

2017 SENATE AGRICULTURE

SB 2269

2017 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2269
1/27/2017
Job # 27527

- Subcommittee
 Conference Committee

Committee Clerk Signature

Emmery Brothberg

Explanation or reason for introduction of bill/resolution:

Relating to authorization of a state Red River valley water supply project and relating to the powers of the Lake Agassiz water authority

Minutes:

Attachments: #1 - 3

Chairman Luick: Opened the hearing on SB 2269.

Senator Wanzek, District 29: Introduced SB 2269. This bill came to me as a result of being the Senator from district 29 and the Garrison Diversion being in that district. There are some people who could discuss the technical details of the bill. This bill is going to authorize the public finance authority to work with the Garrison Diversion the Lake Agassiz authority and the Red River Valley water project. This bill expands the Lake Agassiz authority to include central ND. Central ND wants to have a voice on the board and it would expand the board by two members. I understand Stutsman County bought into the project for the development phase for 15 cubic feet per second. The individual who helped work on this bill was unable to be here because of a family emergency but there are two others here from the Garrison Diversion that will be able to help you. She did suggest there was at least technical change needed. If you look on page 5, line 1 "of" should be changed to "or". And there is a section that deals with the state funding plan. It essentially removes the reference to the federal costs of constructing the Red River plan.

(5:13) **Chairman Luick:** You mentioned they were talking about adding more FTEs. Is there a FN to this?

Senator Wanzek: I am not aware there will be a need for additional FTEs.

(6:09) **Ken Vein, Lake Agassiz Water Vice Chair of the Lake Aggasiz Water District:** Testified in Support of SB 2269 (See Attachment #1). Mr. Vein offered amendments (See Attachment #2) and information on the Red River Valley Water Supply Project (See Attachment #3).

(12:00) **Chairman Luick:** In times of drought, is the water that comes through this system designated for personal use, industrial use, or agricultural irrigation?

Ken Vein: It is really for all of that. The primary focus would be domestic use for the larger cities but it has also been identified for industrial uses throughout. We have had thirty-six entities signed up for this. All of the rural water systems in that area are inclusive of the project.

Chairman Luick: How is it rationed out?

Ken Vein: What has happened is we have had over one hundred meetings with all potential water users and each one has nominated for how much water they want to have. They nominate for a capacity in the pipe so larger users want large capacity, small users may have less than one cubic foot per second and it may only be used for industrial purposes. A lot of that have seen this as the future, they may not be experiencing shortages today but it is yet to come.

Mr. Vein resumed his testimony (See Attachment #1).

(17:20) **Senator Klein:** So the legislation provides the financing authority? It looks to expand the board so that there is more inclusion as you get more involved?

Ken Vein: It is really cleaning it up from being a federal to a nonfederal project. That is really significant because the federal has been the downfall to it. Expanding the project to being more than in eastern in ND because we wanted anyone along the pipeline to have access to it and allow that representation to be on the board.

Senator Klein: There is no fiscal effect because we are just dealing with the board. There must be another bill out there that provides more opportunity? If we are getting all of these communities involved, how does the payback work?

Ken Vein: Right now, we are following the traditional finance structure. Right now there is a local cost share and a state cost share. The state has appropriated moneys for this biennium and we are requesting moneys for future biennia. Out of the legislature last session. There was 600-million-dollars of future funds identified for this project which was 150-million-dollars per biennium. We know that that is not going to be available which has been the most significant change. We have also determined that it is very important from a committee stance to get the project under construction the next biennium so we are requesting money in the current legislative session for roughly 32-million-dollars to get the project under construction and started. Again, we are trying to do the project so it can be constructed. We certainly have to comply with all federal regulations but we feel if we can get a substantial start now in the next biennium, we can meet all federal permitting regulations and once we have a substantial start we will be governed by the current ones not any future ones that take place. It is critical that we have funding. The design was on a 90% state and 10% local which is why I said the locals have a share of it. That 10% had to come from all of us collectively and we are requesting that when you get into actual construction, it will be 80% - 20%. We will still have to come forth with the local share.

Senator Klein: Is this going to go through Wells County?

Ken Vein: Yes, it does.

Chairman Luick: Where are we sitting with the local share you are asking for now?

Ken Vein: Right now, they have all come up with the seed money for the current biennium. They will have to again recommit for the next biennium as we continue the project. It will be more expensive so there will be a bigger ticket for everyone. All of these small communities are contributing and even though it is a small amount, it is large to them. We have tried to figure out how we can make it affordable because in times of drought, we want to make sure everyone has access to water and is successful. We have looked at our structure to make sure it is fair.

Senator Piepkorn: What is the estimated annual cost of operation?

Ken Vein: We are getting closer to being able to answer that; there are a lot of variables right now to how this would work. Because it is supplemental, it will only operate while there is a shortage so that is when you will get the biggest operational cost. We also know that since it is a pipeline, it cannot sit. So we will continue to put through 4 cubic feet per second through the pipeline all the time. If there are users along the line who use it, that is good because it continues the water usage. A lot of the cost depends on the intake. We have looked at a horizontal collector well intake process earlier on adjacent to the river that was for permitting purposes. We now think we can do a conventional permit right out of the Missouri which is a tremendous savings. If we could get the water out of the canal, we would save a tremendous amount of operating costs. If you look at that second page, you will see there are tremendous pumping costs to get the water out of the Missouri River up over the continental divide. There is a lot of variability and we are going to have to have an annual cost during normal times and an increased cost once you need the water during drought.

Senator Piepkorn: Could you briefly describe dropping the federal government from financing the project and how it streamlined the process and made it much easier to go ahead with the project?

Ken Vein: I go back a couple phases. The original Garrison Diversion project was constructed in the 1960s and it got shut down and we have the canals from that structure sitting there. Parts of it are still used for irrigation purposes but that was the first time the federal government didn't follow through. Then there was something called the Dakota Water Resources Act that went through congress and through the act we coauthored a full environmental impact statement and did a needs and option report. In that needs and option report, we looked at all options and came up with what was a preferred option and the only one that fulfilled the needs of eastern ND. As a part of that process, we needed the secretary of interior to sign a record of decision so that we would then have to move it through congress because there is the part where we have to cross the continental divide which required congressional action. The secretary of interior would not sign that and we have been waiting ever since. At this point, we would like to start all over again because we have to look at the changes in environmental impacts. That stopped the project and killed it and that's when we decided to do it as a state and local project.

