

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3044

2007 HOUSE NATURAL RESOURCES

HCR 3044

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3044

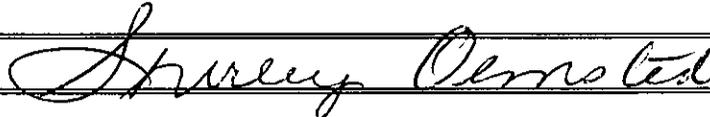
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 8, 2007

Recorder Job Number: 3152

Committee Clerk Signature



Minutes:

**Chairman Porter** opened the hearing on HCR 3044 and asked the clerk to read the title.

**Representative Merle Boucher** came forward as a sponsor of HCR 3044. See written testimony marked as Item #1. He asked the committee to look at the HCR with favor and give a do pass on the HCR.

**Representative Meyer** asked if they had completed the new master manual.

**Representative Boucher** said he did not have that information but he thought this was a perpetual work in process with the Corp of Engineers.

**Mr. Terry Steinwand** from the ND Game and Fish came forward in support. As a point of fact, their department has requested Congressional review of the 1944 flood act. It is arcade and outdated. It certainly does not look at the needs of North Dakota. As a point of reference, the navigation industry has not meet 10% of its projected uses of the 1944 Act, and 47 million cubic feet of water have left North Dakota for this navigation industry.

**Mr. Mike McEnroe** of the ND Chapter of the Wildlife Society came forward in support of HCR 3044. Please see written testimony marked as Item #2.

**Mr. Dennis Hill**, Chairman of the Water Coalition came forward in support. This group thinks it is time for this study to take place. He also comments on the master manual for the Corp of

Engineers. He said it was updated in 2005 and it also goes through the annual operating plan so it is a two step process. The manual gives the broad overview and the annual operating plan gives the yearly plan.

**Chairman Porter** asked for further testimony in support of HCR 3044. He asked for opposition to HCR 3044. Hearing none, the hearing was closed.

**Representative Keiser** made a motion for a do pass to be placed on the consent calendar.

**Representative Drovdal** seconded the motion.

**Chairman Porter** asked for discussion. Hearing none, the clerk called the roll on a do pass to be placed on the consent calendar. Let the record show there were 12 yes, 0 no with 2 absent. The motion prevailed. **Representative Drovdal** will carry the bill to the floor.

Date: 2-8-07  
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL NOTES  
 BILL/RESOLUTION NO. ACR 3044

House Natural Resources Committee

Check here for Conference Committee

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

Action Taken 100 Pass

Motion Made By Keiser Seconded By Drovdal

Representatives	Yes	No	Representatives	Yes	No
Chairman - Rep. Porter	✓		Rep. Hanson	✓	
Vice-Chairman - Rep Damschen	✓		Rep. Hunsakor	✓	
Rep. Charging	✓		Rep. Kelsh		
Rep. Clark	✓		Rep. Meyer	✓	
Rep. DeKrey	✓		Rep. Solberg		
Rep. Drovdal	✓				
Rep. Hofstad	✓				
Rep. Keiser	✓				
Rep. Nottestad	✓				

Total Yes 12 No 0

Absent 2

Floor Assignment Drovdal

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

**REPORT OF STANDING COMMITTEE**

**HCR 3044: Natural Resources Committee (Rep. Porter, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HCR 3044 was placed on the Tenth order on the calendar.**

2007 SENATE NATURAL RESOURCES

HCR 3044

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3044

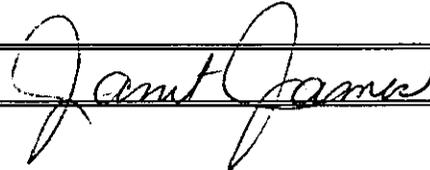
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: # 4194

Committee Clerk Signature



Minutes:

**Senator Stanley Lyson**, Chairman of the Senate Natural Resources Committee opened the hearing on HCR 3044 directing the Legislative council to study how the state might pursue additional uses of Lake Sakakawea and Missouri River waters for such beneficial purposes as domestic and industrial uses, recreation, fish and wildlife and irrigation.

All members of the committee were present.

**Senator David O'Connell** from District 6 cosponsor of HCR 3044 introduced the resolution on stating he was doing so on behalf of Representative Rick Berg (see attachment #1).

**Todd Sando**, Assistant Engineer with the North Dakota State Water Commission testified in support of HCR 3044 and having been involved with the master manual this would be ways of improving it.

**Jean Walton**, Executive Director of the North Dakota Water Coalition and Legislative Assistant for North Dakota Water Users testified in support of HCR 3044.

**Duane Ash** representing the Friends of Sakakawea testified in support of HCR 3044 (see attachment #2).

**Bill Pheifer** representing the North Dakota Chapter of the Wildlife Society testified in support of HCR 3044 (see attachment # 3).

