NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share of the cost of preparing the plan may be provided in the form of services, materials, or other in-kind contributions.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—A non-Federal cost share shall be required to carry out any project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed \$5,000,000 for any project.

(C) NON-FEDERAL SHARE.—

(i) IN GENERAL.—Not more than 50 percent of the non-Federal share of the cost of carrying out a project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.

(ii) REQUIRED NON-FEDERAL CONTRIBUTIONS.—For any project described in subparagraph (B), the non-Federal interest shall—

(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(iii) CREDIT.—The Secretary shall credit the non-Federal interest for all contributions provided under clause (ii)(I).

SEC. 706. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian tribe;

(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled "An Act for the protection of the bald eagle", approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) **FEDERAL LIABILITY FOR DAMAGE.**—Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.

(c) **FLOOD CONTROL.**—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Flood Control Act of December 22, 1944 (33 U.S.C. 701-1 et seq.; 58 Stat. 887).

(d) **USE OF FUNDS.**—Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

SEC. 707. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to the Secretary to carry out this title \$5,000,000 for each of fiscal years 2001 through 2005. Such sums shall remain available until expended.

(b) **EXISTING PROGRAMS.**—The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

TITLE VIII—WILDLIFE REFUGE ENHANCEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the "Charles M. Russell National Wildlife Refuge Enhancement Act of 2000".

SEC. 802. PURPOSE.

The purpose of this title is to direct the Secretary, working with the Secretary of the Interior, to convey cabin sites at Fort Peck Lake, Montana, and to acquire land with greater wildlife

WRDA 2007 PL 110-114

SEC. 3126. MISSOURI RIVER RESTORATION, NORTH DAKOTA.

Section 707(a) of the Water Resources Development Act of 2000 (114 Stat. 2699) is amended in the first sentence by striking ``\$5,000,000'' and all that follows through ``2005'' and inserting ``\$25,000,000''.

2B
CHAPTER 61-36
DEVILS LAKE OUTLET COMMITTEE

1249
1/29/15

61-36-01. Devils Lake outlets management advisory committee - Members - Terms - Vacancies.

1. The Devils Lake outlets management advisory committee consists of:
 - a. The governor or governor's designee;
 - b. A representative from Benson County appointed by the governor;
 - c. A representative from Ramsey County appointed by the governor;
 - d. A representative from Towner County appointed by the governor;
 - e. A representative from Nelson County appointed by the governor;
 - f. A representative from the Devils Lake joint water resource board appointed by the governor;
 - g. A representative from the Spirit Lake Nation appointed by the governor;
 - h. A representative from the city of Devils Lake appointed by the governor;
 - i. A representative from Barnes County appointed by the governor;
 - j. A representative from Valley City appointed by the governor;
 - k. A representative from Lisbon or Fort Ransom appointed by the governor;
 - l. A representative from Fargo appointed by the governor;
 - m. A representative from Grand Forks appointed by the governor;
 - n. The governor of Minnesota or a designee appointed by the governor of Minnesota;
 - o. The premier of Manitoba or the premier's designee; and
 - p. A member of the house and a member of the senate, one representing the Devils Lake basin region and one representing the downstream region, appointed by the chairman of the legislative management.
2. All appointed members serve for a term of four years or until their successors are appointed and qualified.
3. Terms expire on the first day of July.
4. The terms of appointed members must be staggered by lot so that at least three of the terms expire each year.
5. Members of the committee may be reappointed for additional terms and except for the legislative members, serve at the pleasure of the governor.
6. A vacancy must be filled in the same manner as original appointments for the remainder of the unexpired term.

61-36-02. Chairman - Quorum - Meetings.

The governor or governor's designee is the chairman of the committee. A majority of the members of the committee constitutes a quorum. The committee shall hold meetings at the call of the chairman before initial operation of the outlets, and at such other times as the chairman deems necessary.

61-36-03. Compensation and expenses.

Repealed by S.L. 2013, ch. 489, § 4.

61-36-04. Duties of the committee.

The committee shall advise the governor and the state water commission regarding operations of all Devils Lake outlets. The committee may recommend criteria for operation of each outlet based on outflow volumes, water quality considerations, and the risk of an overflow of Devils Lake. Any recommendations developed by the committee must receive support from ten of the seventeen members of the committee before submission to the governor or state water commission. Any recommendation not receiving majority support but receiving support from at least five members may be submitted as a minority recommendation.

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River Advisory Council. The Missouri River provides most of the surface water flow in the state and is essential for water supplies for people and industry, irrigation, agriculture, energy development, fish and wildlife, and recreational opportunities. A Missouri River advisory council is established to advise state agencies on issues concerning the Missouri River, and to provide recommendations to the governor and legislative assembly.

61-42-02. Members – Terms - Expenses.

1. The governor shall appoint the following members of the advisory council:
 - a. A representative of recreation;
 - b. A representative of irrigation;
 - c. A representative of cities;
 - d. A representative of regional water system;
 - e. A representative of agriculture;
 - f. A representative of energy development;
 - g. A representative of environment and conservation;
 - h. A representative of the Garrison Diversion Conservancy District;
 - i. Eleven county representatives, each representing one of the eleven counties bordering the Missouri River; and
 - j. The governor's designee, chairman.
2. Additional members of the advisory council include:
 - a. The chairman of the Three Affiliated Tribes, or designee;
 - b. The chairman of the Standing Rock Sioux Tribe, or designee; and
 - c. The chairman of the Trenton Indian Service Area, or designee.
3. The following state agencies may attend:
 - a. Director of game and fish department, or designee;
 - b. Director of parks and recreation department, or designee;
 - c. State engineer, or designee;
 - d. State health officer, or designee;
 - e. Commissioner of the department of commerce, or designee;
 - f. Director of Indian affairs commission, or designee;
 - g. Director of land department, or designee;
 - h. Director of oil and gas division, or designee;
 - i. Commissioner of the department of agriculture, or designee.
4. All appointed members serve for a term of four years or until successors are appointed and qualified. Terms expire on the first

day of July. The term of appointed members must be staggered so that at least four of the terms expire each year. Appointed members may be reappointed for additional terms and serve at the pleasure of the governor.

5. The governor or the governor's designee is chairman of the advisory council.
6. The members of the advisory council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The expenses of advisory council members are to be paid by the water commission.
7. Funds from the resources trust fund will be appropriated to the water commission to fund the activities of the advisory council. The water commission shall provide staffing and support services for the advisory council.

61-42-03. Duties.

1. The advisory council shall hold meetings open to the public at least twice per year or as often as the chairman deems necessary. The advisory council shall provide the governor, legislative assembly, and state agencies with recommendations of issues that need to be studied or addressed relating to the protection and use of the Missouri River and operations of the reservoirs. The advisory council may request financial assistance from the water commission for advisory council efforts.
2. Any recommendations developed by the advisory council must receive support from thirteen members before submission to the governor or state agencies. Any recommendation not receiving majority support but receiving support from at least six members may be submitted as a minority recommendation.
3. The advisory council may establish working groups and may collaborate with other organizations to make recommendations or accomplish objectives. At the request of the legislative assembly, the advisory council shall report ongoing activities.

1249
1/29/15

#3

Testimony by Duane DeKrey, General Manager
Garrison Diversion Conservancy District

To the

House Energy and Natural Resources Committee

Bismarck, North Dakota
January 29, 2015

Chairman Porter, members of the committee, thank you for this opportunity to testify in support of House Bill 1249. My name is Duane DeKrey; I am the General Manager of the Garrison Diversion Conservancy District.

The Missouri River is one of North Dakota's most valuable natural resources, accounting for 95% of the surface water in the state. It is time to increase our efforts to protect the state's interest in this valuable resource. It is essential to utilize this abundant water resource and put Missouri River water to beneficial use for the people of North Dakota.

The Garrison Diversion Conservancy District believes that utilizing the Missouri River is important to North Dakota and saw the need for a group to represent affected stakeholders. To this end, the Garrison Diversion Conservancy District, in conjunction with the State Water Commission, provided funding to form a representative group of stakeholders invested in the Missouri River.

The future of North Dakota is water, and we have to perfect our water rights and understand how critical Missouri River water is to our state. Garrison Diversion supports this bill as we continue to work towards a solution to the full utilization of Missouri River water.

Thank you for allowing my testimony to be heard today.

1249
1/29/15

4A

TESTIMONY ON HOUSE BILL 1249
North Dakota Water Users Association
North Dakota Water Resource Districts Association
Michael Dwyer, Executive Vice President

Mr. Chairman and members of the committee, the North Dakota Water Users Association and the North Dakota Water Resource Districts Association support the concept of House Bill 1249. The mission of the North Dakota Water Users Association is to protect, develop and manage North Dakota's water. Our testimony includes the resolutions adopted by our members concerning the Missouri River. It illustrates the many issues concerning the Missouri River. One of our primary purposes is to protect North Dakota's interests in the Missouri River.

The Missouri River is North Dakota's most important water resource. Also attached to my testimony is a chart that shows the annual flows in North Dakota at various USGS stream gage stations on various rivers. These flows are illustrated on this chart in acre feet. It is easy to see that the Missouri River is the most critical water resource for the state of North Dakota.

We have large industrial users, small municipalities, large regional water supply systems, irrigation, rural water systems and others that depend on the Missouri River for a water supply. North Dakota is working to move water from the Missouri River to eastern North Dakota, where even a slight to moderate drought would have a devastating impact on the cities, rural water systems, people and economy of eastern North Dakota.

We have many challenges, including downstream states, Canada, environmental groups, the federal government, specifically the Corps of Engineers, but other agencies as well, that would obstruct our right to use waters from the Missouri River for beneficial uses in North Dakota. North Dakota and the other 17 western states are prior appropriation doctrine states, where the right to use water depends on actually putting water to beneficial use. The principle is use it or lose it.

For all of these reasons, we support the concept of House Bill 1249. While there may be adjustments in the name, structure, assigned work tasks, and funding, North Dakota must vigorously advocate and protect our rights to the Missouri River. House Bill 1249 begins the legislative discussion to create an action group, task force, advisory committee, or empower council to address this important priority. One very important issue for this entity is representation. We believe every organization currently identified in House Bill 1249 would like to have a seat at the table to support and provide input for North Dakota's efforts concerning the Missouri River. We are aware of two groups, the Lake Agassiz Water Authority and adjacent landowners along the Missouri River, who would like to be represented on a Missouri River council or task force.

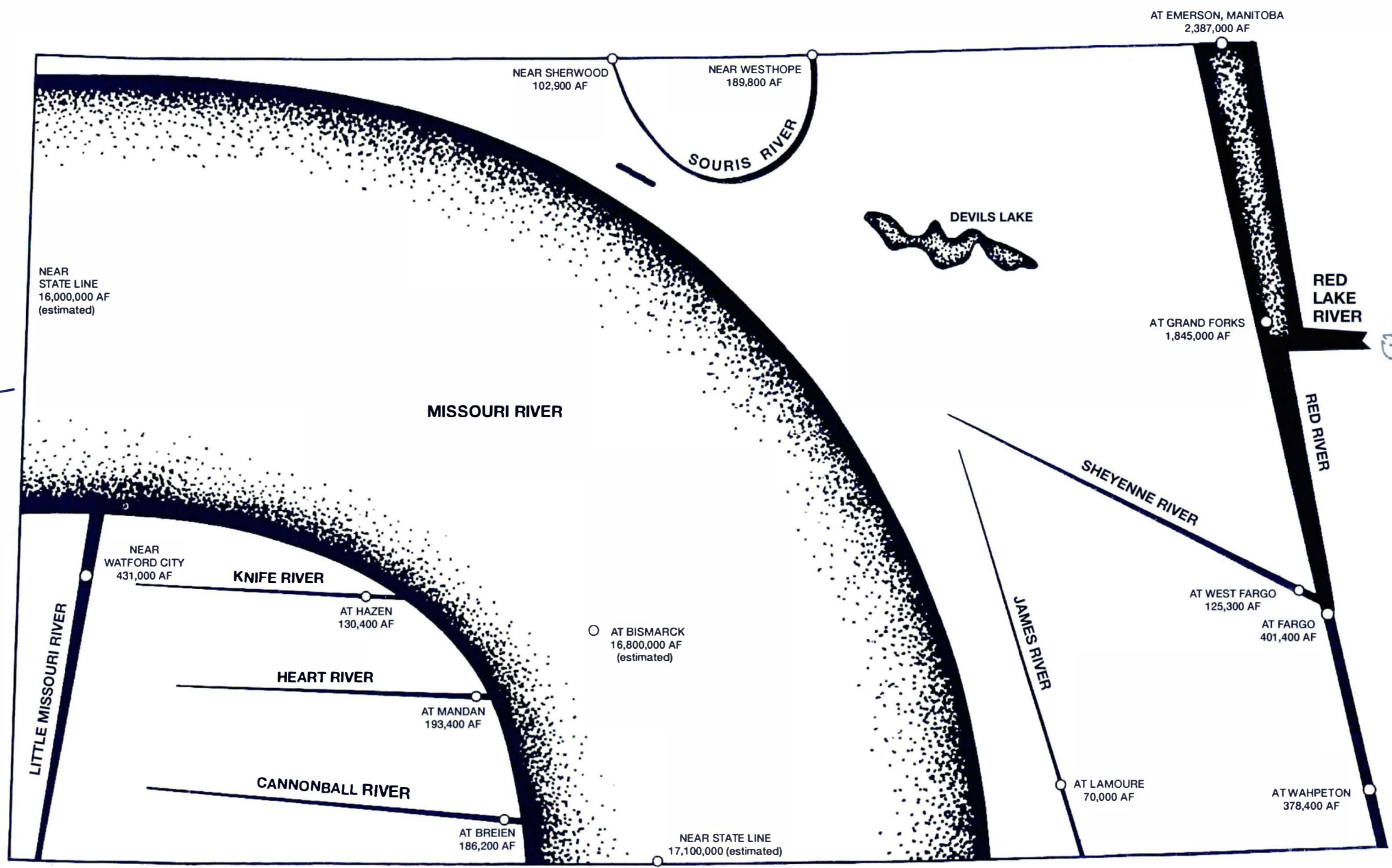
Thank you for your consideration of this most important issue.

RESOLUTIONS

1. **MISSOURI RIVER.** We oppose any effort by the COE or other Federal agency to modify the operation of the Missouri River to create sand or silt land areas for wildlife habitation. Any such effort should be subject to the requirements of an Environmental Impact Statement with specific emphasis the impact of such proposed actions upon the recreational and fishing industries of the River, the impact to surface water and ground water levels, the impact on community and irrigation intakes, the impact to bank erosion and water quality of the river, and the impact on the hydroelectric power generation capability of the System.
2. **MISSOURI RIVER COORDINATOR.** We support the efforts of the North Dakota State Water Commission, the Garrison Diversion Conservancy District, and the Missouri River Joint Board to establish a Missouri River Coordinator and Advocacy program for the current and long term protection of North Dakota's interests in the Missouri River.
3. **MISSOURI RIVER AUTHORIZED PURPOSES STUDY.** We support the MRAPS, and we urge the water community to vigorously work to reduce the priority of navigation and increase the upstream priorities of drought conservation and recreation, and to work for a process that balances input from upstream and downstream interests.
4. **MISSOURI RIVER PICK SLOAN RECOVERY PROGRAM.** We support a proposed North Dakota Missouri River Corridor Economic Recovery Act, whereas the federal government would appropriate six hundred million dollars to the Bank of ND for a period of ten years. The bank would invest this money and the interest would be used to rebuild the infrastructure that has been lost over the 50-year period by the main-stem Missouri River dams. Agencies in North Dakota would oversee the proposed plans and monitor progress.
5. **MISSOURI RIVER MASTER MANUAL REVIEW.** The Pick-Sloan Project has divided the Missouri River in North Dakota into four distinct areas - Williston area, Lake Sakakawea, Garrison Dam to Bismarck, and Lake Oahe. Each area has different problems and opportunities. We request the Governor and state agencies to continue to work with the Corps to achieve favorable change. Until bank protection is completed on the Missouri River we especially oppose high spring releases which cause excessive bank erosion and dangerous increase of the delta in south Bismarck-Mandan. We also oppose low summer releases which adversely impact most river users. We strongly support conservation of water in the reservoirs during times of drought to extend the availability of water throughout the drought.
6. **MISSOURI RIVER FLOWS.** We oppose efforts by states along the Mississippi River to seek alteration of the Master Manual and thereby reduce benefits to upstream states from of the Missouri River and the Pick-Sloan plan.
7. **MISSOURI RIVER TRUST.** We urge the Missouri River Trust to address Missouri River issues in North Dakota, including bank stabilization, riparian development, planning, siltation and other issues, as authorized under the Missouri River Protection and Improvement Act of 2000.
8. **BANK STABILIZATION.** We urge Congress to appropriate sufficient funds, and mandate the Corps of Engineers to proceed, so that needed bank stabilization projects on the free flowing Missouri and Yellowstone Rivers and their tributaries can be constructed on a timely basis. This will prevent the loss of additional high bottom lands, will reduce the build-up of the dangerous Oahe Delta and will allow greater flexibility of Garrison Dam releases, especially in winter. We urge the permitting office of the Corps of Engineers to promptly issue Section 404 permits for both private and federal bank protection projects that meet health and hydrologic requirements.

#43

ANNUAL FLOWS IN NORTH DAKOTA



Recorded River Flows

413

1249
1/29/15
b7Z

North Dakota Missouri River Stakeholders

PO Box 2254
Bismarck, ND 58502

Ryan M. Norrell, J.D.
Executive Director, North Dakota Missouri River Stakeholders
Bismarck, North Dakota
701-223-4615
rmnorrell@ndwaterlaw.com

Good afternoon, Chairman Porter and members of the committee. Thank you for this opportunity to testify on HB 1249 today. My name is Ryan Norrell and I am the Executive Director of the Missouri River Stakeholders, an organization working to create grassroots unity, leadership and direction to advocate and promote North Dakota's Missouri River Interests.

After flooding in the Missouri River basin in 2009 and 2011, and unprecedented economic development across North Dakota, the State Water Commission was asked to call a meeting of Missouri River stakeholders to explore forming a State-wide organization to maximize the Missouri River's potential in North Dakota. At the first several meetings, dozens of Missouri River stakeholders attended, but to narrow the focus and to develop recommendations for a path forward, twelve individuals representing diverse interests throughout the state volunteered to serve as Missouri River Stakeholders leadership committee.

One of the primary recommendations of the leadership committee was to hire a Missouri River coordinator to lead efforts on a day-to-day basis, and to conduct outreach to local stakeholders. The Missouri River Stakeholders began that outreach effort last May. Lance Yohe, formerly of the Red River Basin Commission, and I travelled across the state to county commissions, city councils, water resource districts, recreation groups, water supply projects and landowners to inform them of this grassroots effort to protect North Dakota's rights in the river and to hear their concerns.

