

2011 SENATE NATURAL RESOURCES

SCR 4002

2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

SCR 4002
1/6/11
12632

Conference Committee

Committee Clerk Signature *Veronica Spurling*

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress to return to the riparian landowner land controlled by the Army Corps of Engineers which is not necessary for authorized purposes.

Minutes:

No written testimony

Chairman Lyson opened the hearing on SCR 4002

Senator Robert Eberle introduced SCR 4002. The resolution would return the Corps land along the Missouri River water system back to the riparian landowner, feeling that those people bordering that know how to care of it the best and would be wise and judicious in their use of the land. The water levels have risen and some of the issues have gone away because the weeds are buried but water levels are cyclic so we will see dry again at some point in time. The Corps has changed their management practices which have created the issue. When landowners could use the land for grazing starting on May 15th the thistles never really got going. They moved the date back to July 15th and other things like that where they just have not been a good neighbor to work with. District 31 has a new delegation but their passion and desire for something like this to take place is equal to the former delegation, in fact probably even more so. We need to send this to Washington. It's not something that will be new to Washington because it has been done in South Dakota. They turned the Corps land back to the state and they just maintained the areas around the dams.

Representative Mike Brandenburg from District 28 (Emmons, Logan, Macintosh, half of Dickey and just about half of Lamoure County): There is a lot of economic development that I believe the state is giving up by the Corps (being) in charge of this land. It's not only the weeds, but it's also the oil industry in the western part of this state needs access to this water. As it came out in our interim committee, we are given all this water, but once the water goes down the stream it is gone. It has left the state. Whether it is irrigation or oil activity or weed control or access to this land, it could be used for economic development that brings income back into the areas of the state. I encourage you to support this and send it to Washington. I think there is something that can be done, but it is going to take some work.

Representative Jim Schmidt, District 31: In 1964 we had to relinquish ownership of 434 acres of our land. It took us down to half of what we had. We ended up leaving the farm in 1964. I still maintain 419 acres of what we had. We were told the land was going to be flooded. They also purchased from us land that is higher in elevation than what the dam is itself. As a neighbor to the Corps land I can vouch to you that our neighborhood south of Mandan sprays a lot of the weeds on Corps land because it is not taken care of. Game and Fish has been asked and they say they do not have the funds to maintain it. The maintenance on the land is not being done as it should be done. Representative Rohr and Senator Schaible and I have also have also gone forth with a resolution regarding the Corps' issues on water and water management. I sit on the Morton County Water Board and on the Missouri West Water Systems Board. The water in the Missouri River is extremely important to those two factions as well as the rest of North Dakota because a lot of us drink from that water. We should fight for North Dakota's right to the water.

Chairman Lyson: We will have to get together. Some of the water that they have permission to use for irrigation is now being sold to oil companies.

Representative Jim Schmidt: I would agree to that.

Glenn McCrory from Emmons County (address Linton) spoke in favor of the bill. The Corps took 750 acres. We ended up with about 100 acres of grassland along the edge of the Oahe Reservoir and when the lake is down the weed problem is very serious. That 100 acres controls the rest of my grazing along there. It used to be May 15th we could start grazing; a few years ago they changed it to July 15th. So in essence I can't graze any of my grass until July 15th if I follow their rules. The bill for the lease is due January 15th and I can't use the land until July 15th. My great grandfather homesteaded the land and all these generations later I can't use the land as I see fit. I hope something can be done.

Chairman Lyson: Do you get any funds from the Corps for spraying noxious weeds?

Glenn McCrory: No.

Chairman Lyson: Do they specify the type of weeds they consider noxious?

Glenn McCrory: I would assume it is the same as what North Dakota deems noxious.

Julie Ellingson: ND Stockmen's Association supports SCR 4002. We believe the lands are best placed in private hands.

Sandy Clark: ND Farm Bureau stands in support of SCR 4002.

Milton Lindwig, a landowner in Williams County, spoke in support of SCR 4002. There are tracts of land purchased by the Corps that are well above the 1855-1860 levels. It was purchased when I was young and I do not know for what purpose. It would seem to be logical to return this land to adjacent owners or somehow get it back into private hands.

