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DESCRIPTION

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2001 HOUSE NATURAL RESOURCES

HCR 3019

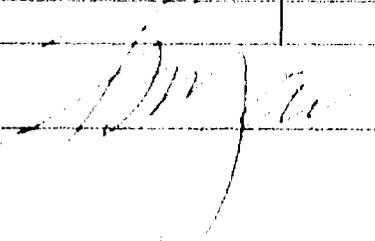
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3019

House Natural Resources Committee

Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
1	x		3870 to end
1		x	1 to 518
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing HCR 3019.

Rep. Droydal: HCR 3019 has to deal with Lake Sakakawea and the land above it. The land that we call excess land. It is located above the exclusive flood plane. It also deals with the dam in South Dakota. About 50 some years ago the US Government through either purchase or condemnation acquired a lot of land in order to build the dam and back water thereof. In doing so they did acquire some land above the potential flood plane and that land is still sitting in limbo. In some areas of the country they have developed a policy returning that land to the original owners or Game and Fish or the sovereign nation of that particular state. There has been

discussion in several circles that there is a possibility that they may do the same around Lake Sakakawea, which is my primary concern. That lake is our lake and we all have some investment in it. We paid for it and dedicated a lot of land to it and we were promised a lot of things from the Federal Government, including future use. That is kinda what the issue is. There are a lot individuals and organizations that have dedicated a lot of time over the years to make that land accessible to all of us so we can fish, sail, water ski or just relax along the lake. What I was trying to do with this particular resolution is there is some places in the lake where we don't have a guaranteed access to the ramps. What I am asking here, is if the Federal Government decides to release this excess land that I would like to see them negotiate permanent access rights to those particular public sites. Guarantee access to all North Dakotans and US citizens in fact. That is pretty well covered on the back page. The heart of the bill is if Congress transfers Federal Land above Lake Sakakawea and Lake Oahe, to the Three Affiliated Tribes or Standing Rock Sioux that individuals that have invested resources in developing recreational facilities around the lakes be guaranteed access to these facilities. I also go on to say that if there is other land located that land should be treated the same. This is a proclamation, I ask for your favorable vote on this resolution.

Rep. John Warner - District 4; I signed on to this resolution for slightly different reasons than Rep. Droydal. We hope that is not a matter of if the Federal Government, but when the Federal Government returns this land. Development of the lands around Lake Sakakawea is absolutely imperative to the development of western North Dakota. We hope to see them back in private hands as soon as possible. There will be a need for some public access, public beaches and the Tribes have significant claims in that area. We have spoken with our Tribal leaders and we are less convinced now than when were when we signed onto that bill that there is a need for the

access language. I am very convinced that both the Tribes and the State recognize the common law doctrine of customary easement and that Federal law supersedes Tribal sovereignty and State sovereignty would probably guarantee access to these lands. The Tribe has been concerned that the language of the resolution has been overly accusatory and it failed to recognize the efforts that the Tribes have made to return this land to private hands. The Tribe will present some amendments today and I would like to endorse the amendments. They are an improvement to the resolution, they are mostly changes in tone. They do address the question of access. I would recommend the committee seriously consider the amendments presented by the Tribes.

Sen. Nichols - District 4: I also want to reiterate what Sen. Warner said, we have had discussion with Tribal chairman and with some of these changes I would certainly continue to support this resolution. This issue was before us before and for several reasons things weren't resolved. We need to bring this to resolution. Those of us in the area around Lake Sakakawea need to work together to see that these things are resolved in a positive manner. I hope you will consider the proposed amendments and approve that resolution.

Tex. Hall - Chairman of the Mandan Hidatsa Arikara Nation: (See written testimony).

Rep. Droydal: Your one defense in here has to do with that inadequate discussion and consultation and that is true I did not call the Three Affiliated Tribes and I also did not call the County Commissioners or County government involved in this particular issue either, but it goes on to say that I was not consulted on these amendments that were proposed either which goes on to say the same thing about me that you were saying in here is that I am not interested in that discussion or opposed to working on the solution. That is absolutely not true. I also represent a little bit the Three Affiliated Tribes and spoke to members of your tribe and certainly I have a good relationship with them. I am going to have to study these resolutions to see if they complete

what I would like to see as the problem that is out there. That is the intent of this bill to mutually solve the problem and this is how to do it.

Hall: For some reason, I sometimes think that people think the Tribes are going to deny access. That is the farthest thing from the truth. It's recreation and with Lewis and Clark we are anticipating a huge amount of visitors to this state and we will all benefit from it if we can maintain our lake level and develop a recreation site. We have a vested interest as well as you. Our casino would be affected if the lake continues to drop farther and farther. We have a successful third party lease with the Holiday Marine Club and the Corps of Engineer.

Rep. DeKrey: I know you lost more than just acres, but how many acres did you lose in the Garrison Diversion.

Hall: 156,000 acres.

Chairman Rennerfeldt: Are there any other questions from the committee? Anyone else care to speak in favor of this resolution?