During that outreach, we heard repeatedly that the Missouri River is important to all North Dakotans. We also invited stakeholders to a workshop hosted last November here in Bismarck. Over 100 stakeholders attended, representing diverse interests from the Southwest Water Authority to the Upper Sheyenne Joint Board, from Western Area Water Supply to the Lake Agassiz Water Supply, and from Bismarck homeowners to McIntosh County ranchers. Those stakeholders were unanimous in that North Dakota's interests in the river are being challenged and that we need to act with a cooperative approach to protect those interests.

Based off of hundreds of conversations across the state, I can tell you that the time for North Dakota to advocate for its interests in the Missouri River is now. Stakeholders in Wyoming and South Dakota are watching what we do here in North Dakota to protect our interests. Meanwhile, in Missouri, Governor Jay Nixon made protecting Missouri's interests in the River a priority in his recent State of the State address.

On behalf of the Missouri River Stakeholders, I thank the Legislature for recognizing the importance of the Missouri River to the State of North Dakota and we support the concept of this bill and stand ready to answer any questions or assist in any way in implementing the basic goals of this legislation.

North Dakota Missouri River Stakeholders

North Dakota Missouri River Stakeholders (NDMRS)

Mission: Creating grassroots unity, leadership and direction to advocate and promote North Dakota's Missouri River interests.

Goals of this effort

- To create unity and leadership for a North Dakota vision and voice on Missouri River issues.
- 2014 Fall Workshop: to build momentum, interest, commitment (ownership).
- 2015 Spring Conference: to develop leadership and direction to advocate North Dakota's Missouri River interests.

How we got here!

- 2005 - Missouri River Joint Board (MRJB) formed to address local issues along the river.
- 2012 - Workshop attended by 65 North Dakota stakeholders resulted in the formation of a Leadership Committee to create a North Dakota Missouri River organizational strategy.
- Funding provided by State Water Commission and Garrison Diversion Conservancy District to the MRJB to implement the 2012 workshop outcomes.
- The Leadership Committee established a path forward, a conceptual framework, and hired a project team to assist.

The challenge:

- To foster understanding among North Dakota's Missouri River interests – including views and needs of those stakeholders.
- To develop agreement on key issues and work together to maximize the Missouri River's potential in North Dakota.
- To convey stakeholders' goals within and outside the state's borders, and then work to achieve them.

Why is this needed?

- To enable North Dakota's Missouri River interests to collectively meet about, educate, advocate, understand, or respond to Missouri River issues and challenges.
- North Dakota needs greater unity and advocacy for what lies ahead - we need to start working together today to be ready for tomorrow!



What is needed?

- We need to develop a strong regional grassroots structure to listen, discuss, learn, educate, communicate, involve, advocate, and promote Missouri River issues.
- Agreement by North Dakotans on the key issues whenever possible.
- Commitment by North Dakotans to work together to realize North Dakota's interests on the Missouri River.
- A vision we all support and will help achieve.

What are some of the issues?

- Access to water within reservoir boundaries
- Flood control
- Wildlife habitat
- Annual Missouri River operating plan
- Adequate water supplies
- Sovereign land management
- Recreational access (boat ramps/roadways)
- Bank stabilization
- Floodplain management
- Sedimentation and delta formation
- Noxious weed control
- Land management
- Missouri River Recovery Program
- Irrigation
- Fishery health
- Water quality
- Endangered species
- Hunting access

What can you do to help?

- GET INVOLVED!
- STAY INVOLVED!
- SHARE YOUR VIEWS!
- LEAD!

ATTEND THE SPRING CONFERENCE:

**June 3-4, 2015
Ramkota Hotel
Bismarck, ND**

Leadership Committee

Wade Bachmeier
wade@btinet.net
701-400-4251

Pat Fridgen
pfridgen@nd.gov
701-328-4964

Mary Massad
mmassad@swwater.com
701-225-0241

Ken Royse
ken.royse@bartwest.com
701-202-5459

Duane Dekrey
duaned@daktel.com
701-652-5170

Michael Gunsch
mgunsch@houstoneng.com
701-527-2134

Jim Neubauer
jneubauer@cityofmandan.com
701-667-3214

Ron Sando
rksando1@aol.com
701-226-5038

Terry Fleck
tfleck@attitudedr.com
701-223-9768

Dave Koland
davek@daktel.com
800-532-0074

Bill Ongstad
bill.ongstad@gmail.com
701-341-2937

Jean Schafer
jeans@bepc.com
701-400-5814

Project Team

Ryan Norrell
rmnorrell@ndwaterlaw.com
701-223-4615

Lance Yohe
tbslance@gmail.com
701-371-8246

Jackie Nye
waterone@btinet.net
701-223-4615

Mike Dwyer
mdwyer@ndwaterlaw.com
701-223-4615

North Dakota Missouri River Stakeholders

PO Box 2254
Bismarck, ND 58502

North Dakota: House Natural Resources Committee

Thursday, January 29, 2015 – Supportive Position on HB 1249

Lance Yohe, Missouri River Stakeholders, Leadership Committee, Senior Advisor
Phone 701-371-8246 (cell)

Chairman Porter and members of the committee, thank you for the opportunity to testify on HB 1249 today. My name is Lance Yohe and my role with the Missouri River Stakeholders (MRS) Leadership Committee that is composed of water leaders in North Dakota, is that of Senior Advisor. My experiences in bringing organizations and jurisdictional interest together around a shared vision are providing options for consideration as the MRS seek to organize North Dakota's interests around the Missouri River. The following quote from Missouri Governor Nixon's state of the state address indicates just how important it is for North Dakota to continue to organize all stakeholders that have an interest in the Missouri River to strengthen North Dakota's position and use of the Missouri River.

"Missouri is blessed with an abundance of fresh water – from the Mississippi and Missouri rivers, to our clear-running Ozark streams. We take it for granted. But if you go upstream to the Dakotas, to the headwaters of the Missouri, it's a different story. They're fighting over water. They want to divert as much water from the Missouri River as they can, which would leave our farmers and shippers high and dry. Take Kansas. Their latest harebrained idea is the construction of a 360-mile aqueduct to siphon off more of our Missouri River water. We can't let that happen. As long as I am Governor, I will not let states upstream divert Missouri River water that we rely on for drinking, farming and industry. We need to protect the amount of water we have in Missouri, and we need to protect the quality of water we have in Missouri.... Our rivers and streams are part of the priceless outdoor heritage all Missourians can enjoy."

This type of challenge from downstream states over the use of Missouri River water is enough reason for North Dakotan's to unite and act. If federal agencies are added to this the challenge is

that much greater. It seems that others agree with the MRS premise that North Dakota interests are being challenged by other states, such as Missouri, and federal agencies, such as the US Army Corp of Engineers. The Legislative leaders with HB 1249, the Administration (Governor and SWC), and the MRS are all looking for a path forward that increases involvement of ND stakeholders, unites ND's approach, create more awareness of the importance of the Missouri River to ND, and provides a venue for action. The question is what is the best path forward? Looking at other parts of the state there are models that might prove useful. The Red River Basin Commission brings North Dakota, South Dakota, Minnesota, and Manitoba grassroots citizens; local, state, provincial, and federal governments; and other stakeholders together to work on Red River issues across political boundaries. In the Devil's Lake area, federal and state efforts have led to solutions that an advisory committee continues to guide and direct to keep all stakeholders informed and aware of outlet activities and impacts. These examples illustrate stakeholder involvement options that the MRS have been working to achieve on the Missouri River, statewide in North Dakota. HB 1249 provides us all the "Opportunity" to explore together the best path forward. This bill conceptually lays out a significant beginning in finding this path forward. We believe that additional input to the language of this bill from the Administration (Governor and the SWC) and the MRS can solidify everyone's ideas into one strong, all encompassing, state wide, funded law that will position North Dakota to do battle and protect its interests in the future. We encourage continued dialogue on this bill in six areas:

- 1) Name – to portray importance to North Dakota.
- 2) Issues – should be broad enough to cover the 8 authorized purposes and any other issue North Dakota may want address.
- 3) Stakeholders – should cover key issues and the more involvement the stronger the awareness.
- 4) Role – shouldn't be in conflict with other mandates.
- 5) Location – SWC seems to be well supported.
- 6) Funding – needs funds for additional staff effort, or we will continue as currently and all groups seem to want more.

We are supportive of moving this bill forward with language that brings together, in the six areas above, what the Legislator's, Administration (Governor and SWC) and MRS all are hoping to accomplish for North Dakota. Thank you for your interest in this important issue.

North Dakota Missouri River Stakeholders

PO Box 2254
Bismarck, ND 58502

House Natural Resources Committee

Thursday, January 29, 2015 – Support Position on HB-1249

Michael H. Gunsch, Missouri River Stakeholders Leadership Committee

Phone 701-527-2134 (cell)

Chairman Porter and members of the committee, I'm Michael Gunsch, representing the Missouri River Stakeholders Leadership Committee, here today to voice an opinion on HB-1249. We are speaking today in a "Support with reservations position". Who are we as the Leadership Committee? As a registered professional engineer in North Dakota for over 30 years I have been actively involved in Missouri River issues. In the early 1980's with ND State Water Commission on bank stabilization and sovereign lands issues, in the mid-1980's working with Andy Mork, and Senator Burdick, on the senator's authorship of the COE's Section 33 bank stabilization authorities, as a consultant to the Garrison Diversion Conservancy District on operation and maintenance projects, the 1986 Dakota Water Resources Act which created our Municipal, Rural and Industrial (MR&I) water supply program, the 1988 NAWIS needs analysis and now project construction, in the 1990's on the design and permitting riverside developments and dredging, in 2005 updating Bismarck-Mandan's FEMA floodplain mapping, attending numerous COE Annual Operations Plan (AOP) meetings, studying and monitoring Missouri River operations, involvement in the 2009 Bismarck-Mandan ice jam flood recovery, during the 2011 historic Missouri River flood participating in the State Emergency Operations Center (SEOC) forecasting projected flood elevations in a joint effort with the COE, NDSWC, USGS, National Weather Service, Burleigh County and others, while assisting in oversight on constructing five miles of temporary flood protection and subsequent flood recovery, including commentary on after action reports and reviewing federal technical evaluations of the event.

So what does this have to do with HB-1249? Every Leadership Committee member has an extensive resume, and our combined experience with Missouri River issues provides us a clear understanding that if HB-1249 is to be effective in representing all Stakeholders and the greater interests of the State of North Dakota **it has to reference the authorized purposes outlined in the 1944 Flood Control Act**. Why? Because, this is a federally operated and managed project. What are these purposes? They include *flood control, water supply, hydropower, recreation, water quality, irrigation, fish and wildlife and navigation*. These purposes are governed under the *Missouri River Master Manual* and involve the *COE, Bureau of Reclamation, USFWS, EPA, WAPA and many other federal agencies*. Two other elements adversely impacting our state, which are not identified as authorized purposes, are erosion and sedimentation. These affect bank lines, water supply intakes and increase flood risks.

If we are to truly advocate for protecting North Dakota's interests in this valuable resource, we must educate our stakeholders about the laws and rules governing the Missouri River.

HB-1249 provides a foundational framework, which as currently constituted does not meet the larger statewide Stakeholder needs, as it appears more focused on COE operation and recreational issues. However, there are numerous critical Missouri River issues requiring our immediate attention. There are very important agency activities, beyond what the COE is doing, including the Endangered Species Act, EPA's federal regulatory overreach on Waters of the US, the Missouri River Recovery and Implementation Committee (MRRIC) authorized under the federal Water Resource Development Act (WRDA), just to name a few. All of which we need to be very concerned about and require our focused attention. If modified, HB-1249 has the potential to be a very valuable vehicle to expedite the Missouri River Stakeholders process toward achieving our common objective to increase awareness and begin addressing the issues facing our state to protect our shared interests.

In short the Missouri River, our largest and most valuable water resource, does not have an organized group or voice representing the interests of its Stakeholders and State of North Dakota. Prior to the 1944 Flood Control Act the federal government came to North Dakota, and we as a state agreed to provide a permanent flood and the loss of lands in our nation's greater interests, all for the promise of benefits to be provided later. While some benefits have been realized, some 70 years later many have not and may never be, unless we are united and vigilant in protecting our rights and interests in the Missouri River. We were not prepared in 1944, and we are not adequately prepared today to challenge the likes of the State of Missouri who believe that all the water is theirs – **Well it's NOT!** We need to understand the growing challenges to Missouri River uses and prepare to defend what is rightfully ours by recognizing its value and potential. The fiscal note on this bill should not be an issue given the significant losses that will occur if we fail to prepare for the challenges ahead. Given what the State of Missouri is willing to invest (\$70 million) to protect what they believe are their interests, we need to act now to defend ours.

The Missouri River Leadership Committee is available to assist as you further consider HB-1249 to possibly create legislation that can achieve our objectives and provide a forum representing all Stakeholders. Again while supporting the concept we have reservations as noted and strongly encourage changes that would allow all Stakeholders to fully support this legislation. Because in the end what is this about? – the Stakeholders and the greater interests of State of North Dakota in the Missouri River. Thank you for your time and as a Leadership Committee we are available to answer any questions that you might have today or as you deliberate potential revisions.

SECTION 2. The following agencies and organizations shall be represented on the _____.

1. The following ex officio members:
 - a. The governor or the governor's designee;
 - b. The state engineer or the state engineer's designee;
 - c. The game and fish commissioner or the commissioner's designee;
 - d. The director of the parks and recreation department or the director's designee;
 - e. The director of the health department or the director's designee;
 - f. The commissioner of agriculture or the commissioner's designee;
2. The following members:
 - a. A representative of the Three Affiliated Tribes;
 - b. A representative of the Standing Rock Sioux Tribe;
3. The following members:
 - a. A representative of the friends of Lake Sakakawea;
 - b. A representative of the voices of Lake Oahe;
 - c. A representative of the Missouri River joint board;
 - d. A representative of cities along the Missouri River;
 - e. A representative of counties along the Missouri River;
 - f. A representative of counties along Lake Sakakawea;
 - g. A representative of the garrison diversion conservancy district;
 - h. A representative of counties along Lake Oahe;
 - i. A representative of the southwest water authority;
 - j. A representative of the western area water authority;
 - k. A representative of the Lake Aggasiz water authority;
 - l. A representative of the North Dakota irrigation association;
 - m. A representative of water resource districts;
 - n. A representative of the North Dakota water users association;
 - o. A representative of rural water systems;
 - p. A representative of the oil industry;
 - q. A representative of oil and gas producing counties;
 - r. A representative of the lignite energy industry;
 - s. A representative of the generation and transmission electric cooperative industry;
 - t. A representative of the hydropower industry;
 - u. A representative of adjacent landowners along the Missouri River;
 - v. A representative of the parks and recreation industry;
 - w. A representative of conservation interests;
 - x. A representative of the agriculture industry;
 - y. Two additional at large representatives;

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad
Senators Schneider, Wardner

1 A BILL for an Act to create and enact section 61-42-01 of the North Dakota Century Code,
2 relating to creation of the Missouri River Advisory Council; and to provide for a report.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4

5 **SECTION 1. SECTION 61-42 OF THE NORTH DAKOTA CENTURY CODE**
6 **IS CREATED AND ENACTED AS FOLLOWS:**

7

8 61-42-01 Missouri River Advisory Council

9

10 The Missouri River comprises the vast majority provides most of the surface water
11 flow in the state and is essential for water supplies for people and industry, irrigation,
12 agriculture, energy development, fish and wildlife, and recreational opportunities. A
13 Missouri River advisory council is established to advise state agencies on issues
14 concerning the Missouri River, and to provide recommendations to the governor, and
15 legislative assembly.

16

17 61-42-02 Members - Terms – Expenses

18

19 1. The following stakeholder members of the advisory council will be appointed by the
20 governor:

21

(a) A representative of recreation;

22

(b) A representative of irrigation;

23

(c) A representative of cities;

24

(d) A representative of regional water systems;

25

(e) A representative of rural water systems;

26

(fe) A representative of agriculture;

27

(gf) A representative of energy development

28

(hg) A representative of environment and conservation;

29

(ih) A representative of the garrison diversion conservancy district;

30

(j) One at large stakeholder representative;

- (ki) Three county representatives, one each from counties bordering the free flowing reach of the Missouri River, counties bordering Lake Sakakawea and counties bordering Lake Oahe. Eleven county representatives, each representing one of the eleven counties bordering the Missouri River;
- (l) Governor's designee, chairman

2. Additional members of the advisory council include:

- (a) The chair of the Three Affiliated Tribes or designee;
- (b) The chair of the Standing Rock Sioux Tribe, or designee;
- (c) The chair of the Trenton Indian Service Area, or designee;

3. The following state agencies may be represented, but are nonvoting members of the Council will attend;

- (a) Director of game and fish department, or designee;
- (b) Director of parks and recreation department, or designee;
- (c) State engineer, or designee;
- (d) State health officer, or designee;
- (e) Commissioner of the department of commerce, or designee;
- (f) Director of Indian Affairs commission, or designee;
- (g) Director of land department, or designee;
- (h) Director of oil and gas division, or designee;
- (i) Commissioner of the department of agriculture, or designee.
- (j) All other state agencies shall provide assistance to the Council, as requested, but are nonvoting.

4. All appointed members serve for a term of four years or until successors are appointed and qualified. Terms expire on the first day of July. The term of appointed members must be staggered so that at least four of the terms expire each year. Appointed members of the committee may be reappointed for additional terms and serve at the pleasure of the governor.

5. The governor or the governor's designee is chair of the advisory council, or the governor may allow the Council to select its chair.

1 6. The members of the advisory council are entitled to receive mileage and
2 expenses at the rates and under the terms as provided by law for state
3 employees. The expenses of advisory council members are to be paid by the
4 state water commission.

5
6 7. Funds from the resources trust fund will be appropriated to the state water
7 commission to fund the activities of the council. The state water commission shall
8 provide staffing and support services for the advisory council.

9
10 61-42-3 Duties

11
12 1. The advisory council shall hold meetings open to the public at least twice per year
13 or as often as the chair deems necessary. This may include an opportunity for the
14 public to present issues or concerns to the council. The advisory council shall
15 provide the governor, legislators, congressional delegation, and state agencies
16 with recommendations related to of issues that needing to be studied or
17 addressed relating to the protection and use of the Missouri Rriver and operations
18 of the reservoirs. Council can request financial assistance from the State Water
19 Commission for council efforts.

20
21 2. Any recommendations developed by the (advisory council) must receive support
22 from ~~ten thirteen~~ members before submission to the governor or state agencies.
23 Any recommendation not receiving majority support but receiving support from at
24 least six members may be submitted as a minority recommendation.