There was no one to speak in **opposition** or in a **neutral** position on the bill.

Chairman Lyson: Closed the hearing.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

SCR 4002
January 13, 2011
12879

Conference Committee

Committee Clerk Signature *Veronica Spurling*

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress to return to the riparian landowner land controlled by the Army Corps of Engineers which is not necessary for authorized purposes.

Minutes:

No Attachments

Chairman Lyson: Re-opened the discussion on SCR 4002.

Senator Hogue: Do Pass motion.

Senator Uglem: Seconded the motion.

Senator Triplett: She expressed concern with the vagueness of the wording of the bill relating to returning the land to the riparian landowner and wanted to either fix the wording or kill the bill even though she agreed with the concept.

There was discussion about fixing the wording of the bill or killing it.

Senator Hogue: We had this discussion in the interim and the landowners have lost their land and are having to spray for weeds because the Corps is not doing it. The bill is important.

There was discussion about improving the wording of the bill.

Senator Schneider: Proposed an amendment.

Senator Triplett: Seconded the proposed amendment.

The amendment was accepted by a voice vote.

Chairman Lyson: Called for a vote on the motion on the floor.

Vote: 7-0-0

Carrier: Senator Schneider.

Date: 1-13-11
Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SR4002

Senate Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Hogue Seconded By Uglen

Senators	Yes	No	Senators	Yes	No
Chairman Lyson	✓		Senator Schneider	✓	
Vice-Chair Hogue	✓		Senator Triplett	✓	
Senator Burckhard	✓				
Senator Freborg	✓				
Senator Uglen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Schneider

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

REPORT OF STANDING COMMITTEE

SCR 4002: 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). SCR 4002 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Congress" insert "to provide a legal process"

Page 1, line 16, after "States" insert "to provide a legal process"

Renumber accordingly

2011 HOUSE ENERGY AND NATURAL RESOURCES

SCR 4002

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee
Pioneer Room, State Capitol

SCR 4002
3/11/2011
15328

Conference Committee

Committee Clerk Signature *J. Minuth*

Minutes:

no "attached testimony."

Rep. Porter: We will open the hearing on SCR 4002.

Rep. Brandenburg: I represent district 28 I am here to speak about SCR 4002. This resolution came out of Senate Natural Resources Committee regarding the problems with the Corp. of Engineers dealing the weed issues and that they haven't been doing a good job. I think we should also talk about the water being used for energy. I encourage the committee to adopt the current resolution and send it on.

Tim Dawson: With the Legislative Council. I am here because I staff the interim Natural Resources Committee at which some of you are members. I am here to describe this resolution. This came from a study of weed control programs of the Army Corp. of Engineers this resolution urges Congress to provide a legal process to return to the riparian landowner the land controlled by the Army Corp. of Engineers which is not necessary for authorized purposes. It is an engrossed bill so it was changed in the senate and the big change was after congress where it says "to provide a legal process" those words were added instead of "returning the land to provide a legal process to return the land." I don't think that is very substantive at all.

Rep. Keiser: Did the committee in the interim investigate the federal procedure for returning federal land?

Tim Dawson: I think that the committee looked at South Dakota because in South Dakota the land was returned to the Game and Fish Department and what happened there and hopped for the same here.

Rep. Keiser: Did the committee investigate what the federal rules, guidelines and processes are?

Tim Dawson: It took a special act of congress to have that done and that is what happened in South Dakota and that would be needed to be done in this case as well.

Rep. Kasper: What is the definition of riparian?

Tim Dawson: Riparian means "the landowner of land that borders a body of water."

Rep. Kasper: I own land bordering Lake Sakakawea. If this were to pass would the land that was taken from the area that I own revert to me because I am the owner to that land nearest to it?

Tim Dawson: That was the point of contention in the interim committee but that is the way I would read this as it is arguing for the current riparian landowner not the past landowner who had the property taken away.

Rep. Schmidt: I am a representative from district 31. In 1966 my family was required to relinquish ownership of 434 acres of the Oahe reservoir because it was going to flood. I have in depth letters from the 60's to verify that. Numerous landowners were required to give up land as well, including members from Sioux County. The purpose of this is because the land was going to flood above the 1617 to the 1620 elevation levels of those 434 acres not more than 30 of it has ever flooded. I encourage you to support this resolution.

