

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1513

2007 HOUSE NATURAL RESOURCES

HB 1513

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1513

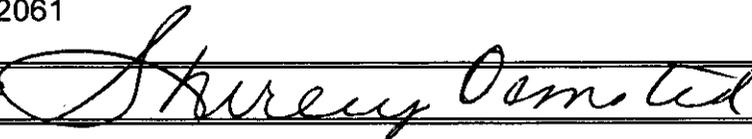
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2061

Committee Clerk Signature



Minutes:

**Chairman Porter** opened the hearing on HB 1513 and asked the clerk to read the title.

**Representative Charging** came forward as a sponsor of HB 1513. This is not only a concern to her district and area but a concern to the entire state of North Dakota and any person who is required to drink water to stay alive which would be everyone. This addresses the low waters on Lake Sakakawea and the entire Missouri River system and the emergency. The Missouri River depends on its water source from the up steam in the mountains and as of late we are in a drought. The water and forecast is not looking too good for our state. For those who do not live along the Missouri River, you can look out today and it looks ok. The Corp of Engineers has the ability to regulate the water especially out here on the Bismarck/Mandan section and anything below the dam. I understand they are required by law to release enough water to maintain the municipals here but that isn't the same for the lake portions of the river meaning Lake Sakakawea and Lake Oahe so above it and below it. What this bill would do and we have problems in several communities, Garrison being one, Parshall being another and Fort Yates being still another that found themselves in an emergency where there was still water in the river and their intakes are still pulling water but because of the turbidity, which is a term used to describe particles and other foreign things in water, and the

water was unsuitable for drinking in those cities. What happened thereafter was of course whose fault is it and who is going to help bail it out and meanwhile hospitals were closed and a great number of things happened. If you don't have water you don't have anything. What I am hoping to do and I have had help with this from the water department, is bring forward some amendments that I would like to add to HB 1513. I would like to ask the chairman to maintain the record open, even though we have people coming to testify today, because I have some material coming and most of my water people are at the water convention in Aberdeen today.

**Chairman Porter** asked if she understood the deadline with this bill because of the appropriation.

**Representative Charging** said that she intended to remove the appropriation.

**Chairman Porter** said that she had all sorts of time then.

**Representative Charging** said that what has happened up there is incredible and we don't have the option of knowing what the future is going to hold because we don't know what Mother Nature is going to do. She passed out a news release from the Corp of Engineers saying that we are already in trouble based on the projections. See attachment marked as Item #1. She had a map and showed the life threat throughout the state and indicated the areas on the map that this would affect. Parshall is a small town and at any given time they may only have eight hundred dollars in the city balance. How do they address a million dollar project? They can address this through the Bureau of Reclamation or the Corp of Engineers and all these other programs, but it will take 6 to 8 months so this bill would allow for that immediate need. If the February projections come through, we are looking at no snow. We are looking at the lake as being 57 feet lower than what it was originally intended to be. Not to address this as a legislature would be a great disservice to North Dakota. There are so many pipeline projects happening now and we cannot maintain the critical needs of the people today

that are living there so how are we going to address the needs of others living in eastern North Dakota.

**Representative Meyer** asked what the level of Lake Sakakawea is right now.

**Representative Charging** said as of this morning we were at 1807.

**Representative Keiser** said it is hard to ask questions without the amendments to know what they do. See proposed amendment marked as Item #2 that was distributed.

**Representative Charging** said for example the February 2008 forecast is that Lake Sakakawea will be at 1797.6. Mr. Frink can address that as well. I know all the parties that are going to be addressing this and will be planning a trip to Washington because the fault I believe is the Corp of Engineers and there are a numbers of bills and resolutions coming forward this session and some potential law suits as well to the Corp of Engineers on behalf of the state of North Dakota. This bill would be one more tool we would have to plead our case and another tool for people to have the immediate response. This is like dialing 911. Right now there is no one at the other end of the line.

**Representative Keiser** said that on the bill on lines 9 and 10 mentions loans against future municipal, rural and industrial water supply funds. Most systems are based on revenue bonds and those bonds can go out 20 years in life. If we borrow money based on future revenues, we would be taking a second position with a revenue bond and we would be paying it back over 10 or 15 years. What would happen to the interest on those dollars?

**Representative Charging** said she may not be the best to give this answer, but she was involved in the Fort Berthold Reservation as well as Standing Rock Reservation with their appropriation and this would be against their appropriation. There are appropriations and authorizations and these funds have not been appropriated. That is the mechanism there.

The goal isn't to put the burden on the state's general fund. The goal here it to provide that

911 call and have someone answer the phone. It is a very complex process and there is so much future depending on the river systems to many communities in this state and why wait until that happens. We must be proactive.

**Senator Warner** said he wanted to endorse the work that Representative Charging has done on this bill. The drought is a natural phenomenon. We have seen droughts before and we will see droughts again. The management of Lake Sakakawea is a manmade disaster caused by the Corp of Engineers and it will continue forever until we resolve this issue and seek litigation as a result of that mismanagement. This water is much more important than the industrial waters that we need for development in these areas. I endorse this bill and would seek passage.

**Representative Wrangham** came forward in support of HB 1513. I think it is good planning and anytime that we can be proactive to be prepared when we see that there is a possible disaster coming where people are going to need a lot of help. These people are in my district and I ask that you pass this bill with the amendments.

**Representative Onstad** from District #4 said that Parshall is in his district and they have been sited as having problems. The city of Parshall used to be on well water and the well water was designated as not being fit for the elderly and not fit for the small children. It was high in sodium and at that time they put their investment into a new water treatment plant and they sought a source of water out of Lake Sakakawea and the Missouri River System. In those current papers there is a guarantee of water but it doesn't say who is going to pay for it or how it is going to be paid for but says there will be a water supply. It has gone on for several years and the city of Parshall has extended it with the help of some financing from the Corp and the state of North Dakota and a few loans. They have made improvements in the water treatment plant so they have done their job with due diligent as any community has but the situation that

they have now is turbidity. When the water level gets to a point, the turbidity is too high and therefore they have to go to the well water. It is a question of what is worse. The city of Parshall anticipates that they are going to have to do a loan to help fix this. They have raised their water rates in anticipation of that. Our city auditor was unable to make it today because of a prior commitment and he apologized for that. He would be a great source as to how they have handled their water needs. They have several choices they can make but there are going to be other communities that take their water out of the Missouri system as well. It is a great source of water but you have to have the availability. They were told now that they don't know if the funding is going to be there for them and that is probably going to happen this summer. He urges a do pass.

**Representative Solberg** asked how many times Parshall has extended their intake.

**Representative Onstad** said it was twice. They have made improvements in their water treatment plant. Their water comes out of Van Hook Arm and this area was all agricultural land and it is very level and low so to extend that it may be two miles and that becomes an issue. Long term they would extend again, but short term they will try to make adjustments to their water treatment plant.

**Representative Keiser** asked if the city of Parshall was creating an emergency reserve fund within their water funding for this.

**Representative Onstad** said they had raised the rates in anticipation of this but this is a community of 800 people. What is allowable that the citizens can handle? I believe there was a 15% raise in the rates. They are trying to be proactive but they are asking for additional assistance.

**Representative Drovdal** from District #39 came forward in support also. Fifty five years ago North Dakota was sold on a package that ended up creating the Garrison Dam and Lake

Sakakawea. Part of that package included potable water and recreation activities. Some of these people had to be reestablished and they completely lost their water sources. A lot of people were displaced and now we need help with our water. The water is recessing and it is hard to get good potable water. The Corp of Engineers has been very successful in the fact that they have screwed up everything on the Missouri River Systems. The communities along this system took their word but now they need help with funds with this. They are willing to support all the new projects that take the water to the eastern part of the state, the NAWS project, but they are saying they need help. I wish it were a grant and not in the form of a loan. They are doing their part and they are using their resources, but it getting to the point that these small communities can no longer handle this.

**Representative Pinkerton** of Minot came forward with concerns about NAWS as the Minot project. It has been a pay as you go thing. We are still two or three years away from drawing any water from the lake. It has been a moving target for Minot. As the lake levels drop the turbidity is becoming a problem and this is another moving target.

**Mr. Dale Frink** of the State Water Commission came forward in support of HB 1513. See attached written testimony marked as Item #3. He had a conversation yesterday with Dennis Kritman who is in charge of the Bureau of Reclamation in Bismarck. He pointed out a couple of concerns with the loan. As it is laid out right now, it is actually a grant to the city or to the user but it would be up to the State Water Commission to go after federal funds to replace that money. Several of them are located on a reservation. They are eligible for Indian MRI program dollars. He does not believe that we can get reimbursed for Indian MRI dollars. The tribes took out a loan a few years ago and they sued the bureau to get reimbursed and they were successful. That is a one time thing, but it is easier for the tribe to win than the state to win. He didn't give us much hope for being reimbursed. We do have a state MRI program as

well. We have advanced about fifteen to seventeen million dollars from that program and they haven't been reimbursed for any of that yet and we think it is possible but when you are only getting two or three million dollars a year for a program there just isn't any money. The amendments make the program permissive and it doesn't require the state water commission to do it and we certainly will investigate it. We are fully aware about some of these problems and as some of these problems develop we will see what we can do. The new master manual the navigation can be precluded earlier than before. Under the new manual the new number is 1793. They may preclude navigation around 1800 feet. They make the determination in the spring of the year around March 15. As far as the turbidity problems, if you have a better treatment plant with large clarifiers, they can handle that. Parshall treats what comes in and it is more difficult for them to handle this problem and they cannot treat the water.

**Chairman Porter** asked without this bill is the state engineer currently able to do what is mentioned in the bill and assist in those emergency projects such as Parshall and Fort Yates and any place else in the state.

**Mr. Frink** said the State Water Commission is given a certain authority and they typically provide a list of projects during the appropriation process. If a city comes in for a loan, we will look at it and are able to move some money around.

**Chairman Porter** asked him if they were ignoring it now.

**Mr. Frink** said they are not and if a city comes in and asks for a grant they would certainly look at it.

**Chairman Porter** asked about the loans against future municipal rural water industrial supplies and municipalities. As the way the bill is written, how would the interest accumulate on those loans until the money would be paid back?

**Mr. Frink** said it was to the users. The cities would get that money as if it were a full grant.

To them it would be a full grant but then the SWC would have the authority to go to the Bureau of Reclamation and try to get reimbursed for that.

**Chairman Porter** said why wouldn't that municipality go to the Bureau of Reclamation?

**Mr. Frink** said on the Indian MRI program they don't necessarily have to. The problem that you have is that you are only getting two or three million dollars a year, so you can get three million dollars per year for the state program and three million dollars per year for the Indian MRI program. That is not enough money so if you want to spend beyond that you would give them a grant out of the resource trust fund and this is intended as an advance. The Bureau is telling us we cannot get reimbursed.

**Representative Hunskor** asked where does the money come from that is in the resource trust fund and what is the amount of money that is available.

**Mr. Frink** said the SWC is showing about sixty five million dollars or there about. That is a combination of funds from the resource trust fund and the water development trust fund. That is the total and it would come out of that. We have tentatively allocated twelve million dollars to MRI projects around the state. That entire sixty five million is allocated. Some of won't be spent because water projects take a long time to develop. On the other hand the City of Devils Lake was allocated two million dollars and they are telling us they are going to need more. If the projects don't go it is usually related to federal funding on their end.

**Representative Keiser** asked why don't we just say grant rather than loan. We have a real problem that we need to solve but putting this language in doesn't seem to work. These communities have a continuing need for those revenues. They can't pay off the loan so why don't we just say grant.