Senator Klein: There are a lot of folks in my county who are concerned about the way this is going. As this moves through, there is board involvement from all the communities and the financing is another portion but you are not looking beyond that. We are going to put to a treatment plant somewhere to alleviate the concerns of the Canadians as it crosses the divide, correct?

Ken Vein: We have identified three levels of treatment. One would be treatment to drinking water standards. We did have documentation from the Secretary of Interior that that would meet the requirements of the Boundary Waters treaty. I don't know what Canada says but that is what we have documentation for. There is a middle of the road treatment, and there is minimal treatment. We would prefer the middle of the road treatment but it has yet to be decided. For estimating purposes, we have kept it at middle of the road treatment.

Senator Klein: That's where a lot of the maintenance comes in. What is different about this from NAWS?

Ken Vein: When we made this a nonfederal project, that changed everything. They had go through a full EIS that had to have federal involvement and federal rules and guidelines. That is why we are specifically staying away from that. If we had to go back to a federal project, we would at minimum 8-10 years out. We have looked at all the necessary permitting to do this project that might require a full EIS and we have figured out ways to be compliant but not have to go to a full EIS. For instance, if this had been south of Jamestown, in order to cross the James River, you would have needed a section 10 permit. A section 10 permit would have required an EIS. That is a part of why we are where we are with the location. We are trying to make sure the intake does not require another EIS as a part of the permit so we have developed a fallback so we do horizontal collector wells in the bank which would not require a permit. It has been a tremendous effort to get this design now where we think we have minimized all of that risk to stop this project.

Chairman Luick: Is there a way to change NAWs from a federal project to a state project?

Ken Vein: I don't think they can because they have already used federal money and they have already used federal venues and they have that project already started.

(32:05) **Senator Klein:** Why Garrison and not the State Water Commission? Is this a better route to go than having The State Water Commission be in charge?

Ken Vein: There was potential for both to supervise. But back in 2000, when this project started the governor designated that Garrison would take lead and represent the state of ND. The other aspect of the project is that when the legislature created Garrison, one of the positions was for us to take and put the waters behind Lake Sacajawea. It has always fit in our mission that this was what it was going to do and it was a part of the legislation to date. Once we picked it up and gained the experience... the conservancy district is represented by 28 counties and there is a county resident for almost all of this because it is a part of the conservancy district. It feels like it has good representation; we have a history to date and we have been successful to get it to where it is now and we see it as a part of the mission of the Garrison Diversion.

Senator Osland: What is the status of the canal?

Ken Vein: It is partially used. We still operate and maintain the canal system and we have developed increasing use of it for irrigation purposes. We have a number of irrigation districts now for the first time taking water out of the canal and we just finished a study that showed the capacity to continue to serve more irrigation along the canal. That study has been complete and we will continue to pursue using that. I think we have authorization for 28,000 acres of irrigation so our intent is to continue to use that for irrigation purposes.

Senator Klein: But that is a short piece of the canal. When you get past McClusky there is only an empty ditch. We passed some legislation some years ago to allow for that irrigation but there is a lot of empty ditch there.

Ken Vein: It is not the highest or best use. There is recreational use along it so there is a significant amount of recreation benefit to the area. We continue to maintain the canal system and it is called the Garrison Diversion Unit versus the Garrison Diversion Conservancy District that works with the Bureau of reclamation on the maintenance side of the system.

Senator Osland: Water is not running to the Sheyenne River with the canal? Is there a possibility that that project could that be completed?

Ken Vein: My understanding was that the original project was stopped by environmental concerns in congress.

Chairman Luick: Is the maintenance on that done by state or federal funds?

Ken Vein: Federal funds that come through the Bureau and they actually contract with Garrison. We have a crew of 25 people who continue to maintain much of the Bureau infrastructure that is there but they also maintain the Devil's Lake outlet and some other projects.

Senator Klein: Why do you not lay pipe into the canal?

Ken Vein: We wouldn't have access to that because that is a federal not a state project. The upper regions of the Sheyenne have shown to be porous and you lose a lot of water in that region because of soil types we have there.

Senator Klein: But we would keep it in the pipe so that would get it through that region. Isn't there a movement by Garrison to try to give back the sections counties have?

Ken Vein: There has been a question that came back specifically to the New Rockford canal about where what we should do with that and where should that go? That is a question before us we have not answered and we will look for input on that.

(40:45) **Mike Dwyer, ND Water Districts & ND Water Users Association:** Testified in Support of SB 2269. Mr. Dwyer provided the committee with information on ND's four major regional water supply projects.

(42:30) **Senator Piepkorn:** Why does the continental divide require extra regulation?

Mike Dwyer: We have the 1909 Boundary Waters treaty with Canada which allows Canada to have a voice about us crossing the continental divide relation to biota.

Senator Larsen: The water project dealing with Minot have to make a water treatment plant. Is there any thought about making that expand with the one going to Fargo?

Mike Dwyer: There was some analysis and it was concluded that it was too far away and didn't save cost.

Chairman Luick: Closed the hearing on SB 2269.

(45:10) **Committee Discussion:** The committee discussed the proposed amendments and the Garrison Diversion. Senator Klein said the bill's main purpose was to expand the number of people serving on the board and give the board some financing authority. In response to a question from Senator Piepkorn, Senator Klein elaborated on some of issues Wells County had with the project. Senator Larsen said the project was moving slowly and adding board members was acceptable.

Senator Larsen: Moved to Adopt Amendment 17.0952.01001.

Senator Klein: Seconded the motion.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion carried.

Senator Larsen: Moved Do Pass As Amended.

Senator Myrdal: Seconded the motion.