Glen McCrory: I am from Linton North Dakota we live on the Oahe reservoir and we lost 750 acres. Of those 750 acres there are about 100 of access land that doesn't get flooded. Those 100 acres are hard to fence because it is very ruff land; we have leased this back on a five year lease program since the 1960's. For years we got along fine, but when the last lease that came out they put a restriction on it that said we couldn't be on it until July 15. That is late in the season to run cattle and consequently they control the rest of the native grass. We got a letter that we would our lease if we would use it before July 15th. The weeds are a bad problem. I support this resolution.

Rep. Keiser: Were the landowners compensated for the land taken away?

Glen McCrory: Yes it was on the threat of condemnation, they made an offer, if we didn't want the offer you could fight it in court. We got less than \$50.00 an acre.

Julie Ellingson: I am with the North Dakota Stockman's Association, we to support SCR 4002. This topic has been before your committee the last 2 sessions. The testimony illustrates the kind of challenges the landowners have faced and continue to face regarding some of this Corp lands. Our Association believes the land is best placed in the hands of private ownership and the individual are the best stewards of the land.

Rep. Damschen: Do the landowners want the land back because they got a minimal compensation for the land?

Julie Ellingson: The bargaining power is limited, since some of the land wasn't flooded and that was the reason they took it then why not return that land to the people that it was taken from.

Rep. Nelson: This July 15th graze started with nesting season of the birds and then didn't want it hayed is there anything that shows that grazing cattle before July 15th would be damaging to the nesting birds?

Julie Ellingson: If we look to a lot of our good Range Land Research at NDSU to look to some optimum reasons to have earlier grazing. One is the noxious weed control as well as getting some flourishing grass by having that nipped earlier in the season.

Sandy Clark: I represent the North Dakota Farm Bureau and we support SCR 4002.

Todd Kranda: I am from the North Dakota Petroleum Council and support this legislation as well.

Mike Donahue: Representing North Dakota Wildlife Federation I am not sure that we oppose SCR 4002, but we do support HB 1466 that you worked on in this committee and that SCR 4002 is not necessary.

Rep. Porter: We will close the hearing.

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee
Pioneer Room, State Capitol

SCR4002
3/17/2011
15564

Conference Committee

Committee Clerk Signature *J. Minick*

Minutes:

no attached testimony."

Rep. Porter: We will open SCR 4002. Rep. Brandenburg and Rep. Schmidt brought us a set of amendments to that bill. The amendment does two things it removes any anyplace where it says "to the riparian landowner" and put it back "to the state of North Dakota" which is consistent with the house bill that we passed.

Rep. DeKrey: I make a motion to move the Brandenburg amendment.

Rep. Anderson: Second.

Rep. Porter: The other piece is talk about the water act access needed to provide water for hydraulic fracturing in the state.

Voice vote taken motion carries.

Rep. DeKrey: I move a Do Pass as amended and placed on the consent calendar.

Rep. Anderson: Second.

Rep. Porter: All those in favor motion carries

Voice vote taken Carrier: Rep. DeKrey.

VR
3/17/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE
CONCURRENT RESOLUTION NO. 4002

Page 1, line 1, remove "riparian"

Page 1, line 2, replace "landowner" with "state of North Dakota"

Page 1, line 5, after "agriculture" insert "and the energy industry"

Page 1, after line 7, insert:

"WHEREAS, access to the water in the Missouri River water system is needed to provide a necessary ingredient for hydraulic fracturing, an essential tool for oil and gas development in this state; and"

Page 1, line 18, replace "riparian landowner" with "state of North Dakota"

Renumber accordingly

Date: 3-17-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4002

House House Energy and Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep DeKrey Seconded By Rep Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Hanson		
Vice Chairman Damschen			Rep. Hunskor		
Rep. Brabandt			Rep. Kelsh		
Rep. Clark			Rep. Nelson		
Rep. DeKrey					
Rep. Hofstad					
Rep. Kasper					
Rep. Keiser					
Rep. Kreun					
Rep. Nathe					
Rep. Anderson					