**Mr. Frink** said to the community it is a grant. We have conversations in the water community as to whether we can continue to advance these monies as grants rather than just give it out as loans.

**Representative Kelsh** asked what is the balance in the resource trust fund right now.

**Mr. Frink** said it is mostly the oil extraction tax. We get 20% of the money from the oil extraction tax and I think it is about 43 million which is a substantial increase over past and that is due to oil production rather than oil price.

**Representative Charging** asked him to explain the Dakota Water Resource Act.

**Mr. Frink** said it was passed in 2000 in Congress. There are three parts and it gave two hundred million dollars in loans, and gave two hundred million dollars in grants to the state MRI project and two hundred million of grants to the Indian MRI program. That is the authorized amount and trying to get the money appropriated is another thing. The two hundred million in grants for the state has not been received yet. The Indian MRI program has received some money or at least a portion of it. The two hundred million is all indexed so the authorized amount now is about two hundred fifty million. The amounts are growing but congress has only been appropriating 4 million per year which is less than the index. We hope to improve that situation. There is a lot of federal money going to Grand Forks and now that this project is done, we are hoping we can get some of that money.

**Mr. Mike Dwyer** of the North Dakota Water Users Association came forward in support of HB 1513. In the 80's and 90's we had a number of circumstances come together where we had major water infrastructure needs that had to be addressed. Devils Lake was one of those. The Grand Forks flood control in 1997 was also one of those. Fargo had a near disaster in 1997 as well. We started the southwest pipeline in the 1980's and today that project served over 28 cities and over 3000 rural customers. The NAWWS project is trying to supply the city of

Minot. The governor's budget has 65 million dollars in it which is allocated to the water commission and they make the decisions as to how that money should be spent. Our water community provides support to all of those. It is a process to allocate those funds but it is a very workable process. They determine the highest needs and shift the money to those projects. We are trying to move forward on all these projects. You have made a tremendous commitment on this. Some of these projects are almost complete but we support this program as it fits in with all the other water projects we are trying to do.

**Mr. Doug Mund** of the Heartland Engineering out of Bismarck came forward in support. They have worked on 7 emergency intake projects along Lake Sakakawea and Lake Oahe.

Funding is not available for these emergency projects. Other grants can take up to a year and this is not sufficient to cover these emergencies. I feel that if this had been in place this would have been a tremendous help to these communities. They are supporting this bill.

**Chairman Porter** asked for further testimony in favor. He asked for opposition to this bill. At the request of the sponsor, this bill will be held open until committee work next week so that other testimony can be assembled. The hearing was closed.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1513

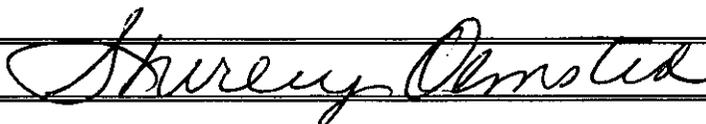
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2727

Committee Clerk Signature



Minutes:

**Chairman Porter** opened discussion on HB 1513.

**Representative Charging** said she had a county commissioner from McLean County here that wanted to testify.

**Mr. Ron Kresbach**, McLean county commissioner from Garrison came forward to testify. The commission is in full support of the bill with the amendments. Several communities in McLean County have had water issues because of the low water levels of Lake Sakakawea. The water supplies and water quality have been affected. This has gone beyond the financial capacity of these smaller communities.

**Representative Charging** explained the amendments. They want to include these amendments complete. She read the amendments.

**Representative DeKrey** said that once you take the appropriation out of this bill the SWC can do any of this anyway. Have we eliminated the need for the bill?

**Chairman Porter** said based on Mr. Frink's testimony that is correct.

**Representative Keiser** said this puts into statute what really the current policy is.

**Representative Charging** said she challenged that too but many people came forward and said this needed to be done. The water commission had no direction and no one telling them they had to. This shows that we are in support.

**Representative Keiser** said that he has frustration to the point of anger with the SWC. If you read this bill it was impossible to happen. The loan program, assets that were controlled by the federal government, and there is no possibility that they could take it back. They knew it and that is my one frustration. When we talked to them after the hearing, they said they knew they could not pay it back, so why put it in the bill.

**Chairman Porter** said that this was not their language or their bill.

**Representative Keiser** said we asked them how this works and they danced around it the best that they could. They should have just said it doesn't work that way.

**Representative Charging** said he knew it was not their bill but she did go to them for help. I do not know how helpful they were.

**Chairman Porter** asked is she was moving her amendments.

**Representative Charging** said if she may.

**Representative Meyer** seconded the motion.

**Chairman Porter** asked for discussion. Hearing none a voice vote was taken and the motion prevailed.

**Representative Nottestad** asked if the other set of amendments were being looked at now.

**Chairman Porter** said no.

**Representative Hofstad** said he was trying to figure out exactly what this bill will do.

**Representative Charging** said this is showing legislative intent to those communities that are in an emergency potential and it puts in parameters and right now they are getting bombarded.

The funds are being spread in different directions. I will argue why we have to go this far with the SWC.

**Representative Hofstad** said but we have a water commission that deals with these issues and these issues change on an annual basis. I think they need to have flexibility.

**Representative Charging** said that this is a parameter.

**Representative Hofstad** said but this is what they do. They need to prioritize.

**Representative Damschen** said that he was suspecting the reason for this legislation was because it wasn't getting done. Maybe they do need some direction. The scary thing is that if we don't pass this they are going to look at this and say they had a chance to give it a strategy and they decided not to.

**Representative Keiser** said in the discussion he had with them in the hallway, they gave him the indication that when we the low water levels and the state had to step in they were not sure at what authority they were going to step in under. They knew they had flexibility but they didn't have direction. This bill maintains all their flexibility and it does give them the direction with legislative approval that they may do this. They may step in and they may give these communities the money. This is ultimately what they did and this legislation conforms to what they did. This doesn't change what happens but it gives them some authority in the future to do what they need to do.

**Representative DeKrey** said that this got done and they did their job. Now we come after the fact and then the next time when something comes up that they don't know how to handle are they just going to sit on their hands and wait for direction from the legislature.

**Representative Charging** said it takes common sense and like I said this is a form of 911 and these people need help. They are without water and hospitals closed. It took days for them to respond to this. The law was unclear.

**Representative Drovdal** made an motion for a do pass as amended.

**Representative Meyer** seconded the motion.

**Chairman Porter** asked for discussion. Hearing none the clerk called the roll on a do pass as amended on HB 1513. Let the record show 10 yes, 3 no with 1 absent. The motion prevailed.

**Representative Nottestad** will carry the bill to the floor.

# FISCAL NOTE

Requested by Legislative Council

04/05/2007

Amendment to:           Engrossed  
                                  HB 1513

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>						
<b>Appropriations</b>						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill enacts a new section to chapter 61-02 allowing the State Water Commission to create an emergency municipal, tribal, and rural water system drinking water grant program.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

House Bill 1513 with the conference committee amendments contains permissive language that would use existing agency appropriation.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	David Laschkewitsch	<b>Agency:</b>	ND State Water Commission
<b>Phone Number:</b>	328-1956	<b>Date Prepared:</b>	04/05/2007

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/16/2007

Amendment to:           Engrossed  
                                  HB 1513

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures				\$52,900,000		\$15,000,000
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill enacts a new section to chapter 61-02 requiring the State Water Commission to create an emergency municipal, tribal, and rural water system drinking water grant program.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 mandates that this new program becomes active when the governor declares an emergency relating to the inability of a water system to obtain an adequate quantity of water from the Missouri River, Lake Sakakawea or Lake Oahe.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

At present there are two cities at immediate risk, Parshall and Ft. Yates. However, there are several other cities and intakes that could potentially be affected by the low levels. In 2005, an engineering consultant estimated the cost of solving Parshall's problem ranged from \$19 million to \$22.9 million, depending on the alternative selected. The Bureau of Reclamation has spent \$3.2 million on Ft. Yates temporary intake and has yet to determine the estimate for a permanent intake. The Bureau estimates they could need between \$30 million and \$45 million to address the needs of the Standing Rock rural water systems due to the low water levels. As a result, the fiscal impact of this bill could be as high as \$67.9 million, less any local or federal share. This fiscal note assumes the Water Commission would be required to fund the alternative of choice by the local communities.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	David Laschkewitsch	<b>Agency:</b>	ND State Water Commission
<b>Phone Number:</b>	328-1956	<b>Date Prepared:</b>	03/16/2007

**House Amendments to HB 1513 (70791.0201) - Natural Resources Committee  
02/02/2007**

Page 1, line 2, replace "loan" with "grant" and remove "; and to provide"

Page 1, line 3, remove "an appropriation"

Page 1, line 7, replace "loan" with "grant" and replace "shall" with "may"

Page 1, line 8, replace "loan" with "grant"

Page 1, line 9, replace "loans against future municipal, rural, and" with "grants"

Page 1, line 10, remove "industrial water supply funds"

Page 1, remove lines 18 through 22

Renumber accordingly

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

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1513

House Natural Resources Committee

Check here for Conference Committee

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

Action Taken My Amendments

Motion Made By Charging Seconded By Meyer

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

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 2-2-07  
 Roll Call Vote #: 9

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1513

House Natural Resources Committee

Check here for Conference Committee

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

Action Taken No Pass As Amended

Motion Made By Drovdal Seconded By Meyle

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

Total Yes 10 No 3

Absent 1

Floor Assignment J Nottestad

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

*Appropriation removed*

**REPORT OF STANDING COMMITTEE**

**HB 1513: Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1513 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "loan" with "grant" and remove "; and to provide"

Page 1, line 3, remove "an appropriation"

Page 1, line 7, replace "loan" with "grant" and replace "shall" with "may"

Page 1, line 8, replace "loan" with "grant"

Page 1, line 9, replace "loans against future municipal, rural, and" with "grants"

Page 1, line 10, remove "industrial water supply funds"

Page 1, remove lines 18 through 22

Renumber accordingly

2007 SENATE NATURAL RESOURCES

HB 1513

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1513

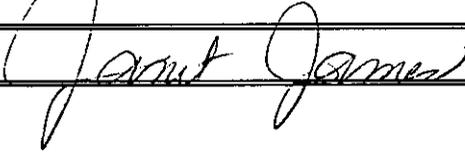
Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: # 4192, 4193

Committee Clerk Signature



Minutes:

**Senator Stanley Lyson**, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1513 relating to an emergency municipal drinking water grant program.

All members of the committee were present.

**Representative Dawn Charging** of District 4 prime sponsor of HB 1513 introduced the bill stating the Missouri River System and Lake Sakakawea is in the center of the district. The drought conditions on the Missouri River are the reason for this bill. There was discussion in the house as to why the bill is necessary, because there is a water commission. But because of what happened on the Missouri River in the past five years the municipals and rural water system had found out there was no where to go for help. The bill will address without any question that the water commission has the authority to intervene and help.

**Senator Herbert Urlacher** asked where the groups went before for help.

**Representative Dawn Charging** stated there was no problem before and presently the lake is at a seventy foot low. Presently the communities are adding sales taxes to pay for water projects but these small communities cannot bear the burden. US Senator Dorgan is working with the Corp of Engineers and the Bureau of Reclamation.

**Senator Urlacher** asked who paid the bill when Fort Yates had the water shortage.

**Representative Charging** answered that until it was sorted out there was no help at all. We are not asking or expecting the state to become the sole responsible party to pay for these projects, but the bill gives the emergency help that is needed.