Committee Discussion: Senator Larsen said he wished this project could be like the Williston water project. The committee discussed water projects around the state that were having issues because of Canada and MN.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion carried.

Chairman Luick will carry the bill to the floor.

(55:20 – 1:08:57) **Committee Discussion:** The Committee discussed SB 2263 and what the intent of the bill is.

January 27, 2017

CR 1/27/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2269

Page 1, line 3, after the first comma insert "61-24.7-05"

Page 1, line 5, after "authority" insert "and funding for the Red River valley water supply project"

Page 1, after line 20, insert:

"SECTION 2. AMENDMENT. Section 61-24.7-05 of the North Dakota Century Code is amended and reenacted as follows:

61-24.7-05. State funding plan.

1. The legislative assembly declares its intent to provide state funding for a share of the ~~nonfederal or local~~ cost of constructing the Red River valley water supply project.
2. Any funds appropriated for the construction of the Red River valley water supply project may be carried over to future bienniums.
3. State funding for the Red River valley water supply project may be appropriated at the time and in the manner determined by the legislative assembly, either concurrently or separately from any federal funding that becomes available and the local funding for the Red River valley water supply project."

Page 5, line 1, replace "of" with "or"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2269: Agriculture Committee (Sen. Luick, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2269 was placed on the Sixth order on the calendar.

Page 1, line 3, after the first comma insert "61-24.7-05"

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Page 5, line 1, replace "of" with "or"

Re-number accordingly

2017 HOUSE ENERGY AND NATURAL RESOURCES

SB 2269

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau –A Room, State Capitol

SB 2269
3/9/2017
28936

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to authorization of a state Red River Valley water supply project, the power of the Lake Agassiz water authority and funding for the Red River Valley water supply project.

Minutes:

Attachment #1

Chairman Porter: Called the committee to order on SB 2269. The clerk called the roll and read the short title.

Sen. Terry Wanzek: This bill expands the Lake Agassiz authority. It's mostly all directed towards the eastern counties and going to bring in some central counties, more specifically Stutsman, which I represent. Stutsman County Rural Water and the City of Jamestown bought into research and development of the water project. It's going to expand the Lake Agassiz board by 2 members, which would include 1 member from the water districts located west of State Highway 1, and 1 member from the city west of State Highway 1. It also talks about the details of bylaws that include a weighted vote for board members based on nomination capacity, the existence of a development agreement, water supply agreement, or project participation agreement. Also it touches somewhat on the fact we want to identify this as a state project. The Garrison Diversion representatives here would be better equipped in explaining to you why that's important. With it being a federal project, it creates a lot more complications because of the federal requirements that are sometimes very difficult to overcome.

Chairman Porter questions? Bottom of Page 3, Line 27. Why wouldn't we make the new member pay their prorated share? Why are we giving it as an option? This has all been state and water resource trust fund money in this, why would someone come in and get a free ride on those previous costs?

Sen Wanzek: I can't explain the use of the word "may". But what I understand is if someone comes in late and wants to join and participate, they'd have to pay a prorated share back to capture the costs that have already been put in. If someone comes in later and wants to join and participate, they would have to pay a prorated share of the costs up to that point to become a member. I don't understand maybe they want to give the authority flexibility the

authority to determine whether they want to charge that cost or not. Maybe they'll be able to explain the use of the word "may". I can't explain why it's not "shall".

(We broke at this point for Sen. Wanzek to give his testimony on SB 2270 before he had to leave for another meeting.)

5:58

Chairman Porter: come back into hearing on SB 2269. Testimony in support?

Mary Mooridian, administrative officer for Garrison Diversion presented Attachment #1 on the Red River Valley water project which has changed from a federal project to a state project.

13:27

Rep. Heinert: On Page 2 Line 5 of the bill, Lines 28-29, bylaws may include weighted voting. Could you explain why that is requested?

Mary Mooridian: Lake Agassiz Water Authority since the project is not actually a project that's in implementation, we have looked at other large projects including the Louis and Clark Project in SD and one in MT and the thought is, if there's a system that represents maybe 40% of the need of the project and paying 40% of the project, and you have 10 board members, to have that tiered voting or weighted voting system, that way, the project, that system that has maybe 40% of the project would have a higher weighted vote versus someone who is paying 2% of the project. It's just an option to have to be able to have that weighted authority. The Lake Agassiz board of directors, which would, if this is passed, would have 12 members. They would work out those bylaws.

Rep. Anderson: You stated there's a total of 35 systems that will be a part of this. How many more are left that may be a part of this and hopefully get some revenue from sometime?

M. Mooridian: During last summer and into fall, we held over 135 meetings reaching out to water systems which are rural water districts and small cities, large cities. We identified 53 total systems that could participate. Many of those small towns said we are either served by a rural water system already or we think we will be in the future. I will (unclear on tape 15:30) state of systems that would be independent, 5 or 6 said they didn't want to participate.

Chairman Porter: My question goes back to Section 4. That we're letting in others late in the game. When we do that we typically don't say "may pay", we say "shall pay" because no one gets to come in late and get by with not paying their fair share from the start of the project. Why do you have the language in there as permissive?

Mooridian: I don't think there would be any objection to saying "shall pay". The Lake Agassiz board of directors has actually gone on record voted stating that when anybody has started signing up these development agreements which is from July 1, 2015, systems have been paying an equitable share. Anybody who comes in after that date will have a late comer fee. In our development agreement it says you will not only pay your pro rata share but also pay

a 20% late comer fee. That was to entice anybody who wanted to be part of the project actually to come in now and not think they can come in 6 years later when we're hopefully under construction and start paying their fee. The Lake Agassiz board is intending to go back and charge.

Chairman Porter We've been fighting the Canadian government since this project was conceived here back in Sen Fischer's day. If you were to drive by a cemetery right now, he's probably sitting up seeing the word Canadian government entity inside of this when they are still suing us over this. So kinda go through what's going on with our friends to the north.