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep

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

voice vote taken to adopt ^{Rep. Brandon Berg} amendment

Date: 3-17-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4002

House House Energy and Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. DeKrey Seconded By Rep. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Hanson		
Vice Chairman Damschen			Rep. Hunskor		
Rep. Brabandt			Rep. Kelsh		
Rep. Clark			Rep. Nelson		
Rep. DeKrey					
Rep. Hofstad					
Rep. Kasper					
Rep. Keiser					
Rep. Kreun					
Rep. Nathe					
Rep. Anderson					

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep. DeKrey

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

REPORT OF STANDING COMMITTEE

SCR 4002: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR 4002 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "riparian"

Page 1, line 2, replace "landowner" with "state of North Dakota"

Page 1, line 5, after "agriculture" insert "and the energy industry"

Page 1, after line 7, insert:

"WHEREAS, access to the water in the Missouri River water system is needed to provide a necessary ingredient for hydraulic fracturing, an essential tool for oil and gas development in this state; and"

Page 1, line 18, replace "riparian landowner" with "state of North Dakota"

Renumber accordingly

REPORT OF STANDING COMMITTEE

SCR 4002, as engrossed: Energy and Natural Resources Committee (Rep. Porter, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SCR 4002 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "riparian"

Page 1, line 2, replace "landowner" with "state of North Dakota"

Page 1, line 5, after "agriculture" insert "and the energy industry"

Page 1, after line 7, insert:

"WHEREAS, access to the water in the Missouri River water system is needed to provide a necessary ingredient for hydraulic fracturing, an essential tool for oil and gas development in this state; and"

Page 1, line 18, replace "riparian landowner" with "state of North Dakota"

Renumber accordingly

2011 SENATE NATURAL RESOURCES

CONFERENCE COMMITTEE

SCR 4002

2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

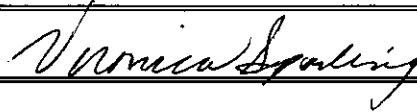
SCR 4002

4/4/11

Job #16315

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress to return to the riparian landowner land controlled by the Army Corps of Engineers which is not necessary for authorized purposes.

Minutes:

No Attachments

Chairman Hogue opened the conference committee meeting on SCR 4002. The other members of the committee are as follows: Senator Uglen, Senator Schneider, Representative Hofstad, Representative Brabandt, and Representative Hunskor. Chairman Hogue asked the House Representatives on the committee to explain the reasons behind the amendments they had made to the resolution.

Representative Hofstad: I believe that the feeling of the House was if a transfer was made it would have to be made to the state of ND rather than to an individual. We felt it would make the transfer cleaner. As far as putting in the hydraulic fracturing issue, it is just such a huge issue. The Missouri River is the source of that water especially when we develop the Northwestern Water Authority. It is a very important part of our oil industry.

Chairman Hogue: I was on the Interim Natural Resources Committee. We had that debate about if Congress were to give it back or authorize it's conveyance, where should it go? What generated this resolution was in the interim we had a lot of landowners from around Oahe and around Sacajawea that were complaining that the Army Corps of Engineers is not taking care of this land so the noxious weeds are not being sprayed. The Corps is not permitting any grazing on this land. The thrust of the testimony was when land is privately owned it is best managed. Frankly, it's back on the tax rolls as well. We had this very debate. The vote was about 11 or 12 to 3 to try to get the land back to the landowners from whom it was taken. It should go back to them. The other part is, the way the House amended the resolution has another unintended consequence. There is significant ground that is owned by the tribes. The tribes don't want their land and mineral rights to go to the state of North Dakota. It was taken for the benefit of the federal government. It seems unfair to give it back to the state of North Dakota rather than the people it was taken from.

Representative Hunskor: Was there discussion in the interim committee about the Corps finding it easier to give the land back to the state rather than to an individual? My second

question would have to do with how it was handled in South Dakota. There, the Corps gave the land back to the state.