**Senator Constance Triplett** asked if this to be a short term emergency fix and not a long term help, so this would be like the state sending tanks of water to a small community or with the National Guard and their emergency water treatment.

**Representative Charging** stated the intent is to have the state step in as the first responder to the problem and help the community address the problem. Meanwhile there would be a federal responsible party to work on solving the problem. She further explained the tour with the federal officials and entire river system.

**Senator Joel Heitkamp** stated the language is very inclusive and asked if it includes down stream communities at the sea level footage.

**Representative Charging** responded there has been conversation as to what that trigger should be and she is working on an amendment regarding that language.

**Senator Lyson** added Williston has problems and should be included.

**Representative Charging** stated the bill says municipal or municipalities and did not intend to preclude rural or tribal water systems and this will be included in the amendment.

**Representative Dwight Wrangham** of District 8 cosponsor of HB 1513 testified in support stating that any time there is the opportunity to plan for potential catastrophe and be ready to help the folks that need it makes this need to happen.

**Representative Rodney Froelich** of District 31 cosponsor of HB 1513 testified in support by presenting the history of Fort Yates, the surrounding areas and communities and the problems they had with drought and their water system. Although the governor did step up to the plate it was very difficult to get the federal government to help. The bill would enhance the system

because the state of North Dakota needs to get involved. Millions of dollars do not need to be set aside because these are emergencies resulting in emergency funding.

**Senator Triplett** questioned why the word "may" instead of "must" establish a program.

**Representative Froelich** stated that was for the committee to decide.

**Representative Kenton Onstad** of District 4 cosponsor of HB 1513 testified in support stating his hometown of Parshall has been affected many times by water problems. He presented the history of Parshall of going from well water to the usage of Missouri River water. There were assurances from the state of North Dakota and the Corp of Engineers that water would always be provided to the city. The two have different opinions of who holds that responsibility as the community has continually raised their water usage rates.

**Senator Heitkamp** asked if the bill is passed will the burden become the entire responsibility of the state.

**Representative Omstad** answered the city is in discussion with congressional office as the go between with the Corp of Engineers as things continue with water quality and the need to change systems.

**Todd Sando**, Assistant State Engineer with the North Dakota State Water Commission testified in support of HB 1513 presenting background stating there is a water supply policy to the state water commission, they do cost share for projects. It is written in the bill "may" establish and they are fine with that. With the cost share policy and with more grant language in the bill there is concern because they need to fund at 100%.

**Senator Heitkamp**: pass the bill the way it is without amending it, so that it is more controlling.

Do you envision the department setting up the program because it says you may, are you

going to set aside money in water development for it or put a program in place and then access other dollars within your programs if need be.

**Todd Sando:** can't answer for the water commission but most likely they would support it.

**Senator Heitkamp:** there are always concerns and will put the state into a position that would make federal dollars unavailable.

**Todd Sando:** it is hard to work through cannels to get a permanent fix.

**Senator Tollefson:** it appears to be wide open in terms of dollars and the term emergency is in the entire bill.

**Todd Sando:** emergency is in code and the governor can declare it again for these areas.

Wide open funding is a concern as there is a limited budget and there are needs and projects throughout the state.

**Senator Heitkamp:** that is the strength of HB 1513, if the governor and the water commission say something is necessary, the funds can be used and they are not mandated to use a specific fund set aside for emergencies that could be used for scheduled projects.

**Ken Royce,** engineer with Butler and Weston Firm, employed by the three Affiliated Tribes testified in support of HB 1513. The bill has the potential to address the issue of low water supply and added the term communities and municipalities might exclude the tribal government from accessing federal funding. The second issue is the non discriminatory policy of the tribe of providing water should be reflected in this bill to not discriminate against the tribal access to water. One other thing is to retroactively compensate those who have offered help and emergency services during the drought and shortage of water.

**Senator Heitkamp:** explain from an engineering standpoint and would it be done the same way.

**Ken Royce:** as water lowers the silt is washed in and a fix is to go deeper and further from the shore. The tribe is spending \$5 million dollars to so five feet deeper.

**Senator Triplett:** are wells ever considered.

**Ken Royce:** this technique has been used in the past but they are very expensive and this needs to be a large system. Drilling can also occur under the river bed but the right geological conditions need to present.

**Senator Urlacher:** is the level in the bill appropriate.

**Ken Royce:** the sea level of 1804 is for Lake Sakakawea and does not relate to Lake Oahe.

**Ken Royce** representing the North Dakota Water Users testified in support of HB 1513.

**Bret Jochim**, Chief Operating Officer for the Advanced Engineering and Environmental Services testified in behalf of the City of Parshall in support of HB 1513 (see attachment #1). Discussion was held as to where the water inlet is located, the original well and how the blending of water supplies has been done but can not be done in this situation because there is no water from the intake.

**Duane Ash** representing the Friends of Sakakawea testified in support of HB 1513 (See attachment #2).

**Senator Lyson** asked for testimony in opposition to HB 1513 and hearing none asked for neutral testimony.

### **# 4193**

**Cheryl Kulas** representing the North Dakota Indian Affairs Commission testified in a neutral position on HB 1513 presenting the impact of the drought and lack of water on Indian Tribes. It took days to get federal funding meanwhile the tribes were left without water resources. The city of Washburn helped get water in and in that process lost equipment and is therefore seeking money to help recover those expenses.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1513

Senate Natural Resources Committee

Check here for Conference Committee

Hearing Date: March 2, 2007

Recorder Job Number: # 4296, 4299

Committee Clerk Signature



Minutes:

**Senator Stanley Lyson** opened committee work on HB 1513.

All members of the committee were present.

Discussion was held regarding the footage language in the bill, what it applies to and if the language should be removed from the bill. The footage should not be included because the when the emergency needs to be declared, the footage issue could become a hindrances because of the inconsistency. One other issued is if the river levels need to be in the bill. Further committee work on HB 1513 will take place when Representative Dawn Charging is available for comment on the amendments.

**# 4299**

**Senator Stanley Lyson** reopened committee work on HB 1513.

**Senator Lyson** stated HB 1513 is an emergency bill, that there was no testimony in opposition to the bill. Amendments have been offered (see attachment). He further asked if the footage language should be or has to be included in the bill.

**Representative Dawn Charging** of District 4 prime sponsor of HB 1513 agreed because the trigger mechanism is in the bill and the North Dakota Water Commission is supportive of the bill although they were not initially.

**Senator Constance Triplett:** will it make more sense to remove the footage language out of the bill and reference the declaration of emergency.

**Representative Charging:** agreed and explained the amendments as presented by herself and the amendment regarding stating the footage of water level and the word "Shall" instead of "may" within the bill.

**Senator Heitkamp:** all communities and tribal districts have as required by law an emergency plan and this bill requires the water commission to go to the communities and include those emergency plans within the committee's master plan.

Discussion was held if the word "shall" will give the wrong message to the federal government. There might be a problem if there was a fund set aside in reserve designated for emergencies but this bill only puts in place the logistics of the funding. This will still give the commission the oversight of the emergency funding and projects.

**Senator Layton Freborg:** what will the water commission do for funding if all monies are already marked of projects?

Discussion was held regarding the pecking order for projects and if there is an emergency, designated funded projects would be readjusted.

**Senator Heitkamp** made a motion to adopt an amendment to include the tribal entities; change may to shall call emergency and to remove the footage language.

**Senator Triplett** second the motion.

Roll call vote #1 to adopt the proposed amendment was taken by voice vote indicating 7 Yeas, 0 Nays and 0 absent or not voting.

**Senator Heitkamp** made a motion for a Do Pass as Amended of HB 1513.

**Senator Triplett** second the motion.

Roll call vote #2 for a Do Pass as Amended of HB 1513 was taken indicating 7 Yeas, 0 Nays and 0 absent or not voting.

**Senator Heitkamp** will carry HB 1513.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1513

Page 1, line 2, after "municipal" insert ", tribal, and rural water system"

Page 1, line 6, after "municipal" insert ", tribal, and rural water system"

Page 1, line 7, after "municipal" insert ", tribal, and rural water system"

Page 1, line 8, after "municipalities" insert ", tribes, and rural water systems"

Page 1, line 10, remove "municipal"

Page 1, line 12, after "active" insert "for water systems that obtain their water from Lake Sakakawea" and replace "four" with "six"

Page 1, line 13, after "level" insert "; for water systems that obtain their water from the Missouri River when the flow of the Missouri River reaches sixteen thousand cubic feet per second; and for water systems that obtain their water from Lake Oahe when the level of Lake Oahe reaches one thousand five hundred ninety feet mean sea level"

Page 1, line 14, after "municipalities" insert ", tribes, and rural water systems"

Page 1, line 15, after "municipal" insert ", tribal, or rural"

Page 1, line 16, remove "municipal"

Renumber accordingly





**REPORT OF STANDING COMMITTEE**

**HB 1513, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1513 was placed on the Sixth order on the calendar.**

Page 1, line 2, after "municipal" insert ", tribal, and rural water system"

Page 1, line 6, after "municipal" insert ", tribal, and rural water system" and replace "may" with "shall"

Page 1, line 7, after "municipal" insert ", tribal, and rural water system"

Page 1, line 8, after "municipalities" insert ", tribes, and rural water systems"

Page 1, line 10, remove "municipal"

Page 1, line 12, replace "level of Lake Sakakawea reaches one thousand eight hundred four" with "governor declares an emergency relating to the inability of a water system to obtain an adequate quantity of quality water"

Page 1, line 13, remove "feet mean sea level"

Page 1, line 14, after "municipalities" insert ", tribes, and rural water systems"

Page 1, line 15, after "municipal" insert ", tribal, or rural"

Page 1, line 16, remove "municipal"

Renumber accordingly

2007 HOUSE NATURAL RESOURCES

CONFERENCE COMMITTEE

HB 1513

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1513

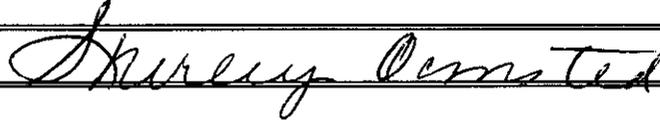
House Natural Resources Conference Committee

Check here for Conference Committee

Hearing Date: March 29, 2007

Recorder Job Number: 5629

Committee Clerk Signature



Minutes:

**Chairman Hofstad** called the conference committee meeting on HB 1513 and asked the clerk to call the roll. Representatives Hofstad, DeKrey and Solberg and Senators Urlacher and Tollefson were present. Senator Heitkamp arrived within a few minutes. He asked someone from the Senate to explain their amendment. He said the one word change has caused a 52.9 million dollar fiscal note. Maybe someone from the Senate would like to address the change of "may" back to "shall".

**Senator Heitkamp** said they were trying to figure out how the fiscal note got to 52.9 million dollars. We were hoping that there would be some explanation of that because we didn't agree with that. Our chairman said he wanted this to go to conference to talk about that and find out how that one word changed it into that kind of fiscal note. He wanted me to come back with an explanation.

**Chairman Hofstad** said we could get someone from the State Water Commission to come here.

**Senator Heitkamp** said he was of the impression that they were going to be here so he is sorry that they wasted your time by not contacting you in advance of that.

**Senator Urlacher** said the "shall" makes it positive so that is the reason the fiscal note came into play.

**Senator Heitkamp** said in his chair's opinion they were taking this far beyond the intent of what we are doing here and he wanted to know if they were saying they were going to fund everything. I think that is not a realization with where this thing is going. Everyone knew that we were talking about Parshall and New Town and those areas and what we could do to make sure that it happened and happened right. I think that is something both chambers certainly agreed on.