18:32

Mooridian: One of the reasons to say to be able to sell water into Canada to have that ability is when we go to Red River Basin conferences, there are many water systems, rural cities, and rural water systems on the Red River that definitely want this project to happen, because if the Red River goes dry they know they are in trouble as well. Previously it has been the province of Manitoba, that have wanted to sue us especially in NAAS. We just want that ability since we've talked to a lot of local councilmen, local government leaders, wanting the project seeing they need water as well. As far as the Canadian government, there have been some talks of going and talking with them to see about the project at the provincial level. That it seems there's a bit of a turn in their thinking.

Chairman Porter: They are suing us and we're spending money on legal fees and court battles. Did those fees, legal fees and expenses, get lumped into what they would have to pay back in order to join the system, or is this your olive branch to say quit suing us, we're even going to let you in?

Mooridian: I would say this is a way to work with the Canadian government. With the lawsuit with the NW water supply, is separate from this project. I don't have what the legal fees would be in that. I do understand we are in court with them.

Chairman Porter So we haven't laid any pipe in the ground and doing any works, they aren't suing this project out yet. But the threat is there the second we start work on this they're going to stop it.

Mooridian: My understanding is if this is a local project, they would have to sue us in local court in ND and not federal court where they are able to do in the NW area water supply. This would be considered kind of like Devils Lake outlet which Canada or Manitoba did object to. But it was a local state project without federal authority or federal participation and that went forward without Manitoba's consent.

Rep. Mitskog: My question is on the makeup of the membership of the LAWA project. In the inception, 2003, I know there has been members that initially joined, they left, they're back at the table now. The original members are they all participating again? I know Wahpeton initially joined and didn't see any action, left the project and now back in.

Mooridian: If you look at the language for Lake Agassiz Water Authority, it has geographic sections for each member. In the case of Wahpeton, it is written down that it's within a

geographic area of population of over I think 5000. So currently there's 3 cities could take that spot. Valley City, West Fargo and Wahpeton. The city members are elected at the League of Cities annual election in September in odd years. In September at the League of Cities there will be an election for that seat. It will be the only eligible, Valley City, West Fargo and Wahpeton. To go further, since Wahpeton has signed up to be part of the project now, we have created a non-voting associate member for Wahpeton to be part of the meetings and caught up on the project if they're participating. In 2017 there's a possibility they could be the actual member. If that doesn't happen the League of Cities, they could still stay on as an associate member.

Rep. Mitskog: As an associate member, how many communities, or areas are associate members and do they have the same rights and access to water? I would assume the members will have the first rights or access to water.

Mooridian: Any system who signs up to participate in the Red River Valley water supply project, or Wahpeton, they nominated for 4.5 cfs. When the signed that long term agreement, they will be guaranteed that 4.5 cfs. As far as associate member, we only have 2 and that was recently created, that's for the Stutsman County area and Wahpeton since they're new to the project. If I may regress a bit, Lake Agassiz has a technical advisory committee which is made up of engineers, rural water system water managers, public works directors, city engineers, and all systems that participate on the project are eligible to be on that committee. That committee makes recommendations to the board on how to proceed.

Chairman Porter Further questions? Further testimony in support

25:15

Mike Dwyer, ND Water Users Association: stand in support of SB 2269. Getting water to the eastern part of our state is critical.

Chairman Porter: Questions? testimony in support? Opposition? Closed the hearing on SB 2269

2017 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Coteau –A Room, State Capitol

SB 2269
3/9/2017
28937

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to authorization of a state Red River Valley water supply project, the power of the Lake Agassiz water authority and funding for the Red River Valley water supply project.

Minutes:

Chairman Porter: Called the committee to order on SB 2269. After all these years Rep. Devlin you weren't here when I made my comment if someone were to drive by a particular cemetery in Fargo, they would see Sen. Fischer sitting up because of the Lake Agassiz Water Authority is asking to include the words Canadian government entities to be in the system. It would cause a little pain but I think he'd go along with it.

Rep. Devlin: If not sitting up he'd be spinning quite rapidly in the grave.

Chairman Porter: my only concern with this is lines 27 and 28 change the word may to shall so there's no question that someone comes in late, they're paying their fair share up to that point.

Rep. Anderson: I will make a motion to amend Lines 27 and 28 to cross out the word may and put shall in there.

Rep. Roers Jones: second

Chairman Porter: I have a motion and second by Rep. Roers Jones. Is there discussion on that amendment? Seeing none all those in favor say aye, opposed. Motion carries. Any other questions or concerns?

Rep. Roers Jones: I will make a motion for Do Pass as Amended.

Rep. Anderson: Second

Chairman Porter: I have a motion from Rep. Roers Jones, second from Rep. Anderson for a Do Pass as Amended to SB 2269. Discussion?

Rep. Heinert: I have a little concern on Page 5, Lines 28 and 29 about the weighted voting. I'm a little concerned if someone has 40% of the project and they get 40% of the vote, how that's going to work when it's a 12-member board. I'm concerned 3-4 members could carry the vote with the weighted vote system versus 12 members. I don't know if the simple majority is going to rule and I'm a little concerned about that. I'm concerned about this spilling over to other areas in the future.

Rep. Mitskog: It's my understanding that based on the volume of water, the membership is the amount of money that they participate in is based upon the amount of water they'll receive. I think what they've paid in is somewhat weighted as well. Is that correct?

Chairman Porter: It is the nomination capacity is what the vote is based on. Rep. Heinert the only thing I would say to that is like a business entity where you own more shares and you have a bigger vested interest you have more of a vote inside of it. This project was not set up as a democracy. It was set up as a water user system that different entities have different amounts of money in play for their specific city and it's their taxpayer dollars. That's why it's set up in that fashion. Further discussion? Clerk will call the roll on a Do Pass as Amended.

Yes 12 No 0 Absent 2 Motion carried. Rep. Roers Jones is carrier.