25
26 3. The advisory council may establish working groups and may collaborate with
27 other organizations to make recommendations or accomplish objectives to protect
28 all the interests and rights of the state of North Dakota and its public stakeholders in the
29 Missouri River. This could include, but is not limited to the eight authorized purposes
30 identified in the Corps of Engineers master manual, along with erosion and
31 sedimentation, the management of federal lands, and any other existing or potential
32 beneficial uses. At the request of the legislative assembly, the council shall report
33 ongoing activities.

- 1
2 4. The advisory council shall work with appropriate state agencies, local
3 governments and stakeholders to strengthen the state's working relationship with
4 the United States federal agencies.

#1

2/12/15
1249
Subcommittee
Mike Dwyer

This is to comment on the representation of the Missouri River entity that HB 1249 proposes to establish. First, I would like to direct you to the makeup of the ND Empower Commission, which is a very popular and successful entity created by the Legislature in 2007. Several of the representatives are recommended by existing organizations who HAVE A STAKE IN ENERGY, HAVE MEMBERSHIPS (GRASSROOTS) WHO CARE ABOUT ENERGY, AND WHOSE DESIGNEE BRINGS TO THE TABLE THE STAFF, POLICY POSITIONS, GRASSROOTS, AND OTHER RESOURCES OF THAT ORGANIZATION.

I make the argument to you that if you would like this Missouri River entity to be successful, some of the representation must come from or be recommended by existing entities who HAVE A STAKE IN THE MISSOURI RIVER, HAVE MEMBERSHIPS (GRASSROOTS) WHO CARE ABOUT THE MISSOURI RIVER, AND WHOSE DESIGNEE BRINGS TO THE TABLE THE STAFF, POLICY POSITIONS, GRASSROOTS, AND OTHER RESOURCES OF THAT ORGANIZATION. The organizations that should recommend this representative similar to how some of the Empower representatives are designated, include:

- a. The friends of Lake Sakakawea;
- b. The voices of Lake Oahe;
- c. The garrison diversion conservancy district;
- d. The southwest water authority;
- e. The western area water authority;
- f. The North Dakota irrigation association;
- g. The North Dakota water users association;
- h. The North Dakota rural water systems association;
- i. The North Dakota ag coalition;
- j. The North Dakota petroleum council;
- k. The lignite energy council;

Additional representatives should include:

- a. A representative of cities along the Missouri River;
- b. Representatives of counties;
- c. A representative of water resource districts;
- d. A representative of the generation and transmission electric cooperative industry;
- e. A representative of the hydropower industry;
- f. A representative of adjacent landowners along the Missouri River;
- g. A representative of the recreation industry;
- h. A representative of conservation interests;
- i. A representative of investor owned utilities
- j. A representative of independent water providers

The Missouri River is a vast resource with many multiple issues. I would suggest that it is essential that as many interests as possible be represented to reach full consensus and widespread support for any recommendations submitted to the Governor, State Water Commission, or Legislature.

Introduced by

Representatives

Senators

1 A BILL for an Act to create and enact section 61-42-01 of the North Dakota Century Code,
2 relating to creation of the Missouri River Advisory Council; and to provide for a report.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4

5 **SECTION 1. SECTION 61-42 OF THE NORTH DAKOTA CENTURY CODE**
6 **IS CREATED AND ENACTED AS FOLLOWS:**

7

8 61-42-01 Missouri River Advisory Council

9

10 | The Missouri River ~~comprises the vast majority provides most~~ of the surface water
11 | flow in the state and is essential for water supplies for people and industry, irrigation,
12 | agriculture, energy development, fish and wildlife, and recreational opportunities. A
13 | Missouri River advisory council is established to create a unified vision and voice for
14 | the State of North Dakota and its Stakeholders regarding the use and management of
15 | the Missouri River, and to advise the governor, legislature and state agencies on
16 | issues concerning the Missouri River, and to provide recommendations to the
17 | governor, legislative assembly.

18

19 61-42-02 Members - Terms – Expenses

20

21 | 1. The following stakeholder members of the advisory council will be appointed by the
22 | governor:

23

(a) A representative of recreation;

24

(b) A representative of irrigation;

25

(c) A representative of cities;

26

(d) A representative of regional water systems;

27

(e) A representative of rural water systems;

28

(f) A representative of agriculture;

29

(g) A representative of energy development

30

(h) A representative of environment and conservation;

- 1 (ih) A representative of the garrison diversion conservancy district;
2 (j) One at large stakeholder representative;
3 (ki) Three county representatives, one each from counties bordering the free
4 flowing reach of the Missouri River, counties bordering Lake Sakakawea and
5 counties bordering Lake Oahe. Eleven county representatives, each
6 representing one of the eleven counties bordering the Missouri River;
7 (l) Governor's designee, chairman

9 2. Additional members of the advisory council include:

- 10
11 (a) The chair of the Three Affiliated Tribes or designee;
12 (b) The chair of the Standing Rock Sioux Tribe, or designee;
13 (c) The chair of the Trenton Indian Service Area, or designee;

14
15 3. The following state agencies may be represented, but are nonvoting members of
16 the Council will attend;

- 17 (a) Director of game and fish department, or designee;
18 (b) Director of parks and recreation department, or designee;
19 (c) State engineer, or designee;
20 (d) State health officer, or designee;
21 (e) Commissioner of the department of commerce, or designee;
22 (f) Director of Indian Affairs commission, or designee;
23 (g) Director of land department, or designee;
24 (h) Director of oil and gas division, or designee;
25 (i) Commissioner of the department of agriculture, or designee.
26 (j) All other state agencies shall provide assistance to the Council, as requested, but
27 are nonvoting.

28
29 4. All appointed members serve for a term of four years or until successors are
30 appointed and qualified. Terms expire on the first day of July. The term of
31 appointed members must be staggered so that at least four of the terms expire
32 each year. Appointed members of the committee may be reappointed for
33 additional terms and serve at the pleasure of the governor.
34

1 5. The governor or the governor's designee is chair of the advisory council, ~~or the~~
2 ~~governor may allow the Council to select its chair.~~
3

4 6. The members of the advisory council are entitled to receive mileage and
5 expenses at the rates and under the terms as provided by law for state
6 employees. The expenses of advisory council members are to be paid by the
7 state water commission.
8

9 7. Funds from the resources trust fund will be appropriated to the state water
10 commission to fund the activities of the council. The state water commission shall
11 provide staffing and support services for the advisory council.
12

13 61-42-3 Duties
14

15 1. The advisory council shall hold meetings open to the public at least twice per year
16 or as often as the chair deems necessary. ~~This may include an opportunity for the~~
17 ~~public to present issues or concerns to the council.~~ The advisory council shall
18 provide the governor, legislators, ~~congressional delegation~~ and state agencies
19 with recommendations ~~related to of~~ issues ~~that~~ needing to be studied or
20 addressed relating to the protection and use of the Missouri ~~R~~river and operations
21 of the reservoirs. ~~The council shall gather input to build consensus, collaboration~~
22 ~~and partnership opportunities, including education and outreach, to promote and~~
23 ~~advocate for North Dakota and its stakeholders rights and interest in the Missouri~~
24 ~~River.~~ Council can request financial assistance from the State Water Commission
25 for council efforts.
26

27 2. Any recommendations developed by the (advisory council) must receive support
28 from ~~ten thirteen~~ members before submission to the governor or state agencies.
29 Any recommendation not receiving majority support but receiving support from at
30 least six members may be submitted as a minority recommendation.
31

32 3. The advisory council may establish working groups and may collaborate with
33 other organizations to make recommendations or accomplish objectives ~~to protect~~
34 ~~all the interests and rights of the state of North Dakota and its public stakeholders in the~~
35 ~~Missouri River.~~ This could include, but is not limited to the eight authorized purposes

1 identified in the Flood Control Act of 1944 and implemented by the Corps of Engineers in
2 their master manual, along with erosion and sedimentation, the management of federal
3 lands, and any other existing or potential beneficial uses. At the request of the
4 legislative assembly, the council shall report ongoing activities.
5

6 4. The advisory council shall work with appropriate state agencies, local
7 governments and stakeholders to strengthen the state's working relationship with
8 the United States federal agencies.

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad

Senators Schneider, Wardner

A BILL for an Act to create and enact section 61-02-79 of the North Dakota Century Code, relating to creation of the Missouri River empower council; and to provide for a report for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of the Missouri River empower advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~SECTION 1.~~ Section 61-02-79 of the North Dakota Century Code is created and enacted as follows:

~~61-02-79. Missouri River empower council - Report.~~

~~1. Because the Missouri River provides most of the surface water flow in the state and is essential for water supplies of cities and rural water systems across the state, because the Missouri River system provides extraordinary recreational opportunities, because it is a goal of the state that the United States army corps of engineers accommodate North Dakota's interests in developing and implementing the annual operating plan under the Missouri River master manual, and because the Three Affiliated Tribes of the Fort Berthold Reservation and the Standing Rock Sioux Tribe have a significant stake in the use and development of the water resources in the Missouri River system, the Missouri River empower council is created to advocate for North Dakota's rights in the Missouri River, to achieve greater utilization of the lands adjacent to and surrounding the Missouri River system, and to provide grassroots and stakeholder representation for developing policies, priorities, and recommendations to the legislative assembly.~~

~~2. The Missouri River empower council is composed of:~~

~~a. The following ex-officio members:~~

~~(1) The governor or the governor's designee;~~

- 1 ~~(2) The director of the game and fish department or the director's designee,~~
2 ~~who serves as a nonvoting member;~~
- 3 ~~(3) The director of the parks and recreation department or the director's~~
4 ~~designee, who serves as a nonvoting member;~~
- 5 ~~(4) The state engineer or the state engineer's designee, who serves as a~~
6 ~~nonvoting member;~~
- 7 ~~(5) The state health officer or the state health officer's designee, who serves as~~
8 ~~a nonvoting member;~~
- 9 ~~(6) The commissioner of the department of commerce or the commissioner's~~
10 ~~designee, who serves as a nonvoting member;~~
- 11 ~~(7) The director of the department of commerce division of tourism or the~~
12 ~~director's designee, who serves as a nonvoting member;~~
- 13 ~~(8) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation~~
14 ~~or the chairman's designee; and~~
- 15 ~~(9) The chairman of the Standing Rock Sioux Tribe or the chairman's designee;~~
- 16 ~~b. The following members appointed by the governor:~~
- 17 ~~(1) A representative of the Missouri River joint water board, or similar~~
18 ~~organization;~~
- 19 ~~(2) A representative of friends of Lake Oahe, or similar organization;~~
- 20 ~~(3) A representative of friends of Lake Sakakawea, or similar organization;~~
- 21 ~~(4) A representative of the North Dakota irrigation association, or similar~~
22 ~~organization;~~
- 23 ~~(5) A representative of the North Dakota water users association, or similar~~
24 ~~organization;~~
- 25 ~~(6) A representative of the North Dakota water resource districts association, or~~
26 ~~similar organization;~~
- 27 ~~(7) A representative of the North Dakota rural water systems association, or~~
28 ~~similar organization;~~
- 29 ~~(8) A representative of the independent water providers, or similar organization;~~
- 30 ~~(9) A representative of the oil industry;~~
- 31 ~~(10) A representative of the lignite energy industry;~~

1 ~~(11) A representative of the generation and transmission electric cooperative~~
2 ~~industry;~~

3 ~~(12) A representative of the North Dakota association of oil and gas producing~~
4 ~~counties, or similar organization;~~

5 ~~(13) A representative of the North Dakota league of cities, or similar organization;~~

6 ~~(14) Six county commissioners, each representing a different one of the six~~
7 ~~counties bordering Lake Sakakawea;~~

8 ~~(15) A representative of the southwest water authority, who serves as a~~
9 ~~nonvoting member;~~

10 ~~(16) A representative of the western area water supply authority, who serves as~~
11 ~~a nonvoting member;~~

12 ~~(17) A representative of the northwest area water supply project, who serves as~~
13 ~~a nonvoting member; and~~

14 ~~(18) A representative of the Garrison Diversion Conservancy District, who serves~~
15 ~~as a nonvoting member; and~~

16 ~~c. Any additional members appointed by the governor, who will serve as nonvoting~~
17 ~~members.~~

18 ~~3. Each member of the council appointed by the governor shall serve for a term of two~~
19 ~~years, beginning July first; may be reappointed for additional terms, not to exceed~~
20 ~~eight consecutive years; and serves at the pleasure of the governor.~~

21 ~~4. The governor or the governor's designee is chairman of the council. The board may~~
22 ~~elect an executive committee to consist of five or more voting members, with such~~
23 ~~powers and duties as may be delegated by the council.~~

24 ~~5. The council shall meet at least quarterly or as often as the chairman deems~~
25 ~~necessary. A majority of the voting membership constitutes a quorum. The council~~
26 ~~shall hold at least two public hearings per biennium at which time interested parties~~
27 ~~may present testimony regarding issues pertinent to the Missouri River, Lake~~
28 ~~Sakakawea, or Lake Oahe. The council may travel outside the state to meet with the~~
29 ~~United States army corps of engineers or other federal agency or to meet with the~~
30 ~~United States congress to address issues concerning North Dakota's interests in the~~
31 ~~Missouri River.~~

1 — ~~6. The council shall establish working groups and shall collaborate with existing~~
2 ~~organizations to make recommendations and accomplish objectives in the areas of~~
3 ~~irrigation, hydropower, water supply, energy development, conservation and wildlife,~~
4 ~~Lake Sakakawea, and Lake Oahe. The council shall work to strengthen the state's~~
5 ~~working relationship with the United States army corps of engineers in order to~~
6 ~~improve the state's negotiating position with the United States army corps of engineers~~
7 ~~and to enhance the economic development of the state.~~

8 — ~~7. Periodically the council shall report to the water topics overview committee on the~~
9 ~~activities of the council.~~

10 — ~~8. The members of the council who are not state employees are entitled to receive~~
11 ~~mileage and expenses as provided by law for state officers and employees. Unless~~
12 ~~otherwise provided in this subsection, the expenses of appointed members are to be~~
13 ~~paid by the state water commission. A state employee who is an ex officio member of~~
14 ~~the council is entitled to receive that employee's regular salary and is entitled to~~
15 ~~receive mileage and expenses, to be paid by the employing agency.~~

16 — ~~9. Funds from the resources trust fund will be appropriated to the the state water~~
17 ~~commission to fund the activities of the council. The state water commission shall~~
18 ~~provide staffing and support services for the council. The state water commission may~~
19 ~~contract with a third party to provide staffing and support services for the council and~~
20 ~~may hire an executive director and other personnel as necessary to provide staffing~~
21 ~~and support services for the council.~~

22 — **~~SECTION 2. MISSOURI RIVER EMPOWER COUNCIL - STUDY - REPORT.~~**

23 — ~~1. During the 2015-16 interim, in accordance with the duties of the Missouri River~~
24 ~~empower council under subsection 6 of section 61-02-79, the council shall establish~~
25 ~~working groups and shall collaborate with existing organizations to develop~~
26 ~~recommendations and goals for:~~

27 — ~~a. Providing adequate water supplies from the Missouri River system to areas of~~
28 ~~need;~~

29 — ~~b. Recreation and development opportunities around Lake Sakakawea and Lake~~
30 ~~Oahe;~~

31 — ~~c. Irrigation development;~~

- ~~1. d. Conservation and wildlife enhancement in the Missouri River system;~~
- ~~2. e. Water needs for energy development; and~~
- ~~3. f. Hydropower and electrical generation.~~

~~2. During the 2015-16 interim, the Missouri River empower council shall undertake a study of resources, opportunities, costs, legal challenges, and other issues relating to the Missouri River, Lake Sakakawea, and Lake Oahe.~~

~~3. Before July 1, 2016, the council shall report to the water topics overview committee on the study outcomes, recommendations, and goals as well as any related proposed legislation.~~

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River empower advisory council - Generally.

The Missouri River comprises the vast majority of surface water flow in the state and is essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish and wildlife, and recreational opportunities. A Missouri River empower advisory council is established to create a unified vision and voice for North Dakota and its stakeholders regarding the use and management of the Missouri River, and to advise the governor, legislative assembly, and state agencies on issues concerning the Missouri River.

61-42-02. Members - Terms - Expenses.

1. The following voting stakeholder members of the council shall be appointed by the governor:

- a. A representative of recreation;
- b. A representative of irrigation;
- c. A representative of cities;
- d. A representative of regional rural water systems;
- e. A representative of agriculture;
- f. A representative of energy;
- g. A representative of environment and conservation;
- h. A representative of the Garrison Diversion Conservancy District;
- i. Two at-large representatives;

1 j. Three county representatives, each representing counties along the Missouri
2 River, one representing counties along the free flowing reach of the Missouri
3 River, one representing counties bordering Lake Sakakawea, and one
4 representing counties bordering Lake Oahe; and

5 k. The governor's designee.

6 2. Additional voting members of the council shall include:

7 a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or
8 designee;

9 b. The chairman of the Standing Rock Sioux Tribe, or designee; and

10 c. The chairman of the Trenton Indian service area, or designee.

11 3. The following entities may be represented on the council, but are nonvoting members:

12 a. A legislator, appointed by the legislative management;

13 b. The director of the game and fish department, or designee;

14 c. The director of the parks and recreation department, or designee;

15 d. The state engineer, or designee;

16 e. The state health officer, or designee;

17 f. The commissioner of the department of commerce, or designee;

18 g. The director of the Indian affairs commission, or designee;

19 h. The commissioner of the department of trust lands, or designee;

20 i. The director of the oil and gas division, or designee; and

21 j. The commissioner of the department of agriculture, or designee.

22 k. All other state agencies shall provide assistance to the council as requested.

23 4. All appointed members shall serve for a term of four years or until their successors are
24 appointed and qualified. Terms expire on the first day of July. The terms of appointed
25 members shall be staggered so that the terms of at least four members expire each
26 year. Appointed members may be reappointed for additional terms and serve at the
27 pleasure of the governor.

28 5. The governor or the governor's designee is chairman of the council.

29 6. The members of the council are entitled to receive mileage and expenses at the rates
30 and under the terms as provided by law for state employees. The state water
31 commission shall pay the expenses of council members.

7. The state water commission shall provide staffing and support services to the council.

61-42-03. Duties.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings shall be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in the Missouri River. The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers in order to improve the state's negotiating position with the United States army corps of engineers.

2. The county and stakeholder representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.

3. Any recommendations developed by the council must receive support from ten voting members before submission to the governor, legislative assembly, or state agencies. Any recommendation not receiving majority support, but receiving support from at least six voting members, may be submitted as a minority recommendation.

4. The council may establish working groups and collaborate with organizations to make recommendations or accomplish objectives to protect all interests and rights of North Dakota and stakeholders in the Missouri River. This includes the eight authorized purposes identified in the Flood Control Act of 1944 and implemented by the United States army corps of engineers in their master manual, along with erosion and sedimentation, the management of federal lands, and any other existing or potentially beneficial uses.