**Senator Lyson** asked for opposing testimony of HCR 3044 and hearing none asked for neutral testimony.

**Senator Lyson** closed the hearing on HCR 3044.

**Senator Joel Heitkamp** made a motion for a Do Pass of HCR 3044.

**Senator Herbert Urlacher** second the motion.

A roll call vote for a Do Pass of HCR was taken indicating 7 Yeas, 0 Nays and 0 absent or not voting.

**Senator Jim Pomeroy** will carry HCR 3044.



**REPORT OF STANDING COMMITTEE (410)**  
March 1, 2007 12:48 p.m.

**Module No: SR-37-4184**  
**Carrier: Pomeroy**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HCR 3044: Natural Resources Committee (Sen. Lyson, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3044 was placed on the Fourteenth order on the calendar.**

2007 TESTIMONY

HCR 3044

*Item #1*

**TESTIMONY FOR HCR 3044  
HOUSE NATURAL RESOURCES COMMITTEE  
CHAIRMAN REPRESENTATIVE PORTER**

Good morning Chairman Porter and members of the House Natural Resources Committee. For the record I am Merle Boucher, a member of the House of Representatives from District Nine (9).

We may direct a lot of our political energy and attention to other more high profile issues of the day, HCR 3044 addresses a component of what is the greatest issue facing us as we speak, water.

Water is the very essence of life. Without clean potable water we have nothing. All plans political, economic, social...are for naught without water.

Our number one priority should be to secure all claims to water that rightfully belongs to us. This includes a comprehensive plan to store, manage and conserve this quintessential resource.

The Missouri River waters and Lake Sakakawea are very integral parts of North Dakota's water holdings. It is imperative that we secure and sustain our rightful share of the waters that are a part of this interstate river system.

When the dam was constructed and Lake Sakakawea was formed, North Dakotan's contributed thousand of acres of land to make this flood control project a reality. In return we were given numerous water resources concessions as compensation for our contribution.

The 1944 Flood Control Act, which governs Missouri River Management, has undergone numerous environmental, economic and systemic changes since its inception. Even in consideration of the fact of court order requiring that the Corps of Engineers issue a new master manual by which it manages the Missouri River System, the management of the Missouri River system remains outdated.

HCR 3044 directs a Legislative Council Study to investigate and review how the state of North Dakota might pursue optional uses for, and how we shall sustain the current uses of Lake Sakakawea and Missouri River waters. Included in this initiative is a request for Congressional Review of the 1944 Flood Control Act and reconsideration by the Corp of Engineers regarding their management of the Missouri River system.

Mr. Chairman and Committee members I ask that you give serious consideration for a DO PASS recommendation.

Respectfully submitted:

Merle Boucher, Minority Leader  
North Dakota House of Representatives



*North Dakota Chapter*

**THE WILDLIFE SOCIETY**

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
HOUSE NATURAL RESOURCES COMMITTEE  
ON HCR 3044, February 8, 2007**

**Chairman Porter and Members of the House Natural Resources Committee:**

**My name is Mike McEnroe, and I am speaking on behalf of the North Dakota Chapter of The Wildlife Society. The Chapter supports HCR 3044.**

**The U.S. Army Corps of Engineers continues to manage the Missouri River System with management strategies and economic uses from prior to the end of World War II. Sixty-three years later, we are trying to live with the contemporary needs of the 21<sup>st</sup> century.**

**The economic and intangible values of boating, fishing, and outdoor recreation dwarf the economics of navigation and barge traffic. It is time the make management of the Missouri River and Lakes Sakakawea and Oahe contemporary with the needs of our State and the Nation.**



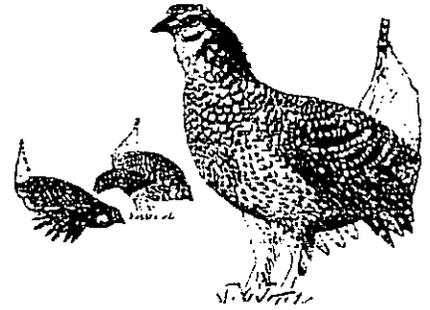
North Dakota Chapter

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# THE WILDLIFE SOCIETY

P.O. BOX 1442 • BISMARCK, ND 58502

January 26, 2007



Senator Byron Dorgan  
U. S. Senate – Bismarck Office  
Attention: Bob Valeu/Geoff Plague  
220 East Rosser Ave  
Bismarck, North Dakota 58501

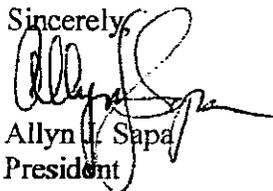
Dear Senator Dorgan,

I am attaching a "White Paper" that briefly describes our approach to modernizing management of the Missouri River to sustain Missouri River values. This paper expands on information provided to you in our September letter, and subsequent discussions with Bob Valeu and Geoff Plague of your staff.

