

May 29, 2014 Progress report to the North Dakota Legislative Tribal State Relations Committee.

The passage of HB 1338 authorized the State Board of University and School Lands to conduct a study of the United States Army Corps of Engineers (USACE) held lands around Lake Sakakawea above the 1854' elevation and around Lake Oahe above the 1620' elevation. The major impetus of the study was to develop different options for the Legislature concerning noxious weed control, public access to these lands, and to look into the possibility of transferring these lands away from the USACE to a different entity or individuals along with those associated costs of transferring and maintenance.

Eide Bailly LLP was the successful bidder of this project and a plan was put into place to gather information as well as seeking out novel approaches to these issues.

A mail survey was created after reviewing the 2013 HB 1338 and the 2009 HB 1459, meeting with the State Board of University and School Lands, the Governor's office, and a local engineering company. The major thrust of the survey was to gather general information and to comply with the charge of RFP 22600-01-2014. The survey was broken down into seven special interest groups; Producer, Conservation or wildlife, State or Federal Agency, Tribal, County/City, Recreation, and Other. The results were tallied according to each group to determine cohesiveness amongst the group and between the groups.

The mail survey was sent out to approximately 520 individuals, organizations, counties, and agencies. The list was derived from adjacent land owners as shown in recent county plat books; a tenant list secured from the USACE, that appeared to be agriculture tenants; and individuals, organizations, counties, and agencies that testified at the 2013 HB 1338 hearings and the 2009 HB 1459 hearings.

There were about 210 responses, with the producer and other groups having the greatest number of responses, which also coincided with the greatest number on the mailing list. Some of the general results from the survey were:

- Producer and Other categories probably had the tightest consensus.
- Only one Tribal Government responded.
- Endangered species was a wasted question; it was low on most everybody's list.
- The Wildlife group was the least cohesive.
- Some areas of general agreement were:
 - Weeds are a problem.
 - The Corps is not obeying the weed laws.
 - If the tenant is controlling the weeds, the rent should be adjusted accordingly.
 - Most were in favor of grazing.
 - Most were concerned about future public access.
 - Most agreed but not all, that public access would be less restricted, if owned by the state.
 - Most agreed but not all, that a perpetual public access easement could be a viable option.
 - Most agreed but not all, that wildlife habitat is adequate on these lands.
 - Most agreed but not all, that if any land is transferred, the new owner should pay for the survey work, the title work, and the annual maintenance.

To supplement the survey five local public meetings were held:

March 4, 2014

New Town – 10:00 a.m. – City Hall Auditorium

Garrison - 3:00 p.m. – Garrison City Auditorium

March 6, 2014

Linton - 2:00 p.m. – Linton City Auditorium

March 7, 2014

Beulah – 10:00 a.m. – Beulah Civic Center

March 10, 2014

Fort Yates 10:00 a.m. – Banquet Room 801 at Prairie Knights Casino & Lodge

The purpose of these meetings was to gather additional input and ideas for developing different options for the Legislature. It was stated at all the meetings that these were not “hearings” but were to gather additional information to complete this project.

In Garrison and New Town about 60-70 people attended, while in Linton, Beulah, and Prairie Knights the attendance varied from about 25-40. Both the Linton and Beulah meetings competed for attendance with their respective basketball teams being in the State Class B basketball tournament. (Newtown was also in the tournament but the meeting was two days before it started). The meeting at Prairie Knights was disrupted by the Standing Rock tribal attorney alleging that it was an illegal public meeting because adequate notice wasn't given. Prior to the meeting, notice was printed in the official county newspapers, the Bismarck Tribune, and a letter sent to the Standing Rock Tribal office. After the Prairie Knights' meeting was closed, many individuals came forth and offered their comments and opinions.

Some of the meeting outcomes:

- Generally, good concurrence of the mail survey.
- Lake access is a major issue, in addition to the other stated issues.
- Some former property owners were able to keep their mineral rights, while others were not able to keep them.
- Some different approaches have been suggested.
- The Tribal government and tribal members aren't necessary on the same page.
- Generally good discussion for the controversial nature of this subject.

Since the meetings, we have gone through all the mail surveys taking notes on additional comments that were offered and working on developing a list for the follow up telephone/personal interviews.

The additional part of the project is to conduct personal interviews with the different stakeholder groups. That process has started. The purpose of these personal interviews is to gather information to identify if there is any commonality amongst the different stakeholder groups.

One general public meeting is scheduled, as follows:

June 11, 2014

Bismarck 2:00 p.m. – Brynhild Haugland Room, State Capitol

After the June 11th meeting, the draft options will be developed and presented to the Board Secretary of the State Board of University and School Lands. A revised draft will be presented to the State Board of University and School Lands at their August meeting and the final report presented to the Legislative Committee by October 1, 2014.