5. The council shall report accomplishments, ongoing activities, and potential legislation to the legislative assembly.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1249

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of the Missouri River empower advisory council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as follows:

61-42-01. Missouri River empower advisory council - Generally.

The Missouri River comprises the vast majority of surface water flow in the state and is essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish and wildlife, and recreational opportunities. A Missouri River empower advisory council is established to create a unified vision and voice for North Dakota and its stakeholders regarding the use and management of the Missouri River, and to advise the governor, legislative assembly, and state agencies on issues concerning the Missouri River.

61-42-02. Members - Terms - Expenses.

1. The following voting stakeholder members of the council shall be appointed by the governor:
 - a. A representative of recreation;
 - b. A representative of irrigation;
 - c. A representative of cities;
 - d. A representative of regional rural water systems;
 - e. A representative of agriculture;
 - f. A representative of energy;
 - g. A representative of environment and conservation;
 - h. A representative of the Garrison Diversion Conservancy District;
 - i. Two at-large representatives;
 - j. Three county representatives, each representing counties along the Missouri River, one representing counties along the free flowing reach of the Missouri River, one representing counties bordering Lake Sakakawea, and one representing counties bordering Lake Oahe; and
 - k. The governor's designee.
2. Additional voting members of the council shall include:

- a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or designee;
 - b. The chairman of the Standing Rock Sioux Tribe, or designee; and
 - c. The chairman of the Trenton Indian service area, or designee.
3. The following entities may be represented on the council, but are nonvoting members:
 - a. A legislator, appointed by the legislative management;
 - b. The director of the game and fish department, or designee;
 - c. The director of the parks and recreation department, or designee;
 - d. The state engineer, or designee;
 - e. The state health officer, or designee;
 - f. The commissioner of the department of commerce, or designee;
 - g. The director of the Indian affairs commission, or designee;
 - h. The commissioner of the department of trust lands, or designee;
 - i. The director of the oil and gas division, or designee; and
 - j. The commissioner of the department of agriculture, or designee.
 - k. All other state agencies shall provide assistance to the council as requested.
4. All appointed members shall serve for a term of four years or until their successors are appointed and qualified. Terms expire on the first day of July. The terms of appointed members shall be staggered so that the terms of at least four members expire each year. Appointed members may be reappointed for additional terms and serve at the pleasure of the governor.
5. The governor or the governor's designee is chairman of the council.
6. The members of the council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The state water commission shall pay the expenses of council members.
7. The state water commission shall provide staffing and support services to the council.

61-42-03. Duties.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings shall be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in

the Missouri River. The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers in order to improve the state's negotiating position with the United States army corps of engineers.

2. The county and stakeholder representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.
3. Any recommendations developed by the council must receive support from ten voting members before submission to the governor, legislative assembly, or state agencies. Any recommendation not receiving majority support, but receiving support from at least six voting members, may be submitted as a minority recommendation.
4. The council may establish working groups and collaborate with organizations to make recommendations or accomplish objectives to protect all interests and rights of North Dakota and stakeholders in the Missouri River. This includes the eight authorized purposes identified in the Flood Control Act of 1944 and implemented by the United States army corps of engineers in their master manual, along with erosion and sedimentation, the management of federal lands, and any other existing or potentially beneficial uses.
5. The council shall report accomplishments, ongoing activities, and potential legislation to the legislative assembly."

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad

Senators Schneider, Wardner

1 A BILL for an Act to create and enact section 61-02-79 of the North Dakota Century Code,
2 relating to creation of the Missouri River empower council; and to provide for a report for an Act
3 to create and enact chapter 61-42 of the North Dakota Century Code, relating to the creation of
4 the Missouri River empower advisory council.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 ~~SECTION 1.~~ Section 61-02-79 of the North Dakota Century Code is created and enacted as
7 follows:

8 ~~61-02-79. Missouri River empower council - Report.~~

9 ~~1. Because the Missouri River provides most of the surface water flow in the state and is~~
10 ~~essential for water supplies of cities and rural water systems across the state, because~~
11 ~~the Missouri River system provides extraordinary recreational opportunities, because it~~
12 ~~is a goal of the state that the United States army corps of engineers accommodate~~
13 ~~North Dakota's interests in developing and implementing the annual operating plan~~
14 ~~under the Missouri River master manual, and because the Three Affiliated Tribes of~~
15 ~~the Fort Berthold Reservation and the Standing Rock Sioux Tribe have a significant~~
16 ~~stake in the use and development of the water resources in the Missouri River system,~~
17 ~~the Missouri River empower council is created to advocate for North Dakota's rights in~~
18 ~~the Missouri River, to achieve greater utilization of the lands adjacent to and~~
19 ~~surrounding the Missouri River system, and to provide grassroots and stakeholder~~
20 ~~representation for developing policies, priorities, and recommendations to the~~
21 ~~legislative assembly.~~

22 ~~2. The Missouri River empower council is composed of:~~

23 ~~a. The following ex officio members:~~

24 ~~(1) The governor or the governor's designee;~~

- 1 ~~(2) The director of the game and fish department or the director's designee,~~
2 ~~who serves as a nonvoting member;~~
- 3 ~~(3) The director of the parks and recreation department or the director's~~
4 ~~designee, who serves as a nonvoting member;~~
- 5 ~~(4) The state engineer or the state engineer's designee, who serves as a~~
6 ~~nonvoting member;~~
- 7 ~~(5) The state health officer or the state health officer's designee, who serves as~~
8 ~~a nonvoting member;~~
- 9 ~~(6) The commissioner of the department of commerce or the commissioner's~~
10 ~~designee, who serves as a nonvoting member;~~
- 11 ~~(7) The director of the department of commerce division of tourism or the~~
12 ~~director's designee, who serves as a nonvoting member;~~
- 13 ~~(8) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation~~
14 ~~or the chairman's designee; and~~
- 15 ~~(9) The chairman of the Standing Rock Sioux Tribe or the chairman's designee;~~
- 16 ~~b. The following members appointed by the governor:~~
- 17 ~~(1) A representative of the Missouri River joint water board, or similar~~
18 ~~organization;~~
- 19 ~~(2) A representative of friends of Lake Oahe, or similar organization;~~
- 20 ~~(3) A representative of friends of Lake Sakakawea, or similar organization;~~
- 21 ~~(4) A representative of the North Dakota irrigation association, or similar~~
22 ~~organization;~~
- 23 ~~(5) A representative of the North Dakota water users association, or similar~~
24 ~~organization;~~
- 25 ~~(6) A representative of the North Dakota water resource districts association, or~~
26 ~~similar organization;~~
- 27 ~~(7) A representative of the North Dakota rural water systems association, or~~
28 ~~similar organization;~~
- 29 ~~(8) A representative of the independent water providers, or similar organization;~~
- 30 ~~(9) A representative of the oil industry;~~
- 31 ~~(10) A representative of the lignite energy industry;~~

1 ~~———— (11) A representative of the generation and transmission electric cooperative~~
2 ~~industry;~~

3 ~~———— (12) A representative of the North Dakota association of oil and gas producing~~
4 ~~counties, or similar organization;~~

5 ~~———— (13) A representative of the North Dakota league of cities, or similar organization;~~

6 ~~———— (14) Six county commissioners, each representing a different one of the six~~
7 ~~counties bordering Lake Sakakawea;~~

8 ~~———— (15) A representative of the southwest water authority, who serves as a~~
9 ~~nonvoting member;~~

10 ~~———— (16) A representative of the western area water supply authority, who serves as~~
11 ~~a nonvoting member;~~

12 ~~———— (17) A representative of the northwest area water supply project, who serves as~~
13 ~~a nonvoting member; and~~

14 ~~———— (18) A representative of the Garrison Diversion Conservancy District, who serves~~
15 ~~as a nonvoting member; and~~

16 ~~———— c. Any additional members appointed by the governor, who will serve as nonvoting~~
17 ~~members.~~

18 ~~———— 3. Each member of the council appointed by the governor shall serve for a term of two~~
19 ~~years, beginning July first; may be reappointed for additional terms, not to exceed~~
20 ~~eight consecutive years; and serves at the pleasure of the governor.~~

21 ~~———— 4. The governor or the governor's designee is chairman of the council. The board may~~
22 ~~elect an executive committee to consist of five or more voting members, with such~~
23 ~~powers and duties as may be delegated by the council.~~

24 ~~———— 5. The council shall meet at least quarterly or as often as the chairman deems~~
25 ~~necessary. A majority of the voting membership constitutes a quorum. The council~~
26 ~~shall hold at least two public hearings per biennium at which time interested parties~~
27 ~~may present testimony regarding issues pertinent to the Missouri River, Lake~~
28 ~~Sakakawea, or Lake Oahe. The council may travel outside the state to meet with the~~
29 ~~United States army corps of engineers or other federal agency or to meet with the~~
30 ~~United States congress to address issues concerning North Dakota's interests in the~~
31 ~~Missouri River.~~

1 — ~~6. The council shall establish working groups and shall collaborate with existing~~
2 ~~organizations to make recommendations and accomplish objectives in the areas of~~
3 ~~irrigation, hydropower, water supply, energy development, conservation and wildlife,~~
4 ~~Lake Sakakawea, and Lake Oahe. The council shall work to strengthen the state's~~
5 ~~working relationship with the United States army corps of engineers in order to~~
6 ~~improve the state's negotiating position with the United States army corps of engineers~~
7 ~~and to enhance the economic development of the state.~~

8 — ~~7. Periodically the council shall report to the water topics overview committee on the~~
9 ~~activities of the council.~~

10 — ~~8. The members of the council who are not state employees are entitled to receive~~
11 ~~mileage and expenses as provided by law for state officers and employees. Unless~~
12 ~~otherwise provided in this subsection, the expenses of appointed members are to be~~
13 ~~paid by the state water commission. A state employee who is an ex officio member of~~
14 ~~the council is entitled to receive that employee's regular salary and is entitled to~~
15 ~~receive mileage and expenses, to be paid by the employing agency.~~

16 — ~~9. Funds from the resources trust fund will be appropriated to the the state water~~
17 ~~commission to fund the activities of the council. The state water commission shall~~
18 ~~provide staffing and support services for the council. The state water commission may~~
19 ~~contract with a third party to provide staffing and support services for the council and~~
20 ~~may hire an executive director and other personnel as necessary to provide staffing~~
21 ~~and support services for the council.~~

22 — **~~SECTION 2. MISSOURI RIVER EMPOWER COUNCIL - STUDY - REPORT.~~**

23 — ~~1. During the 2015-16 interim, in accordance with the duties of the Missouri River~~
24 ~~empower council under subsection 6 of section 61-02-79, the council shall establish~~
25 ~~working groups and shall collaborate with existing organizations to develop~~
26 ~~recommendations and goals for:~~

27 — ~~a. Providing adequate water supplies from the Missouri River system to areas of~~
28 ~~need;~~

29 — ~~b. Recreation and development opportunities around Lake Sakakawea and Lake~~
30 ~~Oahe;~~

31 — ~~c. Irrigation development;~~

1 ~~_____ d. Conservation and wildlife enhancement in the Missouri River system;~~

2 ~~_____ e. Water needs for energy development; and~~

3 ~~_____ f. Hydropower and electrical generation.~~

4 ~~_____ 2. During the 2015-16 interim, the Missouri River empower council shall undertake a~~
5 ~~study of resources, opportunities, costs, legal challenges, and other issues relating to~~
6 ~~the Missouri River, Lake Sakakawea, and Lake Oahe.~~

7 ~~_____ 3. Before July 1, 2016, the council shall report to the water topics overview committee on~~
8 ~~the study outcomes, recommendations, and goals as well as any related proposed~~
9 ~~legislation.~~

10 **SECTION 1.** Chapter 61-42 of the North Dakota Century Code is created and enacted as
11 follows:

12 **61-42-01. Missouri River empower advisory council - Generally.**

13 The Missouri River comprises the vast majority of surface water flow in the state and is
14 essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish
15 and wildlife, and recreational opportunities. A Missouri River empower advisory council is
16 established to create a unified vision and voice for North Dakota and its stakeholders regarding
17 the use and management of the Missouri River, and to advise the governor, legislative
18 assembly, and state agencies on issues concerning the Missouri River.

19 **61-42-02. Members - Terms - Expenses.**

20 1. The following voting stakeholder members of the council shall be appointed by the
21 governor:

22 a. A representative of recreation;

23 b. A representative of irrigation;

24 c. A representative of cities;

25 d. A representative of regional rural water systems;

26 e. A representative of agriculture;

27 f. A representative of energy;

28 g. A representative of environment and conservation;

29 h. A representative of the Garrison Diversion Conservancy District;

30 i. Two at-large representatives;

1 j. Three county representatives, each representing counties along the Missouri
2 River, one representing counties along the free flowing reach of the Missouri
3 River, one representing counties bordering Lake Sakakawea, and one
4 representing counties bordering Lake Oahe; and

5 k. The governor's designee.

6 2. Additional voting members of the council shall include:

7 a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or
8 designee;

9 b. The chairman of the Standing Rock Sioux Tribe, or designee; and

10 c. The chairman of the Trenton Indian service area, or designee.

11 3. The following entities may be represented on the council, but are nonvoting members:

12 a. A legislator, appointed by the legislative management;

13 b. The director of the game and fish department, or designee;

14 c. The director of the parks and recreation department, or designee;

15 d. The state engineer, or designee;

16 e. The state health officer, or designee;

17 f. The commissioner of the department of commerce, or designee;

18 g. The director of the Indian affairs commission, or designee;

19 h. The commissioner of the department of trust lands, or designee;

20 i. The director of the oil and gas division, or designee; and

21 j. The commissioner of the department of agriculture, or designee.

22 k. All other state agencies shall provide assistance to the council as requested.

23 4. All appointed members shall serve for a term of four years or until their successors are
24 appointed and qualified. Terms expire on the first day of July. The terms of appointed
25 members shall be staggered so that the terms of at least four members expire each
26 year. Appointed members may be reappointed for additional terms and serve at the
27 pleasure of the governor.

28 5. The governor or the governor's designee is chairman of the council.

29 6. The members of the council are entitled to receive mileage and expenses at the rates
30 and under the terms as provided by law for state employees. The state water
31 commission shall pay the expenses of council members.

7. The state water commission shall provide staffing and support services to the council.

61-42-03. Duties.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings shall be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in the Missouri River. The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers in order to improve the state's negotiating position with the United States army corps of engineers.

2. The county and stakeholder representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.

3. Any recommendations developed by the council must receive support from ten voting members before submission to the governor, legislative assembly, or state agencies. Any recommendation not receiving majority support, but receiving support from at least six voting members, may be submitted as a minority recommendation.

4. The council may establish working groups and collaborate with organizations to make recommendations or accomplish objectives to protect all interests and rights of North Dakota and stakeholders in the Missouri River. This includes the eight authorized purposes identified in the Flood Control Act of 1944 and implemented by the United States army corps of engineers in their master manual, along with erosion and sedimentation, the management of federal lands, and any other existing or potentially beneficial uses.

5. The council shall report accomplishments, ongoing activities, and potential legislation to the legislative assembly.

NORTH DAKOTA HOUSE OF REPRESENTATIVES



STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Vicky Steiner

District 37
859 Senior Avenue
Dickinson, ND 58601-3755

Residence: 701-225-4227
Cell: 701-290-1376
vsteiner@nd.gov

COMMITTEES:

Finance and Taxation
Government and Veterans Affairs

In Support HB 1249

Rep. Vicky Steiner

March 12, 2015

Good morning, Chairman Schaible and Members of Senate Energy and Natural Resources committee.

For the record, my name is Rep. Vicky Steiner, Dickinson, District 37.

I'm asking your committee to consider House Bill 1249 which creates a new council for the Missouri River issues.

I believe the Missouri River offers North Dakota tremendous opportunities that without the work of an organized grassroots and state water group council will not get done in a timely manner.

In November, the Missouri River Stakeholders grassroots hosted a meeting in Bismarck where 80 people expressed interest in getting a group organized. They plan to meet in June to figure out an organizational structure and a funding structure. This bill gets it organized in similar fashion, moves it more quickly and puts it in the Legislature's wheelhouse.

As you can see from the sponsor list of the bill, we believe this should be under the wing of the legislature as this group will recommend policy for change and for solutions with the US Army Corps of Engineers and other federal agencies. The Corps controls shore access, recreation locations, access for agriculture, weed control and campground locations.

The council shall report to the water topics overview committee. They shall provide a report on study outcomes, recommendations and goals as well as any related proposed legislation.

This council will also provide a place for our citizens to bring their concerns because no one person can approach the Corps about their issue and get a timely response. We need to use the strength of our numbers and the public pressure to move the needle. There are items the Corps may want and we need to put ourselves in a position to negotiate for North Dakotans. I understand the water groups may bring an amendment to add additional members to the council which is similar to what was in the original bill which I support.

Please give this a Do Pass. Thank you for your consideration.

North Dakota State Water Commission Testimony
Relative to Engrossed House Bill 1249

Presented to the Senate Energy and Natural Resources Committee

March 12, 2015

Good morning Chairman Schaible, and members of the Senate Energy and Natural Resources Committee. My name is Patrick Fridgen, and I am the Director of the Planning and Education Division at the North Dakota State Water Commission.

I appear today on behalf of the State Water Commission and Office of the State Engineer in support of Engrossed House Bill 1249. This bill establishes a Missouri River Empower Advisory Council to create a unified vision and voice for North Dakota and its stakeholders regarding use and management of the Missouri River; and to advise the Governor, Legislative Assembly, and state agencies on issues concerning the Missouri River.

Since the floods of 2009 and 2011 there has been a great deal of interest among Missouri River stakeholders to elevate Missouri River issues and to create some type of grassroots focused organization in the Missouri River basin. Over the course of the last few years, a tremendous amount of effort has been put forth to organize on a basin level by our state's Missouri River stakeholders. And the Water Commission has been directly involved and supportive of those efforts – both financially and through technical assistance. I will not cover the specifics of those efforts in my testimony, as they will be covered by the Executive Director of the Missouri River Stakeholders in subsequent remarks.

As Engrossed House Bill 1249 is currently written, we believe it provides the opportunity to involve a key balance of grassroots and local Missouri River stakeholder interests, Indian tribes, and state agencies in the Council. It also provides the flexibility needed to involve groups and individuals that will be the most effective, knowledgeable, and driven to support North Dakota's broad interests in the Missouri River.

A cooperative approach that supports input and involvement from representatives of a broad spectrum of Missouri River stakeholders can take place through a more formalized group. And we believe Engrossed House Bill 1249 provides the foundation for that opportunity.

Chairman Schaible, and members of the committee, this concludes my testimony. I would be happy to answer any questions that you might have at this time.