**Chairman Hofstad** asked if it was the intent of the Senate to mandate that the SWC address these two issues and address the problem and reconstruct the project.

**Senator Heitkamp** said he thought it was the intent of the Senate that something come to the water commission as to the seriousness of what is happening in Parshall and to bring them in to have a discussion on that.

**Senator Urlacher** said only with the declaration of an emergency situation by the Governor.

**Senator Heitkamp** said that was right. The trigger has to be pulled by the governor.

**Senator Urlacher** said we don't have the Sakakawea water levels reference and the Oahe and that would have a different affect.

**Senator Heitkamp** said they struggled with that in the beginning because they had the levels of upper basin and then when they got down to Fort Yates and other areas, it was a concern to where those levels would be. Representative Charging brought in the points to deal with that. I think that part is worked out. The big question here is if we get to the water commission and say if the governor declares this, we need to fund this as a high priority because we have to worry about the intake. If that is the case, how did we get to fifty two million? That is the answer the chair is looking for.

**Senator Urlacher** said we really don't know what the participation will be by the federal government on these projects under emergency conditions.

**Senator Heitkamp** said his belief on that is that the governor is going to have all those ducks in a row before he calls that.

**Senator Urlacher** said before he calls the emergency.

**Chairman Hofstad** said he would like to get someone from the State Water Commission over here to explain the fiscal note and we will get them to weigh in on this issue. We will be much better informed at that time. Is that acceptable to everyone?

**Senator Heitkamp** said if nothing else we will have something to go back to our chair with.

**Representative DeKrey** made a motion to adjourn.

**Senator Tollefson** seconded the motion.

**Chairman Hofstad** adjourned the meeting.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1513

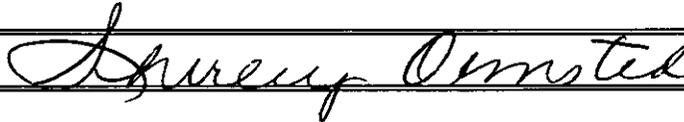
House Natural Resources Committee

Check here for Conference Committee

Hearing Date: April 3, 2007

Recorder Job Number: 5706

Committee Clerk Signature



Minutes:

**Chairman Hofstad** opened the Conference Committee on HB 1513 and asked the clerk to call the roll. All were present including Representatives Hofstad, DeKrey and Solberg and senators Urlacher, Tollefson and Heitkamp.

**Representative DeKrey** made a motion that the House recede from its amendments and further amend with the Hofstad amendment dated April 2, 2007, number .0303.

**Representative Solberg** seconded the motion.

**Chairman Hofstad** said it was the Senate that recedes. He asked for discussion and asked if everyone had read the amendments and was comfortable with them.

**Representative Solberg** said that he appreciated that it includes all of the towns along the lake and especially those that are hurting for water.

**Representative DeKrey** said he thought it was a pretty innocuous amendment. I think the State Water Commission can do all of these things anyway and so I really don't think we are making new law here.

**Senator Urlacher** said presently they could go to the bureau, they could go to the emergency commission on a declaration of an emergency and the State Water Commission could also be

involved in that. There are avenues to take in those emergency conditions without disrupting all the water projects in the state.

**Representative DeKrey** said it is permissive language.

**Chairman Hofstad** said he too thought it was permissive language. We have the State Engineer, Dale Frink here. Would you like to weigh in on this Dale? You have seen the amendment or at least part of it. It is acceptable to you as I understand.

**Mr. Dale Frink** said it is. One of the things that they wanted to make sure was that it was permissive. First of all on the fiscal note that came up. It was never my intention to kill the bill but the fear that we come in is when the "may" was changed to "shall" there were people that were concerned that it was going to eat up the major portion of our budget. They asked me and the Governor's office what we intended to do. My response was that we would probably create a program and maybe allocate around two million dollars to it with a cost share. The concern was that this may not be enough. People may expect a lot more and the problem is that it does not have any money with it and it comes out of our budget and it comes out of our projects. The concern was that it was going to take up a lot of our allocation that we have. That was the uneasiness that was created and part of that is the size of the potential of this thing. The sixty seven million dollars could actually have been higher. We were thinking that there was no sense to go higher than that. If you take certain alternatives for just Parshall you are in that twenty million dollar category. You have Standing Rock and there are many issues down there and you are talking about millions of dollars down there. We also have issues on the Fort Berthold Reservation and Williston, Bismarck, and the potential for this is very large. The fear is that people are expecting that we would allocate a major portion of our budget to it. That was not my intent. If it is your intent that it should go that way, we should have some money in it. As the amendment is written right now, it is permissive and it will allow the State

Water Commission to weigh the emergency and weigh on the budget and come up with an appropriate solution and an appropriate amount of money.

**Representative Solberg** said what you are saying is that this would still be at the discretion of the water commission to grant an emergency appropriation. Is that correct?

**Mr. Frink** said that was correct but without taking a lot of money away from projects, and I am sure that most of you have seen the list of projects that we have, all of the budget is already allocated to various projects. Whatever we give this program comes out of somebody's project and typically we will have projects that don't move as fast as we had hoped and therefore we could probably find some dollars for it. The potential there is that if people are thinking we would be able to fund that twenty million dollar alternative for Parshall that is not what he is thinking.

**Senator Urlacher** said if there is an intake problem and there would probably an intake problem in a number of areas and to address that out of State Water Commission funding would be literally impossible in my opinion because you are talking about up to eight million dollars in the project, right?

**Mr. Frink** said yes, or even more.

**Senator Urlacher** said we would be in the dilemma that we couldn't fund unless we would have federal funding involved.

**Representative DeKrey** said he personally thinks that this is rather generous because as a private citizen when I have my well and an aquifer and I have all that irrigation out there, if the aquifer goes down below my well, it is our my pocket to improve my well to get it down to the bottom of the aquifer so that I still have water. These cities that are along here are actually going to be able to go and ask for money from the State Water Commission along with the private citizens to get their intakes lowered and I don't have that option. If I go to the State

Water Commission and I say are you gong to help pay for Duane DeKrey's well, you are going to tell me no, the state law is you have to get that down to the bottom of the aquifer yourself.

**Senator Urlacher** said we also have that and payback from the Southwest Pipeline overtime of course.

**Chairman Hofstad** asked for any other discussion. Hearing none, he asked the clerk to call the roll. Let the record show 6 yes, 0 no with all present. The motion carried.

The conference committee was adjourned.

YR  
4/3/07

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1513

That the Senate recede from its amendments as printed on page 931 of the House Journal and page 718 of the Senate Journal and that Engrossed House Bill No. 1513 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to an emergency municipal, tribal, and rural water system drinking water grant program.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Emergency municipal, tribal, and rural water system drinking water grant program. The commission may establish an emergency municipal, tribal, and rural water assistance program for municipalities, tribes, and rural water systems, whose primary source of water is the Missouri River, Lake Sakakawea, or Lake Oahe. The commission may establish procedures, cost-share guidelines, and other criteria for municipalities, tribes, and rural water systems that request emergency assistance due to low water conditions on the Missouri River, Lake Sakakawea, or Lake Oahe. The purpose of this program is to provide emergency grant funds to municipalities, tribes, and rural water systems facing a critical need or health risk as a result of the inability of the water intake system for the municipal, tribal, or rural water system to supply an adequate quantity of quality water to the people served by the municipal, tribal, or rural water system."

Renumber accordingly

**REPORT OF CONFERENCE COMMITTEE  
(ACCEDE/RECEDE)**

Bill Number HB 1513 (, as (re)engrossed):

Date: 4-2-07

Your Conference Committee Natural Resources 3:00 PM

*attended* For the Senate: YES / NO *attended* For the House: YES / NO

	YES	NO		YES	NO
<input checked="" type="checkbox"/> Sen. Uelacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Rep. Hofstad	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Sen. Tolleson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Rep. DeKrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Sen. Heitkamp	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Rep. Dalbey	<input checked="" type="checkbox"/>	<input type="checkbox"/>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE) from  
the (Senate/House) amendments on (S/J/HJ) page(s) 931 -- \_\_\_\_\_

- \_\_\_\_\_, and place \_\_\_\_\_ on the Seventh order.
- \_\_\_\_\_, adopt (further) amendments as follows, and place \_\_\_\_\_ on the Seventh order:
- \_\_\_\_\_, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar.

DATE: \_\_\_\_\_

CARRIER: \_\_\_\_\_

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: \_\_\_\_\_

SECONDED BY: \_\_\_\_\_

VOTE COUNT        YES        NO        ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**HB 1513, as engrossed:** Your conference committee (Sens. Urlacher, Tollefson, Heitkamp and Reps. Hofstad, DeKrey, Solberg) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 931, adopt amendments as follows, and place HB 1513 on the Seventh order:

That the Senate recede from its amendments as printed on page 931 of the House Journal and page 718 of the Senate Journal and that Engrossed House Bill No. 1513 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 61-02 of the North Dakota Century Code, relating to an emergency municipal, tribal, and rural water system drinking water grant program.

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Renumber accordingly

Engrossed HB 1513 was placed on the Seventh order of business on the calendar.

0

2007 TESTIMONY

HB 1513

Item # 1



# News Release

US Army Corps  
of Engineers  
Northwestern Division  
Public Affairs Office

12565 West Center Road  
Omaha, Nebraska 68144-3869

Contact: Paul Johnston  
(402) 697-2552  
Larry Cieslik  
(402) 697-2675

Release No.07-001

Phone: (402) 697-2552  
Fax: (402) 697-2554

Date: January 11, 2007

## Water Management Monthly News Release

OMAHA – Despite the welcome snow over much of the upper Missouri River basin in late December and below-normal releases from the system of reservoirs, drought maintains its grip in Montana, North Dakota and South Dakota.

“Warm temperatures allowed us to maintain lower than normal releases from the system of reservoirs in December,” said Larry Cieslik, Chief of the Water Management office here. “But, the levels of Fort Peck, Garrison and Oahe reservoirs each fell slightly due to low runoff.”

Runoff for 2006 totaled 18.5 million acre feet (MAF), 74 percent of normal. This is the seventh consecutive year of less-than-normal runoff. For 2007, the forecast is 20 MAF, 79 percent of normal. The mountain snowpack above Fort Peck is currently 80 percent of normal. In the reach between Fort Peck and Garrison, essentially the Yellowstone River basin, it is 77 percent of normal.

The Final 2006-07 Annual Operating Plan was published in December. It is available on the Northwestern Division website at: <http://www.nwd-mr.usace.army.mil/rcc/aop.html>. A series of public meetings to review, discuss and take comments on the draft plan were conducted in October from Fort Peck, Mont., to St. Louis, Mo.

Releases from Gavins Point Dam averaged 12,600 cfs in December compared to the normal 19,800 cfs. Releases in January are expected to average 12,500 cfs, compared to the long-term average of 19,800 cfs. They will be adjusted as necessary if cold temperatures begin to cause ice-related problems for utilities and water supply intakes.

Fort Randall releases averaged 10,600 cfs in December. They will be adjusted in January as necessary to maintain Gavins Point reservoir near its desired elevation. Fort Randall reservoir climbed slightly more than 6 feet last month as it captured the hydropower releases from Big Bend and Oahe dams. It is expected climb another 3 feet this month.

