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## WATER TOPICS OVERVIEW COMMITTEE

Thursday, June 4, 2020

Representative Jim Schmidt, Chairman, called the meeting to order at 1:00 p.m.

**Members present:** Representatives Jim Schmidt, Chuck Damschen, Ron Guggisberg, Michael Howe, Bob Martinson, Jon O. Nelson, Todd Porter, Mark Sanford, Denton Zubke; Senators David Hogue, Curt Kreun, Gary A. Lee, Larry Luick, Larry J. Robinson, Donald Schaible, Ronald Sorvaag

**Member absent:** Representative Tracy Boe

**Others present:** Senators Rich Wardner, Dickinson; Ray Holmberg, Grand Forks; and Representative Karen M. Rohr, Mandan, members of the Legislative Management  
Chris Kadrmas, Legislative Council, Bismarck  
See [Appendix A](#) for additional persons present.

**It was moved by Senator Lee, seconded by Senator Kreun, and carried on a voice vote that the minutes of the December 10, 2019, meeting be approved as distributed.**

### STATE WATER COMMISSION BUDGET

Chairman Schmidt called on Mr. Richard Johnson, Commissioner, State Water Commission, for a presentation regarding the commission's budget. Mr. Johnson said oil prices have decreased, and the resources trust fund has received about 80 percent of the funds anticipated. He said the State Water Commission would like the Water Topics Overview Committee to provide suggestions on how to handle the revenue shortfall. He said the commission overspent \$15 million to date and has received about \$50 million in requests for funding for the next meeting. He said the commission is facing many challenges to funding new and existing projects. He said the commission examined 320 projects for the next biennium.

Chairman Schmidt called on Mr. Chris Kadrmas, Fiscal Analyst, Legislative Council, for a memorandum entitled [Resources Trust Fund - 2017-19 and 2019-21 Biennium Update](#) regarding the status of the resources trust fund.

In response to questions from Senator Sorvaag, Mr. Kadrmas said if resources trust fund revenue is reduced by one-half, the fund would have approximately \$160 million less than the amount anticipated. He said the fund's revenues this biennium are estimated to be between \$370 million and \$435 million. He said the estimate is a rough estimate and subject to change based on the price of oil.

Chairman Schmidt called on Ms. Heide Delorme, Director, Administrative Services Division, State Water Commission, for a presentation ([Appendix B](#)) regarding the State Water Commission budget and May 7, 2020, memorandum.

In response to questions from Chairman Schmidt, Ms. Delorme said the Red River Valley Water Supply Project likely will need \$23 million of the \$43 million originally anticipated to be needed for the Red River Valley Water Supply Project. She said the \$23 million includes \$13 million in new funds and \$10 million of the \$30 million the Legislative Assembly intended for the project under Section 13 of Senate Bill No. 2020 (2019).

Chairman Schmidt said Ms. Delorme should work with an estimated shortfall of \$170 million.

### MANDAN FLOOD CONTROL PROJECT

Chairman Schmidt called on Mr. Tim Helbling, Mayor, City of Mandan, for a presentation ([Appendix C](#)) regarding the funding and status of the Mandan flood control project. Mr. Helbling said the estimated cost of the project has been reduced, and the project design should be complete in 2021. He said the project will need \$10 million for this biennium and \$3 million to \$5 million for the next biennium.

Chairman Schmidt said this would reduce the anticipated expenditures of the State Water Commission by about \$11 million.

### **RED RIVER VALLEY WATER SUPPLY PROJECT**

Chairman Schmidt called on Mr. Duane DeKrey, General Manager, Garrison Diversion Conservancy District, for a presentation ([Appendix D](#)) regarding the funding and status of the Red River Valley Water Supply Project. Mr. DeKrey said \$20 million of the \$43 million of funding anticipated for this biennium could be delayed to offset the State Water Commission budget shortfall.