North Dakota Missouri River Stakeholders

PO Box 2254
Bismarck, ND 58502

HB 1249
3/12/15

Ryan M. Norrell, J.D.
Executive Director, North Dakota Missouri River Stakeholders
Bismarck, North Dakota
701-223-4615
rmnorrell@ndwaterlaw.com

Good morning Chairman Schaible and members of the committee. My name is Ryan Norrell and I am the Executive Director of the Missouri River Stakeholders, an organization working to create grassroots unity, leadership and direction to advocate and promote North Dakota's Missouri River Interests.

After flooding in the Missouri River basin in 2009 and 2011, and unprecedented economic development across North Dakota, the State Water Commission was asked to call a meeting of Missouri River stakeholders to explore forming a State-wide organization to maximize the Missouri River's potential in North Dakota. At the first several meetings, dozens of Missouri River stakeholders attended, but to narrow the focus and to develop recommendations for a path forward, twelve individuals representing interests across the state volunteered to serve as a leadership committee for the stakeholders.

One of the primary recommendations of the leadership committee was to hire a Missouri River coordinator to lead day-to-day operations and to conduct outreach to local stakeholders. The Missouri River Stakeholders began that outreach effort last May. Lance Yohe, formerly of the Red River Basin Commission, and I travelled across the state to county commissions, city councils, water resource districts, recreation groups, water supply projects and landowners to inform them of this grassroots effort to protect North Dakota's rights in the river and to hear their concerns.

During that outreach, we heard repeatedly that the Missouri River is important to *all* North Dakotans. We invited stakeholders to a workshop hosted last November here in Bismarck. Over 100 stakeholders attended, representing interests from the Southwest Water Authority to the Upper Sheyenne Joint Board, from Western Area Water Supply to the Lake Agassiz Water Supply, and from Bismarck homeowners to McIntosh County ranchers. Those stakeholders were unanimous in agreeing that North Dakota's interests in the river are being challenged and that we need to act with a cooperative approach to protect those interests.

Based off of hundreds of conversations across the state, I can tell you that the time for North Dakota to advocate for its interests in the Missouri River is now. Stakeholders across the entire Missouri River basin are watching what we do here in North Dakota to protect our interests. Meanwhile the State of Missouri has made protecting their interests in the Missouri River a high priority, the State of Kansas is planning a 360-mile-long aqueduct to divert Missouri River water to the high plains of western Kansas, and the Front Range of Colorado continues to look the Missouri River for a reliable source of water for growth and development there.

On behalf of the Missouri River Stakeholders, I thank you for recognizing the importance of the Missouri River to the State of North Dakota. We support this bill and stand ready to answer any questions or assist in implementing the goals of this legislation.

North Dakota Missouri River Stakeholders

North Dakota Missouri River Stakeholders (NDMRS)

Mission: Creating grassroots unity, leadership and direction to advocate and promote North Dakota's Missouri River interests.

Goals of this effort

- To create unity and leadership for a North Dakota vision and voice on Missouri River issues.
- 2014 Fall Workshop: to build momentum, interest, commitment (ownership).
- 2015 Spring Conference: to develop leadership and direction to advocate North Dakota's Missouri River interests.

How we got here!

- 2005 - Missouri River Joint Board (MRJB) formed to address local issues along the river.
- 2012 - Workshop attended by 65 North Dakota stakeholders resulted in the formation of a Leadership Committee to create a North Dakota Missouri River organizational strategy.
- Funding provided by State Water Commission and Garrison Diversion Conservancy District to the MRJB to implement the 2012 workshop outcomes.
- The Leadership Committee established a path forward, a conceptual framework, and hired a project team to assist.

The challenge:

- To foster understanding among North Dakota's Missouri River interests – including views and needs of those stakeholders.
- To develop agreement on key issues and work together to maximize the Missouri River's potential in North Dakota.
- To convey stakeholders' goals within and outside the state's borders, and then work to achieve them.

Why is this needed?

- To enable North Dakota's Missouri River interests to collectively meet about, educate, advocate, understand, or respond to Missouri River issues and challenges.
- North Dakota needs greater unity and advocacy for what lies ahead - we need to start working together today to be ready for tomorrow!



What is needed?

- We need to develop a strong regional grassroots structure to listen, discuss, learn, educate, communicate, involve, advocate, and promote Missouri River issues.
- Agreement by North Dakotans on the key issues whenever possible.
- Commitment by North Dakotans to work together to realize North Dakota's interests on the Missouri River.
- A vision we all support and will help achieve.

What are some of the issues?

- Access to water within reservoir boundaries
- Flood control
- Wildlife habitat
- Annual Missouri River operating plan
- Adequate water supplies
- Sovereign land management
- Recreational access (boat ramps/roadways)
- Bank stabilization
- Floodplain management
- Sedimentation and delta formation
- Noxious weed control
- Land management
- Missouri River Recovery Program
- Irrigation
- Fishery health
- Water quality
- Endangered species
- Hunting access

What can you do to help?

- GET INVOLVED!
- STAY INVOLVED!
- SHARE YOUR VIEWS!
- LEAD!

ATTEND THE SPRING CONFERENCE:

**June 3-4, 2015
Ramkota Hotel
Bismarck, ND**

Leadership Committee

Wade Bachmeier
wade@btinet.net
701-400-4251

Pat Fridgen
pfridgen@nd.gov
701-328-4964

Mary Massad
mmassad@swwater.com
701-225-0241

Ken Royse
ken.royse@bartwest.com
701-202-5459

Duane Dekrey
duaned@daktel.com
701-652-5170

Michael Gunsch
mgunsch@houstoneng.com
701-527-2134

Jim Neubauer
jneubauer@cityofmandan.com
701-667-3214

Ron Sando
rksando1@aol.com
701-226-5038

Terry Fleck
tfleck@attitudedr.com
701-223-9768

Dave Koland
davek@daktel.com
800-532-0074

Bill Ongstad
bill.ongstad@gmail.com
701-341-2937

Chris VandeVenter
cvandeventer@bepc.com
701-557-5416

Project Team

Ryan Norrell
rmnorrell@ndwaterlaw.com
701-223-4615

Lance Yohe
tbslance@gmail.com
701-371-8246

Jackie Nye
waterone@btinet.net
701-223-4615

Mike Dwyer
mdwyer@ndwaterlaw.com
701-223-4615

North Dakota Missouri River Stakeholders

PO Box 2254
Bismarck, ND 58502

North Dakota: Senate Energy and Natural Resources Committee
Thursday, March 12, 2015 – Supportive Position on HB 1249
Lance Yohe, Missouri River Stakeholders, Leadership Committee, Senior Advisor
Phone: Cell: 701-371-8246

Chairman Schaible and members of the committee thank you for the opportunity to testify on HB 1249 today. My name is Lance Yohe and my role with the Missouri River Stakeholders (MRS) Leadership Committee that is composed of water leaders in North Dakota, is that of Senior Advisor. My experiences in bringing organization and jurisdictional interest together around a shared vision are providing options for consideration as the MRS seek to organize North Dakota's interests around the Missouri River. In all corners of North Dakota there is an awareness of the importance of the Missouri River to the state. Bringing together North Dakota's interests and concerns on the Missouri River into a unified state wide approach is the goal of the MRS.

The following quote from Missouri Governor Nixon in his state of the state address indicates just how important it is for North Dakota to continue to organize all stakeholders that have an interest in the Missouri River to strengthen North Dakota's position and use of the Missouri River.

"Missouri is blessed with an abundance of fresh water – from the Mississippi and Missouri Rivers, to our clear-running Ozark streams. We take it for granted. But if you go upstream to the Dakotas, to the headwaters of the Missouri, it's a different story. They're fighting over water. They want to divert as much water from the Missouri River as they can, which would leave our farmers and shippers high and dry. Take Kansas. Their latest harebrained idea is the construction of a 360 mile aqueduct to siphon off more or our Missouri River water. We can't let that happen. As long as I am Governor, I will not let state upstream divert Missouri River water that we rely on for drinking, farming and industry. We need to protect the amount of water we have in Missouri, and we need to protect the quality of water we have in Missouri.....Our rivers and streams are part of the priceless outdoor heritage all Missourians can enjoy."

This type of challenge from downstream states over the use of Missouri River water is enough reason for North Dakota to unite and act. If federal agencies are added to this, the challenge is that much greater. The MRS's premise is that North Dakota's interests are being challenged by other states, such as Missouri and federal agencies, such as the US Army Corp of Engineers. These challenges are being addressed by the Governor's office, SWC and a few others. What North Dakota needs is a larger stakeholder involvement along with the Governor, SWC and Legislative Leaders together creating a path forward that unites North Dakota's approach, creates more awareness of the importance of the Missouri River to ND, and provides a venue for action. HB 1249 does this.

HB 1249 provides us all the "Opportunity" to explore together the best path forward. This bill conceptually lays out a significant beginning in finding this path forward. We are supportive of moving this bill forward uniting Legislators, Administration (Governor and SWC) and MRS (MR interest groups) in a unified state wide Missouri River approach. Thank you for your interest in this important issue.

Senate Energy and Natural Resources Committee

Thursday, March 12, 2015 – Support Position on HB-1249

Michael H. Gunsch, Missouri River Stakeholders Leadership Committee

Phone 701-527-2134 (cell)

Chairman Schaible, members of the committee, I'm Michael Gunsch, representing the Missouri River Stakeholders Leadership Committee, one of several here today to voice our support for HB-1249. While I could provide background on our various Committee members, rest assured that combined we have extensive experience and knowledge regarding Missouri River issues. I will let others provide more information about the Leadership Committee and its purpose. We want to take this opportunity to express our appreciation to Representative Steiner for bringing Missouri River issues to the table and creating a framework from which cooperative and collaborative revisions to HB-1249 were proposed and accepted, with the assistance from the ND State Water Commission and others. We also express our thanks to Representatives Hofstad, Anderson and Muscha, and the House Energy and Natural Resources Committee for final edits to the bill, which passed the House of Representatives on a favorable vote of 80 to 13.

Currently the Missouri River, our largest and most valuable water resource, does not have an organized group or voice representing the interests of its Stakeholders and State of North Dakota. HB-1249 provides a strategic framework from which greater discussions regarding critical statewide and Stakeholder needs and issues can begin. Prior to passage of the 1944 Flood Control Act the federal government came to North Dakota, and we as a state agreed to provide a permanent flood and the loss of lands in our nation's greater interests, all for the promise of benefits to be provided later. While some benefits have been realized, some 70 years later many have not and may never be, unless we are united and vigilant in protecting our rights and interests in the Missouri River. We were not prepared in 1944, and we are not adequately prepared today to challenge the likes of the State of Missouri who believe that all the water in the Missouri River is theirs – **Well it's NOT!** We need to understand the growing challenges to Missouri River uses and prepare to defend what is rightfully ours by recognizing its value and potential.

A number of questions have been raised regarding the council's composition and number. While not opposed to expanding the membership, we are willing to work within the parameters established in HB-1249. Our interpretation is that the appointed individuals while representing the stakeholder groups from which they were selected would be charged with representing the interests of the State of North Dakota and all stakeholders. As an example while one "recreation member" is appointed they would represent all recreational interests and organizations. In turn this same representative will be responsible to consider all other stakeholder interests.

Will there be differences of opinion within various interests groups and other stakeholder organizations? Certainly - if not then they are not openly debating the issues. Along those lines attached to my testimony is rough list, using the names of the individuals who attended or registered our November 2014 stakeholder informational meeting and other stakeholders we are aware of, placing these various stakeholders under an applicable category of an appointed council member. The purpose here is to create an awareness and understanding that while organizations are not specifically listed on the council, since names are not used, they will have a representative. As a functional process we would encourage the council, once appointed, to assign known stakeholders to one of their members. This will improve the functionality in addressing stakeholder questions and issues. These stakeholders could then likely form a basis for the "*working groups*" of the council. Note the term "subcommittee" was not used as there are a limited number of committee members and the goal here is to involve as many stakeholders as possible. So these "*working groups*" are a means to accomplish the objective to include as many as possible in the process.

HB-1249 is signature legislation that will be an extremely valuable vehicle and tool to significantly elevate the status of Missouri River issues, and assisting Stakeholders to achieve their common objective to increase awareness and begin addressing the numerous issues facing our state and protecting our shared interests.

In the end what is this about? – The Stakeholders and the greater interests of State of North Dakota in the Missouri River. Over 70 years ago, when the 1944 Flood Control Act was passed we were not prepared to address the critical water issues we faced today. The *Missouri River Empower Advisory Committee* will provide an organizational structure from which we can prepare for the critical high stakes challenges that will face us tomorrow. Recognizing that tomorrow is close at hand.

Thank you for your time and as a Leadership Committee we are available to answer any questions, and strongly encourage that you provide a "DO PASS" recommendation on HB-1249.

HB-1249 STAKEHOLDER COUNCIL POTENTIAL MEMBER ASSIGNMENTS

***This is not an all-inclusive list, simply an example for illustration purposes**

A REPRESENTATIVE OF RECREATION

<u>Name</u>	<u>Organization</u>
Jill Denning Gackle	Friends of Lake Sakakawea
Terry Fleck	Friends of Lake Sakakawea
Tony Splonskowski	Voices for Oahe
Doug Vannurden	Voices for Oahe
	North Dakota Sport Fishing Congress
	Bis-Man Reel & Rec
	ND Recreation & Park Association

A REPRESENTATIVE OF IRRIGATION

<u>Name</u>	<u>Organization</u>
Jerry Schaack	ND Irrigation Association
Roger Gunlickson	ND Irrigation Association
Carter VanderWal	ND Irrigation Association
Herb Grenz	Missouri River Irrigator

A REPRESENTATIVE OF CITIES

<u>Name</u>	<u>Organization</u>
Francis Bosch	Williston Vector Control District
Cory Chorne	AE2S
Scott Decker	City of Dickinson
Abbi Dorn	Ackerman-Estfold
Shawn Kessel	City of Dickinson
Jim Neubauer	City of Mandan
Lyndon Pease	Moore Engineering
Bill Robinson	Lower Heart River Water Resource District
Mike Seminary	Mayor of Bismarck
Karson Steiner	City of Dickinson
Pat Zovoral	City of Fargo
	The ND League of Cities

A REPRESENTATIVE of REGIONAL RURAL WATER SYSTEMS

<u>Name</u>	<u>Organization</u>
Larry Bares	Southwest Water Authority
Ray Bieber	Southwest Water Authority
Marie Johnson	Southwest Water Authority
Bob Leingang	Southwest Water Authority
Mary Massad	Southwest Water Authority
Kenny Rogers	Northwest Area Water Supply
George Saxowsky	Southwest Water Authority
Rick Siefert	Southwest Water Authority
Jaret Wirtz	WAWSA—Western Area Water Supply Authority
	The Lake Agassiz Water Authority

A REPRESENTATIVE OF AGRICULTURE

<u>Name</u>	<u>Organization</u>
Scott Rising	ND Soybean Growers Associations The North Dakota Ag Coalition ND Grain Growers Association ND Durum Growers Association ND Grazing Associations ND Corn Growers Association

A REPRESENTATIVE of ENERGY

<u>Name</u>	<u>Organization</u>
Jennifer Charles	Great River Energy
Mark Dihle	Montana-Dakota Utilities Co.
Tyler Hamman	Lignite Energy Council
Maynard Helgaas	Green Vision Group, Inc.
Derrick Placek	BNI Coal, Ltd.
Jean Schafer	Basin Electric
Chris Vandeventer	Basin Electric
	The North Dakota Petroleum Council
	Generation & Transmission Cooperatives/Utilities
	Hydropower Industry
	Investor Owned Utilities

A REPRESENTATIVE OF ENVIRONMENT & CONSERVATION

<u>Name</u>	<u>Organization</u>
Terry Allbee	Nature Resources Trust
Eric Rosenquist	The Nature Conservancy-Cross Ranch
Joseph Stegmiller	Morton County Soil Conservation District
	A Representative of Conservation Interests
	ND Soil Conservation Association

GARRISON DIVERSION CONSERVANCY DISTRICT

<u>Name</u>	<u>Organization</u>
Kim Cook	Garrison Diversion Conservancy District
Duane DeKrey	Garrison Diversion Conservancy District
Dave Koland	Garrison Diversion Conservancy District
Kip Kovar	Garrison Diversion Conservancy District
Bill Krivarchka	Garrison Diversion Conservancy District
Steve Metzger	Garrison Diversion Conservancy District
Merri Mooridian	Garrison Diversion Conservancy District
Ken Vein	Garrison Diversion Conservancy District

TWO AT-LARGE REPRESENTATIVES

<u>Name</u>	<u>Organization</u>
Cory Chorne	AE2S
Abbi Dorn	Ackerman-Estvold
Mike Dwyer	North Dakota Water Users Association
Garland Erbele	Wenck Associates, Inc.
Brian Gehring	Bismarck Tribune
Dana Guenthner	N/A
Michael Gunsch	Friends of Lake Sakakawea/Professional Engineer
Norman Haak	Upper Missouri (Garrison Diversion)
Maynard Helgaas	Green Vision Group, Inc.
Charles Manders	Certified Planner
Judy Masset	Altair Corporation
Neil Meidinger	McIntosh County Commission
Ryan Norrell	North Dakota Missouri River Stakeholders
Bonnie Palecek	Self
Lyndon Pease	Moore Engineering, Inc.
Jessie Pfaff	North Dakota Water Coalition
Ken Royse	North Dakota Water Users Association
Ron Sando	Engineering Consultant
Kenny Stadman	Golden Valley Water Resource District
Perry Turner	McIntosh County Commission
Jim Unkenholz	
Duane Urlacher	Stark County Water Resource District
Ben Varnson	Upper Sheyenne Joint WRD
Lance Yohe	North Dakota Missouri River Stakeholders
	ND Water Resource Districts Association
	Missouri River Adjacent Landowners Association
	Independent Water Providers
	Greater North Dakota Chamber of Commerce

ADJACENT COUNTY REPRESENTATIVES (THREE) – ON THE MISSOURI RIVER **OAHE, OPEN RIVER AND SAKAKAWEA**

<u>Name</u>	<u>Organization</u>
Wade Bachmeier	Morton County Water Resource District & Missouri River Joint Water Board
Cary Backstrand	Burleigh County/Professional Engineer
Francis Bosch	Williston Vector Control District
Duane Bueligen	Oliver County Water Resource District
Lars Enerson	Mountrail Water Resource District
Ed Grunett	Missouri River Joint Water Board
Wes Gunsch	Mercer County Commissioner
Carlyle Hillstrom	Missouri River Joint Water Board
Shannon Jeffers	McLean County Water Resource District
Kathleen Jones	Burleigh County Commission
Erin Magrum	Emmons County Water Resource District
Greg Lange	Missouri River Joint Water Board
Glenn McCrory	Emmons County Water Resource District
Gary Murray	Mercer County Commission

ADJACENT COUNTY REPRESENTATIVES (THREE) – ON THE MISSOURI RIVER
OAHE, OPEN RIVER AND SAKAKAWEA Cont...