Senator Hogue: We did have that discussion in the interim. The land that was given back to the state of South Dakota was actually when Senator Tom Daschle was the Senate Majority Leader. He had an extraordinary amount of clout and he made that happen. But in the interim we decided it would be best to get it back to the landowners from whom it was taken. If the Corps of Engineers says we won't do that but we will give it back to the state, we will settle for that. But the thought was we should at least start out by trying to get it back to the people that it was taken from.

Representative Hunskor: Somewhere the statement was made, if going to the individual, it's just not going to happen. I don't know if that's true or not. What is the Corps' stand on who it should go to? Would our chances be better to get it back if we ask them to give it to the state?

Senator Hogue: I don't know what our chances are. I've been told it happened because of the clout of Senator Daschle.

Representative Hofstad: Our discussion was that the best method was to get it to the state first and then get it to the riparian landowner. Our intent was not to take the landowner out of it.

Representative Brabandt: Was there tribal land involved in the lands given back to the state of South Dakota?

Senator Hogue: I don't know the answer to that. I am confident there was not production of oil and gas on that land.

Representative Barbandt: So all of that land did go to the state of South Dakota?

Senator Hogue: I think it did but I don't know.

Representative Hofstad: There is a question of sovereignty here. Those are sovereign waters of the state of ND. The land and minerals under the river are owned by the state of North Dakota. Is this land that has been inundated by water or land that has not?

Senator Hogue: I don't know the answer to that. There seems to be consensus that the land at issue is not needed any more for water storage and flood protection.

Representative Hofstad: I don't believe this land has ever been inundated with water.

Senator Hogue: I noticed the "whereas" part of the amendment about using water for hydraulic fracturing.

Senator Uglem: We had another resolution that addressed the issue of the rights of using water for fracing. I agree with it completely but I feel it doesn't fit in this resolution where we are talking about the land being returned.

Senator Schneider: I agree with Senator Uglem. I agree with the sentiment but it certainly seems very much off topic. We are talking about returning land and this clause doesn't fit in. It is talking about what we are going to do with water. On returning the land to the riparian landowner, we are talking about the same thing. We talk about it being returned to the state so it can ultimately go to the riparian landowner. Maybe we could have an amendment drawn up that would say something like "encouraging the land ... so it may be returned to the riparian landowner."

There was discussion on the possible wording of the amendment.

Representative Hunskor: We talked about Corps to the state to the riparian landowner. Is there even a legal problem in that, to go from one to the other and then the state.

Senator Hogue: There is. This may run up against a legal formality. It is best to avoid the chain of title. If the Corps gives it back to the state, then what is the state going to do with it? Give it back to the riparian landowners? Sell it back to them? Even if they sell it to them at a discount, the discounted amount is still going to be considered a gift I suppose. That, I think, is another reason to avoid the chain of title where it goes from the US government back to the state and then somehow to the riparian landowners.

Representative Brabandt: I think getting it back to the original owners is the right thing to do but it might be a complicated mess. To the state may be easier.

Representative Hofstad; It's a resolution and we could consider the suggestions that have been made.

Senator Hogue: I will ask legislative council to draft the changes.

Senator Uglem: Do we want to address the "whereas" clause at the same time?

Senator Hogue: We do have that in another resolution about drawing from the Missouri River without being charged a fee by the Corps of Engineers for hydraulic fracturing so I don't know if that is necessary.

Representative Hunskor: Do you know which resolution that is in?

Senator Uglem: I don't know the number, but I could bring that to the next meeting.

Senator Hogue adjourned the meeting.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee
Fort Lincoln Room, State Capitol

SCR 4002
4/11/11
Job # 16489

Conference Committee

Committee Clerk Signature 

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging Congress to return to the riparian landowner land controlled by the Army Corps of Engineers which is not necessary for authorized purposes.

Minutes:

Testimony attached

Chairman Hogue opened the conference committee meeting on SCR 4002. The other members of the committee are as follows: Senator Uglen, Senator Schneider, Representative Hofstad, Representative Brabandt, and Representative Hunskor. All members are present. The intern has distributed a proposed amendment. See attachment #1. On page 1, line 3 of the engrossed version of the bill after "purposes" it would add the language we talked about that if the federal government was unwilling to give the land back to the riparian landowner that they should give it back to the state of North Dakota. That language is repeated on page 1, line 19. The process would be for the House to consider receding from its amendment and to further amend the bill to provide for this language. Any discussion?