Big Bend reservoir will remain in its normal range of 1420 to 1421 feet. Releases will be adjusted to meet hydropower needs.

Oahe reservoir fell less than half a foot in December, ending at elevation 1572.8 feet msl. The reservoir is expected to climb 1.4 feet in January, ending the month near elevation 1574.2 feet. That is 25.3 feet below its normal elevation. The reservoir is 2.5 feet lower than it was last year at this time.

Garrison releases averaged 15,300 cfs during December compared to the long-term average of 20,700 cfs. Releases will be maintained near 16,300 cfs through January, compared to the average of 23,200 cfs. Garrison reservoir dropped 1.1 feet in December, ending the month at 1807.8 feet, and is expected to decline less than a foot in January, ending at 1807.1 feet. It will end the month 25.7 feet below normal. The reservoir is 4.2 feet lower than last year at this time.

Fort Peck releases averaged 9,500 cfs in December, compared to the long-term average of 9,800 cfs, and will be maintained at 10,200 cfs this month, slightly below the average of 11,000 cfs. The reservoir fell 1.9 feet in December, ending at elevation 2199.4 feet msl. It will fall 1.4 feet in January, ending the month at elevation 2198 feet, about 31 feet below normal. It is currently 2.2 feet lower than last year at this time. The reservoir is forecast to reach a record low of 2196.7 feet at the end of February, surpassing the previous record of 2198.3 feet set in January 2005

The six main stem power plants generated 463 million kilowatt hours (kWh) of electricity in December, only 65 percent of normal because of lower pool levels and reduced releases from the dams. Total energy production for 2006 was 6.3 billion kWh, compared to the average of 10 billion kWh.

- 30 -

**Daily and forecasted reservoir and river information is updated everyday and is available on the Water Management section of the Northwestern Division homepage at [www.nwd.usace.army.mil](http://www.nwd.usace.army.mil).**

MISSOURI RIVER MAINSTEM RESERVOIR DATA

	Pool Elevation (ft msl)		Water in Storage - 1,000 acre-feet		
	On December 31	Change in December	On December 31	% of 1967-2005 Average	Change in December
Fort Peck	2199.4	-1.9	8,907	61	-285
Garrison	1807.8	-1.1	10,439	60	-263
Oahe	1572.8	-0.4	10,260	61	-79
Big Bend	1420.9	+0.6	1,676	97	+29
Fort Randall	1343.8	+6.0	2,688	101	+370
Gavins Point	1207.9	+0.8	408	97	+22
			34,378	64	-206

WATER RELEASES AND ENERGY GENERATION FOR DECEMBER

	Average Release in 1,000 cfs	Releases in 1,000 af	Generation in 1,000 MWh
Fort Peck	9.5	584	77
Garrison	15.3	943	118
Oahe	15.4	947	117
Big Bend	13.8	849	53
Fort Randall	10.6	651	61
Gavins Point	12.6	777	36
			462

JANUARY 1, 2007 BASIC SIMULATION - 20.0 MAP  
 SR-FTT SHTM NAV SEAS 61 DAYS, SP MAR 0/MAY 0  
 Elevations & Storages are for Date Shown  
 Avg Discharge & Energy are Monthly Values  
 Date of Study: JANUARY 1, 2007

	28-Feb-07	31-Mar	2007									2008	
			30-Apr	31-May	30-Jun	31-Jul	31-Aug	30-Sep	31-Oct	30-Nov	31-Dec	31-Jan	29-Feb
<b>FORT PECK</b> -----													
ELEV FTMSL	2196.7	2196.1	2195.8	2197.1	2199.2	2198.7	2197.8	2197.8	2198.6	2199.5	2199.6	2200.0	2200.7
DISCH KCFS	10.2	7.0	5.0	6.5	7.5	7.5	7.5	6.3	4.7	4.5	7.0	7.0	7.0
<b>GARRISON</b> -----													
ELEV FTMSL	1806.8	1807.1	1806.5	1807.3	1810.5	1811.8	1811.6	1812.1	1812.1	1812.4	1811.4	1810.5	1810.1
DISCH KCFS	16.3	13.5	15.5	16.5	16.5	16.5	16.0	13.6	12.6	12.5	15.5	16.0	16.0
<b>OAHE</b> -----													
ELEV FTMSL	1575.3	1575.6	1575.8	1576.5	1577.0	1574.8	1572.0	1573.0	1576.8	1578.1	1578.0	1578.4	1578.9
DISCH KCFS	13.4	16.4	18.1	18.1	20.0	23.7	23.4	10.8	0.8	7.8	14.8	14.7	15.3
<b>BIG BEND</b> -----													
ELEV FTMSL	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0
DISCH KCFS	13.4	16.4	18.1	18.1	20.0	23.6	23.0	10.4	0.4	7.5	14.6	14.7	15.3
<b>FORT RANDALL</b> ----													
ELEV FTMSL	1350.0	1355.2	1355.2	1355.2	1355.2	1355.2	1353.1	1344.1	1337.5	1337.5	1341.0	1344.9	1350.0
DISCH KCFS	10.0	12.0	19.2	20.3	22.4	24.1	25.9	21.8	6.8	7.3	11.2	10.9	9.6
<b>GAVINS POINT</b> ----													
ELEV FTMSL	1206.0	1206.0	1206.0	1206.0	1206.0	1206.0	1206.5	1207.5	1207.5	1207.5	1207.5	1207.5	1206.0
DISCH KCFS	12.5	13.3	20.7	23.0	25.0	25.6	27.2	23.3	9.0	9.0	12.5	12.5	12.5
<b>SYSTEM</b> -----													
STORAGE 1000 AF	34602	35051	34921	35424	36537	36303	35416	35065	35524	36020	36004	36183	36629
ENERGY GWH	5811	460	524	575	606	681	685	459	209	283	451	454	425
PEAK POWER MW		2002	2001	2010	2027	2019	2005	2000	1990	2000	1974	1990	2001

JANUARY 1, 2007 LOWER BASIC SIMULATION - 13.6 MAP  
 SR-FTT SHTM NAV SEAS 61 DAYS, SP MAR 0/MAY 0

	28-Feb-07	31-Mar	2007									2008	
			30-Apr	31-May	30-Jun	31-Jul	31-Aug	30-Sep	31-Oct	30-Nov	31-Dec	31-Jan	29-Feb
<b>FORT PECK</b> -----													
ELEV FTMSL	2195.9	2194.1	2192.1	2190.9	2190.1	2188.3	2187.0	2186.9	2187.2	2187.3	2186.3	2185.8	2185.9
DISCH KCFS	8.6	7.6	7.0	7.0	7.0	7.0	7.0	5.5	4.5	4.5	7.0	7.0	7.0
<b>GARRISON</b> -----													
ELEV FTMSL	1806.5	1806.5	1804.1	1802.2	1802.8	1802.0	1800.9	1800.6	1800.2	1800.2	1798.8	1797.9	1797.6
DISCH KCFS	14.8	12.0	20.0	20.5	16.0	16.0	16.0	12.8	11.0	11.0	14.0	14.0	14.0
<b>OAHE</b> -----													
ELEV FTMSL	1574.5	1573.0	1572.7	1572.4	1570.3	1565.9	1562.0	1562.1	1565.6	1566.4	1565.9	1565.3	1565.3
DISCH KCFS	13.8	19.1	22.1	23.5	25.2	27.4	24.8	12.5	1.6	8.4	14.4	15.5	15.3
<b>BIG BEND</b> -----													
ELEV FTMSL	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0
DISCH KCFS	13.8	19.1	22.1	23.5	25.2	27.3	24.4	12.0	1.2	8.0	14.2	15.5	15.3
<b>FORT RANDALL</b> ----													
ELEV FTMSL	1350.0	1355.2	1355.2	1355.2	1355.2	1355.2	1353.1	1344.1	1337.5	1337.5	1340.2	1344.8	1350.0
DISCH KCFS	10.3	13.6	22.8	24.8	26.6	27.4	27.0	23.1	7.4	7.7	11.6	10.9	9.6
<b>GAVINS POINT</b> ----													
ELEV FTMSL	1206.0	1206.0	1206.0	1206.0	1206.0	1206.0	1206.5	1207.5	1207.5	1207.5	1207.5	1207.5	1206.0
DISCH KCFS	12.5	14.3	23.8	26.2	28.0	28.0	28.0	24.2	9.2	9.0	12.5	12.5	12.5
<b>SYSTEM</b> -----													
STORAGE 1000 AF	34239	34135	33314	32705	32325	31154	29947	29271	29407	29564	29217	29192	29471
ENERGY GWH	6037	495	640	694	673	718	679	456	197	265	414	422	385
PEAK POWER MW		1984	1971	1960	1950	1922	1900	1887	1873	1878	1841	1856	1864

JANUARY 1, 2007 UPPER BASIC SIMULATION - 27.2 MAP  
 SR-FTT SHTM NAV SEAS 31 DAYS, SP MAR 0/MAY 0

	28-Feb-07	31-Mar	2007									2008	
			30-Apr	31-May	30-Jun	31-Jul	31-Aug	30-Sep	31-Oct	30-Nov	31-Dec	31-Jan	29-Feb
<b>FORT PECK</b> -----													
ELEV FTMSL	2197.5	2198.4	2198.6	2201.3	2207.5	2208.9	2208.7	2209.2	2210.3	2211.6	2211.6	2211.5	2211.5
DISCH KCFS	10.2	5.5	6.0	8.0	8.0	8.0	8.0	6.5	5.0	5.1	8.5	8.5	8.5
<b>GARRISON</b> -----													
ELEV FTMSL	1807.4	1808.0	1808.3	1810.7	1818.0	1821.0	1821.0	1821.1	1821.0	1821.3	1820.9	1819.7	1819.0
DISCH KCFS	17.2	16.0	16.0	18.5	18.5	18.5	18.5	16.5	14.7	14.7	15.5	19.0	19.0
<b>OAHE</b> -----													
ELEV FTMSL	1575.9	1577.9	1579.0	1581.4	1584.5	1583.8	1581.5	1581.1	1583.7	1586.1	1585.5	1586.5	1588.4
DISCH KCFS	12.9	15.1	17.2	16.0	16.5	22.4	25.5	19.0	6.1	6.2	17.0	14.8	12.3
<b>BIG BEND</b> -----													
ELEV FTMSL	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0	1420.0
DISCH KCFS	12.9	15.1	17.2	16.0	16.5	22.3	25.3	18.7	5.8	6.0	16.8	14.8	12.3
<b>FORT RANDALL</b> ----													
ELEV FTMSL	1350.0	1355.2	1355.2	1355.2	1355.2	1355.2	1355.2	1351.0	1337.8	1337.5	1343.5	1347.2	1350.0
DISCH KCFS	9.6	11.4	18.7	19.1	20.6	23.3	25.5	24.8	20.0	6.4	10.9	10.5	9.6
<b>GAVINS POINT</b> ----													
ELEV FTMSL	1206.0	1206.0	1206.0	1206.0	1206.0	1206.0	1206.5	1207.5	1207.5	1207.5	1207.5	1207.5	1206.0
DISCH KCFS	12.5	13.3	20.7	23.0	25.0	25.6	27.2	26.6	22.4	9.0	12.5	12.5	12.5
<b>SYSTEM</b> -----													
STORAGE 1000 AF	34962	36035	36369	37798	41162	41989	41448	41146	40988	41824	41970	42131	42562
ENERGY GWH	6396	449	527	578	588	702	757	622	435	294	508	513	445
PEAK POWER MW		2021	2028	2053	2103	2112	2100	2102	2074	2088	2073	2090	2096

*Item # B*

**TESTIMONY ON HOUSE BILL 1513**

**House Natural Resources Committee**

**Dale L. Frink  
North Dakota State Engineer, and  
Chief Engineer-Secretary to the  
North Dakota State Water Commission**

**January 26, 2007**

Mr. Chairman and members of the House Natural Resources Committee, I am Dale Frink, North Dakota State Engineer, and Chief Engineer-Secretary to the North Dakota State Water Commission. It is my pleasure to appear before you today regarding House Bill 1513.