3/9/17 DF

17.0952.02001
Title.03000

Adopted by the Energy and Natural Resources
Committee

March 9, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2269

Page 3, line 27, replace "may" with "shall"

Renumber accordingly

Date: 3-9-17

Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2269

House Energy & Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

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 Roers Jones

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Lefor		
Vice Chairman Damschen			Rep. Marschall		
Rep. Anderson			Rep. Roers Jones		
Rep. Bosch			Rep. Ruby		
Rep. Devlin			Rep. Seibel		
Rep. Heinert					
Rep. Keiser			Rep. Mitskog		
			Rep. Mock		

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

amend 27-28 change may - shall

Voice vote motion carries

Date: 3-9-17

Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2269

House Energy & Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

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 Roers Jones Seconded By Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Lefor	✓	
Vice Chairman Damschen	✓		Rep. Marschall	✓	
Rep. Anderson	✓		Rep. Roers Jones	✓	
Rep. Bosch	✓		Rep. Ruby	✓	
Rep. Devlin	✓		Rep. Seibel	✓	
Rep. Heinert	✓				
Rep. Keiser	AB		Rep. Mitskog	✓	
			Rep. Mock	AB	

Total (Yes) 12 No 0

Absent 2

Floor Assignment Rep Roers Jones

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

REPORT OF STANDING COMMITTEE

SB 2269, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2269 was placed on the Sixth order on the calendar.

Page 3, line 27, replace "may" with "shall"

Renumber accordingly

2017 TESTIMONY

SB 2269

Testimony by Ken Vein, Vice Chair
Lake Agassiz Water Authority

to the

Senate Agriculture Committee

Bismarck, North Dakota
January 27, 2017

Chairman Luick and members of the committee, thank you for this opportunity to testify in support of Senate Bill 2269. My name is Ken Vein; I am the vice chair of the Lake Agassiz Water Authority (Lake Agassiz), a Grand Forks City Council member and chairman of the Garrison Diversion Conservancy District (Garrison Diversion).

Garrison Diversion was formed in 1955 and charged with using the water behind the Garrison Dam for the "prosperity and general welfare of all the people of North Dakota." The mission to provide a reliable, high quality and affordable water supply to benefit the people of North Dakota has defined the work of Garrison Diversion. The delivery of municipal and rural water supplies is at the forefront of our efforts, and Garrison Diversion is the state lead in the development of the Red River Valley Water Supply Project.

Because the Red River Water Supply Project has changed from a federal to a state project, and has since grown to include providing a supplement water supply that reaches approximately 50 percent of the population of North Dakota located in central and eastern North Dakota, SB2269 addresses the need to update the century code to reflect Garrison Diversion's ability to obtain favorable financing through the Public

Finance Authority, expand the Lake Agassiz service area to include central North Dakota users, and add two central North Dakota board members to represent the expanded area on the Lake Agassiz board of directors.

In order to obtain financing through the Public Finance Agency, Garrison Diversion and Lake Agassiz Water Authority are requesting that Century Code 61-24-27 and 61-39-11 be augmented to facilitate working directly with the Public Finance Authority to access public funds cost-effectively for the Red River Valley Water Supply Project. Utilizing the Public Finance Authority allows access to lower interest rates, providing a more cost-effective approach to financing the Red River Valley Water Supply Project, which benefits the state of North Dakota, Garrison Diversion, Lake Agassiz and end water users.

Amendments are proposed for Century Code Sections 61-39-01 and 61-39-04.1 to facilitate the expansion of the Lake Agassiz Water Authority service area to include Stutsman County and to add representation from the cities and water systems that will be served west of Highway 1.

The need for water in the Red River Valley was included in federal legislation in the Garrison Diversion Reformulation Act of 1986 and the Dakota Water Resources Act (DWRA) of 2000. Federal legislation directed the development of the Red River Valley Water Supply Project and limited the project area to the 13 eastern-most counties in North Dakota and the 3 Minnesota cities of East Grand Forks, Moorhead and Breckenridge. Garrison Diversion has been the state lead on the project since its beginning and has been involved with project studies since 2001, which show

groundwater is limited in the Red River Valley and surface water in the valley is prone to drought.

Lake Agassiz actively represents water users in their work on the Red River Valley Water Supply Project. Lake Agassiz was created in 2003 to serve as the collective voice of water systems in the Red River Valley, based on the federal legislation only covering the same area. The organization is comprised of cities and water districts in the Red River Valley, working to implement a reliable, high quality water supply for citizens, businesses and cities in the region.

It became known that, in addition to the Red River Valley, there were areas in central North Dakota also in need of a high quality and reliable water supply. In, 2009 and 2011, the Jamestown/Stutsman area submitted written requests for consideration into the Lake Agassiz Water Authority and the Red River Valley Water Supply Project. Due to the restricting federal legislation, the Jamestown/Stutsman Development Corporation was not allowed to become part of the Lake Agassiz territory.

Because federal authorization was not received to move forward with the federal Red River Valley Water Supply Project, a state and local solution was sought.

With guidance from the ND State Legislature in the 2015 to 2017 biennium, Garrison Diversion reached out to systems outside the Red River Valley and expanded the reach of the state and local Red River Valley Water Supply Project after canvassing additional systems east of the Missouri River and up and down the entire Red River Valley. A total of 35 systems, 9 of which are outside the Red River Valley, signed up to

be included in the design phase of the Red River Valley Water Supply Project, which will now serve users in eastern and central North Dakota.

Due to the vast water supply needs in central North Dakota, we are requesting the expansion of the Lake Agassiz service area in Century Code 61-39-01 to officially include central North Dakota in the Red River Valley Water Supply Project.

Currently, Lake Agassiz is governed by a board of directors, comprised of 10 members; 5 cities and 5 rural water systems from within the 13 eastern-most counties in North Dakota, and 3 Minnesota cities. The proposed legislation adds Stutsman County within the boundaries of the Lake Agassiz Water Authority.

It is further proposed to add one new city member and one new rural water system member west of Highway 1 to represent users in central North Dakota. In order to be a board member, the system represented must have an agreement to participate in the Red River Valley Water Supply Project. Therefore, in section 61-39-02 of Century Code, we are requesting the addition of two board members to represent central North Dakota on the Lake Agassiz board of directors.