<u>Name</u>	<u>Organization</u>
Daniel Nairn	Morton County Zoning
Doug Schonert	Burleigh County Commission
Jeff Shaffer	McKenzie County Water Resource District
Vickey Steiner	ND Association of Oil & Gas Producing Counties
Denton Zubke	McKenzie County Water Resource District
	ND Association of Counties

Disclosure: A number of these individuals could be placed in several different categories. There are also many more organizations and individuals that could be added to this list.

Testimony to the
Senate Energy and Natural Resources Committee
Hearing on House Bill 1249
Bismarck, ND
March 12, 2015

Good morning Mr. Chairman and members of the Committee. For the record, my name is Mary Massad. I am the manager/CEO of Southwest Water Authority (SWA). We manage, operate and maintain the Southwest Pipeline Project (SWPP) on behalf of the people of the state of North Dakota. I am also the Vice-Chair of the Missouri River Stakeholders Leadership Committee. So today I am speaking with two hats. There are varied interests with many issues when it comes to the Missouri River system in our state. I will only address two issues.

First let me speak as the manager/CEO of SWA. The Project water source is Lake Sakakawea. This is the largest of the six main stem dams on the Missouri River system. It is truly the lifeblood of southwest North Dakota. Without it, our region would wither and die. With it, we grow and flourish. It helps create quality of place, quality of life and is a key ingredient to economic development.

Missouri River Water is also a quality water source. The Authority has now placed in the top ten three years in a row in an international municipal drinking water contest, Berkeley Springs International Taste Contest, in Berkeley Springs, West Virginia. The last two years, SWPP water tied for fourth place. This water is also the current state champion for NDRWSA best tasting water. This speaks volumes to our water source, Lake Sakakawea, on the Missouri River system. It a very consistent, high-quality water.

As a Missouri River Stakeholder, the Missouri River is vital for all of North Dakota for both now and in the future. It is our right to use Missouri River water for the benefit of the whole state. Our state needs to develop its most precious natural resource. We need to perfect our water rights before it's too late. Access to the Lakes, both Oahe and Sakakawea and the Missouri River are needed for all uses. Intakes on Lakes Sakakawea should be allowed and there should not be a storage fee charged for water used.

The Missouri River Stakeholders are advocating the development of and unity on behalf of all of our citizens for the rights to the Missouri River for now and for future generations. As Major John Wesley Powell said during North Dakota's Constitutional Convention, keep water rights for the beneficial use of all your citizens. We listened to him then, and must continue to advocate on our citizens behalf today. Uniting the Legislative and Executive branches of our state government with the grassroots interests and support will give us the power and the voice we need.

Please support HB 1249. Thank you.

Mike Dwyer
3/12/15
7.1

Strike everything from page 1 line 14 to page 2 line 5 and insert the following. Renumber accordingly.

1. 61-42-02. Members-Terms-Expenses.

1. The following voting stakeholder organizations shall each have a representative on the council, and each such member shall recommend a representative to be appointed by the governor:

- a. The friends of Lake Sakakawea;
- b. The voices of Lake Oahe;
- c. The garrison diversion conservancy district;
- d. The southwest water authority;
- e. The western area water authority;
- f. The Lake Aggasiz water authority;
- g. The northwest area water supply advisory committee
- h. The North Dakota irrigation association;
- i. The North Dakota water users association;
- j. The North Dakota rural water systems association;
- k. The North Dakota ag coalition;
- l. The North Dakota petroleum council;
- m. The lignite energy council;
- n. The North Dakota league of cities;
- o. Three representatives from North Dakota association of counties, one each representing Lake Sakakawea, Lake Oahe, and the free flowing reach of the Missouri River below Garrison Dam;
- p. The North Dakota water resource districts association;
- q. The Missouri River adjacent landowners association;
- r. The North Dakota association of rural electric cooperatives;
- s. The North Dakota recreation and park association;
- t. The independent water providers;

2. The following voting stakeholder members of the council shall be appointed by the governor:

- a. A representative of flood control;
- b. A representative of hydropower;
- c. A representative of water quality;
- d. A representative of fish and wildlife;
- e. A representative of water supply;
- f. A representative of irrigation;
- g. A representative of recreation;
- h. A representative of thermal electricity generators on the river;
- i. The governor, or the governor's designee.

3. Page 2, delete lines 29-31.

4. Page 3, line 17, change the word "ten" to "three-fourths."

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad

Senators Schneider, Wardner

1 A BILL for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating
2 to the creation of the Missouri River empower advisory council.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 SECTION 1. Chapter 61-42 of the North Dakota Century Code is created and enacted as
5 follows:

6 **61-42-01. Missouri River empower advisory council - Generally.**

7 The Missouri River comprises the vast majority of surface water flow in the state and is
8 essential for providing the water supply for people, industry, irrigation, agriculture, energy, fish
9 and wildlife, and recreational opportunities. A Missouri River empower advisory council is
10 established to create a unified vision and voice for North Dakota and its stakeholders regarding
11 the use and management of the Missouri River, and to advise the governor, legislative
12 assembly, and state agencies on issues concerning the Missouri River.

13 **61-42-02. Members - Terms - Expenses.**

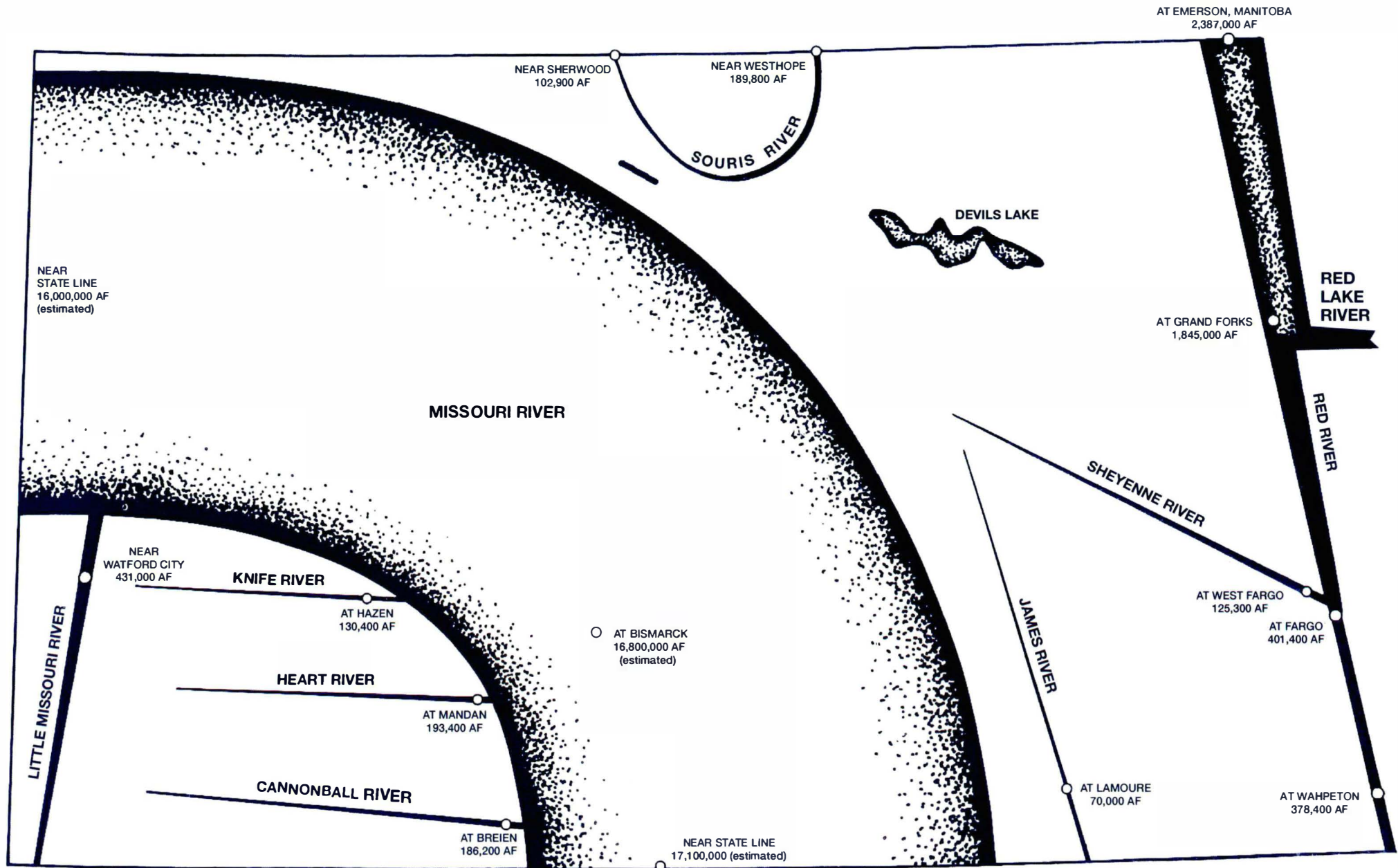
14 1. The following voting stakeholder members of the council must be appointed by the
15 governor:

- 16 a. A representative of recreation;
17 b. A representative of irrigation;
18 c. A representative of cities;
19 d. A representative of regional rural water systems;
20 e. A representative of agriculture;
21 f. A representative of energy;
22 g. A representative of environment and conservation;
23 h. A representative of the Garrison Diversion Conservancy District;
24 i. Two at-large representatives;

- 1 j. Three county representatives, each representing counties along the Missouri
- 2 River, one representing counties along the free flowing reach of the Missouri
- 3 River, one representing counties bordering Lake Sakakawea, and one
- 4 representing counties bordering Lake Oahe; and
- 5 k. The governor's designee.
- 6 2. Additional voting members of the council must include:
- 7 a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or
- 8 designee;
- 9 b. The chairman of the Standing Rock Sioux Tribe, or designee; and
- 10 c. The chairman of the Trenton Indian service area, or designee.
- 11 3. The following entities may be represented on the council, but are nonvoting members:
- 12 a. A legislator, appointed by the legislative management;
- 13 b. The director of the game and fish department, or designee;
- 14 c. The director of the parks and recreation department, or designee;
- 15 d. The state engineer, or designee;
- 16 e. The state health officer, or designee;
- 17 f. The commissioner of the department of commerce, or designee;
- 18 g. The director of the Indian affairs commission, or designee;
- 19 h. The commissioner of the department of trust lands, or designee;
- 20 i. The director of the oil and gas division, or designee; and
- 21 j. The commissioner of the department of agriculture, or designee.
- 22 4. All other state agencies shall provide assistance to the council as requested.
- 23 5. All appointed members shall serve for a term of four years or until their successors are
- 24 appointed and qualified. Terms expire on the first day of July. The terms of appointed
- 25 members must be staggered so that the terms of at least four members expire each
- 26 year. Appointed members may be reappointed for additional terms and serve at the
- 27 pleasure of the governor.
- 28 6. The governor or the governor's designee is chairman of the council.
- 29 7. The members of the council are entitled to receive mileage and expenses at the rates
- 30 and under the terms as provided by law for state employees. The state water
- 31 commission shall pay the expenses of council members.

MJ
7.4

ANNUAL FLOWS IN NORTH DAKOTA



Recorded River Flows



North Dakota Irrigation Association

Dedicated to strengthening and expanding irrigation to build and diversify our economy.

P.O. Box 2254
Bismarck, ND 58502
701-223-4615, 701-223-4645 (fax)
e-mail: ndirrigation@btinet.net

8.1

Testimony on House Bill 1249

Senate Committee on Energy and Natural Resources
Carter VanderWal, Vice Chairman, ND Irrigation Association

9:00 a.m., March 12, 2015

Mr. Chairman and members of the Senate Energy and Natural Resources Committee, my name is Carter VanderWal, Vice Chairman of the North Dakota Irrigation Association. The Association is made up of irrigators, irrigation equipment dealers, businesses, and others who support irrigation development.

North Dakota has approximately 275,000 acres of irrigation with approximately 55,000 of those acres served by water from the Missouri River. The total annual water use by these acres is approximately 80,000 acre-feet and represents the largest consumptive use from the river. Substantially more land suitable for irrigation occurs in the Missouri River corridor. Preliminary studies have identified approximately 200,000 additional acres that should be feasible to develop. With further studies, it is likely that more acres would be identified. With adequate water and favorable soils, the Missouri River corridor represents the greatest potential for irrigation development in the state.

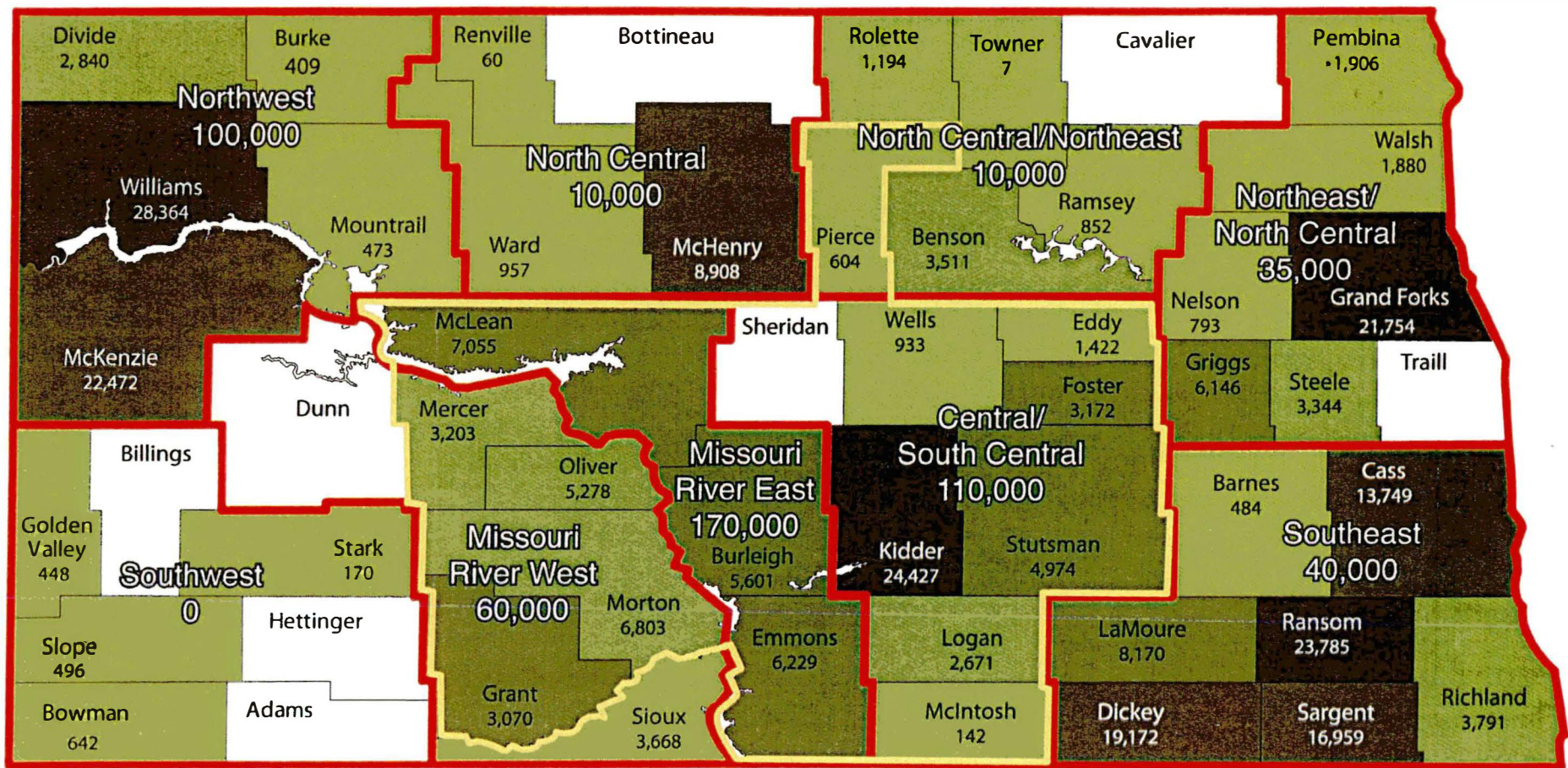
However, competition for Missouri River water is occurring from other states. In 2013, Kansas announced the beginning of a study to determine the feasibility of conveying up to 4 million acre-feet of water annually from the Missouri River through an aqueduct 360 miles long. The purpose is to provide supplemental water to the irrigation currently using water from the underlying Ogallala aquifer. Approximately, two million acre-feet are pumped annually from the aquifer, but only 200,000 acre-feet are recharged. Water managers stated in a recent article "we realized that the kind of irrigation development envisioned in 1982 for the Upper Missouri has not really occurred." Also, they recognized that current flows in the Missouri are higher than estimated by the 1982 study.

The U.S. Bureau of Reclamation also conducted a study for the main purpose of identifying water supply imbalances along the Front Range in the vicinity of Denver, Colorado, and it identified the Missouri River as a source of water for supplementing future needs in that growing area.

The North Dakota Irrigation Association supports establishing an advisory council to develop a public consensus on issues related to the management of North Dakota's interests in the Missouri River and convey those views to the elected leaders of the state for consideration and implementation.

We do believe it is essential that all groups who have a similar stake in the Missouri River be at the table to develop a broad, effective, and grassroots support to protect North Dakota's interests in the Missouri River and we support the expanded council as proposed by the North Dakota Water Users Association.