House Bill 1513 would create an emergency municipal drinking water loan program within the State Water Commission. Clearly, the low reservoir levels in Lake Sakakawea and Lake Oahe are issues that cause serious problems for municipal intakes. The Corps of Engineers December, 2007 forecast for Lake Sakakawea range from elevation 1810 feet msl with normal runoff to elevation 1798 feet msl with lower decile runoff. Certainly, the current conditions indicate lower than normal runoff for the Missouri River system.

I have attached elevation data for several intakes along the lakes. Most of these intakes have been or will be lowered. Therefore, most intakes should be marginal for 2007 and, if the reservoirs reach lower decile elevations, navigation would be precluded for 2008. However, there are specific issues. The city of Parshall's intake is located in a large mud flat area that causes significant turbidity problems that could prevent the city from using Lake Sakakawea water. The city of Fort Yates is also functioning with a temporary intake.

To the best of my knowledge, the cities of Parshall and Fort Yates do not have specific plans beyond the modifications listed. Based on the lack of specific plans, I would recommend that House Bill 1513 be amended to be permissive only and not restrict \$5 million in the Resources Trust Fund. There are many water projects needing state funding such as the Red River Valley Water Supply, Southwest Pipeline, Devils Lake, and numerous other projects. These projects do not have mandated allocations. This allows the State Water Commission to allocate project funds based on need during the biennium.

I have proposed amendments to House Bill 1513 for your consideration.

**NORTH DAKOTA MUNICIPAL AND RURAL  
INTAKES IN LAKE SAKAKAWEA AND LAKE OAHE**

<u>City/User</u>	<u>Current Elevation</u>	<u>2006 Operation Elevation Problems</u>	<u>Future Elevation</u>	<u>Date of Construction</u>	<u>Comments</u>
Mandaree	1786			Complete	
Twin Buttes	1786	1795	1785	July, 2007	Intake extended
Four Bears	1793	1800	1785	July, 2007	Construction delayed
White Shield	1791	1800	1763	July, 2007	
Parshall	1795	1810			Temporary intake with turbidity problems
Garrison	1776				
Pick City	1800				
Basin Electric/ Southwest Pipeline	1778				
Fort Yates (Oahe)	1571				Temporary intake- under study; sediment problem; U.S. Bureau of Reclamation project

January 24, 2007

Meeting the

# Challenge

*As we look toward the future, it seems there is much left to do in water. Yet at the same time, when we look at all that's been accomplished – we've met some of our goals.*

*Grand Forks flood control is near completion. The Devils Lake outlet is constructed and is adapting to meet the necessary requirements to be operational. Southwest Pipeline Project has put more than 3,000 miles of pipeline in the ground and now serves more than 3,000 rural customers and 28 cities.*

*However, we still have critical water development needs in North Dakota. Some needs have existed for quite some time – such as Northwest Area Water Supply (NAWS), and some are new challenges – such as the Red River Valley Water Supply Project. The Red River Valley is growing and the water supply demands required to sustain this growth must be developed.*

*Inside is an overview of the critical water priorities in our state, each in various stages of progress. After learning about these priorities, you'll see we must complete North Dakota's water infrastructure for economic growth and quality of life.*

*The North Dakota Water Coalition continues to work together to build a better tomorrow.*

*Dennis Hill,  
Chairman, North Dakota Water Coalition*

# Statewide Water Supply

## Red River Valley Water Supply



The Red River Valley faces a water supply crisis. The future of this region hinges on a reliable, quality water supply for residents and industries alike. If a drought occurred today, citizens in the Valley—who depend on the Red and Sisseton Rivers for their drinking water supply—would be in serious trouble. Without a plan in place to supplement existing supplies, this area would suffer devastating consequences, including a massive economic loss which would affect the entire state. Lake Agassiz Water Authority, Garrison Diversion Conservancy District, the N.D. State Water Commission and Gov. Heavner recognize this critical need and have chosen a solution that would transport treated Missouri River water eastward—while still maintaining groundwater supplies available. This plan is the Valley's best opportunity to sustain its population and attract new businesses.

Photo courtesy of the Institute for Regional Studies, NDSU, Fargo.

## Northwest Area Water Supply (NAWS)



The Northwest Area Water Supply (NAWS) pipeline component from Minot to Lakota is nearing completion this year. The judge overseeing the bond transfer lawsuit with Manitoba has approved additional construction around Minot and to the community of Berwick, which will be the emphasis in design and construction activities in 2006 through 2008. As these are completed, additional expansions of the NAWS system to outlying communities during Minot's water treatment plant will be pursued. During this same period from 2006 through 2008, the Federal Environmental Impact Statement (EIS) will be prepared to evaluate treatment options to address the biota transfer issue, as the judge did not believe these were adequately addressed in the Environmental Assessment. Following completion of the EIS, the intake, pumping, and treatment system will be designed and constructed. Current projects approved by the judge have estimated construction costs of \$21 million. Construction cost to serve the entire project area are estimated around \$145 million. The project receives federal funding and a 39 percent cost share from local sales tax in Minot.

## MR&I

The Municipal, Rural and Industrial (MR&I) program helps provide a reliable, high quality and affordable water supply to North Dakota residents, farms, schools, hospitals and industries along with industrial processes. It includes the State Water Commission water needs, the Garrison Diversion Conservancy District and the State Water Commission are working cooperatively to solve water quality and quantity problems. In addition to the South Central Regional Water District and North Central Rural Water Consortium projects, current MR&I projects include an expansion of the Walsh Rural Water District, upgrading infrastructure for the Tread Rural Water District and a water treatment plant upgrade and expansion for the city of Williston. Much more than a matter of convenience, clean, reliable water can mean the difference between success and failure for much of North Dakota.

## South Central Regional Water



South Central Regional Water District is continually expanding and is currently providing water to about 4,000 households/farmers/businesses in Emmons, McLeod, Logan, and Kidder counties. A preliminary Engineering & Feasibility report, completed in June 2002, identifies current water needs to 10 cities and over 1,600 rural households in the five county area. This project will include more than 10,500 people in these communities who signed an application of interest and paid a good intention fee to receive quality water from a regional water supply. A reliable quality water supply would correct the shortage of water and the predominant poor quality, including local domestic concerns. This area is one of the few areas in North Dakota that do not have a rural water supply available and has experienced extreme drought conditions for several years depleting stock dams and some of the ground water supplies. South Central Regional Water District needs a million over the next biennium to continue progress in north Burleigh County for water to the city of Williston and surrounding rural areas. This also includes a new source and water treatment facility in Emmons County, which will ultimately provide quality water to Braddock, Hazleton, Erilon, Sheehy, Hague, Ventura, Ashby, Walsh, Napoleon, and rural users in Emmons, McIntosh, and Logan counties.

## Indian MR&I

The critical water needs for the North Dakota Indian reservations are currently not being met. Since the passage of the Dakota Water Resources Act (DWRA) in 2000, a minimal amount of federal funding has been appropriated and does not meet the immediate needs of tribal members across the State of North Dakota. The four reservations have formed the North Dakota Tribal and State Water Alliance group to unity efforts to ensure future funding for all of our tribal and state water needs. We also coordinate efforts with adjacent water organizations, consortiums and incorporated cities within the reservations. The tribes continue to aggressively pursue avenues through the U.S. Congress, Office of Management and Budget, Department of Interior, and North Dakota's legislative process to help the tribes and state obtain the authorized, but not yet appropriated, funding for MR&I projects.

## North Central Rural Water Consortium

North Central Rural Water Consortium was formed in 2001 by three separate rural water districts and two Native American reservations located in north central North Dakota. Although we retain separate identities, our collaboration across borders brings quality water to rural North Dakota in an efficient and cost-effective manner. Working independently, we were unable to adequately grow to provide service to those in need. The price tag was just too high. Working together, it shows economically feasible. By collaborating, we will be able to provide water to 2,100 additional families, farms, ranches and businesses. We plan to utilize existing infrastructure to its maximum potential for all parties. This infrastructure is a valuable resource which has already been paid for by each entity, and can be utilized more efficiently by working together. We believe this approach to water development could be successfully applied in rural areas improving the efficiencies and economic viability of water development programs nationwide. In the true spirit of America's heartland, neighbor helping neighbor, everyone accomplishes more!

## Southwest Pipeline Project



Southwest Pipeline Project (SWPP) is the first large multi-county regional rural water project developed in the state. Significant progress has been made over the course of the past 20 years with 28 communities and more than 200 rural customers receiving a reliable supply of high quality water processed by a single water treatment plant. Looking to the future, the ultimate goal is to reach out to those who patiently wait for project completion. This includes the final regional phase of construction, the Oliver-McIntosh-North Duna (OMAND) phase, which is a \$53 million project. For the 2007-2009 biennium, \$7.9 million is needed to complete Phase 3 of the Madore-Beach regional phase, of which Phase 2 is currently under construction. About \$12 million dollars is needed for the project to move forward with OMAND Phase 2 in the 2007-2009 biennium.

## Devils Lake Water Supply



With the aging of Devils Lake, residents of the city's aging water supply are in need of significant amounts of lake water. Since the supply line is the city's only source of water, a failure within the portion covered by the lake could leave Devils Lake residents without an adequate water supply. This issue, coupled with the need to meet new Safe Drinking Water Act standards for arsenic, has prompted the city to develop plans for a new water supply. Funding remains a top priority for this much-needed project. The new water supply must be operational by January 2009 for the city to remain in compliance with the Safe Drinking Water Act.

# Flood Control

## Grand Forks Flood Protection

The flood control project has been a city and state priority since the flood of 1997. As we near the 10th anniversary of the flood, we are happy to report that the flood control project is nearing completion. The project is expected to have all the critical flood protection features in place by the end of 2006. This means we will have a functioning system for any flooding which might occur in the spring of 2007.

Construction activities during 2007 will be focused on the finishing touches of the project. Primarily this will be the establishment of turf and replacing roadway surfaces. Final punch list items and Corps of Engineers documentation should wrap up in late 2007 or early 2008.

The spring flood of 2006 was only six feet short of the 1997 flood. This put our flood control project to a pretty good test. We are pleased to report that the completed portions of the project performed well. We estimate the flood control project saved \$3 million of emergency funds to federal, state and local governments in 2006.

Previous authorizations of funding from the State appear to be sufficient to complete the project. Carryover of previous authorizations is all that will be needed in the next biennium.

The City wishes to thank all of you who helped in making this project become a reality.

## Fargo Flood Protection

The last major city located along the Red River of the north not to have overhead flood protection is Fargo. A plan is being developed, which calls for a dike and diversion channel to be constructed two to four miles south of Fargo's city limits. Estimated cost of this project ranges from \$49 to \$70 million, depending on the outcome of the final site designation of the dike/diversion.

Federal funds totaling \$11.5 million have been dedicated to this project. Another \$15 million has been pledged to the project by the State of North Dakota. Local matching funds will also be used for this project. A public hearing process of the alternative sites is the final step before this project begins construction.