An overhaul of the 1944 Flood Control Act is complex and will require careful deliberations to achieve the practical and sustainable result that will be in the best interests of the basin. As this process moves forward, more and specific details will need to be addressed. The North Dakota Chapter of The Wildlife Society\* is prepared to offer our expertise and ideas to make this come to fruition.

We are ready to discuss this further with you, and appropriate partners. Please advise us on how we can assist in this effort.

Sincerely,



Allyn L. Sapa  
President

\*The North Dakota Chapter of the Wildlife Society is a state chapter of the parent The Wildlife Society. Our membership is made up of 300 wildlife professionals and natural resource specialists. Our mission is to provide a forum for discussion of ecological issues, enable our membership to pursue conservation of North Dakota's natural resources, and provide scientifically sound information concerning the wise use of natural resources in support of a conservation ethic.

## **The Outdated 1944 Flood Control Act - Framing The Issue And The Opportunity**

There is significant interest, from Montana to Missouri, in working toward achieving sustainable management of the Missouri River system. Unfortunately, the 1944 Flood Control Act ('44 Act) has locked in an outdated river management scheme that is linked with current social, environmental, economic and political dilemmas. Instead of sound practical and sustainable river management, we have negative impacts to all congressionally authorized purposes. There is no better time than now and no better Congress than the 110<sup>th</sup> to address this pressing issue. Since enactment of the '44 Act, numerous societal changes have occurred and additional scientific and technical information has been collected which points towards the need for a modernization of the '44 Act. Recently, the Corps of Engineers and the Federal Court system have both tried to find the proper balance for Missouri River management and both attempts to address the issue have not satisfactorily met the contemporary needs of the basin, and thus, resulted in failure. It's now up to the third branch of government, Congress, to step in and help resolve the issue.

The failure of the '44 Act is evidenced by the current status of our river system. In 2007, a new and longer list of community water supplies will be threatened by low water and poor water quality, fish and wildlife species continue to be endangered with efforts to mitigate the dilemmas costly and short-lived, irrigation systems will increasingly struggle to reach any water, the navigation industry is running on minimum service levels and a 60 day shorter season, hydro power production is increasing inefficient due to low water, multimillion dollar cold-water fisheries are anticipated to be lost - all resulting from the choices the Federal Government currently makes related to the allocation of water and direction provided under the '44 Act. 2007 also presents the opportunity afforded by a new Congress, one which seems to be well represented by key members from the Missouri River basin who could make a new Missouri River law a reality.

Many will argue that these impacts are a result of a 7-year long ongoing drought, or that the proper balance during these low water periods should be a "pain" shared by all users of the river. We strongly disagree. We propose that the drought only exacerbates the impact of an outdated piece of legislation, which has disproportionately allocated water to one use at the expense of every other purpose in the basin. While we can't do anything about a drought, we can address amending the organic legislation to modernize management for all purposes, including the navigation industry and the needs of the state of Missouri. We believe that there is considerable opportunity to identify middle-ground solutions that can maintain and accommodate a modern set of societal needs including the ecological restoration of the river.

The times have changes. In 1944 citizens of the basin were primarily focused on issues related to flood control, irrigation and the economic promise afforded by a navigation industry. They could never have imagined that the economic benefits achieved from Missouri River recreation would dwarf those of the navigation industry, or that the sediment trapped in the Missouri River reservoir system would hamper our protection from hurricanes to cities like New Orleans. Today, a multitude of pressing issues face citizens of the Missouri River basin including restoration of the ecological infrastructure of the Missouri River, MR&I water development,

collaborative governance, sediment buildup and Tribal water rights just to name a few.

A modern piece of legislation could also save the taxpayers a tremendous amount of money. Congress currently allocates 50-100 million dollars per year related to the ecological restoration of the Missouri River alone. The Corps has stated that 1-2 billion dollars will be needed over the next 20 years to complete this task. Much of that cost is a result of working "against" the river in order to preserve the mandates directed from the '44 Act instead of working under a more contemporary law.

This recommendation for updating the '44 Act in response to contemporary needs is neither original nor disconnected to previous recommendations. You have articulated this need in the past and the need for new legislation was also recommended by the National Research Council's 2002 report entitled "The Missouri River Ecosystem, Exploring the Prospects For Recovery". The report recommends that Congressional support is ultimately needed to help establish acceptable goals for the use and management of the Missouri River system and that Congress must step in and identify the authorities to do so. Now is the best time for a new piece of legislation to address this need.