Representative Hofstad: I'm perfectly fine with that language. The only question I have is, if that land happened to be on a reservation, would we have any trouble there?

Senator Hogue: I am not familiar with all the land that was taken. I suppose that they would have been the riparian owner. If it was taken from the tribe, if it was allottee land I suppose it would have been taken from them.

Senator Uglen: I was just going to comment that the other two resolutions that you have on your desk, 3008 refers to fracing and 3019 relates to water of the Missouri River. See Attachment #2. We had discussion about the reference to fracing waters in this resolution. However if we agree to this amendment, the statement about fracing water would be left out of the resolution at hand.

Senator Hogue: I think we had a discussion at the last meeting that with those two resolutions in place that should provide some comfort for those who want to put that language into SCR 4002.

Representative Hunskor: If the land was returned and it was tribal land, the riparian would mean also tribal.

Senator Hogue: We could include it to further clarify that. I think it is implicit within the original form of the bill because a lot of land was taken from the tribes. If that would facilitate resolution I don't have any objection to adding specific language to include any tribal land.

Representative Hunskor: It seems we need to know that. If riparian includes them, then extra language is not needed. If it is needed to make it very clear, we will have to make a decision.

Senator Schneider: I agree that riparian landowners could be tribal or non tribal. If we want to specify that, I guess we could. We could say give the land back to tribal and non tribal riparian landowners.

Senator Hofstad made a motion for the House to recede from its amendments and for adoption of the amendments Senator Hogue proposed and to include the tribal or non tribal language that Senator Schneider suggested.

Senator Schneider: Second

Motion carried by voice vote.

Senator Hogue: We will not meet again if that is agreeable to everyone. Consensus.

2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Natural Resources

Bill/Resolution No. SCR 4002 as () engrossed
with House amendments

Date: 4-11-11

Roll Call Vote #: 1

Action Taken

- SENATE accede to House amendments
- SENATE accede to House amendments and further amend
- HOUSE recede from House amendments
- HOUSE recede from House amendments and amend as follows *attachment #1*

Senate/House Amendments on SJ/HJ page(s) 832 - 833 and *tribal or non tribal language added*

- 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

Motion Made by: Hofstad Seconded by: Schneider

Senators	4/11/11	4/11/11	Yes	No		Representatives	4/11/11	4/11/11	Yes	No
Sen. Hogue	✓	✓				Rep. Hofstad	✓	✓		
Sen. Uglem	✓	✓				Rep. Braubandt	✓	✓		
Sen. Schneider	✓	✓				Rep. Hunsaker	✓	✓		

Vote Count: Yes 6 No 0 Absent 0

Senate Carrier Hogue House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted *Carried by voice vote*

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

SCR 4002, as engrossed: Your conference committee (Sens. Hogue, Uglem, Schneider and Reps. Hofstad, Brabandt, Hunsakor) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 832-833, adopt amendments as follows, and place SCR 4002 on the Seventh order:

That the House recede from its amendments as printed on pages 832 and 833 of the Senate Journal and page 1032 of the House Journal and that Engrossed Senate Bill No. 4002 be amended as follows:

Page 1, line 3, after "purposes" insert "and if the federal government is unable or unwilling to convey the land back to nontribal and tribal riparian landowners, then Congress shall convey the land back to the state of North Dakota"

Page 1, line 19, after "purposes" insert "and if the federal government is unable or unwilling to convey the land back to nontribal and tribal riparian landowners, then Congress shall convey the land back to the state of North Dakota"

Renumber accordingly

Engrossed SCR 4002 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SCR 4002

PROPOSED AMENDMENT TO ENGROSSED SENATE CONCURRENT RESOLUTION 4002

Page 1, line 3, after "purposes" insert "and if the federal government is unable or unwilling to convey the land back to the riparian landowners, then Congress shall convey the land back to the state of North Dakota"

Page 1, line 19, after "purposes" insert "and if the federal government is unable or unwilling to convey the land back to the riparian landowners, then Congress shall convey the land back to the state of North Dakota"

#1

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE CONCURRENT RESOLUTION NO. 3008
(Representatives DeKrey, Kempenich, Skarphol)
(Senators Christmann, Wardner, O'Connell)

A concurrent resolution urging Congress to clearly delegate responsibility for the regulation of hydraulic fracturing to the states.