## General Water Management

Every North Dakota region and county has projects included in the State Water Management Plan. The State Water Commission provides support for these water management and development projects which require cost sharing with local entities, primarily water resource districts. Joint water boards are playing a key role in these local water management projects. Water resource district managers are appointed by commissioners and are the local entities responsible for water management in North Dakota. Drainage, flood control, recreation, water distribution and studies are key issues. These projects are very beneficial to local communities.

## Irrigation

North Dakota has about 250,000 acres of irrigation. Irrigation provides increased job opportunities, tax revenues, personal income, and economic benefit to communities.

The North Dakota Irrigation Association has developed a Strategic Plan for Irrigation Development in North Dakota, which identifies an additional 350,000 acres of irrigation that could be developed utilizing available ground water and surface water sources, without an impact to existing water uses.

The recent expansion of the ethanol industry, along with increased markets in the areas of irrigated malt barley, alfalfa, vegetables, corn, and oilseeds, all provide new irrigation opportunities in North Dakota. Irrigation development requires a partnership of federal, state and local support, and private initiatives. Marketing, project development, irrigation research, funding and financing, energy alternatives, and communication are all key ingredients for strengthening and expanding irrigation for economic growth. State support of irrigation initiatives will provide exciting new opportunities in agriculture across North Dakota.

## Missouri River

In 2005, water resource districts along the Missouri River entered into a joint powers agreement, creating the Missouri River Joint Water Board.

It is the intent of these water boards to jointly exercise their powers to provide a cooperative and coordinated effort in addressing the management, conservation, protection, development, and control of water resources in the Missouri River Basin.

## Weather Modification

Cloud seeding has been conducted over parts of western North Dakota for nearly 50 years. The North Dakota Cloud Modification Project (NDCMP) currently includes Bowman, McKenzie, Mountrail, part of Slope, Ward and Williams counties encompassing approximately 6.7 million acres in western North Dakota.

Participating counties fund two-thirds of project costs with the state cost sharing one-third. Independent evaluations indicate the NDCMP has reduced crop/hail damage by 45 percent and increased rainfall by approximately 10 percent. NDCMP costs for the current biennium are estimated at \$1.3 million. A 1998 economic evaluation by Leisritz and Sell at ND98 indicated \$24 million in additional economic activity in the target areas during the NDCMP benefit-to-cost ratio of 37 to 1.

## City of Parshall Testimony for HB 1513

Over the past 20-plus years, the City of Parshall has relied on a conventional water intake system constructed in the Van Hook Arm of Lake Sakakawea for its water supply. In that time, the upper reaches of the Missouri River watershed have experienced several severe, prolonged droughts that have resulted in periodic low water levels in Lake Sakakawea. During each of the drought events, the original raw water intake system became unusable as it is only operational to a lake elevation of 1820 feet and higher.

Fortunately for the City of Parshall, the United States Army Corp of Engineers (USACE) sponsored emergency intake improvement projects to ensure the City's raw water supply system remained operational. The most recent project sponsored by the US Army Corp of Engineers installed a new temporary intake capable of supplying raw water to meet the City's current needs at a lake pool elevation as low as 1802 feet.

Having experienced being out of water, and a variety of temporary emergency measures on multiple occasions, the City of Parshall is very concerned this system may again become inoperable as soon as this spring. Currently, the water elevation in Lake Sakakawea is approximately 1806 feet above MSL. The US Army Corp of Engineer's most recent reservoir forecasts predict that Lake Sakakawea could drop below our intake's current usable elevation of 1802 by the end of May under the Corp's lower basic runoff simulation.

Prior to the construction of the intake system on Lake Sakakawea, the City of Parshall relied on two groundwater wells drilled within an unnamed aquifer near the City. However, this water supply is of extremely poor water quality. The concentrations of

total dissolved solids and sulfates are both over 5 times higher than the recommended standards for these contaminants established by the EPA. In addition, this source is also 4 times higher than the recommended maximum concentration for sodium.

Although, the City's existing lime softening water treatment facility will treat lake water to a satisfactory level, the facility is well over 20 years old, and approaching the end of its useful service life. Perhaps more importantly, it is not capable of removing sodium or sulfates, and not capable of lowering the Total Dissolved Solids concentration below the secondary maximum contaminant level. The concern is the potential health risks associated with the high sodium concentrations for individuals on a sodium restricted diet, and the laxative effect of high sulfate concentrations. As such, the City is concerned about the impacts this water would have on the young and elderly in the community as well as other adverse affects.

In 2005, Advanced Engineering and Environmental Services, Inc. completed an evaluation of potential permanent alternative water supply sources and systems for the City of Parshall. The lowest cost alternative to replace the City's existing sources with a reliable and reasonably high quality water is currently estimated at nearly \$4,000,000 provided that the water can be secured in sufficient quantity near Parshall and is of the anticipated quality. To keep Lake Sakakawea as the water supply, the cost is estimated at about \$7,000,000. The City's current minimum water service rate is \$40 per month with a water cost of \$2.10 per 1,000 gallons. For every \$1,000,000 of debt service incurred by the City, the resident's minimum water rate would increase by over \$18 per month. Therefore, a \$4,000,000 project would increase those rates by \$72 per month, at \$7,000,000, those rates increase by over \$126 per month.

The City of Parshall's Water Supply issue has been an emergency on numerous occasions in the past, and may be again in the near future. With the current situation of the citizens facing the replacement of their water system, or refurbishment of their existing plant, not to mention a potential new permanent lake intake, they simply cannot afford the financial burden of another incident of being without sufficient water of acceptable quality. To this end, we respectfully urge you to pass this important legislation that would significantly assist both the City of Parshall and numerous others in this situation.

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

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

**ON**

**HB 1513  
MAR 1, 2007**

Chairman and members of the Senate Natural Resources Committee:

The Friends of Lake Sakakawea concur and do encourage you to support HB 1513.

The 'Friends' are concerned that this summer is going to be another year of dangerously low water levels for the Missouri River system. With the whole Missouri River system at near or at record lows and with below normal snow pack in the mountains many communities up and down the system will be needing water. This bill would be a giant step in helping the communities survive this devastating disaster.

Please support HB 1513.

Thank you for your support.



# Friends of Lake Sakakawea

*Citizens Working to Build Recreational, Economic, Environmental Resources of Lake Sakakawea*

P.O. Box 309  
Phone: (701) 463-2201  
website: [www.lakesakakawea.com](http://www.lakesakakawea.com)

Garrison, North Dakota 58540  
Fax: (701) 463-7487  
e-mail: [friends@lakesakakawea.com](mailto:friends@lakesakakawea.com)

January 2006

Dear Friends,

When I was asked to write a letter to tell you why you should be a member of the Friends of Lake Sakakawea, I thought, "Why wouldn't you want to be a member?" The lake is a passion of mine and I believe that because it is the lifeblood of so many communities. It's a major asset to our quality of life and an economic engine critical to our entire state. I hope you have a similar passion.

Please join us in 2007 as we continue to work tirelessly to make a good lake great. Here are just a few reasons why we want you as a member:

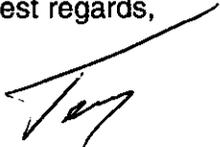
- You care about the future of water in the state, whether it's drinking water, water for value-added agriculture, water for recreation or water management to maintain the highest quality of life for future generations.
- You realize when you turn on the lights that the Friends are working hard to keep hydroelectric costs down. Higher lake levels equal lower electricity bills.
- You want to be part of an organization that is working hard for your interests every day. It's hard to imagine that Lake Sakakawea could be in worse shape, but it could be if it weren't for the strong, relentless efforts of a group that has been at the table time and again from Williston to Omaha fighting for your interests.
- You want to be part of an organization that leaves politics and parties behind and works together as concerned citizens who care about Lake Sakakawea's future and the upper Missouri River Basin's future.
- You are concerned about a variety of water interests. You enjoy recreation, you drink from the Missouri River system, you recognize the economic benefits tourism and other water dependent industries bring to North Dakota, you enjoy the vast beauty and promise the lake offers.
- You want to be represented at the table when we work elbow to elbow with state agencies, our congressional delegation and with the Corps of Engineers. We're all partners with a commitment to the brightest possible future.

You'll see from the back page of the newsletter, our list of accomplishments is huge. We aren't satisfied with the results yet but we're working harder and smarter to reach our common goals of recreation, economic and environmental health in and around Lake Sakakawea.

Join us for as little as \$15 or an amount that you feel rewards the work we accomplish. And be a friend by passing along the membership information to others.

Be like our mascot, Lucky the Lifesaver. Be a friend to Lake Sakakawea.

Best regards,

  
Terry Fleck  
Chairman





Volume 6, Issue 1, January 2007

## Building on the Recreational, Economic and Environmental Opportunities of Lake Sakakawea

Friends of Lake Sakakawea  
c/o P.O. Box 309 • Garrison, ND 58540  
friends@lakesakakawea.com  
www.lakesakakawea.com

### What's inside

- What's the news on Lake Sakakawea's fishery?
- Where are weeds being treated around the lake?
- What did the Friends do in 2007?
- What's up with the Master Plan for the lake?

And a dues statement. Join us! Together we can (and already have) make a difference.

## Our New Year's Wishes

Great snow pack in the mountains of Montana and above average runoff into Lake Sakakawea. In lieu of this, we would hope for more appropriate drought conservation measures to adequately protect the valuable fishery resource the lake contains, as well as access ... We hope to continue to work together as we've done in the past to accomplish our common goals. This has worked well and will continue to do so with communication and good old fashioned North Dakota common sense.

—Terry Steinwand, Game & Fish director

Besides above average precipitation, we hope to continue to build upon our relationship with all entities that have a special interest in Lake Sakakawea. The partnership approach that has incorporated all decision makers has been invaluable. For the most part, simply sitting at the table together, talking and listening has resulted in improved opportunities for visitors to Lake Sakakawea. Not so long ago this level of communication and collaboration was non-existent. We treasure what we all have accomplished to this point, and what all we will accomplish in the year to come.

—Phil Brown, Riverdale Corps lake manager

To provide outdoor recreation opportunities and experiences to residents and visitors.

—Doug Prchal, Parks & Rec director

Our hope is that mother nature will provide abundant water for Lake Sakakawea! But, the reality is the need to continue pressuring the Corps of Engineers for better water management of the Missouri River reservoirs.

The most critical issue the Water Commission will be working on in 2007 will more than likely be the continued drought and the associated impacts. A priority towards the prevention of municipal water supply interruptions is essential for human safety and will be closely monitored as the year progresses. Other specific actions include protection of the cold water habitat by continuing daily flow cycling and discharging the majority of the water through the modified penstocks. Finally, the push for additional drought conservation measures including the suspension of downstream navigation releases when barges are not moving on the Missouri River.

—Todd Sando, ND Water Commission

## Friends remain diligent

It's hard to be discouraged or be willing to give up the ship with Terry Fleck at the helm.

Fleck, chairman of the Friends and a Van Hook cabin owner/fisherman, was guiding the ship at a meeting of the Friends of Lake Sakakawea Sept. 21.

Fleck shared with the Friends board members that he is frequently asked about Lake Sakakawea and asked if the Friends' efforts are successful. He reminded the board that if it hadn't been for this citizen's group a lot of good things wouldn't have happened.

"It takes people like us to stay there and fight the fight," he said. He reminded everyone that our efforts are about the management of the lake and that it is a fight worth fighting.