In addition, we propose the addition of Century Code 61-39-04.1 to allow Garrison Diversion to continue the Red River Valley Water Supply Project to meet the water supply needs of central and eastern North Dakota on a non-federal, state and local level. Importantly, this section makes it clear that this project is separate and distinct from the federal version of the Red River Valley Water Supply Project that we started working on in 2001 and that has been stalled since the Environmental Impact

Statement was finalized in 2007. This is not the same federal project and will not need congressional approval to bring water across the continental divide.

During development of the federal Red River Valley Water Supply Project, a tiered system based on water supply needs was created for water systems to pay the local share of the project. Today, systems involved with Lake Agassiz are in favor of a similar approach for the state and local project, believing the tiered system to be a fair and equitable way to charge for Red River Valley Water Supply Project participation. The proposed amendment adds language to facilitate that.

The water supply needs of systems throughout central and eastern North Dakota will be met with the implementation of the state and local Red River Valley Water Supply Project, reaching approximately 50% of North Dakota's population. The Lake Agassiz Water Authority is a key element in the development of the Red River Valley Water Supply Project, and enabling the continuation of a project that serves both central and eastern North Dakota on a state and local level is imperative to its completion.

Thank you for allowing my testimony in support of SB2269.

Sixty-fifth
Legislative Assembly
of North Dakota

SENATE BILL 2269

Introduced by
Senators Wanzek, G. Lee, Sorvaag
Representatives Sanford, Vigesaa, Zubke

Amendments offered by LAWA for clarification and correction of the proposed changes to the NDCC offered in 17.0952.01000 of SB2269.

Page 5, line 1 of the bill should be corrected by changing "of" to "or" in the line as indicated in bold (the regular type underlining is original in SB2269)::

- 1. the authority**of or** the Garrison Diversion Conservancy District. The initial Minnesota city...

Page 10 of the bill should include the following additional section:

SECTION 10. AMENDMENT. Section 61-24.7-05 of the North Dakota Century Code is amended and reenacted as follows:

Amendment to Chapter 61-24.7, Red River Valley Water Supply Project

61-24.7-05. State funding plan.

- 1. The legislative assembly declares its intent to provide state funding for a share of the **nonfederal or local** cost of constructing the Red River valley water supply project.
- 2. Any funds appropriated for the construction of the Red River valley water supply project may be carried over to future bienniums.
- 3. State funding for the Red River valley water supply project may be appropriated at the time and in the manner determined by the legislative assembly, either concurrently or separately from **any** federal **funding that may become available** and **the** local funding for the Red River valley water supply project.

INVESTING IN OUR FUTURE

SB 2269

#3



Lake Agassiz Water Authority
January 17, 2017

RED RIVER VALLEY WATER SUPPLY PROJECT

Meeting the Water Supply Needs of Central North Dakota and the Red River Valley

pg. 1

1/27/17

Surface water supplies in Central North Dakota and the Red River Valley are limited and unreliable, particularly under drought conditions. Additionally, limited groundwater supplies are nearly fully appropriated. With continued growth and industrial development, the Red River Valley Water Supply Project (RRVWSP) is needed to mitigate against drought conditions that would cause costly shortages, foster economic development by meeting municipal, industrial, and rural water demands, and promote environmental sustainability.

- 
 Existing Supplies will be Inadequate During Drought
- 
 5 Months of Zero Flow in Red River at Fargo in 1934
- 
 \$20 Billion Economic Impact Expected Over 10-Year 1930s-Type Drought
- 
 Industrial Demand Exceeds Current Supply

PROJECT OVERVIEW



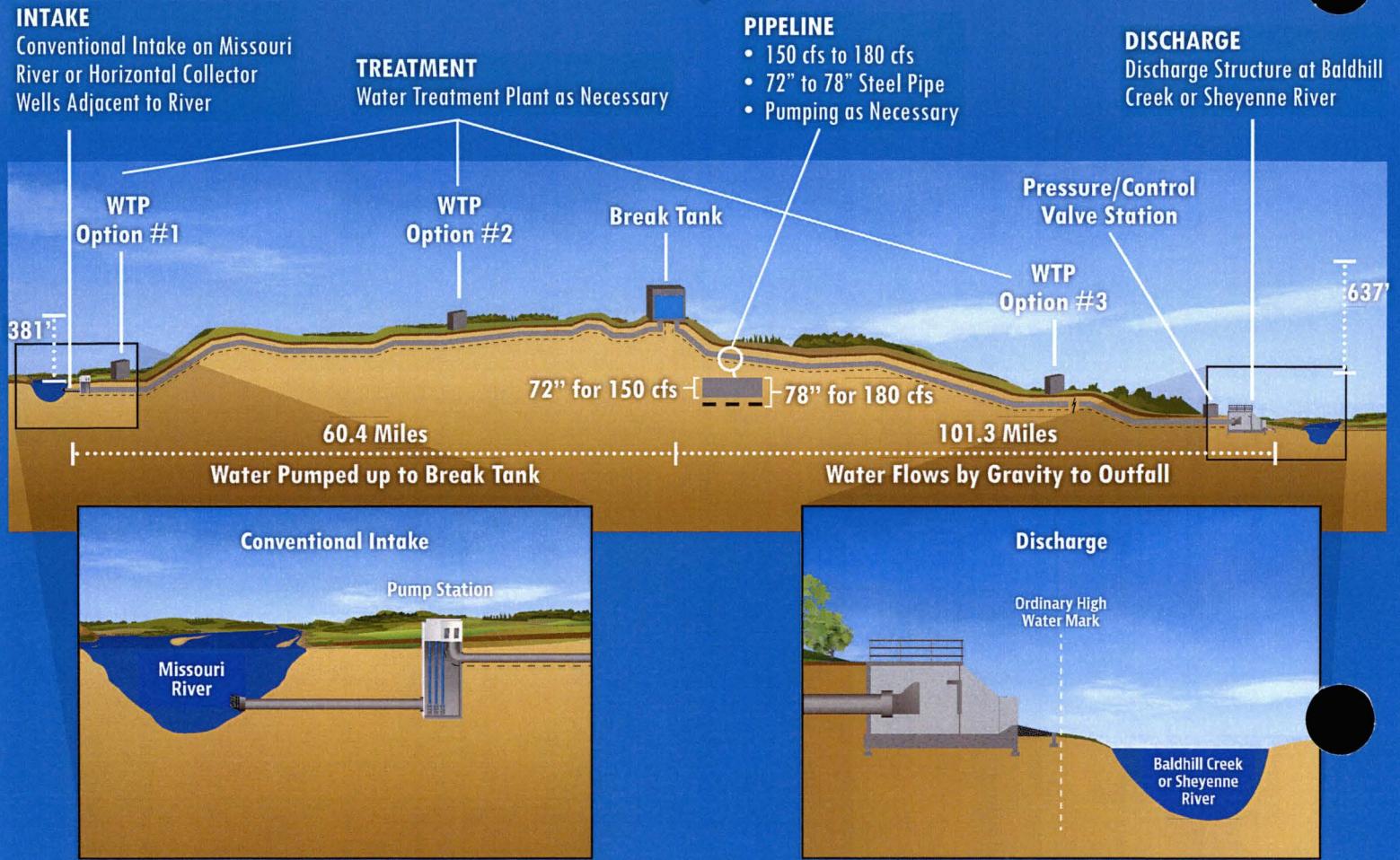
ESTIMATED TOTAL PROJECT COST (2016 DOLLARS)