Irrigated Acreage & Potential Irrigation Development in North Dakota



North Dakota Irrigated Acreage 2010 - (Divide 2,840) and Potential Irrigation Development - (Northwest 100,000)

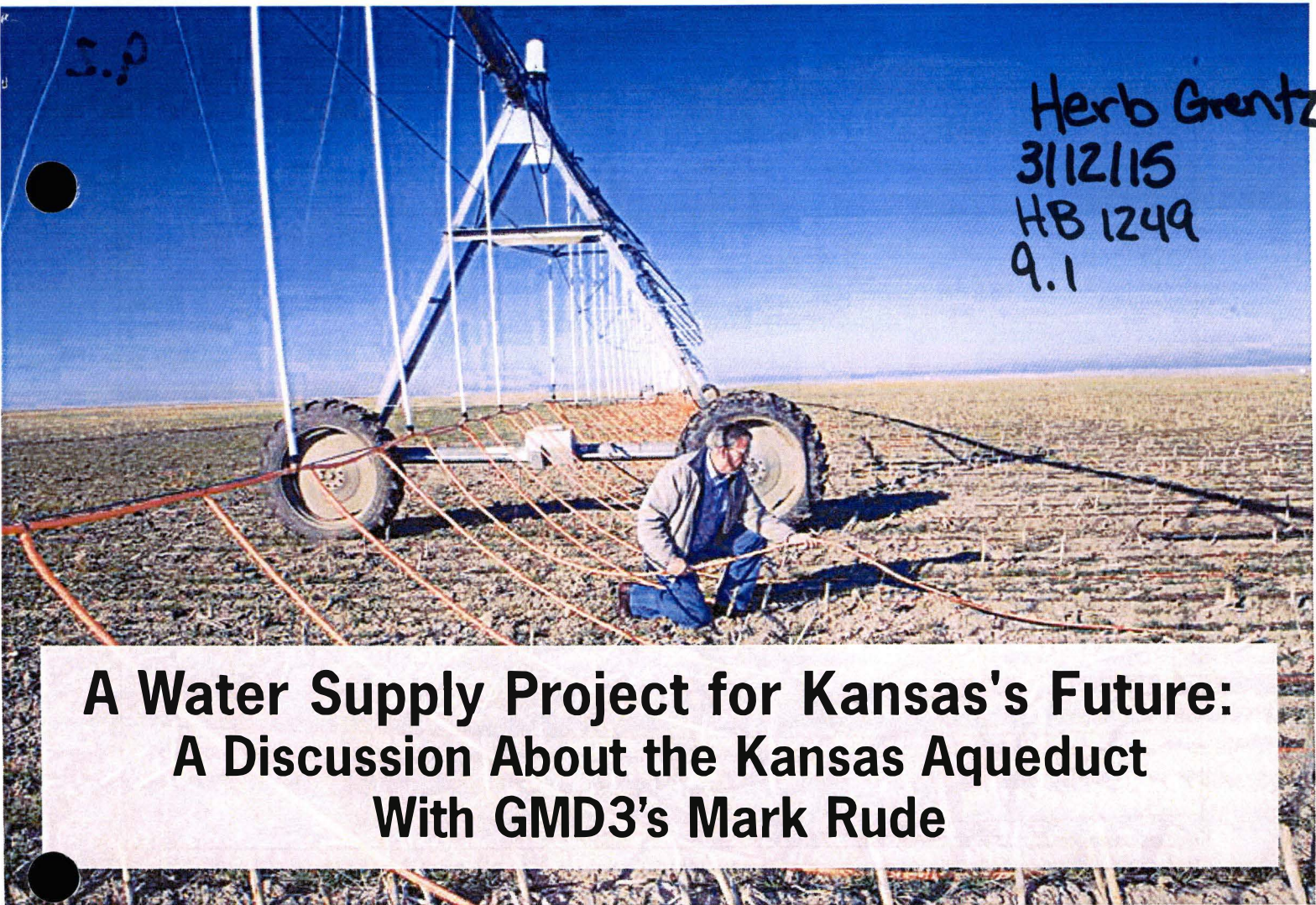
Irrigated Acreage per County

- █ NDIA Strategic Plan Areas for Potential Irrigation Development (2012)
- █ SWC (1995) and NDSU (1982) Studies

- █ 3.0 - 1554.0
- █ 2517.6 - 3806.0
- █ 4738.4 - 8187.4
- █ 9599.3 - 15,128.0
- █ 17,755.7 - 23,824.8

8.2

February 25, 2013



A Water Supply Project for Kansas's Future: A Discussion About the Kansas Aqueduct With GMD3's Mark Rude

Mark Rude tending to a Dragon-Line™ on a farm located in GMD3. Photo credit: Elma Guaderrama.

The Southwest Kansas Groundwater Management District (GMD3) is located in the heart of the irrigation/agribusiness, industrial complex overlying the Ogallala aquifer. GMD3 includes part or all of 12 counties in southwestern Kansas, covering roughly 8,500 square miles and 1.5 million irrigated acres. Growers in the district rely almost exclusively on the waters of a rapidly declining Ogallala to grow corn, milo, alfalfa, and wheat. The district was organized to conserve groundwater resources, prevent economic deterioration, and provide for the stabilization of agriculture by establishing the right of local users to determine their own destiny with respect to the use of groundwater.

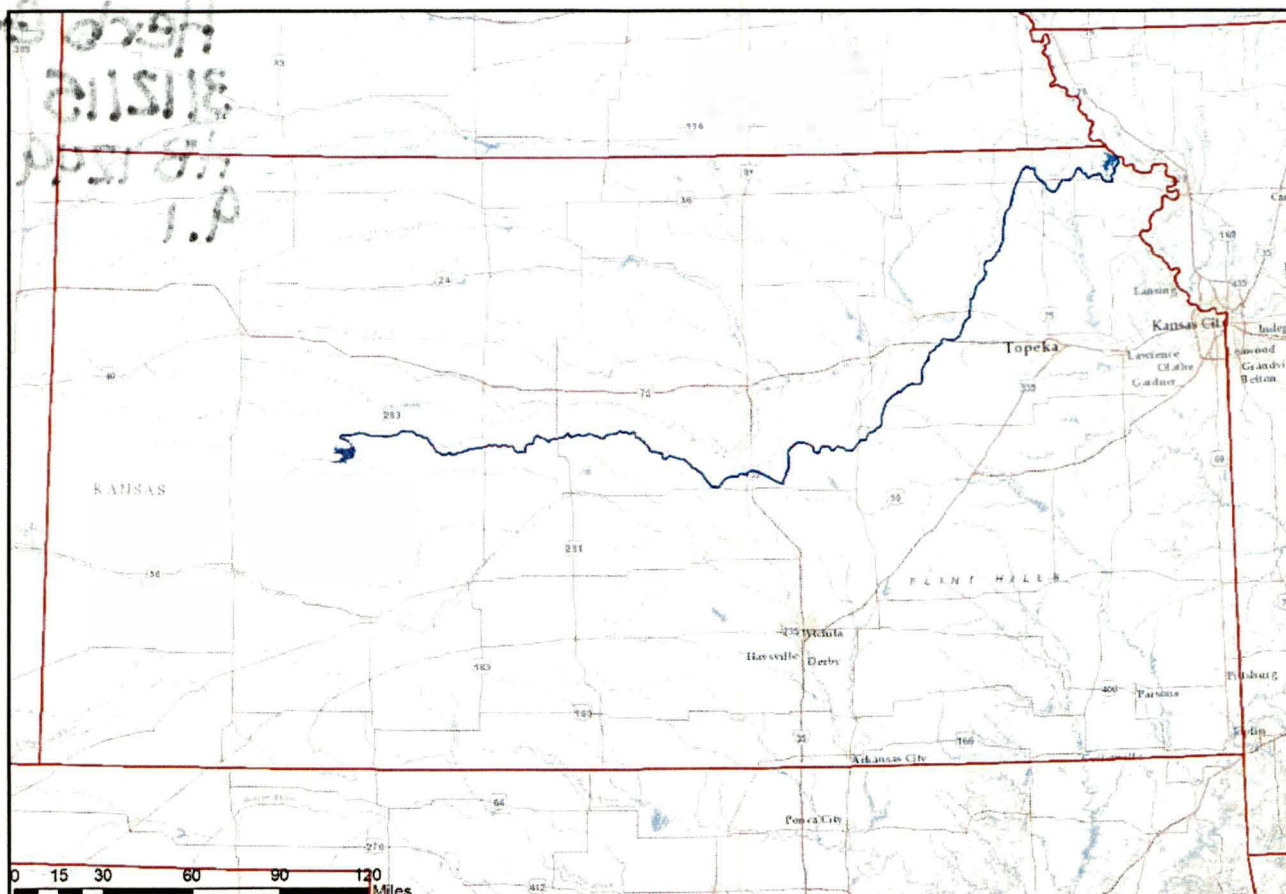
Mark Rude has been GMD3's executive director for nine years. He grew up in Wichita, holds a bachelor of science in geology from Wichita State University, and is a licensed geologist in the state of Kansas. Mark served as water commissioner for southwestern Kansas from 1992 through 2005. During that time of water right supervision, he served for nine years as assistant operations secretary for the Kansas-Colorado Arkansas River Compact Administration. Irrigation Leader's editor-in-chief, Kris Polly, spoke with Mark about his

district and his vision for bringing lasting water supplies to the arid but productive lands of western Kansas.

Kris Polly: What is the purpose of your groundwater management district?

Mark Rude: Prior to the formation of the groundwater management districts, Kansas had passed the Water Appropriations Act, which reflected a prior appropriation doctrine. But groundwater areas have special considerations. Water rights were being issued far in excess of sustainable supplies. There was a reluctance to adopt formal rules and regulations without formal local representation advising on what those rules should be. So, the groundwater districts provide collaborative work with the state agencies on how to manage the water supply.

GMD3 was really formed to organize the local water users and landowners to develop policies on groundwater use, to request that the state adopt local rules for wells and groundwater management, and to extend the life of declining groundwater supplies in a fair and equitable



The proposed aqueduct would pump water approximately 360 miles from the Missouri River to the plains of southwestern Kansas. Map credit: GMD3.

manner. It's been somewhat of a tug of war between the two doctrines of prior appropriation officially and correlative rights in everyday practice. Nearly 100 percent of our supply comes from the Ogallala aquifer. The Southwest Kansas Irrigation Association, which preceded GMD3 by some 20 years, worked to form GMD3 and was successful in 1976.

The optional water rights were then mandated in 1978 and are supervised by the state department of agriculture. The groundwater district is a local board of water users and landowners that provides recommendations to the state on issues such as available water supply, waiver of rules, and the development of management plans unique to a particular groundwater area in order to further implement the purposes of the Water Appropriations Act and the Groundwater Management Act.

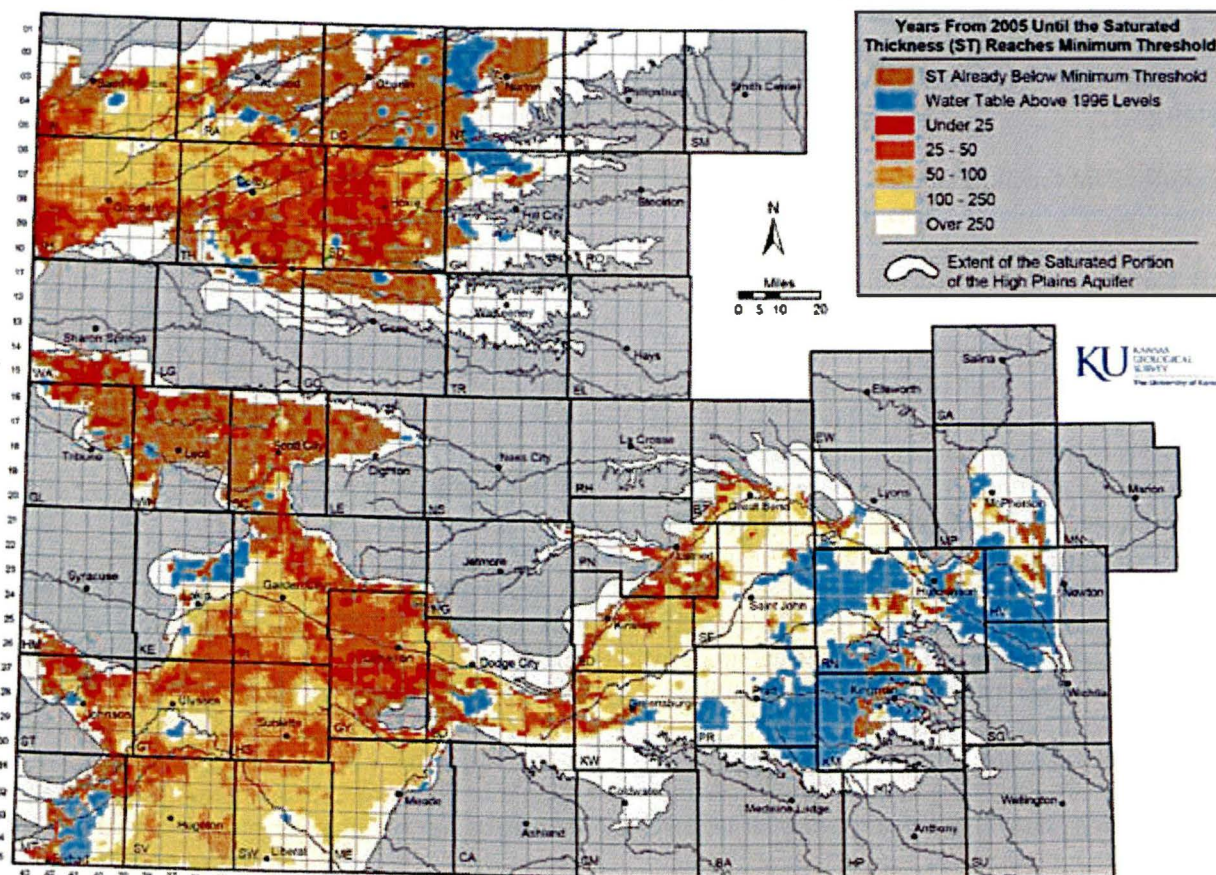
Kris Polly: How much water can your farmers use?

Mark Rude: All beneficial uses are limited by rate, quantity, point of diversion, place of use, use made of

water, and priority. In Kansas, historically, there have been standards for maximum reasonable need. Generally, in the western third of Kansas, 2 acre-feet per acre irrigated was the maximum that could be developed under a water right. Once the water right was developed, the water user can use that water however he or she wants to as long as it is without waste and within the confines of the water right terms itself. Based on that, for example, it is possible for an alfalfa grower to use 30 inches of water and not be in violation of his water right as long as there was no waste and the total quantity was within point of diversion restrictions. Similarly, there can be a time of no water use and the water right is not harmed or diminished. That was finally added to Kansas law several years ago in areas closed to new water rights, recognizing the necessity to conserve water. All of the Ogallala aquifer in our district is now closed to new water rights at the request of our board and members.

Kris Polly: What is the rate of decline in the Ogallala aquifer?

Estimated Usable Lifetime for the High Plains Aquifer in Kansas
 (Based on ground water trends from 1996 to 2006 and the minimum saturated thickness required to support well yields at 400 gpm under a scenario of 90 days of pumping with wells on 1/4 section)



Kansas Geological Survey Open-File Report 2007-1

Graphic credit: Kansas Geological Survey.

Mark Rude: In GMD3, we use about half of the groundwater pumped in the state. We are blessed with a large portion of the Ogallala aquifer, but we have also done an excellent job of fully developing that resource. Recently completed regional modeling on the aquifer shows that we are about 9 percent sustainable. In other words, for the 2 million acre-feet that we use annually from the aquifer, natural recharge on average restores a little less than 200,000 acre-feet. We are doing everything to support efficiency of use and water conservation, but we are also squarely facing the question of mandatory reductions to conserve and extend the life of the aquifer. Depth to water averages about 300 feet, with total well depths from 350 to 600 feet and well yields averaging about 550 gallons per minute, with big differences from place to place and water quality becoming a factor as well.

Kris Polly: Please tell our readers about your plans to help increase existing water supplies in western Kansas.

Mark Rude: Because of the large disparity between renewable water supplies and use—like in so many areas of the United States and worldwide—we found the need to look around for other options for additional water supplies. The concept of the Ogallala aquifer being mined and depleted has been squarely in the public eye since the late 1970s. A public law was passed in 1976 empowering the U.S. Department of Commerce to take a look at the Ogallala states, primarily the six main states. Part of that High Plains study authorized by Congress was to charge the Army Corps to look at water transfer projects from east to west across the plains. One of the four projects scoped by the Corps originated out of the Missouri River in northeastern Kansas to move water across the state to western Kansas.

We took that 1982 study water transfer element and started another look at it with the state partners and other interested stakeholders, to update cost numbers and compare it to other similar projects nationwide, like the

Central Arizona Project. In taking the lead on this, our district has really promoted a value of water that exists out there and that, in recent events, such as the flooding event of 2011 along the Missouri River, there was an excess of unused water that could be a source solution to our need for sustainable water use in southwestern Kansas. That was the spark.

Kris Polly: Did the initial studies estimate potential quantities of water or size of the canal?

Mark Rude: It did. It looked at three sizes—2,000 cubic feet per second (cfs), 6,000 cfs, and 10,000 cfs—and evaluated, in a cursory manner, an open-channel, concrete-lined conduit with about 16 lift stations; an origination reservoir at White Cloud, Kansas, next to the Missouri River; and a terminal reservoir near Utica, Kansas. At the terminus, the water would be further distributed with various canals and pipelines to farms and fields to augment irrigation as the Ogallala diminished. The study, with assumptions made to respect the 1944 Pick-Sloan Act provisions for the Missouri River basin, estimated an average high-flow firm yield of about 1.6 million acre-feet per year, with as much as 4 million acre-feet available in certain years.

As part of our work here in Kansas, with help from the planning assistance to the state program with Army Corps of Engineers, we realized that the kind of irrigation development envisioned in 1982 for the Upper Missouri has not really occurred. High flows—those above target navigation flows at Kansas City—are more abundant than the 1982 study projected. This is partly because we have several additional decades of data to look at. So the good news that we are learning in our investigations is that there are more high flows available than once thought.

Costs are always a factor, and they are much higher than were projected in the 1982 study.

Kris Polly: How many miles would the canal be?

Mark Rude: As envisioned in 1982, roughly 360 miles to the terminal reservoir.

Kris Polly: And what would the storage capacity of the reservoirs be?

Mark Rude: Both reservoirs were considered to hold 700,000 acre-feet each but varied even larger depending on the three open-channel conduit sizes considered. So they are quite large. The concept is to have a system that would grab the high flows available, store them, and continually feed that water west to the fields, but also to

have enough storage in the terminal reservoir so water can be made available during the growing season to meet irrigation demands.

The real story, however, is what else can be a key component today, especially for a Kansas-specific project. Do we have to have an origination reservoir? Can we utilize distributed storage? To what extent can aquifer storage and recovery be a part of the project? There are many questions to work through. There are so many benefits to think about along the way. The 1982 study did not even consider municipal and industrial supply. The very route of the aqueduct, as it was conceived following a topographic ridgeline, facilitates the concept of downloading water into each watercourse headwater that it may pass to provide statewide water assurance.

Kris Polly: What should everyone know about the Kansas aqueduct?

Mark Rude: We have very few options in western Kansas. At this point, big water costs are inevitable for Kansas and others in the western United States no matter what strategy we take, including doing nothing. The Kansas Aqueduct Project will require a compact with sister states to find the win-win options for each state, and that takes leadership from many folks in key positions. A water transportation system concept from the Missouri River can provide a sustainable supply to meet the present and future water needs of families, farms, and communities across the state and possibly beyond.

One thing that the excessive development of the Ogallala has demonstrated is that semiarid areas can efficiently and safely provide food for the world in an environment removed from the movement of excessive nutrients in the hydrologic cycle. The world our kindergarten-age school kids will face when they graduate from high school, as I understand it, will have another 2 billion people to feed. Everything is in place in western Kansas to be successful in playing a key role in that intensified agricultural stewardship challenge except sustainable irrigation water.

The construction of the aqueduct would provide a list of benefits, including reduced flood threats and utilizing those flows, especially when combined with a vast aquifer reservoir. We can't afford not to try for it. The Kansas Aqueduct Project necessarily must be part of our thinking as we move forward to meet the irrigation water management demands of a climate-shifting future.