The board held a brain storming session. The board came up with the following priorities (not in order of priority):

1. Build an ag coalition (ND, MT, SD) of Farm Bureau, Cattlemen's Association, Wheat Commission, etc. that understand and support the importance of Lake Sakakawea to their operations.
2. Get an audience in Washington, D.C.
3. Build an understanding among boat dealers/manufacturers to help fight for water in Lake Sakakawea. Arrange a meeting and make a presentation.
4. Concentrate on good access for ATVs and stakeholders. Arrange a meeting with Game & Fish, Parks and the Corps to designate more areas for public use.
5. Bring more access/marina areas to the Lake Sakakawea Master Plan meetings. Consider #4 and get that as part of the master plan.
6. Build stronger membership base on the south shore. Arrange a meeting with county park boards and stakeholders.
7. Concentrate on saving the fishery. What needs to be done to preserve the lake as a premiere fishing location? (This was considered to be the #1 priority.)
8. Work with South Dakota stakeholders on common issues.
9. Work with the Corps on developing usable ramps. Join them in planning sessions, fight hard for spending to fund our efforts.
10. Partner with municipalities, rural electric and power associations.
11. Encourage the governor to hire a full-time person to work on Missouri River issues. Funding could come from Missouri River Basin, Water Commission, Parks & Rec, Game & Fish, Tourism and Conservancy District. A person was hired to work on Devils Lake issues and the results were significant.
12. Work with the municipalities to assure that we have adequate drinking supplies.
13. Look into the Corps' budgeting process to educate ourselves and to understand where our interests are funded and that they are funded.
14. Educate the public about the Friends of Lake Sakakawea efforts. What have we done and what are we doing.

# ***Friends of Lake Sakakawea***

## ***2006 Report of Activities***

### **Who are the Friends of Lake Sakakawea?**

The Friends are stakeholders interested in building on the recreational, economic and environmental opportunities of Lake Sakakawea. In 2006 we had memberships from 177 individuals, 19 fishing clubs, resorts, water associations and park boards, 23 secondary businesses who realize the impact of tourism and 11 chambers, economic development groups and counties. Our numbers grow each year.

### **What did we accomplish in 2006?**

- Worked closely with federal and state political leaders, state agencies and Corps of Engineers through public meetings, working committees and one-on-one contacts to give you a voice.
- Worked in partnership with the Corps of Engineers and North Dakota Game and Fish to identify viable lake access points and prioritize lake access investments during record low water levels. This required working with government leaders at the highest levels as well as local communities, counties, resort operators and cabin area representatives.
- Monitored runoff and storage situations to assure that the Corps of Engineers adhered to the mandates in the Master Manual concerning curtailing the navigation season.
- Served as your voice at numerous public meetings by illustrating the range of problems we have experienced and offering solutions. This has included coordinating with the Congressional Delegation, Governor Hoeven and appropriate state agencies such as the State Water Commission and Game and Fish Department to develop a consistent message for North Dakota interests.
- Represented you in developing a master land use plan for Lake Sakakawea. The Friends effectively pushed for the Corps of Engineers to update their badly outdated 1978 master land use plan. The Friends helped design the public involvement workshops and represented lake interests every step of the way in the planning process. Although we hoped to help promote public meetings this fall, the process has been delayed because of a lack of federal funding. Once the funding comes through in 2007, we'll be back at the table representing your interests.
- Worked with local, state and federal funding sources and land regulators to improve infrastructure around Lake Sakakawea including roads, drinking water, ramps and camping facilities. This included participation on the multi-jurisdictional lake access committee.
- Hired a lobbyist to speak out on proposed legislation including state funding priorities during the 2003 and 2005 and again for 2007 North Dakota legislatures. We're your voice to keep the economic, recreational and environmental issues in front of the people who can make a difference. Our lobbyist in 2005, Duaine Ash, monitored more than 40 bills and resolutions that had implications for Lake Sakakawea. Duaine will be back working hard to protect your interests in 2007.
- Worked in 2005-2006 and again in 2006-2007 to distribute nearly \$100,000 in federal grants each year to kill noxious weeds around the lake and to educate the public about the dangers of noxious weeds. Our public service announcements include education on Aquatic Nuisance Species and the responsible use of All Terrain Vehicles.
- Kept our members up to date through e-mails and news releases about issues facing the lake. We're there monitoring ever changing developments and working for you year-round to give you first-hand information on the lake and the Missouri River Basin system.
- Raising public awareness statewide about the economic impact of our superb fishery and the serious impact that falling lake levels have had on our fisheries and associated industries.
- Supported and developed partnerships between concessionaires, local businesses, state and federal agencies and concerned citizens.

# Master Plan update bridges gap among stakeholders

Editor's Note: This story appeared in community newspapers near Lake Sakakawea. It was written by Brian Gehring of BHG Inc. The Corps hoped to release a rough draft of the master plan for the lake this fall, but federal funding was delayed and the meetings were put on hold. The planning committee met again Jan. 23. Information about public meetings will be released as it becomes available.)

If there is one thing that has become apparent as the Corps of Engineers updates its Master Plan, it may be this: one size does not fit all when it comes to how the public and government agencies believe the land around Lake Sakakawea should be managed.

And, perhaps, if one other thing has become clear, it's that a broad cross section of people – from both the public and private sector – have taken an active role in how those decisions are made.

The Corps' Master Plan is the primary document that dictates how lands around Lake Sakakawea are used and the current version has been in use since 1978.

In March of last year, the Corps set about the daunting task of updating the plan, bringing into the mix a host of others referred to as "stakeholders" with interests in the lake as those changes are written.

Phil Brown of the Corps' Riverdale office has been at the forefront of the update that has included one series of public meetings around the state with another round planned for sometime this winter.

Brown says it's been an interesting process, bringing in different groups that include state, federal and tribal agencies as well as organizations like Friends of Lake Sakakawea, a grass roots organization with members from public and private interests.

If nothing else, Brown said the process has resulted in a "vast improvement" in the communication among the various stakeholders who ultimately all want the same thing: a better Lake Sakakawea.

"We've gone a long way in a few years," Brown said. "And I think we've (the Corps) made ourselves more transparent by letting other agencies become involved."

In the past, management policies regarded Corps' land were made primarily by higher-ups in Washington, D.C. or Omaha, policies that in many cases, left the public with the perception they had been left out in the cold.

Brown said some of those walls between the Corps and the public have come down as the various interests have come together, thanks in no small part, he said, to groups like Friends of Lake Sakakawea.

"We rely heavily on that group to have their finger on the pulse of respective entities," Brown said.

Lee Klapprodt is a member of the Friends' board of directors and director of the planning and education division of the State Water Commission. A 35-year veteran with the water commission, he is that agency's representative on a steering committee involved in helping mold the new Master Plan.

The steering committee includes a broad spectrum of interests from wildlife to recreation that all have a stake in what will be the updated Master Plan. Klapprodt says it's been an intriguing journey as all sides have worked to come together to find common ground.

"You have different stakeholders with different ideas," he said. "The benefit is more input and broader appeal to all ... it's going to mean compromise, but I think it will result in a much better product."



Terry Fleck, chairman of the Friends, shows a map to the board of directors Jan. 9 that defines the impact of mountain snow pack on the Missouri River system.

Brown said one of the factors many involved in the process may not have been aware of going in is the complexity involved in crafting such a comprehensive document. Just some of the issues the Corps must consider are visitation, demographics, tourism, water use, infrastructure, climate and geology, archeological and cultural sites, endangered and threatened species ... it's an extensive list.

Through the public meeting and comment process, Brown said it's allowed him a more one-on-one opportunity to talk with lake users to see where their priorities are when it comes to how the new Master Plan should read.

Brown said the Corps, in turn, will compile that information for use when it comes time to make budget requests from Congress based on what people want.

Klapprodt said one of the things he hopes will come of this process is development of a long-range vision – 10 to 20 years down the road – on what can be

"We've gone a long way in a few years. And I think we've (the Corps) made ourselves more transparent by letting other agencies become involved."  
—Phil Brown, Corps' Riverdale office lake manager

done to avoid the problems that currently exist as the region tries to cope with an extended drought period that is affecting not just cabin owners and anglers, but also lake communities that rely on the economic boost that Lake Sakakawea can provide. We've been here before, he said.

"We have a crisis situation right now," Klapprodt said. "We have to recognize the ups and downs of a reservoir. We've seen how costly mistakes can be ... maybe we can learn from those mistakes."

He said by being in the mix of things, he believes the Corps has come out of the box, so to speak, with numerous visits to the area to see first-hand what people in the lake region have been facing when it comes to boat ramp, marina and water supply issues.

Brown agrees, saying he thinks all sides have learned to deal with the issues with more patience and commitment as they come to realize that what works in one place may not work in another.

"We do what we can," Brown said, "but we're bound by so many things." He said he firmly believes that the Corps as a whole now has a greater sense of the importance of Lake Sakakawea and what it means to those who live here.

And, at the same time, he thinks the various public and private groups have learned how difficult managing such a vast natural resource can be when so many different interests are involved. "It's been a two-way street of learning."

Klapprodt said with so much hanging in the balance, organizations like Friends of Lake Sakakawea need the support of everyone involved as it continues to a united voice and a good mechanism in a process that ultimately affects all of North Dakota.

# 2007 Weed Dollars Distributed

The Friends were granted \$98,500 from the federal government to distribute toward efforts to eradicate noxious weeds in 2006-2007. This is our second year that we have been granted funds in this process. Here's where the money will go this year.



Dunn County	
Skunk Bay (\$11,486)	
McKenzie Bay (\$11,745)	
Charging Eagle Bay (\$7,942) .....	\$31,182
McKenzie County	
Tobacco Gardens .....	\$ 4,000
McLean County	
Indian Hills .....	\$ 2,500
Mercer County	
West Acres/Happy Acres Trailer Courts .....	\$ 1,500
Beulah Bay .....	\$ 1,520
Mountrail County (lump sum request)	
Van Hook	
White Earth Bay	
Parshall Bay .....	\$12,750
Williams County	
Confluence Area (\$1,000)	
Paradise Point/Lunds Landing (\$1,400)	
Keys Cove Association (\$1,200)	
Little Beaver Bay Area (\$2,000) .....	\$ 5,600
State Parks (lump sum request)	
Lewis & Clark	
Fort Stevenson	
Lake Sakakawea .....	\$28,000
<b>Total weed spraying dollars .....</b>	<b>\$87,052</b>
Education	
Printing of pocket i.d. guides .....	\$ 1,000
PSAs, etc. ....	\$ 2,000
Additional educational efforts .....	\$ 3,000
Administration, supplies, travel .....	\$ 5,448
<b>Total grant dollars.....</b>	<b>\$98,500</b>

Last year we introduced Lucky the Lifesaver, who appeared in print ads to promote eradication of noxious weeds on the shoreline, education about Aquatic Nuisance Species and safe use of All Terrain Vehicles.



Duaine Ash is the lobbyist hired by the Friends of Lake Sakakawea to forward our interests. Ash is former chairman of the Friends and a board member.

## Master Plan Tentative Timetable

Information Collection and Development of Steering Committee — Feb. – Sept. 2005  
 Establishment of Steering Committee — March 2005  
 Meetings with Tribal, Federal Agencies, State Agencies, Committee. Begin work with Omaha Corps' office to begin preliminary draft — Aug. 2005 to Feb. 2007  
 Fine tuning and review of preliminary draft complete — June 2007  
 Draft Master Plan/Environmental Assessment out for Public Comment – Sept. 2007  
 Finalization, District Approval, Colonel Signature, Implementation – Nov. 2007