We recommend that the following steps be taken to address this issue. First, the Senators office identifies a small group of constituents with a broad knowledge base concerning the Missouri River and its uses. This group would review the possibility of drafting a piece of legislation that could meet not only North Dakota's needs but also the needs of the entire basin. We sincerely believe that there is an approach that can improve all of the on-going concerns from Montana to Missouri. For this effort to be successful this cannot be a parochially driven discussion and we will be unsuccessful if it deteriorates into only a list of what's best for my particular interest. Once this group completes its assigned task of pulling together a list of the issues, the Senator could schedule hearings to receive input from users about the need for an updated piece of legislation, or an amendment to the existing '44 Act. The end result, we hope, would be an updated law that takes into consideration the contemporary needs of the basin, including but not limited to the long-term support for the ecological restoration of the river. We believe that this end product will prove to be well worth the time and effort needed to push it through Congress.

We are prepared to offer our expertise, mobilize our professional network in the Missouri River basin states, and where needed, contribute to the formalization of an overall strategy that maximizes the societal, economic, and environmental potential of this great river.

January 2007  
North Dakota Chapter of The Wildlife Society

**FRIENDS OF LAKE SAKAKAWEA**  
PO BOX 309  
GARRISON, ND 58540

**TESTIMONY OF DUAINÉ ASH, LOBBYIST # 465**  
**PRESENTED TO THE HOUSE NATURAL RESOURCES**

**ON**

**HCR 3044**  
**FEB 8, 2007**

Chairman and members of the House Natural Resources Committee:

The Friends of Lake Sakakawea concur and do encourage you to support HCR 3044.

On line 15 of HCR 3044, the word "recently" should be deleted as the Corps of Engineers worked on the revised Master Manual for a number of years before completing it.

Please support HCR 3004.

Thank you for your time.

*Left testimony  
but did not attend  
hearing.*

## HCR 3044 Summary

Senator David P. O'Connell

A concurrent resolution directing the Legislative Council to study how the state might pursue additional uses of Lake Sakakawea and Missouri River waters and conduct a reexamination by the Corps of Engineers of the way in which it manages the Missouri River system.

Studies how the state could use the waters for such beneficial purposes as domestic and industrial uses, recreation, fish and wildlife, and irrigation.

Studies how the state could enhance its use of the lake and river.

Could promote congressional review of the 1944 Flood Control Act and a reexamination by the Corps of Engineers of the way in which it manages the Missouri River system.

Attachment #2

**FRIENDS OF LAKE SAKAKAWEA**  
**PO BOX 309**  
**GARRISON, ND 58540**

**TESTIMONY OF DUAINÉ ASH, LOBBYIST # 465**  
**PRESENTED TO THE SENATE NATURAL RESOURCES**

**ON**

**HCR 3044**  
**MAR 1, 2007**

Chairman and members of the Senate Natural Resources Committee:

The Friends of Lake Sakakawea concur and do encourage you to support HCR 3044.

On line 15 of HCR 3044, the word "recently" should be deleted and insert a "exact time line" as the Corps of Engineers completed the new Master Manual in April of 2004, but worked on the revision 13 or 14 years prior to that date.

Please support HCR 3004.

Thank you for your time.

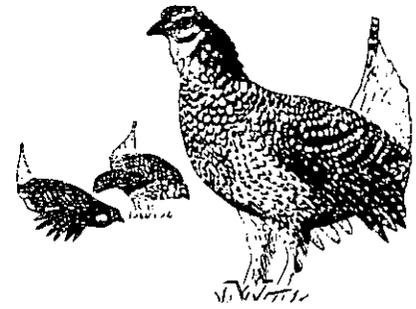
Attachment #3



North Dakota Chapter

**THE WILDLIFE SOCIETY**

P.O. BOX 1442 • BISMARCK, ND 58502



**TESTIMONY OF MIKE McENROE  
NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY  
SENATE NATURAL RESOURCES COMMITTEE  
ON HCR 3044, March 1, 2007**

**Chairman Lyson and Members of the Senate Natural Resources Committee:**

*Bill Pfeifers*  
My name is ~~Mike McEnroe~~, and I am speaking on behalf of the North Dakota Chapter of The Wildlife Society. The Chapter supports HCR 3044.

The U.S. Army Corps of Engineers continues to manage the Missouri River System with management strategies and economic uses from prior to the end of World War II. Sixty-three years later, we are trying to live with the contemporary needs of the 21<sup>st</sup> century.

The economic and intangible values of boating, fishing, and outdoor recreation dwarf the economics of navigation and barge traffic. It is time the make management of the Missouri River and Lakes Sakakawea and Oahe contemporary with the needs of our State and the Nation.

Attached is a copy of a letter and a "white paper" we sent to Senator Dorgan on why the time is right to revise the Flood Control Act of 1944.

We urge you to support HCR 3044.