March 20, 2015

Attachment 1
3/26/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

Page 1, line 2, remove "empower"

Page 1, line 6, remove "empower"

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "k." with "a. A representative of domestic water supply interests;

b. A representative of historical and cultural values protection;

c. A representative of industrial water supply interests;

d. A representative of irrigation interests;

e. A representative of natural resource conservation issues, including fish and wildlife;

f. A representative of public recreational facilities;

g. A representative of water quality interests;

h."

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, remove "5."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "4."

Page 2, line 29, replace "7." with "5."

Page 3, remove line 1

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "six"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 23, remove ", along with erosion and"

Page 3, line 24, remove "sedimentation, the management of federal lands,"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

March 27, 2015

#1
Apr. 7, 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

Page 1, line 2, remove "empower"

Page 1, line 6, remove "empower"

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, remove lines 1 through 4

Page 2, line 5, replace "k." with:

- "a. A representative of domestic water supply interests;
- b. A representative of energy interests;
- c. A representative of historical and cultural values protection;
- d. A representative of industrial water supply interests;
- e. A representative of irrigation interests;
- f. A representative of natural resource conservation issues, including fish and wildlife;
- g. A representative of public recreational facilities;
- h. A representative of water quality interests;
- i."

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, line 10, remove "c. The chairman of the Trenton Indian service area, or designee"

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, remove "5."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "4."

Page 2, line 29, replace "7." with "5."

Page 3, remove line 1

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "six"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 23, remove ", along with erosion and"

Page 3, line 24, remove "sedimentation, the management of federal lands,"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

That the Senate recede from its amendments as printed on pages 1280 and 1281 of the House Journal and pages 997-999 of the Senate Journal and that Engrossed House Bill No. 1249 be amended as follows:

Page 1, line 2, remove "empower"

Page 1, line 6, remove "**empower** "

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 4 with:

- a. A representative of agriculture;
- b. A representative of cities;
- c. A representative of energy interests;
- d. A representative of environment natural resource conservation issues, including fish and wildlife;
- e. A representative of the Garrison Diversion Conservancy District;
- f. A representative of irrigation;
- g. A representative of the Missouri River Joint Water Board to represent counties along the free flowing reach of the Missouri River, counties bordering Lake Sakakawea, and counties bordering Lake Oahe;
- h. A representative of recreation interests;
- i. A representative of water supply;
- j. One at-large representative; and"

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, remove line 10

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, replace "5." with "The chairman of the legislative management shall appoint the following to the council as voting members:"

a. One member of the senate; and

b. One member of the house of representatives.

4."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "5."

Page 2, line 29, replace "7." with "6."

Page 2, line 30, replace "The" with "Except for the members appointed by the chairman of the legislative management, the"

Page 2, line 31, after the underscored period insert "The legislative council shall pay the compensation and expense reimbursement for the legislative members."

Page 3, line 1, replace "8." with "7."

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "eight"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

1 Apr 13, 2015

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

2 Apr. 13, 2015

15.0336.07002

FIRST ENGROSSMENT

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad

Senators Schneider, Wardner

- 1 A BILL for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating
2 to the creation of the Missouri River ~~empower~~ advisory council.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 **SECTION 1.** Chapter 61-42 of the North Dakota Century Code is created and enacted as
5 follows:

6 **61-42-01. Missouri River ~~empower~~ advisory council - Generally.**

7 The Missouri River comprises the vast majority of surface water flow in the state and ~~is~~
8 ~~essential for providing~~ provides the water supply for people, industry, irrigation, agriculture,
9 energy, fish and wildlife, and recreational opportunities. A Missouri River ~~empower~~ advisory
10 council is established to ~~create a unified vision and voice for North Dakota and its~~ coordinate
11 communication among stakeholders regarding the use and management of the Missouri River,
12 and to advise the governor, ~~and~~ legislative assembly, ~~and state agencies~~ on issues concerning
13 the Missouri River. A member or employee of the council may not represent to any person that
14 the council has the authority to negotiate on behalf of the state.

15 **61-42-02. Members - Terms - Expenses.**

16 1. The following voting stakeholder members of the council must be appointed by the
17 governor:

- 18 ~~a. A representative of recreation;~~
19 ~~b. A representative of irrigation;~~
20 ~~c. A representative of cities;~~
21 ~~d. A representative of regional rural water systems;~~
22 ~~e. A representative of agriculture;~~
23 ~~f. A representative of energy;~~
24 ~~g. A representative of environment and conservation;~~

Sixty-fourth
Legislative Assembly

- 1 ~~h. A representative of the Garrison Diversion Conservancy District;~~
- 2 ~~i. Two at-large representatives;~~
- 3 ~~j. Three county representatives, each representing counties along the Missouri-~~
- 4 ~~River, one representing counties along the free flowing reach of the Missouri-~~
- 5 ~~River, one representing counties bordering Lake Sakakawea, and one-~~
- 6 ~~representing counties bordering Lake Oahe; and~~
- 7 ~~k.~~
- 8 a. A representative of domestic water supply interests;
- 9 b. A representative of energy interests;
- 10 c. A representative of historical and cultural values protection;
- 11 d. A representative of industrial water supply interests;
- 12 e. A representative of irrigation interests;
- 13 f. A representative of natural resource conservation issues, including fish and
- 14 wildlife;
- 15 g. A representative of public recreational facilities;
- 16 h. A representative of water quality interests;
- 17 i. The governor's designee.
- 18 2. ~~Additional voting members of the council must include~~ The governor shall invite the
- 19 following to join the council as voting members:
- 20 a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or
- 21 designee; and
- 22 b. The chairman of the Standing Rock Sioux Tribe, or designee; and
- 23 ~~c. The chairman of the Trenton Indian service area, or designee.~~
- 24 3. ~~The following entities may be represented on the council, but are nonvoting members:~~
- 25 ~~a. A legislator, appointed by the legislative management;~~
- 26 ~~b. The director of the game and fish department, or designee;~~
- 27 ~~c. The director of the parks and recreation department, or designee;~~
- 28 ~~d. The state engineer, or designee;~~
- 29 ~~e. The state health officer, or designee;~~
- 30 ~~f. The commissioner of the department of commerce, or designee;~~
- 31 ~~g. The director of the Indian affairs commission, or designee;~~

Sixty-fourth
Legislative Assembly

~~h. The commissioner of the department of trust lands, or designee;~~

~~i. The director of the oil and gas division, or designee; and~~

~~j. The commissioner of the department of agriculture, or designee.~~

~~4. All other state agencies shall provide assistance to the council as requested.~~

~~5.~~ All appointed members shall serve for a term of four years or until their successors are appointed and qualified. Terms expire on the first day of July. The terms of appointed members must be staggered so that the expiration of terms of at least four members ~~expire each year~~ is evenly distributed. Appointed members may be reappointed for one ~~additional term~~ term and serve at the pleasure of the governor.

~~6.4.~~ The governor or the governor's designee is chairman of the council.

~~7.5.~~ The members of the council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The state water commission shall pay the expenses of council members.

~~8. The state water commission shall provide staffing and support services to the council.~~

61-42-03. Duties - Report to legislative assembly.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings must be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, and legislative assembly, ~~and state agencies~~ with recommendations related to issues needing to be studied or addressed and relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in the Missouri River. ~~The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers, in order to improve the state's negotiating position with the United States army corps of engineers.~~

2. The ~~county and stakeholder~~ appointed representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.

Sixty-fourth
Legislative Assembly

- 1 3. Any recommendations developed by the council must receive support from ~~tensix~~
2 voting members before submission to the governor, ~~or legislative assembly, or state-~~
3 ~~agencies.~~
- 4 4. The council may establish working groups and collaborate with organizations to make
5 recommendations ~~or~~to accomplish its objectives to ~~protect~~fairly represent all interests
6 ~~and rights~~ of North Dakota and stakeholders in the Missouri River. This includes the
7 eight authorized purposes identified in the Flood Control Act of 1944 and implemented
8 by the United States army corps of engineers in ~~their~~its master manual, ~~along with-~~
9 ~~erosion and sedimentation, the management of federal lands,~~ and any other existing
10 or potentially beneficial uses.
- 11 5. The council shall report accomplishments, ongoing activities, and ~~potential-~~
12 ~~legislation~~recommendations to the legislative assembly.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

That the Senate recede from its amendments as printed on pages 1280 and 1281 of the House Journal and pages 997-999 of the Senate Journal and that Engrossed House Bill No. 1249 be amended as follows:

Page 1, line 2, remove "empower"

Page 1, line 6, remove "empower "

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 4 with:

- a. A representative of agriculture;
- b. A representative of cities;
- c. A representative of energy interests;
- d. A representative of environment natural resource conservation issues, including fish and wildlife;
- e. A representative of the Garrison Diversion Conservancy District;
- f. A representative of irrigation;
- g. A representative of the Missouri River Joint Water Board to represent counties along the free flowing reach of the Missouri River, counties bordering Lake Sakakawea, and counties bordering Lake Oahe;
- h. A representative of recreation interests;
- i. A representative of water supply;
- j. One at-large representative; and"

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove ", and"

Page 2, remove line 10

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members."

Page 2, remove lines 12 through 22

Page 2, line 23, replace "5." with "The chairman of the legislative management shall appoint the following to the council as voting members:

a. One member of the senate; and

b. One member of the house of representatives.

4."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "5."

Page 2, line 29, replace "7." with "6."

Page 2, line 30, replace "The" with "Except for the members appointed by the chairman of the legislative management, the"

Page 2, line 31, after the underscored period insert "The legislative council shall pay the compensation and expense reimbursement for the legislative members."

Page 3, line 1, replace "8." with "7."

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "eight"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

1 Apr 14, 2015

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1249

Introduced by

Representatives Steiner, Carlson, Delzer, Hofstad, Onstad

Senators Schneider, Wardner

1 A BILL for an Act to create and enact chapter 61-42 of the North Dakota Century Code, relating
2 to the creation of the Missouri River ~~empower~~ advisory council.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 61-42 of the North Dakota Century Code is created and enacted as
5 follows:

6 **61-42-01. Missouri River ~~empower~~ advisory council - Generally.**

7 The Missouri River comprises the vast majority of surface water flow in the state and ~~is~~
8 ~~essential for providing~~ provides the water supply for people, industry, irrigation, agriculture,
9 energy, fish and wildlife, and recreational opportunities. A Missouri River ~~empower~~ advisory
10 council is established to ~~create a unified vision and voice for North Dakota and its~~ coordinate
11 communication among stakeholders regarding the use and management of the Missouri River,
12 and to advise the governor, ~~and~~ legislative assembly, ~~and state agencies~~ on issues concerning
13 the Missouri River. A member or employee of the council may not represent to any person that
14 the council has the authority to negotiate on behalf of the state.

15 **61-42-02. Members - Terms - Expenses.**

16 1. The following voting stakeholder members of the council must be appointed by the
17 governor:

- 18 ~~a. A representative of recreation;~~
19 ~~b. A representative of irrigation;~~
20 ~~c. A representative of cities;~~
21 ~~d. A representative of regional rural water systems;~~
22 ~~e. A representative of agriculture;~~
23 ~~f. A representative of energy;~~
24 ~~g. A representative of environment and conservation;~~

Sixty-fourth
Legislative Assembly

- 1 ~~h. A representative of the Garrison Diversion Conservancy District;~~
- 2 ~~i. Two at large representatives;~~
- 3 ~~j. Three county representatives, each representing counties along the Missouri-~~
- 4 ~~River, one representing counties along the free flowing reach of the Missouri-~~
- 5 ~~River, one representing counties bordering Lake Sakakawea, and one~~
- 6 ~~representing counties bordering Lake Oahe; and~~
- 7 ~~k.~~
- 8 a. A representative of domestic water supply interests;
- 9 b. A representative of energy interests;
- 10 c. A representative of historical and cultural values protection;
- 11 d. A representative of industrial water supply interests;
- 12 e. A representative of irrigation interests;
- 13 f. A representative of natural resource conservation issues, including fish and
- 14 wildlife;
- 15 g. A representative of public recreational facilities;
- 16 h. A representative of water quality interests;
- 17 i. The governor's designee.
- 18 2. ~~Additional voting members of the council must include~~ The governor shall invite the
- 19 following to join the council as voting members:
- 20 a. The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or
- 21 designee; and
- 22 b. The chairman of the Standing Rock Sioux Tribe, or designee; and
- 23 ~~c. The chairman of the Trenton Indian service area, or designee.~~
- 24 3. ~~The following entities may be represented on the council, but are nonvoting members:~~
- 25 ~~a. A legislator, appointed by the legislative management;~~
- 26 ~~b. The director of the game and fish department, or designee;~~
- 27 ~~c. The director of the parks and recreation department, or designee;~~
- 28 ~~d. The state engineer, or designee;~~
- 29 ~~e. The state health officer, or designee;~~
- 30 ~~f. The commissioner of the department of commerce, or designee;~~
- 31 ~~g. The director of the Indian affairs commission, or designee;~~

Sixty-fourth
Legislative Assembly

- ~~h. The commissioner of the department of trust lands, or designee;~~
- ~~i. The director of the oil and gas division, or designee; and~~
- ~~j. The commissioner of the department of agriculture, or designee.~~
- ~~4. All other state agencies shall provide assistance to the council as requested.~~
- ~~5.~~ All appointed members shall serve for a term of four years or until their successors are appointed and qualified. Terms expire on the first day of July. The terms of appointed members must be staggered so that the expiration of terms of at least four members expire each year is evenly distributed. Appointed members may be reappointed for one additional term and serve at the pleasure of the governor.
- 6.4. The governor or the governor's designee is chairman of the council.
- 7.5. The members of the council are entitled to receive mileage and expenses at the rates and under the terms as provided by law for state employees. The state water commission shall pay the expenses of council members.
- ~~8. The state water commission shall provide staffing and support services to the council.~~

61-42-03. Duties - Report to legislative assembly.

1. The council shall hold meetings at least twice per year, or as often as the chairman deems necessary. The meetings must be open to the public and provide an opportunity for the public to present issues or concerns to the council. The council shall provide the governor, and legislative assembly, and state agencies with recommendations related to issues needing to be studied or addressed and relating to the protection and use of the Missouri River and operations of the reservoirs. The council shall gather input to build consensus, collaboration, and partnership opportunities to promote and advocate for North Dakota and its stakeholders' rights and interests in the Missouri River. ~~The council shall recommend ways to strengthen the state's working relationship with the United States army corps of engineers, in order to improve the state's negotiating position with the United States army corps of engineers.~~
2. The ~~county and stakeholder~~ appointed representatives shall work to understand and represent grassroots efforts being undertaken by organizations and individuals.

Apr 14, 2015

Sixty-fourth
Legislative Assembly

- 1 3. Any recommendations developed by the council must receive support from ~~tensix~~
2 voting members before submission to the governor, ~~or legislative assembly, or state~~
3 ~~agencies.~~
- 4 4. The council may establish working groups and collaborate with organizations to make
5 recommendations ~~or~~to accomplish its objectives to ~~protect~~fairly represent all interests
6 ~~and rights~~ of North Dakota and stakeholders in the Missouri River. This includes the
7 eight authorized purposes identified in the Flood Control Act of 1944 and implemented
8 by the United States army corps of engineers in ~~their~~its master manual, ~~along with~~
9 ~~erosion and sedimentation, the management of federal lands,~~ and any other existing
10 or potentially beneficial uses.
- 11 5. The council shall report accomplishments, ongoing activities, and ~~potential~~
12 ~~legislation~~recommendations to the legislative assembly.

#1
Apr. 15 2015

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1249

That the Senate recede from its amendments as printed on pages 1280 and 1281 of the House Journal and pages 997-999 of the Senate Journal and that Engrossed House Bill No. 1249 be amended as follows:

Page 1, line 2, remove "empower"

Page 1, line 6, remove "empower "

Page 1, line 7, remove "is"

Page 1, line 8, replace "essential for providing" with "provides"

Page 1, line 9, remove "empower"

Page 1, line 10, replace "create a unified vision and voice for North Dakota and its" with "coordinate communication among"

Page 1, line 11, replace the second underscored comma with "and"

Page 1, line 12, remove ", and state agencies"

Page 1, line 12, after the underscored period insert "A member or employee of the council may not represent to any person that the council has the authority to negotiate on behalf of the state."

Page 1, remove lines 16 through 24

Page 2, replace lines 1 through 4 with:

- a. A representative of agriculture;
- b. A representative of cities;
- c. A representative of energy interests;
- d. A representative of environment natural resource conservation issues, including fish and wildlife;
- e. A representative of the Garrison Diversion Conservancy District;
- f. A representative of irrigation;
- g. A representative of the Missouri River Joint Water Board to represent counties along the free flowing reach of the Missouri River, counties bordering Lake Sakakawea, and counties bordering Lake Oahe;
- h. A representative of recreation interests;
- i. A representative of water supply;
- j. One at-large representative; and"

Page 2, line 6, replace "Additional voting members of the council must include" with "The governor shall invite the following to join the council as voting members"

Page 2, line 8, after the underscored semicolon insert "and"

Page 2, line 9, remove "; and"

Page 2, remove line 10

Page 2, line 11, remove "The following entities may be represented on the council, but are nonvoting members:"

Page 2, remove lines 12 through 22

Page 2, line 23, replace "5." with "The chairman of the legislative management shall appoint the following to the council as voting members:"

a. One member of the senate; and

b. One member of the house of representatives.

4."

Page 2, line 25, after "the" insert "expiration of"

Page 2, line 25, remove "of at least four members expire each"

Page 2, line 26, replace "year" with "is evenly distributed"

Page 2, line 26, after "for" insert "one"

Page 2, line 26, replace "terms" with "term"

Page 2, line 28, replace "6." with "5."

Page 2, line 29, replace "7." with "6."

Page 2, line 30, replace "The" with "Except for the members appointed by the chairman of the legislative management, the"

Page 2, line 31, after the underscored period insert "The legislative council shall pay the compensation and expense reimbursement for the legislative members."

Page 3, line 1, replace "8." with "7."

Page 3, line 6, replace the first underscored comma with "and"

Page 3, line 6, remove ", and state agencies"

Page 3, line 11, remove "The council shall recommend ways to strengthen"

Page 3, remove lines 12 through 14

Page 3, line 15, replace "county and stakeholder" with "appointed"

Page 3, line 17, replace "ten" with "eight"

Page 3, line 18, replace the first underscored comma with "or"

Page 3, line 18, remove ", or state agencies"

Page 3, line 20, replace "or" with "to"

Page 3, line 20, after "accomplish" insert "its"

Page 3, line 20, replace "protect" with "fairly represent"

1 Apr 15, 2015

Page 3, line 20, remove "and rights"

Page 3, line 23, replace "their" with "its"

Page 3, line 26, replace "potential legislation" with "recommendations"

Renumber accordingly