In response to questions from Chairman Schmidt, Mr. DeKrey said the immediate need for the project to continue is \$7.5 million. He said the project sponsors should submit their request for the conditional \$13 million to the Budget Section before the end of the biennium, assuming all the conditions are met.

Chairman Schmidt said reducing the funding for the project to \$7.5 million would reduce the anticipated expenditures of the State Water Commission by about \$29.5 million.

In response to a question from Representative Nelson, Mr. DeKrey said no users have signed contracts to acquire water from the project. He said the lack of contracts is due to a delay in receiving a permit from the Department of Environmental Quality.

### **FARGO-MOORHEAD AREA DIVERSION PROJECT**

Chairman Schmidt called on Mr. Joel Paulsen, Executive Director, FM Area Diversion Project, for a presentation ([Appendix E](#)) regarding the FM Area Diversion Project, land acquisitions for the project, audits related to the project, the public-private partnership, and federal funding for the project.

In response to questions from Chairman Schmidt, Mr. Paulsen said \$100 million in federal funds has been appropriated to the St. Paul district of the Army Corps of Engineers and designated for the project. He said the immediate need for the project to continue is uncertain. He said the \$44 million figure mentioned by Chairman Schmidt would be acceptable. He said the phased construction is underway, and the project has met all legislative requirements in Senate Bill No. 2020 for funding. He said the project received \$7 million for Plan B elements from Minnesota. He said the anticipated outlay in 2021-22 will be approximately \$200 million. He said \$92 million in carryover funds may be used as the state matching funds for the federal Water Infrastructure Finance and Innovation Act loan.

In response to questions from Representative Howe, Mr. Paulsen said approximately 80 parcels still need to be acquired for the project, and about 25 of the parcels will be subject to quick take eminent domain.

Representative Howe said he hopes quick take eminent domain will not need to be used.

In response to questions from Senator Lee, Mr. Paulsen said the Fargo sales tax numbers from March reflect about a 20 percent decline in revenue.

### **MINOT FLOOD CONTROL PROJECT**

Chairman Schmidt called on Mr. Shaun Sipma, Mayor, City of Minot, for a presentation ([Appendix F](#)) regarding the plans for proceeding with the Souris River flood control project. Mr. Sipma said the anticipated funding for the project was \$82.5 million, but the funding could be reduced to \$49.5 million to offset the State Water Commission budget shortfall.

### **NORTHWEST AREA WATER SUPPLY PROJECT**

Chairman Schmidt called on Mr. John Paczkowski, Interim State Engineer, State Water Commission, for a presentation ([Appendix G](#)) regarding the funding and status of the Northwest Area Water Supply Project.

In response to questions from Chairman Schmidt, Mr. Paczkowski said the work on the South Prairie Reservoir portion of the project could be delayed, which would reduce the funds required for the project by \$16 million. He said a determination must be made regarding how the \$75 million line of credit for the project from the Bank of North Dakota will be paid in 2021.

In response to questions from Representative Nelson, Mr. Paczkowski said the project's advisory committee plans to meet more often.

### **SOUTHWEST PIPELINE PROJECT**

Chairman Schmidt called on Ms. Mary Massad, Manager/CEO, Southwest Water Authority, for a presentation ([Appendix H](#)) regarding the funding and status of the Southwest Pipeline Project.

In response to a question from Chairman Schmidt, Ms. Massad said the anticipated funding for the project was \$25.5 million, but the funding could be reduced to \$12 million to \$17 million to offset the State Water Commission budget shortfall.

### **WESTERN AREA WATER SUPPLY PROJECT**

Chairman Schmidt called on Ms. Tami Madsen, Executive Director, Western Area Water Supply Authority, for a presentation ([Appendix I](#)) regarding the funding and status of the Western Area Water Supply Project.

In response to a question from Chairman Schmidt, Ms. Madsen said the anticipated funding for the project was \$40 million, but the funding could be reduced to \$30.4 million to offset the State Water Commission budget shortfall.