RRVWSP ESTIMATED PROJECT COST*		
	150 cfs System	180 cfs System
Conventional Intake, Intake Pumps, & Supply Cost	\$72 M	\$78 M
Transmission Pipeline Costs (including ROW)	\$753 M	\$957 M
Pump Stations, Break Tank, & Hydraulic Structures	\$66 M	\$76 M
Practical Treatment - Water Treatment Plant Costs	\$54 M	\$61 M
Discharge Structure Costs	\$2 M	\$2 M
Total Project Costs	\$947 M	\$1.174 B

*Excludes Pipeline Extensions/Includes Admin, Engineering, Legal, and Real Estate

GETTING WATER TO CENTRAL AND EASTERN NORTH DAKOTA

The RRVWSP will use a buried pipeline to carry water from the Missouri River near the Washburn, ND area along Highway 200 to the Baldhill Creek or Sheyenne River which will provide a supplemental water supply to users in central and eastern North Dakota.



2015 TO 2017 ACCOMPLISHMENTS



MISSOURI RIVER WATER SUPPLY

Cost Incurred	\$2.0 M
In Progress/Planned	\$0.5 M
Total	\$2.5 M



PIPELINE ALIGNMENT

Cost Incurred	\$2.3 M
In Progress/Planned	\$3.0 M
Total	\$5.3 M



WATER TREATMENT & PUMPING

Cost Incurred	\$1.1 M
In Progress/Planned	\$1.0 M
Total	\$2.1 M



OUTFALL/DISCHARGE

Cost Incurred	\$0.7 M
In Progress/Planned	\$0.4 M
Total	\$1.1 M



LAND SERVICES

Cost Incurred	\$0.4 M
In Progress/Planned	\$0.4 M
Total	\$0.8 M



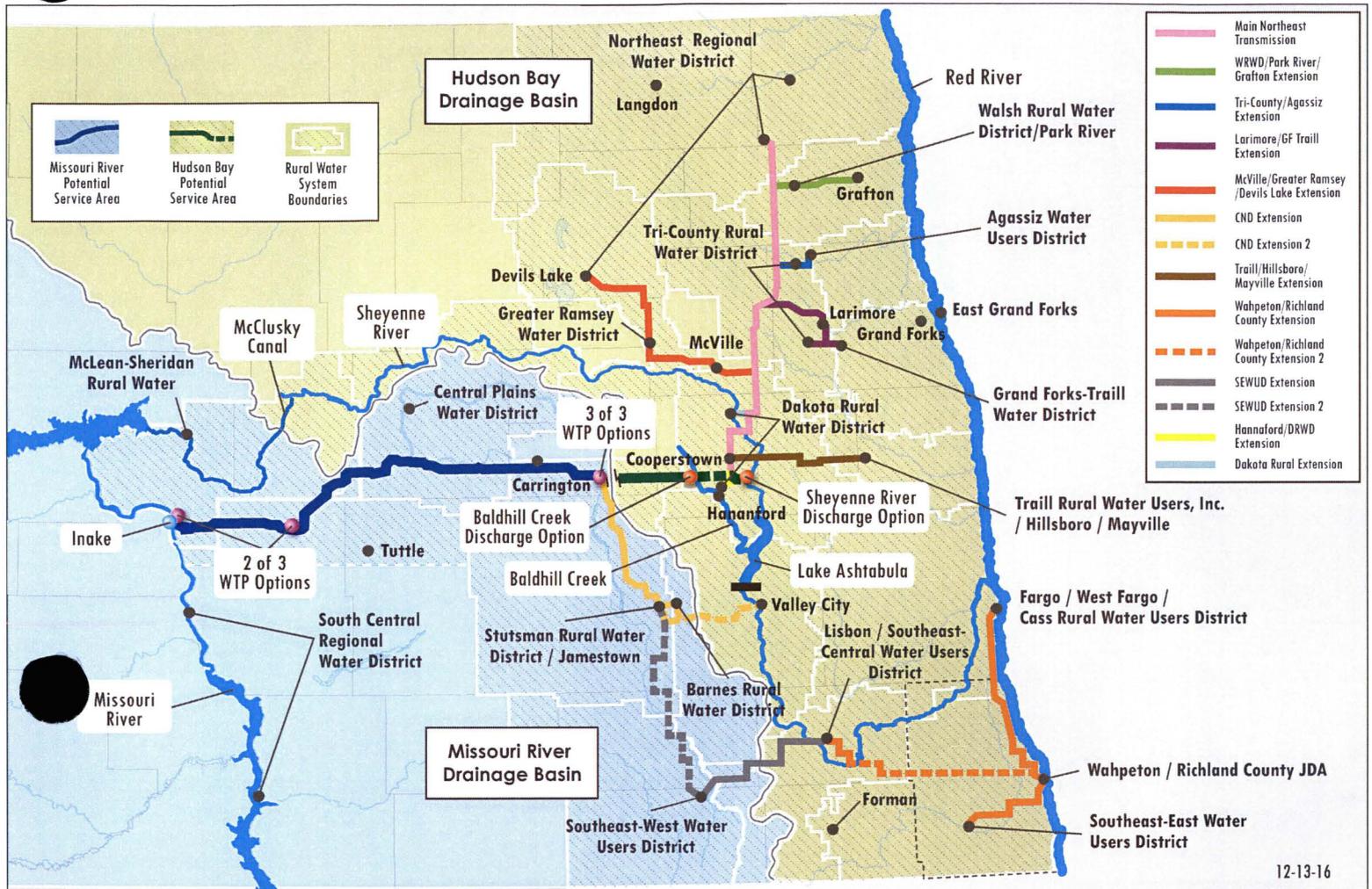
OTHER (User Engagement, Financial & Legal)