Thomas Disselhorst - Attorney with the Three Affiliated Tribes: I sat in on the drafting of the amendments to this resolution and I would like to answer any questions you might have. I appreciate Rep. Droydal's comments that we were not able to reach him for these amendments. I apologize for that. I just want to echo the sentiment of the chairman, the Tribes that have land along the lake are not interested in alienating the state because their livelihood depends upon the visitation of state citizens. It doesn't stand to reason in this century that the Tribes will deny access. The tone of the resolution seems to suggest testimony back in 1995 when the Army Corps was considering regulations that would allow the transfer of some lands administratively to the Three Tribes and the Standing Rock Sioux Tribe. The acrimonious nature of those hearings in some respects seem to be reflected in HCR 3019. I am hopeful we are past that. The

lake level is going to be very low this summer, that is a common problem. The common problem of the lake and the concerns about those problems for all of North Dakota by far outweigh the differences that currently exist between the Tribes and the State, if in fact those differences are real. I think the Tribes and the state working together can do a great deal to assist in increasing lake levels and affecting how the Corps manages that lake.

Rep. Droydal: I was unfamiliar with the 1995 legislation that was proposed and so there was not intent or tie in between the two.

Diss. Ihorst: I understand that. Those were proposed regulations and never finalized, in part due to the nature of the hearings at the time. I understand those feelings, people protecting their private property. At the same time there are some overriding interests, I think the Tribes in that area, the return of land is significant, they lost their homeland, they didn't just lose one farmstead, they lost their capitol. If the capitol in Bismarek had been flooded out I am confident that the state would have demanded full compensation and additional land in which to place the capitol. The Tribes aren't suggesting that much different.

Chairman Rennerfeldt: Any questions? Anyone else care to testify in favor of this resolution, if not is there any opposition to HCR 3019? If not, I will close the hearing on HCR 3019.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3019

House Natural Resources Committee

Conference Committee

Hearing Date February 9, 2001

Tape Number	Side A	Side B	Meter #
1	x		1 to 650
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Winrich.

Chairman Rennerfeldt: I will call the House Natural Resources Committee to order, call the roll.

Let's do some committee work on HCR 3019.

Rep. Droydal: I have an amendment for HCR 3019 which incorporates much of the language that the Three Affiliated Tribes requested. It still makes the point that the original resolution made, guaranteed access and that land be returned to the original owners. I would move on the amendments.

Rep. DeKrey: I second.

Chairman Rennerfeldt: I have a motion and a second on the amendments. All in favor signify by saying Aye. Opposed? Amendments carry.

Rep. DeKrey: I move a Do Pass as Amended.

Rep. Porter: I second.

Rep. Weiler: There was another amendment, can we just ignore that?

Rep. Droydal: That is incorporated in my amendment or as much as possible.

Rep. Nottestad: When you said you incorporated that amendment into yours. Did you contact Mr. Hall on that amendment at or are you just assuming it is okay with them?

Rep. Droydal: I certainly would never assume it was okay with Chairman Hall, I did try to obtain his fax number, I will forward this to his office and I assure you if it is not satisfactory with him we will further amend.

Rep. Nottestad: I just wanted to know if you conferred with him.

Rep. Droydal: I am sure if he doesn't approve of them, we will hear from him. I just as soon we move ahead with it.

Chairman Rennerfeldt: I have a motion for a Do Pass as Amended. Do you want to do a voice vote. All in favor of HCR 3019 as amended signify by saying aye. Opposed? The Ayes have it. Call a roll call vote.

MOTION FOR A DO PASS AS AMENDED

YES 15 NO 2

1 ABSENT AND NOT VOTING

CARRIED BY REP. WEILER

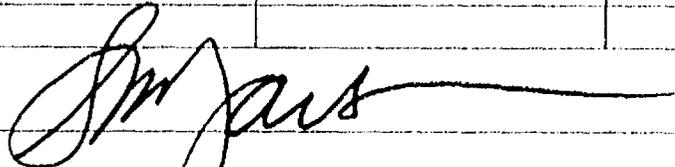
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3019

House Natural Resources Committee

Conference Committee

Hearing Date February 15, 2001

Tape Number	Side A	Side B	Meter #
1	x		1 to 228
Committee Clerk Signature 			

Minutes: Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Winrich.

Chairman Rennerfeldt: I will call the Natural Resources Committee to order.

Rep. Droydal: We did act on 3019 which has to do with access to lands around Lake Sakakawea and additional surplus lands.

Chairman Rennerfeldt: I held that up.

Rep. Droydal: We wanted to show the Tribes the new language. I did send a copy to them and received correspondence back from them. (See letter). They still object somewhat to the language of the access. Although they say they provide access. They also object to the other land along Lake Sakakawea. They say they are a separate issue though I feel Lake Sakakawea is Lake Sakakawea and my bill does not discriminate. I offered their letter for you to consider, if any of you wish to change your vote, you may move to reconsider. We can record the votes again or we

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House Natural Resources Committee
Bill/Resolution Number HCR 3019
Hearing Date February 15, 2001

can go with it the way it is. I just wanted you to know the Tribes still had some objections. I am sure they will be in on the Senate hearings.

Chairman Rennerfeldt: Is that clear with everyone? Does anyone have any concerns or do we turn it loose. If I hear no objections we will let it ride as is.