### **RURAL WATER SUPPLY PROJECTS**

Chairman Schmidt called on Mr. Eric Volk, Executive Director, North Dakota Rural Water Systems Association, for a presentation ([Appendix J](#)) regarding funding for rural water systems.

In response to a question from Chairman Schmidt, Mr. Volk said the anticipated funding for rural water supply projects was \$37 million, but the funding could be reduced to \$29.8 million to offset the State Water Commission budget shortfall. He said the State Water Commission already approved \$21.7 million for rural water supply projects.

### **MUNICIPAL WATER SUPPLY PROJECTS**

Chairman Schmidt called on Mr. Blake Crosby, Executive Director, North Dakota League of Cities, for a presentation regarding funding for community water supply projects. Mr. Crosby said the \$45 million appropriated for community water supply projects has been allocated.

In response to a question from Chairman Schmidt, Mr. Crosby said about \$5.5 million of funding appropriated to municipal water supply projects in Senate Bill No. 2020 can be released to offset the State Water Commission budget shortfall.

### **COMMITTEE DISCUSSION**

Chairman Schmidt said he urges the State Water Commission and Office of State Engineer to stringently evaluate how expenditures from the general water management and operations line items in Senate Bill No. 2020 can be reduced. He said the agencies should consider increasing the revolving loan fund and transitioning to spending cash rather than spending anticipated revenues.

Representative Porter said the State Water Commission should maintain some funds in the revenue trust fund to address emergencies that may arise. He said it would be better for the State Water Commission to reduce the grants it provides and for project sponsors to obtain loans or work with the Bank of North Dakota to issue bonds.

In response to a question from Representative Porter, Mr. Kadmas said the State Water Commission can allocate funds up to the amount appropriated in each line item, but it may not spend more than the revenue it receives. He said state contracts generally contain a provision stating the state's obligation is dependent on appropriations and revenue amounts. He said Senate Bill No. 2020 does not specify a method for allocating revenue among the line items if there is a general revenue shortfall in which none of the appropriation "buckets" will be filled.

Senator Sorvaag said there seems to be a shortfall of \$170 million, and project sponsors can release about \$140 million to offset the shortfall.

Chairman Schmidt said the State Water Commission is hiring a project engineer to help ensure projects are not more costly than necessary. He said the commission needs to develop a more defined project prioritization project to identify critical needs.

Representative Zubke said the budget situation likely will be worse than anticipated. He said many projects probably are not ready to begin construction and can be put on hold. He said the State Water Commission should dig deeper for possible budget cuts. He said many oil wells have been shut in, and it is unclear when those wells will be operational again.

In response to a question from Senator Sorvaag, Ms. Delorme said the State Water Commission has overspent about \$13 million.

In response to a question from Senator Robinson, Mr. Paczkowski said the operations budget of the State Water Commission is approximately 3 percent of the total budget.

Representative Porter said he recommends the State Water Commission refrain from approving any additional projects in June.

Representative Damschen said he agrees with Representative Porter. He said having to pay off deficits in the future will reduce the state's ability to fund water projects in the future. He said the state should not spend money it does not have.

Senator Sorvaag said the state economy is hurting, and freezing construction activity will hurt it further. He said missing a construction season will create problems for projects.

**It was moved by Representative Porter, seconded by Representative Martinson, and carried on a roll call vote that the committee recommend the State Water Commission stringently evaluate the prioritization of projects for which funding is requested and, at the June meeting, consider only critical projects that must move forward and defer consideration of other projects until the committee has a better understanding of the budget status.** Representatives Schmidt, Damschen, Guggisberg, Howe, Martinson, Nelson, Porter, Sanford, and Zubke and Senators Kreun, Lee, Luick, Robinson, and Schaible voted "aye." Senator Sorvaag voted "nay."

No further business appearing, Chairman Schmidt adjourned the meeting at 3:25 p.m.

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Claire Ness  
Counsel

ATTACH:10