Cost Incurred	\$0.5 M
In Progress/Planned	\$1.2 M
Total	\$2.2 M

TOTAL COST INCURRED (AS OF 12/31/16) = \$7.5 M | IN PROGRESS/PLANNED = \$6.5 M | TOTAL = \$14.0 M

SERVING PROSPECTIVE USERS

Upon its completion, roughly half of the population of the State of North Dakota will benefit from the RRVWSP. The RRVWSP is a plan to safeguard water for North Dakota communities and rural water systems in times of drought, as well as promote industrial development. As of the mid-November deadline, 35 cities and water districts are committed to help fund the development portion of the project which includes conceptual engineering, phased preliminary engineering, and financial modeling.



12-13-16

PIPELINE EXTENSIONS SHOWN AS PRELIMINARY CONCEPTS WITH ADDITIONAL ENGINEERING TO FOLLOW NOMINATION PROCESS

2015 TO 2017 BIENNIUM STATE FUNDING

2015 TO 2017 ND SENATE BILL 2020 FUNDING	
	2015-2017 Funds
ND Legislature Appropriation (90%)	\$12.3 M
LAWA Match (10%)	\$1.37 M rounded to \$1.4 M
Total	\$13.7 M
Total (rounded)	\$14.0 M

LOCAL INVESTMENT TO DATE

\$5.3 M
(2001 TO DECEMBER 31, 2016)

The RRVWSP is unique in that it will deliver supplemental water supplies to users.

1. The RRVWSP will not replace existing facilities.
2. Existing infrastructure will be continuously used and maintained by current users.
3. The RRVWSP is an additional cost to all water systems.

2017 TO 2019 FUNDING PRIORITIES

Although the original intent for this biennium was \$150 million, GDCD employed long range financial modeling and adjusted design and construction phases to meet legislators requests for reduced funding requests. In order to meet strategic infrastructure design and construction plans and reduce overall project costs (shown below), it is imperative that the RRVWSP receives \$30 million in funding.

FUNDING PRIORITIES	\$33.3 MILLION WORK PLAN
Exercise existing easement options that will otherwise expire.	\$3.6 M
Acquire remaining easement options.	\$1.7 M
Complete final design of strategic section of pipeline to be construction shovel ready.	\$9.7 M
Complete final design of Missouri River Intake and Discharge Structure.	\$3.4 M
Start construction to ensure coverage under current regulations and permitting (i.e., anticipating Waters of the United States (WOTUS) and other changes). <ul style="list-style-type: none"> • Missouri River Intake Structure • Pipeline Crossings in the Eastern Half of Pipeline • Discharge Structure 	\$13.7 M
Administrative/Legal/Financial	\$1.2 M
TOTAL	\$33.3 M
STATE FUNDS (90%)	\$
LAWA MATCH (10%)	\$3.3 M

PARTICIPATION

35 communities and rural water systems nominated to be part of the project totaling 159.23 cubic feet per second.

COST-SHARE

LAKE AGASSIZ WATER AUTHORITY REQUESTS A CONTINUATION OF



90% State and 10% Local Cost-Share



for Development and Engineering Phase

STATE AND LOCAL PLAN ANTICIPATED SCHEDULE

SUMMER 2016 GOAL

- Conceptual Design
- Completed

SPRING 2017 GOAL

- Preliminary Design

2017-2019 GOAL

- Implement Phased Final Design
- Implement Construction to Ensure Coverage Under Current Regulations

2019-2032 GOAL

- Phased Bidding
- Phased Construction

1
3-9-17
SB 2269
Mooridian

Testimony by Merri Mooridian, Administrative Officer
Garrison Diversion Conservancy District

to the

House Energy and Natural Resources Committee

Bismarck, North Dakota
March 9, 2017

Chairman Porter and members of the committee, thank you for this opportunity to testify in support of Senate Bill 2269. My name is Merri Mooridian; I am the Administrative Officer for the Garrison Diversion Conservancy District (Garrison Diversion).

Garrison Diversion was formed in 1955 and charged with using the water behind the Garrison Dam for the "prosperity and general welfare of all the people of North Dakota." Our mission to provide a reliable, high quality and affordable water supply to benefit the people of North Dakota has defined the work of our organization, which consists of 28 member counties with a director from each member county elected during the general election to serve on our board of directors. Garrison Diversion has several focus areas including irrigation, the Red River Valley Water Supply Project, municipal, rural and industrial water supply, recreation, and operations and maintenance of the Garrison Diversion Unit facilities.

Because the Red River Water Supply Project has changed from a federal to a state project, and has since grown to include providing a supplement water supply that reaches approximately 50 percent of the population of North Dakota located in central

and eastern North Dakota, SB2269 addresses the need to update the century code to reflect Garrison Diversion's ability to obtain favorable financing through the Public Finance Authority, expand the Lake Agassiz service area to include central North Dakota users, and add two central North Dakota board members to represent the expanded area on the Lake Agassiz board of directors.

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