WHEREAS, hydraulic fracturing, a mechanical method of increasing the permeability of rock, thus increasing the amount of oil or gas produced from the rock, has greatly enhanced oil and gas production in North Dakota; and

WHEREAS, oil and gas production increases in North Dakota have led to growth in employment and economic development as well as promotion of energy independence for the United States; and

WHEREAS, the state of North Dakota, through the Oil and Gas Division of the Department of Mineral Resources, has proven more than capable of regulating oil and gas recovery processes and ensuring the safety of workers while protecting the environment; and

WHEREAS, the state, through the Oil and Gas Division of the Department of Mineral Resources, is best situated to closely monitor oil and gas drilling and fracturing operations to ensure they are conducted in an environmentally sound manner;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-second Legislative Assembly urges the Congress of the United States to clearly delegate responsibility for the regulation of hydraulic fracturing to the states; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the administrator of the Environmental Protection Agency and to each member of the North Dakota Congressional Delegation.

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE CONCURRENT RESOLUTION NO. 3019
(Representatives Schmidt, Carlson, Hofstad, Porter)
(Senators Schaible, Stenehjem)

A concurrent resolution urging the United States Army Corps of Engineers to immediately cease wrongful denial of access and wrongful requirement of payment for the natural flows of the Missouri River.

WHEREAS, the Pick-Sloan Project, as authorized in the Flood Control Act of 1944, as amended, provides major flood control benefits, recreational benefits, water supply benefits, hydropower benefits, and navigational benefits for the downstream states of Iowa, Nebraska, Missouri, and Kansas through construction of large reservoirs in the state's lying upstream from these states; and

WHEREAS, the Pick-Sloan Project reservoirs have been in place for many years, thus providing downstream states in the Missouri River Basin all the benefits promised in the Pick-Sloan Project; and

WHEREAS, the state of North Dakota lost more than 500,000 acres of valuable river bottom lands as a result of construction of the Missouri River reservoirs and the Flood Control Act of 1944, causing an annual loss of millions of dollars in economic gross product and an additional annual loss in personal income as well as other serious impacts to individuals, political subdivisions, and North Dakota's Indian nations; and

WHEREAS, the United States Army Corps of Engineers, through the Surplus Water Report, is clearly challenging the state of North Dakota and the upper basin states' rights to access the states' natural flows; and

WHEREAS, the Flood Control Act of 1944, as amended in 1958, limits any repayment requirement by any water user for a term not to exceed 50 years; and

WHEREAS, in contradiction to the Dakota Water Resources Act of 2000 and the 1958 Water Supply Act, the United States Army Corps of Engineers is forcing reimbursement of nonreimbursable costs by withholding review of future easement applications; and

WHEREAS, before the dams were constructed, the Missouri River provided ample water; and

WHEREAS, the natural flows of the Missouri River, even during the lowest flow periods, were and continue to be more than plentiful for the needs of North Dakota; and

WHEREAS, the natural flows of the Missouri River through Lake Sakakawea and Lake Oahe are not, and should not be, considered stored water; and

WHEREAS, any attempt by the United States Army Corps of Engineers to impose a storage fee and deny water users in the state to access the natural flows of the Missouri River is misguided;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-second Legislative Assembly urges the United States Army Corps of Engineers to immediately cease wrongful denial of access and wrongful requirement of payment for the natural flows of the Missouri River; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution by certified mail with return receipt to the President of the United States; the Majority Leader of the United States Senate; the Minority Leader of the United States Senate; the Majority Leader of the United States House of Representatives; the Minority Leader of the United States House of Representatives;

the Speaker of the United States House of Representatives; the District Engineer, Omaha District, United States Army Corps of Engineers; the Division Commander of the Northwestern Division of the United States Army Corps of Engineers; the Secretary of the Army; the Secretary of the Interior; the Governor; the Attorney General; each member of the State Water Commission; and each member of the North Dakota Congressional Delegation.